

September 2007

## Summary of the Legislative History of the Postal Accountability and Enhancement Act Public Law 109-435 (2006)

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The Postal Accountability and Enhancement Act (PAEA), Public Law 109-435, 120 Stat. 3198, was enacted by the 109th Congress and signed by President George W. Bush on December 20, 2006.

### **1 104th to 106th Congresses (1995-2000)**

The origin of the PAEA lies in the work of the 104th Congress. In early 1995, the House Subcommittee on the Postal Service, led by a new chairman, Congressman John McHugh of New York, conducted a series of oversight hearings on the state of the Postal Service. On February 23, the first day of hearings, the opening witness was then Postmaster General Marvin Runyon. The Postmaster General called for reform legislation to address three major issues:

There are three areas we need to focus on. First, we need to free our employees from burdensome rules and bureaucratic red tape and focus their efforts on serving our customers' mailing needs; second, we need to free the price setting process so we can respond to the market, and keep costs down; and, third, we need to free our products from bureaucratic restrictions and make them more modern and customer oriented.<sup>1</sup>

During these oversight hearings, Chairman McHugh became convinced of the need to modernize the postal laws. He accepted the Postal Service's argument that it needed greater commercial flexibility to respond to the threat of private carriers and electronic alternatives. At the same time, Mr. McHugh believed that the Postal Service should compete on equal terms when facing private companies. Mr. McHugh was also sensitive to concerns that the Postal Service might take advantage of its economic power in markets where its products faced little or no competition. And, as representative of a rural district, Mr. McHugh was determined to ensure continuation of universal postal service in the United States. Drawing on such

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<sup>1</sup>*General Oversight of the U.S. Postal Service: Hearings before the Subcommittee on the Postal Service of the House Committee on Government Reform and Oversight, 104th Cong, 1st Sess. (1997) at 6-7 (seven hearings held February to June 1995).*

perspectives, Chairman McHugh introduced a first draft of plan for postal reform, H.R. 3717, on June 25, 1996.

For two years, through the end of the 104th Congress and the 105th Congress, Chairman McHugh and the Subcommittee continued to refine the postal reform bill. In the 105th Congress, beginning in January 1997, H.R. 3717 was reintroduced as H.R. 22. In December 1997, after eighteen months of additional hearings,<sup>2</sup> Chairman McHugh proposed a comprehensive revision of his bill and asked for comments from interested parties by April 1998. Taking these comments into consideration, Mr. McHugh revised his bill again and announced a substitute amendment for H.R. 22 at the end of August. In September 1998, the House Subcommittee on the Postal Service approved H.R. 22 as amended by the McHugh substitute and reported it to the full Committee on Government Reform and Oversight. It was too late in the life of 105th Congress, however, to take the full postal reform bill further, and Congress adjourned for the election in November.

In closing days of the 105th Congress, however, Congress did address international postal issues. In May 1998, Senator Thad Cochran of Mississippi, chairman of the Senate Subcommittee on International Security, Proliferation, and Federal Services, proposed introduced S. 2082, a bill that would have granted the Postal Rate Commission authority to regulate international postage rates in the same manner as domestic. A hearing was held in June 1998.<sup>3</sup> Meanwhile, in the House, Congresswoman Anne Northup of Kentucky, working with Mr. McHugh, proposed an amendment to the postal appropriations bill that would transfer from the Postal Service to the Department of State the authority to represent to the United States at the next meeting of the Universal Postal Union, to be held in August 1999. Ms. Northup's proposal was consistent with the international postal provisions of the McHugh bill. The Cochran and Northup proposals were ultimately modified and joined in a provision in the postal appropriations bill.<sup>4</sup> The final provision did not give the Postal Rate Commission authority

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<sup>2</sup>*United States Postal Service Reform: The International Experience: Joint Hearing Before the Subcomm. on Post Office and Civil Service of the Senate Comm. on Governmental Affairs and the House Comm. on Government Reform and Oversight*, 104th Cong., 2d Sess., Ser. No. 104-442 (1996) (hearing held on January 25, 1996); *H.R. 3717, the Postal Reform Act of 1996: Hearings before the Subcommittee on the Postal Service of the House Committee on Government Reform and Oversight*, 104th Cong, 2d Sess. (1997) (four hearings held in July and September 1996); *H.R. 22, The Postal Reform Act of 1997: Hearing Before the Subcommittee on Postal Service of the House Committee on Government Reform and Oversight*, 105th Cong, 1st Sess., Ser. No. 105-40 (1997) (hearing held on April 16, 1997); *General Oversight of the U.S. Postal Service: Hearing before the Subcommittee on the Postal Service of the House Committee on Government Reform and Oversight*, 105th Cong, 1st Sess (1997) (hearing held on April 24, 1997).

<sup>3</sup>*S. 2082—The International Postal Services Act of 1998: Hearing Before the Subcomm. on International Security, Proliferation, and Federal Services of the Senate Comm. on Governmental Affairs*, 105th Cong., 2d Sess., Ser. No. 105-690 (1998) (hearing held on June 2, 1998)

<sup>4</sup>Public Law 105-277 (omnibus appropriations bill), 112 Stat. 2681, 3204, 3208, § 663 (transferring representation at UPU to Department of State) and § 648 (inserting 39 U.S.C. 3663 requiring the Commission to

to regulate international rates but did require preparation of an annual report on international mail.

In January 1999, at the start of the 106th Congress, Chairman McHugh reintroduced the postal reform bill, again numbered H.R. 22, and convened a final round of hearings.<sup>5</sup> The postal reform bill was supported by the Postal Service, leading first class mailers, major direct mailers, small newspapers and magazine publishers, parcel shippers, the majority of postal unions, and some competitors of the Postal Service. There was, however, opposition from important parties, including a large postal union and competitors of the Postal Service. In addition, despite the traditionally bipartisan nature of postal legislation, Democratic members opposed action on the bill due to political considerations unrelated to the merits. The 106th Congress expired without action on postal reform.

## 2 107th Congress (2001-2002)

Early in the 107th Congress, in May 2001, the General Accounting Office had placed the Postal Service on a list of “high risk” federal agencies because of concerns that the Postal Service was not responding to changing commercial conditions fast enough to ensure long term financial viability. Both the House and Senate held hearings on the financial outlook of the Postal Service.<sup>6</sup> The leadership of the Senate on Governmental Affairs requested the Postal Service to prepare a plan for transforming itself into a more modern, financially viable organization. In April 2002, the Postal Service issued its *Transformation Plan*. In May 2002, the Senate Subcommittee, chaired by Senator Daniel Akaka of Hawaii, held further hearings on the GAO report and Postal Service plan.<sup>7</sup>

Although these hearings and the Postal Service’s *Transformation Plan* did not lead directly to legislation, but they provided additional impetus for general postal reform legislation. In the House in early 2001, Democratic members of the Committee, led by ranking

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prepare an annual report on international mail). In the 106th Congress, the House Subcommittee held a followup hearing on international postal policy. *International Postal Policy: Hearing Before the Subcomm. on the Postal Service of the House Comm. on Government Reform*, 106th Cong., 2d Sess., Ser. No. 106-133 (2000) (hearing held on March 9, 2000)

<sup>5</sup>*H.R. 22, The Postal Modernization Act of 1999: Hearing Before the Subcommittee on Postal Service of the House Committee on Government Reform*, 106th Cong., 2d Sess. Ser. No. 106-16 (1999) (hearings held on Feb 11 and Mar 4, 1999).

<sup>6</sup>*The U.S. Postal Service's Uncertain Financial Outlook, Parts I and II: Hearings Before the House Comm. on Government Reform*, 107th Cong., 1st Sess., Ser. No. 107-10 (2001) (hearings held on April 4 and May 14, 2001); *The Financial Outlook of the U.S. Postal Service: Hearing Before the Senate Committee on Governmental Affairs*, 107th Cong., 1st Sess., Ser. No. 107-70 (hearing held on May 15, 2001).

<sup>7</sup>*The Postal Service in the 21st Century: the USPS Transformation Plan: Hearing Before the International Security, Proliferation and Federal Services Subcomm. of the Senate Comm. on Governmental Affairs*, 107th Cong., 2d Sess., Ser. No. 107-551 (2003) (hearing held May 13, 2002).

member Congressman Henry Waxman of Los Angeles, began to work with Chairman McHugh to develop a bipartisan postal reform bill. The result was H.R. 4970. Among other things, H.R. 4970 introduced the concept that the Postal Rate Commission should develop a modern system of rate regulation. The political disharmony of prior years had not entirely dissipated, however, and in June 2002, the full committee rejected H.R. 4970 by a vote of 20 to 6 even though a majority of members likely favored the bill on the merits.

### **3 108th Congress (2003-2004)**

To break the political deadlock, in December 2002, President George W. Bush appointed a special commission of leading citizens to recommend a course of action. The Presidential Commission on the United States Postal Service reported in July 2003. The Commission supported most of reforms developed by the House committee. In some cases, the Commission offered still more far reaching ideas, such as replacing the Presidentially appointed Board of Governors with a board of directors who choose their own successors, but these were generally not included in the legislation.

In the 108th Congress, a new factor entered the political equation. In April 2003, Congress had enacted a small measure, Public Law 108-18, 117 Stat. 624, to correct a statutory provision that would have erroneously required the Postal Service to pay more than necessary into a pension fund for postal employees. Public Law 108-18 suspended excess pension payments through 2005 but thereafter required the the Postal Service to make these payments into an escrow fund until Congress decided what to do with the money. In addition, the 2003 act required the Postal Service to pay for pensions earned by postal employees while serving in the U.S. military. Military pension obligations amounted to about \$27 billion to be paid over the course of a decade or more. In short, Public Law 108-18 required mailers to pay annually several billion dollars in increased postage rates beginning in 2006. Mailers, the Postal Service, and most members of Congress felt strongly that the escrow fund requirement should be repealed and the cost of military pensions returned to the U.S. Treasury. The Bush Administration, facing a large budget deficits, was opposed.

In early 2004, energized by the report of the presidential commission and concerns about the unnecessary rate increases, Congress returned to postal reform. In early 2004, a special panel of the House Committee on Government Reform chaired by Mr. McHugh held hearings on the report of the presidential commission.<sup>8</sup> In May 2004, Chairman McHugh, Mr. Tom Davis of Virginia (new chairman of the full committee), Mr. Waxman, and several co-sponsors introduced H.R. 4341, a bill similar to H.R. 4970 in the previous congress but now

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<sup>8</sup>*Answering the Administration's Call for Postal Reform—Parts I, II, and III: Hearings Before the House Special Panel on Postal Reform and Oversight of the Comm. on Government Reform, 108th Cong., 2d Sess. (2004) (hearings held January 28, 2004 and February 5 and 11, 2004).*

named the “Postal Accountability and Enhancement Act.” The House Committee on Government Reform immediately reported this bill to the full House. Several sections of H.R. 4970 was subsequently referred to the Committee on the Judiciary. The Judiciary Committee favorably reported H.R. 4970 to the full House after striking a section which would have allowed the Postal Service to claim bankruptcy protection for competitive products and making other minor amendments. The committee report accompanying H.R. 4341 was H.R. Rept. No. 108-672.<sup>9</sup>

Meanwhile, the Senate Committee of Government Affairs, led by Chairman Susan Collins of Maine and Senator Thomas Carper of Delaware, also began to address postal reform. Hearings on the report of the presidential commission were held in March 2004.<sup>10</sup> On March 23, 2004, the Senate committee joined the House committee in a rare joint session at which Secretary of Treasury John Snow testified in support of postal reform.<sup>11</sup> In late May 2004, the Senate Committee reported a postal reform bill, S. 2468, for consideration by full Senate. The Senate bill was substantially based on H.R. 4341 but included significant modifications. The committee report accompanying S. 2468, S. Rept. No. 108-918, is the only Senate report on postal reform.

Although both chambers of Congress now had before them committee-approved versions of postal reform, time was running out in the legislative session. In October, the 108th Congress adjourned for the November election without addressing the postal reform bills.

#### **4 109th Congress (2005-2006)**

By the beginning of 2005, it was apparent that without new legislation postage rates would be increased as a result of Public Law 108-18. In April 2005, the Postal Service asked the Postal Rate Commission to approve a 5.4 percent increase in rates to pay for the escrow payments required by the 2003 act beginning in 2006. In November, the Postal Rate Commission approved a 5.4 percent increase in postage rates to cover the cost of the escrow mandated by the 2003 act.

In January 2005, on the first day of the 109th Congress, Congressman McHugh reintroduced the postal reform bill, this time again numbered H.R. 22. On April 28, 2005, the House Committee on Government Reform reported H.R. 22 to the House. The committee

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<sup>9</sup>*Postal Accountability and Enhancement Act*, H. Rpt. No. 108-672, Part 1 (Sept. 8, 2004) (Committee on Government Reform) and Part 2 (Sep. 29, 2004) (Committee on the Judiciary).

<sup>10</sup>*Postal Reform: Sustaining the Nine Million Jobs in the \$900 Billion Mailing Industry: Hearings Before the Senate Comm. on Governmental Affairs*, 108th Cong., 2d Sess. (2004) (hearings on May 9 and 11, 2004)

<sup>11</sup>*The Postal Service in Crisis: a Joint Senate House Hearing on Principles for Meaningful Reform*, 108th Cong., 2d Sess. (2004) (hearing on Mar. 23, 2004).

report, H.R. Rept. No. 109-66, is the last House committee report on postal reform. On July 26, 2005, the House of Representatives considered H.R. 22 as reported, rejected three proposed amendments, approved the bill by a vote of 410-20, and sent it to the Senate for consideration.<sup>12</sup>

In the Senate, in March 2005, Chairman Collins reintroduced the Senate version of the postal reform bill as S. 662.<sup>13</sup> Quick action was prevented by disagreement over provisions relating to the regulation of rates for market dominant products. Some senators, led by Senator Christopher Bond of Missouri, were concerned about possible rate increases for single piece letters, such as greeting cards. Resolution of this issue took several months during which time other issues were raised by various parties and dealt with. On February 7, 2006, Senators Collins and Bond joined in a colloquy to record agreement on certain ratemaking principles.<sup>14</sup>

On February 9, 2006, the Senate approved S. 662. Four amendments were added. The most important was an amendment reflecting the compromise between Senators Collins and Bond. It modified provisions relating to objectives, unused rate adjustment authority, transition rules, rate and service complaints. In addition, the Senate approved an amendment by Senator Tom Harkin of Iowa to provide for procedures by the Postal Service to give notice on certain actions affecting communities; an amendment by Senator Harry Reid to modify qualifications and terms of Governors of the United States Postal Service; and an amendment by Senator Ted Stevens of Alaska to modify contracts for the transportation of mail by air. The Senate then adopted S. 662 as a substitute amendment to H.R. 22, requested a conference with the House of Representatives to resolve the different versions of H.R. 22, and appointed conferees.<sup>15</sup>

The Senate and House versions of H.R. 22 differed significantly. Nonetheless, the House did not appoint conferees, so no conference was held. Instead, key members of Congress and the Administration worked out a compromise version informally. Resolving one of the major issues, the Administration accepted an end to the Postal Service's responsibility for paying military pensions. Nonetheless, remaining disagreements prevented action before the end of the regular session of the 109th Congress in October.

After the November election, the 109th Congress convened a lame duck session. On December 7, 2006, key members of the House and Senate agreed to a final compromise on the

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<sup>12</sup>152 Cong. Rec. H6511-6549 (Jul. 26, 2005). *See also* 152 Cong. Rec. D831 (Daily Digest, Jul. 26, 2005).

<sup>13</sup>*U.S. Postal Service: What Is Needed to Ensure its Future Viability?: Hearing Before the Senate Comm. on Homeland Security and Governmental Affairs, 109th Cong., 1st Sess. (2006) (hearing on April 14, 2005).*

<sup>14</sup>153 Cong. Rec. S767 (Feb. 7, 2006).

<sup>15</sup>153 Cong. Rec. S898-943 (debate and approval), S982 (amendments), S1033-34 (amendment) (Feb. 9, 2006).

postal reform bill. The compromise was introduced in the House as a new bill, H.R. 6407. At 11:15 pm on December 8, the last day of the 109th Congress, the House took up H.R. 6407 and approved it without amendment.<sup>16</sup> In the early morning hours of December 9, the Senate approved H.R. 6407, necessarily without amendment.<sup>17</sup>

On December 20, 2006, President George W. Bush signed H.R. 6407 and it became Public Law 109-435. At the same time, the Administration issued a “signing statement” that declared how it would interpret several provisions of the new law.

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<sup>16</sup>153 Cong. Rec. H9160-182 (Dec. 8, 2006). *See also* 153 Cong. Rec. D1162 (Daily Digest, Dec. 8, 2006).

<sup>17</sup>153 Cong. Rec. S11674-677 (debate); S11821-22 (approval). *See also* 153 Cong. Rec. D1153 (Daily Digest, Dec. 8, 2006).



Legislative History of the  
Postal Accountability and Enhancement Act  
Public Law 109-435

Appendix

- I. Public Law 109-435 (Slip Law)
- II. Congressional Record, 109th Congress
- III. H.R. 22, 109th Cong., 2d Sess.as approved by the Senate (Feb. 9, 2006)
- IV. H.R. 22, 109th Cong., 1st Sess. as approved by the House (Jul. 26, 2005)
- V. House Committee Report on H.R. 22, H.R. Rept. No. 109-66, 109th Cong., 1st Sess. (Apr. 28, 2005)
- VI. Senate Committee Report on S. 2468, S. Rept. No. 108-318, 108th Cong., 2d Sess.(Aug. 25, 2004) and Senate Bill S. 2468, 108th Cong., 2d Sess. (reported, Aug. 25, 2004)
- VII. Signing Statement of President George W. Bush (Dec. 20, 2006)



I. Public Law 109-435 (Slip Law)

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PUBLIC LAW 109-435—DEC. 20, 2006

POSTAL ACCOUNTABILITY AND  
ENHANCEMENT ACT

Public Law 109–435  
109th Congress

An Act

Dec. 20, 2006

[H.R. 6407]

Postal Account-  
ability and  
Enhancement  
Act.

39 USC 101 note.

To reform the postal laws of the United States.

*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 “Postal Account-ability and Enhancement Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

Sec. 101. Definitions.

Sec. 102. Postal Services.

**TITLE II—MODERN RATE REGULATION**

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Clerical amendment.

**TITLE III—MODERN SERVICE STANDARDS**

Sec. 301. Establishment of modern service standards.

Sec. 302. Postal service plan.

**TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION**

Sec. 401. Postal Service Competitive Products Fund.

Sec. 402. Assumed Federal income tax on competitive products income.

Sec. 403. Unfair competition prohibited.

Sec. 404. Suits by and against the Postal Service.

Sec. 405. International postal arrangements.

**TITLE V—GENERAL PROVISIONS**

Sec. 501. Qualification and term requirements for Governors.

Sec. 502. Obligations.

Sec. 503. Private carriage of letters.

Sec. 504. Rulemaking authority.

Sec. 505. Noninterference with collective bargaining agreements.

Sec. 506. Bonus authority.

**TITLE VI—ENHANCED REGULATORY COMMISSION**

Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.

Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 603. Authorization of appropriations from the Postal Service Fund.

Sec. 604. Redesignation of the Postal Rate Commission.

Sec. 605. Inspector General of the Postal Regulatory Commission.

**TITLE VII—EVALUATIONS**

Sec. 701. Assessments of ratemaking, classification, and other provisions.

- Sec. 702. Report on universal postal service and the postal monopoly.
- Sec. 703. Study on equal application of laws to competitive products.
- Sec. 704. Report on postal workplace safety and workplace-related injuries.
- Sec. 705. Study on recycled paper.
- Sec. 706. Greater diversity in Postal Service executive and administrative schedule management positions.
- Sec. 707. Contracts with women, minorities, and small businesses.
- Sec. 708. Rates for periodicals.
- Sec. 709. Assessment of certain rate deficiencies.
- Sec. 710. Assessment of future business model of the Postal Service.
- Sec. 711. Provisions relating to cooperative mailings.
- Sec. 712. Definition.

TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS  
FUNDING

- Sec. 801. Short title.
- Sec. 802. Civil Service Retirement System.
- Sec. 803. Health insurance.
- Sec. 804. Repeal of disposition of savings provision.
- Sec. 805. Effective dates.

TITLE IX—COMPENSATION FOR WORK INJURIES

- Sec. 901. Temporary disability; continuation of pay.

TITLE X—MISCELLANEOUS

- Sec. 1001. Employment of postal police officers.
- Sec. 1002. Obsolete provisions.
- Sec. 1003. Reduced rates.
- Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.
- Sec. 1005. Contracts for transportation of mail by air.
- Sec. 1006. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
- Sec. 1007. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
- Sec. 1008. Hazardous matter.
- Sec. 1009. ZIP codes and retail hours.
- Sec. 1010. Technical and conforming amendments.

## TITLE I—DEFINITIONS; POSTAL SERVICES

### SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ refers to the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36;

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36; and

“(10) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”

**SEC. 102. POSTAL SERVICES.**

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

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

“(2) Nothing in this section shall be considered to permit or require that the Postal Service provide any nonpostal service, except that the Postal Service may provide nonpostal services which were offered as of January 1, 2006, as provided under this subsection.

Deadline.

“(3) Not later than 2 years after the date of enactment of the Postal Accountability and Enhancement Act, the Postal Regulatory Commission shall review each nonpostal service offered by the Postal Service on the date of enactment of that Act and determine whether that nonpostal service shall continue, taking into account—

“(A) the public need for the service; and

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

“(4) Any nonpostal service not determined to be continued by the Postal Regulatory Commission under paragraph (3) shall terminate.

“(5) If the Postal Regulatory Commission authorizes the Postal Service to continue a nonpostal service under this subsection, the Postal Regulatory Commission shall designate whether the service shall be regulated under this title as a market dominant product, a competitive product, or an experimental product.”.

(b) CONFORMING AMENDMENTS.—Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.

**TITLE II—MODERN RATE REGULATION****SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.**

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

**“§ 3621. Applicability; definitions**

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) first-class mail letters and sealed parcels;

“(2) first-class mail cards;

“(3) periodicals;

“(4) standard mail;

“(5) single-piece parcel post;

“(6) media mail;

“(7) bound printed matter;

“(8) library mail;

“(9) special services; and

“(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**“§ 3622. Modern rate regulation**

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

Deadline.

“(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

“(1) To maximize incentives to reduce costs and increase efficiency.

“(2) To create predictability and stability in rates.

“(3) To maintain high quality service standards established under section 3691.

“(4) To allow the Postal Service pricing flexibility.

“(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

“(6) To reduce the administrative burden and increase the transparency of the ratemaking process.

“(7) To enhance mail security and deter terrorism.

“(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

“(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

“(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

“(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

“(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

“(A) either—

“(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

“(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and

“(B) do not cause unreasonable harm to the marketplace.

“(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

“(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

“(14) the policies of this title as well as such other factors as the Commission determines appropriate.

“(d) REQUIREMENTS.—

“(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

“(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

“(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

“(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

“(i) require the Postal Service to provide public notice of the adjustment;

“(ii) provide an opportunity for review by the Postal Regulatory Commission;

Deadline.

“(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

Notification.

“(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

“(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

Procedures.

“(E) notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

Deadline.

“(2) LIMITATIONS.—

“(A) CLASSES OF MAIL.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

“(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

“(C) USE OF UNUSED RATE AUTHORITY.—

“(i) DEFINITION.—In this subparagraph, the term ‘unused rate adjustment authority’ means the difference between—

“(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

“(II) the amount of the rate adjustment the Postal Service actually makes in that year.

“(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

“(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

“(I) may use unused rate adjustment authority from more than 1 year;

“(II) may use any part of the unused rate adjustment authority from any year;

“(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

“(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

Deadline.

“(3) REVIEW.—Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

Public comment.

“(e) WORKSHARE DISCOUNTS.—

“(1) DEFINITION.—In this subsection, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

“(2) SCOPE.—The Postal Regulatory Commission shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

“(A) the discount is—

“(i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and

“(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

“(B) the amount of the discount above costs avoided—

“(i) is necessary to mitigate rate shock; and

“(ii) will be phased out over time;

“(C) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

“(D) reduction or elimination of the discount would impede the efficient operation of the Postal Service.

“(3) LIMITATION.—Nothing in this subsection shall require that a work share discount be reduced or eliminated if the reduction or elimination of the discount would—

“(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or

“(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount.

“(4) REPORT.—Whenever the Postal Service establishes a workshare discount rate, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

“(A) explains the Postal Service’s reasons for establishing the rate;

“(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

“(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

Certification.

“(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.”.

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

**SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

**“§ 3631. Applicability; definitions and updates**

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

- “(1) priority mail;
- “(2) expedited mail;
- “(3) bulk parcel post;
- “(4) bulk international mail; and
- “(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

“(b) DEFINITION.—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

“(c) **RULE OF CONSTRUCTION.**—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**“§ 3632. Action of the Governors**

“(a) **AUTHORITY TO ESTABLISH RATES AND CLASSES.**—The Governors, with the concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) **PROCEDURES.**—

“(1) **IN GENERAL.**—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

Federal Register,  
publication.  
Deadline.

“(2) **RATES OR CLASSES OF GENERAL APPLICABILITY.**—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors’ proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

Filing date.

“(3) **RATES OR CLASSES NOT OF GENERAL APPLICABILITY.**—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

“(4) **CRITERIA.**—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

“(c) **TRANSITION RULE.**—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

**“§ 3633. Provisions applicable to rates for competitive products**

Deadline.  
Regulations.

“(a) **IN GENERAL.**—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

“(1) prohibit the subsidization of competitive products by market-dominant products;

“(2) ensure that each competitive product covers its costs attributable; and

“(3) ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

“(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.”

Deadline.

### SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

#### “SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

##### “§ 3641. Market tests of experimental products

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

“(c) NOTICE.—

“(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file

Deadline.  
Federal Register,  
publication.

with the Postal Regulatory Commission and publish in the Federal Register a notice—

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

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

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

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined under subsection (b)(2)).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet 1 or more of the requirements of this section, it may order the cancellation of the

test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

**“§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

Federal Register,  
publication.

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

Federal Register,  
publication.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

“(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

“(1) under this subchapter; or

“(2) by or under any other provision of law.”.

**SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”; and

(2) by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND  
RELATED PROVISIONS

**“§ 3651. Annual reports by the Commission**

“(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

“(b) ADDITIONAL INFORMATION.—

“(1) IN GENERAL.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

“(A) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

“(B) free or reduced rates for postal services as required by this title; and

“(C) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

“(2) BASIS FOR ESTIMATES.—The Commission shall detail the basis for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

“(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**“§ 3652. Annual reports to the Commission**

“(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such non-public annex to the report as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, rates, and quality of service, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) product information, including mail volumes; and

“(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

“(i) the level of service (described in terms of speed of delivery and reliability) provided; and

“(ii) the degree of customer satisfaction with the service provided.

Audits.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

“(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(1) The per-item cost avoided by the Postal Service by virtue of such discount.

“(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(3) The per-item contribution made to institutional costs.

“(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service shall—

“(1) report data on the costs, revenues, and quality of service by market test, which may be reported in summary form; and

“(2) report such data as the Postal Regulatory Commission requires.

Regulations.

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

“(e) CONTENT AND FORM OF REPORTS.—

Regulations.

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

“(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

Regulations.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

“(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) performance plan under section 2803; and

“(3) program performance reports under section 2804.

### “§ 3653. Annual determination of compliance

“(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

“(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) NONCOMPLIANCE WITH REGARD TO RATES OR SERVICES.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c) and (e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

“(d) REVIEW OF PERFORMANCE GOALS.—The Postal Regulatory Commission shall also evaluate annually whether the Postal Service has met the goals established under sections 2803 and 2804, and may provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in this title.

“(e) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.

**“§ 3654. Additional financial reporting**

“(a) ADDITIONAL FINANCIAL REPORTING.—

“(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

“(A) within 40 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

“(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the ‘registrant’ described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

“(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2010.

“(b) FINANCIAL REPORTING.—

“(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service’s pension and post-retirement health obligations—

“(A) the funded status of the Postal Service’s pension and postretirement health obligations;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2) The Office of Personnel Management shall provide the data listed under paragraph (1) to the Postal Service not later than 30 days after the end of each fiscal year.

“(3)(A) Beginning with reports for the fiscal year 2010, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

“(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

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

“(1) the data have become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

Regulations.

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

**SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.**

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

**“§ 3662. Rate and service complaints**

“(a) IN GENERAL.—Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

“(A) either—

“(i) upon a finding that such complaint raises material issues of fact or law, begin proceedings on such complaint; or

“(ii) issue an order dismissing the complaint; and

“(B) with respect to any action taken under subparagraph (A) (i) or (ii), issue a written statement setting forth the bases of its determination.

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—

For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—

If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

“(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products

Deadline.

Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

**“§ 3663. Appellate review**

“A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. Deadline.

**“§ 3664. Enforcement of orders**

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”

**SEC. 206. CLERICAL AMENDMENT.**

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

**“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS**

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“[3623. Repealed.]

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

**“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS**

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

**“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS**

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

“3654. Additional financial reporting.

**“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW**

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

## “SUBCHAPTER VI—GENERAL

- “3681. Reimbursement.
- “3682. Size and weight limits.
- “3683. Uniform rates for books; films, other materials.
- “3684. Limitations.
- “3685. Filing of information relating to periodical publications.
- “3686. Bonus authority.

## “SUBCHAPTER VII—MODERN SERVICE STANDARDS

- “3691. Establishment of modern service standards.”.

## TITLE III—MODERN SERVICE STANDARDS

### SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

## “SUBCHAPTER VII—MODERN SERVICE STANDARDS

## “§ 3691. Establishment of modern service standards

Deadline.

“(a) **AUTHORITY GENERALLY.**—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products.

“(b) **OBJECTIVES.**—

“(1) **IN GENERAL.**—Such standards shall be designed to achieve the following objectives:

“(A) To enhance the value of postal services to both senders and recipients.

“(B) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

“(C) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

“(D) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

“(2) **IMPLEMENTATION OF PERFORMANCE MEASUREMENTS.**—With respect to paragraph (1)(D), with the approval of the Postal Regulatory Commission an internal measurement system may be implemented instead of an external measurement system.

“(c) **FACTORS.**—In establishing or revising such standards, the Postal Service shall take into account—

“(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

“(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

“(3) the needs of Postal Service customers, including those with physical impairments;

“(4) mail volume and revenues projected for future years;

“(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

“(6) the current and projected future cost of serving Postal Service customers;

“(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

“(8) the policies of this title and such other factors as the Postal Service determines appropriate.

“(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto), and any violations thereof, shall be subject to review upon complaint under sections 3662 and 3663.”.

**SEC. 302. POSTAL SERVICE PLAN.**

(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENTS.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service’s processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

(4) describe the long-term vision of the Postal Service for rationalizing its infrastructure and workforce, and how the Postal Service intends to implement that vision.

(c) POSTAL FACILITIES.—

(1) FINDINGS.—Congress finds that—

(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

(B) as noted by the President’s Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

(D) Congress strongly encourages the Postal Service to—

(i) expeditiously move forward in its streamlining efforts; and

(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

(2) IN GENERAL.—The Postal Service plan shall include a description of—

(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

(B) how the Postal Service intends to implement that vision.

39 USC 3691  
note.  
Deadline.

(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes;

(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan; and

(D) procedures that the Postal Service will use to—

(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

(ii) make available information regarding any service changes in the affected communities, any other effects on customers, any effects on postal employees, and any cost savings;

(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

(iv) take such comments into account in making a final decision.

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

(B) CONTENTS.—Each report under this paragraph shall include—

(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

(v) such additional topics and recommendations as the Postal Service considers appropriate.

(5) EXISTING EFFORTS.—Effective on the date of enactment of this Act, the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D). Effective date.

(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

- (1) vending machines;
- (2) the Internet;
- (3) postage meters;
- (4) Stamps by Mail;
- (5) Postal Service employees on delivery routes;
- (6) retail facilities in which overhead costs are shared with private businesses and other government agencies;
- (7) postal kiosks; or
- (8) any other nonpost office access channel providing market retail access to postal services.

(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

- (1) a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of automation of any of its functions, the closing and consolidation of any of its facilities, or such other reasons as the Postal Service may determine; and

- (2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) CONTINUED AUTHORITY.—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

## TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

### SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

- (1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

#### “§ 2011. Provisions relating to competitive products

“(a)(1) In this subsection, the term ‘costs attributable’ has the meaning given such term by section 3631.

“(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(A) costs attributable to competitive products; and

“(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

- “(1) revenues from competitive products;

“(2) amounts received from obligations issued by Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

“(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

“(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

“(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

“(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

“(3) Obligations issued by the Postal Service under this subsection—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions, as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that such obligations are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)), or for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

“(A) the assets related to the provision of competitive products as calculated under subsection (h); or

“(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

“(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

Recommendations.

“(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

“(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

“(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

“(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year (within the meaning of section 3634).

Submission  
period.

“(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

“(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

Reports.

“(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Deadline.

“(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission is authorized to promulgate regulations revising such rules.

“(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

Regulations.

“(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

“(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. Reports.

“(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) COMPETITIVE PRODUCTS FUND.—The term ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”.

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund,”.

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title.” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”.

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting “or 2011” after “section 2005”;

(B) in subsection (b)—

(i) in the first sentence, by inserting “under section 2005” before “in such amounts”; and

(ii) in the second sentence, by inserting “under section 2005” before “in excess of such amount.”; and

(C) in subsection (c), by inserting “or 2011(e)(4)(E)” after “section 2005(d)(5)”.

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**“§ 3634. Assumed Federal income tax on competitive products income**

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”.

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**“§ 404a. Specific limitations**

“(a) Except as specifically authorized by law, the Postal Service may not—

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or

obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section. Regulations.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

#### SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

Applicability.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

“(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

“(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

Deadline.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions. Procedures.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title,”.

#### SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

##### “§ 407. International postal arrangements

“(a) It is the policy of the United States—

“(1) to promote and encourage communications between peoples by efficient operation of international postal services

and other international delivery services for cultural, social, and economic purposes;

“(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

“(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

“(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

“(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services and shall have the power to conclude postal treaties, conventions, and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

“(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

“(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

“(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

“(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

“(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

“(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection

with international postal services and international delivery services.

“(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

Establishment.

“(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

“(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with the views submitted by the Commission pursuant to paragraph (1), except if, or to the extent, the Secretary determines, in writing, that it is not in the foreign policy or national security interest of the United States to ensure consistency with the Commission’s views. Such written determination shall be provided to the Commission together with a full explanation of the reasons thereof, provided that the Secretary may designate which portions of the determination or explanation shall be kept confidential for reasons of foreign policy or national security.

“(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

“(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

“(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

“(e)(1) In this subsection, the term ‘private company’ means a private company substantially owned or controlled by persons who are citizens of the United States.

“(2) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

“(3) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary’s control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United

States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

Effective date.

“(4) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.”

39 USC 407 note.

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

## TITLE V—GENERAL PROVISIONS

### SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their experience in the field of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; except that at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) that employ at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”

39 USC 202 note.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

Effective date.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives,

the majority leader of the Senate, and the minority leader of the Senate.”.

(c) 7-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended in the first sentence by striking “9 years” and inserting “7 years”.

(2) APPLICABILITY.—

39 USC 202 note.

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 7 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 7 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 7-year term.

(C) VACANCY BY INCUMBENT AFTER 7 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 7 years or more of that term, that term shall be deemed to have been a 7-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 7-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be a 7-year term under this subparagraph.

(d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end the following:

“(2) No person may serve more than 2 terms as a Governor.”.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

39 USC 202 note.

**SEC. 502. OBLIGATIONS.**

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than

any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”.

(b) **LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.**—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: “In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of \$3,000,000,000.”.

(c) **LIMITATIONS ON OBLIGATIONS OUTSTANDING.**—

(1) **IN GENERAL.**—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

“(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.”.

(2) **CONFORMING AMENDMENT.**—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “any such obligations” and inserting “obligations issued by the Postal Service which may be”.

(d) **AMOUNTS WHICH MAY BE PLEDGED.**—

(1) **OBLIGATIONS TO WHICH PROVISIONS APPLY.**—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section,”.

(2) **ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.**—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.”.

#### **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

(a) **IN GENERAL.**—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces; or

“(3) such carriage is within the scope of services described by regulations of the United States Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2005) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”.

Regulations.

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

39 USC 601 note.

#### SEC. 504. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;”.

#### SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

##### “§ 1207. Labor disputes

Deadlines.

“(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

Notice.

“(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

Notification.

“(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board

shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

“(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

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

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

39 USC 1201  
note.

(b) **NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

39 USC 1217  
note.

(c) **FREE MAILING PRIVILEGES CONTINUE UNCHANGED.**—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

#### **SEC. 506. BONUS AUTHORITY.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

##### **“§ 3686. Bonus authority**

“(a) **IN GENERAL.**—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

“(b) **LIMITATION ON TOTAL COMPENSATION.**—

“(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

“(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

“(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

“(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

“(3) REVOCATION AUTHORITY.—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

“(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

Notification.  
Deadline.

“(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

“(2) the amount of the bonus or other payment; and

“(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

“(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.”.

## TITLE VI—ENHANCED REGULATORY COMMISSION

### SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

#### “CHAPTER 5—POSTAL REGULATORY COMMISSION

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

“505. Officer of the Postal Regulatory Commission representing the general public.

#### “§ 501. Establishment

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

#### “§ 502. Commissioners

President.

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”;

39 USC 3601,  
3602.

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and

(4) by adding after such section 504 the following:

**“§ 505. Officer of the Postal Regulatory Commission representing the general public**

“The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.”

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

39 USC 501 note.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission ..... 501”**

**SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

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

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

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

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

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

- “ (4) For purposes of this subsection, the term ‘covered person’ means an officer, employee, agent, or contractor of the Postal Service.
- Notification. “ (g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).
- “ (2) Except as provided in paragraph (3), no officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—
- “ (A) use such information for purposes other than the purposes for which it is supplied; or
- “ (B) permit anyone who is not an officer or employee of the Commission to have access to any such information.
- Confidentiality. “ (3)(A) Paragraph (2) shall not prohibit the Commission from publicly disclosing relevant information in furtherance of its duties under this title, provided that the Commission has adopted regulations under section 553 of title 5, that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.
- “ (B) Paragraph (2) shall not prevent the Commission from requiring production of information in the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for information furnished to any party.”.
- Regulations.
- SEC. 603. AUTHORIZATION OF APPROPRIATIONS FROM THE POSTAL SERVICE FUND.**
- (a) **POSTAL REGULATORY COMMISSION.**—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:
- “ (d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission’s expenses, including expenses for facilities, supplies, compensation, and employee benefits.”.
- Budget.
- (b) **OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.**—Section 8G(f) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—
- 5 USC app. 8G. (1) by redesignating paragraph (4) as paragraph (5);

(2) by redesignating the second paragraph (3) (relating to employees and labor organizations) as paragraph (4); and (3) by adding at the end the following:

“(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.”.

(c) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”.

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2008.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, and the Inspector General Act of 1978 (5 U.S.C. App.) that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

5 USC app. 8G  
note.

Applicability.

#### SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”;

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C.

5 USC app. 101.

App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

39 USC 404 note.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**SEC. 605. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.**

5 USC app. 8G.

(a) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 is amended by inserting “the Postal Regulatory Commission,” after “the United States International Trade Commission.”.

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding after subsection (g) (as added by section 602) the following:

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

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

5 USC app. 8G note.

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

Establishment.

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

**TITLE VII—EVALUATIONS**

39 USC 501 note.

**SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.**

Deadline.  
Reports.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) **POSTAL SERVICE VIEWS.**—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

**SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.** 39 USC 501 note.

(a) **REPORT BY THE POSTAL REGULATORY COMMISSION.**—

(1) **IN GENERAL.**—Not later than 24 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as “universal service and the postal monopoly”), including the monopoly on the delivery of mail and on access to mailboxes.

(2) **CONTENTS.**—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) **RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.**—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

(c) CONSULTATION.—In preparing the report required by this section, the Postal Regulatory Commission—

(1) shall solicit written comments from the Postal Service and consult with the Postal Service and other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of the mail, and the general public; and

(2) shall address in the report any written comments received under this section.

(d) CLARIFYING PROVISION.—Nothing in this section shall be considered to relate to any services that are not postal services within the meaning of section 102 of title 39, United States Code, as amended by section 101 of this Act.

39 USC 3633  
note.

Deadline.  
Reports.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and to private companies providing similar products.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic effects provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

**SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.**

(a) REPORT BY THE INSPECTOR GENERAL.—

(1) **IN GENERAL.**—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

(2) **CONTENTS.**—The report under this subsection shall also—

(A) discuss any injury reduction goals established by the Postal Service;

(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

(C) identify areas where the Postal Service has failed to meet its injury reduction goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

(b) **REPORT BY THE POSTAL SERVICE.**—

(1) **REPORT TO CONGRESS.**—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics.

(2) **PROBLEM AREAS.**—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

#### **SEC. 705. STUDY ON RECYCLED PAPER.**

(a) **IN GENERAL.**—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

Deadline.  
Reports.

(1) a description and analysis of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including efforts by the Postal Service to recycle undeliverable and discarded mail and other materials and its public affairs efforts to promote the increased recycling of paper products; and

(2) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives, including consultation with the paper recycling industry and encouraging mailers to increase both the recycling of paper products and the use of recycled paper, and the projected costs and revenues of undertaking such opportunities.

(b) **RECOMMENDATIONS.**—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

**SEC. 706. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.**

Deadline.  
Reports.

(a) **IN GENERAL.**—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

39 USC 1001  
note.

(b) **PERFORMANCE EVALUATIONS.**—The United States Postal Service shall, as soon as is practicable, take such measures as may be necessary to incorporate the affirmative action and equal opportunity criteria contained in 4313(5) of title 5, United States Code, into the performance appraisals of senior supervisory or managerial employees.

**SEC. 707. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.**

Deadline.  
Reports.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

**SEC. 708. RATES FOR PERIODICALS.**

Reports.

(a) **IN GENERAL.**—The United States Postal Service, acting jointly with the Postal Regulatory Commission, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) **RECOMMENDATIONS.**—The report shall include recommendations for any administrative action or legislation that might be appropriate.

**SEC. 709. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

Deadline.  
Reports.

(a) **IN GENERAL.**—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) **SPECIFIC REQUIREMENTS.**—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

**SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.**

(a) **GOVERNMENT ACCOUNTABILITY OFFICE MANDATE.**—The Comptroller General of the United States shall prepare and submit to the President and Congress a report that builds upon the work of the 2002 President’s Commission on the United States Postal Service by evaluating in-depth various options and strategies for the long-term structural and operational reforms of the United States Postal Service. The final report required by this section shall be submitted within 5 years of the date of enactment of this Act. Reports.

(b) **PROTECTION OF UNIVERSAL SERVICE.**—The Government Accountability Office may include such recommendations as it considers appropriate with respect to how the Postal Service’s business model can be maintained or transformed in an orderly manner that will minimize adverse effects on all interested parties and assure continued availability of affordable, universal postal service throughout the United States. The Government Accountability Office shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States.

(c) **ELEMENTS OF REPORT.**—

(1) **TOPICS TO ADDRESS.**—The report shall address at least the following:

(A) Specification of nature and bases of one or more sets of reasonable assumptions about the development of the postal services market, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the Government Accountability Office.

(B) Specification of the nature and bases of one or more sets of reasonable assumptions about the development of the regulatory framework for postal services, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the Government Accountability Office.

(C) Qualitative and, to the extent possible, quantitative effects that each strategy identified by the Government Accountability Office may have on universal service generally, the Postal Service, mailers, postal employees, private companies that provide delivery services, and the general public.

(D) Financial effects that each strategy identified by the Government Accountability Office may have on the Postal Service, postal employees, the Treasury of the United States, and other affected parties, including the American mailing consumer.

(E) Feasible and appropriate procedural steps and timetables for implementing each strategy identified by the Government Accountability Office.

(F) Such additional topics as the Comptroller General shall consider necessary and appropriate.

(2) **MATTERS TO CONSIDER.**—For each strategy identified, the Government Accountability Office shall assess how each business model might—

(A) address the human-capital challenges facing the Postal Service, including how employee-management relations within the Postal Service may be improved;

(B) optimize the postal infrastructure, including the best methods for providing retail services that ensure convenience and access to customers;

(C) ensure the safety and security of the mail and of postal employees;

(D) minimize areas of inefficiency or waste and improve operations involved in the collection, processing, or delivery of mail; and

(E) impact other matters that the Comptroller General determines are relevant to evaluating a viable long-term business model for the Postal Service.

(3) EXPERIENCES OF OTHER COUNTRIES.—In preparing the report required by subsection (a), the Government Accountability Office shall comprehensively and quantitatively investigate the experiences of other industrialized countries that have transformed the national post office. The Government Accountability Office shall undertake such original research as it deems necessary. In each case, the Government Accountability Office shall describe as fully as possible the costs and benefits of transformation of the national post office on all affected parties and shall identify any lessons that foreign experience may imply for each strategy identified by the research organization.

(d) OUTSIDE EXPERTS.—In preparing its study, the Government Accountability Office may retain the services of additional experts and consultants.

(e) CONSULTATION.—In preparing its report, the Government Accountability Office shall consult fully with the Postal Service, the Postal Regulatory Commission, other Federal agencies, postal employee unions and management associations, mailers, private companies that provide delivery services, and the general public. The Government Accountability Office shall include with its final report a copy of all formal written comments received under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Postal Service Fund such sums as may be necessary to carry out this section.

39 USC 501 note. **SEC. 711. PROVISIONS RELATING TO COOPERATIVE MAILINGS.**

(a) STUDY.—

(1) IN GENERAL.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against—

(A) abuses of rates for nonprofit mail; and

(B) deception of consumers.

(2) REPORT.—The Commission shall report the results of its examination to the Postal Service, along with any recommendations that the Commission determines appropriate.

(b) FAILURE TO ACT.—If the Postal Service fails to act on the recommendations of the Commission, the Commission may take such action as it determines necessary to prevent abuse of rates or deception of consumers.

**SEC. 712. DEFINITION.**

For purposes of this title, the term “Board of Governors” has the meaning given such term by section 102 of title 39, United States Code.

## TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006.  
5 USC 101 note.

### SEC. 801. SHORT TITLE.

This title may be cited as the “Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006”.

### SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.

(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

“(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.”; and

(2) by amending section 8348(h) to read as follows:

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

“(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

“(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A) Not later than June 15, 2007, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2006. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2007.

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

Deadlines.

Redetermination period.

Effective date.  
Deadline.

“(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

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

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

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2007, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2006 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

5 USC 8348 note.

(c) REVIEW.—

(1) IN GENERAL.—

(A) REQUEST FOR REVIEW.—Notwithstanding any other provision of this section (including any amendment made by this section), any determination or redetermination made by the Office of Personnel Management under this section (including any amendment made by this section) shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this subsection.

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

(2) RECONSIDERATION.—Upon receiving the report from the Commission under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the

Reports.

results of its reconsideration to the Commission, the Postal Service, and Congress.

**SEC. 803. HEALTH INSURANCE.**

(a) IN GENERAL.—

(1) FUNDING.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8906(g)(2)(A), by striking “shall be paid by the United States Postal Service.” and inserting “shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.”; and

(B) by inserting after section 8909 the following:

**“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

“(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

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

Deadlines.

“(2)(A) Not later than June 30, 2007, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

“(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

“(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

“(II) the net present value computed under paragraph (1).

“(B) Not later than June 30, 2017, the Office shall compute, and by June 30 of each succeeding year shall recompute, a schedule including a series of annual installments which provide for the liquidation of any liability or surplus by September 30, 2056, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

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

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

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

“(iii) \$5,400,000,000, not later than September 30, 2009;

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

“(v) \$5,500,000,000, not later than September 30, 2011;  
 “(vi) \$5,600,000,000, not later than September 30, 2012;  
 “(vii) \$5,600,000,000, not later than September 30, 2013;  
 “(viii) \$5,700,000,000, not later than September 30, 2014;  
 “(ix) \$5,700,000,000, not later than September 30, 2015;

and

“(x) \$5,800,000,000, not later than September 30, 2016.

“(B) Not later than September 30, 2017, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund the sum of—

“(i) the net present value computed under paragraph (1);

and

“(ii) any annual installment computed under paragraph (2)(B).

“(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

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

Reports.

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

Reports.

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

Regulations.

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

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”

5 USC 8909a.

(b) REVIEW.—

(1) IN GENERAL.—

(A) REQUEST FOR REVIEW.—Any regulation established under section 8909a(d)(5) of title 5, United States Code (as added by subsection (a)), shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

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

(2) **RECONSIDERATION.**—Upon receiving the report under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

Reports.

**SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

(a) **IN GENERAL.**—Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) is repealed.

39 USC note  
prec. 2001.

(b) **SAVINGS.**—Savings accrued to the Postal Service as a result of enactment of Public Law 108-18 and attributable to fiscal year 2006 shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a of title 5, United States Code, as added by section 803 of this Act.

**SEC. 805. EFFECTIVE DATES.**

5 USC 8334 note.

(a) **IN GENERAL.**—Except as provided under subsection (b), this title shall take effect on October 1, 2006.

(b) **TERMINATION OF EMPLOYER CONTRIBUTION.**—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2006.

## TITLE IX—COMPENSATION FOR WORK INJURIES

**SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

(a) **TIME OF ACCRUAL OF RIGHT.**—Section 8117 of title 5, United States Code, is amended—

(1) by striking “An employee” and inserting “(a) An employee other than a Postal Service employee”; and

(2) by adding at the end the following:

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

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

“(1) without a break in time, except as provided under section 8117(b), unless controverted under regulations of the Secretary;”.

## TITLE X—MISCELLANEOUS

### SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

“(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on that property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) With respect to such property, such officers shall have the power to—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms; and

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

“(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

“(A) serve warrants and subpoenas issued under the authority of the United States; and

“(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

“(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

Penalty.

“(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.”.

### SEC. 1002. OBSOLETE PROVISIONS.

(a) REPEAL.—

(1) IN GENERAL.—Chapter 52 of title 39, United States Code, is repealed.

39 USC 5201 *et seq.*

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) **ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.**—

(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(d) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

#### **SEC. 1003. REDUCED RATES.**

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

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

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

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

(2) in subsection (g), by adding at the end the following:

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

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

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

“(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.”; and

(3) by adding at the end the following:

“(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).”.

**SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.**

It is the sense of Congress that the Postal Service should—

(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings by taking full advantage of private-sector partnerships as recommended in July 2003 by the President’s Commission on the United States Postal Service.

**SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY AIR.**

(a) **DEFINITIONS.**—Section 5402(a) of title 39, United States Code, is amended—

(1) in paragraph (4), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(2) in paragraph (5), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(3) in paragraph (8), by striking “rates paid to a bush carrier” and inserting “linehaul rates and a single terminal handling payment at a bush terminal handling rate paid to a bush carrier”;

(4) in paragraph (11), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”;

(5) in paragraph (13)—

(A) in subparagraph (A)—

(i) by striking “clause (i) or (ii) of subsection (g)(1)(D)” and inserting “subclause (I) or (II) of subsection (g)(1)(A)(iv)”;

(ii) by striking “and” after the semicolon;

(B) in subparagraph (B), by adding “and” after the semicolon; and

(C) by adding at the end the following:

“(C) is not comprised of previously qualified existing mainline carriers as a result of merger or sale;”.

(b) **NONPRIORITY BYPASS MAIL.**—Section 5402(g) of title 39, United States Code, is amended—

(1) in paragraph (3), by adding at the end the following:

“(C) When a new hub results from a change in a determination under subparagraph (B), mail tender from that hub during the 12-month period beginning on the

effective date of that change shall be based on the passenger and freight shares to the destinations of the affected hub or hubs resulting in the new hub.”; and

(2) in paragraph (5)(A)(i), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”.

(c) **EQUITABLE TENDER.**—Section 5402(h) of title 39, United States Code, is amended—

(1) in paragraph (1), by inserting “bush” after “providing scheduled”;

(2) by striking paragraph (3) and inserting the following:

“(3)(A) Except as provided under subparagraph (C), a new or existing 121 bush passenger carrier qualified under subsection (g)(1) shall be exempt from the requirements under paragraphs (1)(B) and (2)(A) on a city pair route for a period which shall extend for—

“(i) 1 year;

“(ii) 1 year in addition to the extension under clause

(i) if, as of the conclusion of the first year, such carrier has been providing not less than 5 percent of the passenger service on that route (as calculated under paragraph (5)); and

“(iii) 1 year in addition to the extension under clause

(ii) if, as of the conclusion of the second year, such carrier has been providing not less than 10 percent of the passenger service on that route (as calculated under paragraph (5)).

“(B)(i) The first 3 121 bush passenger carriers entitled to the exemptions under subparagraph (A) on any city pair route shall divide no more than an additional 10 percent of the mail, apportioned equally, comprised of no more than—

“(I) 5 percent of the share of each qualified passenger carrier servicing that route that is not a 121 bush passenger carrier; and

“(II) 5 percent of the share of each nonpassenger carrier servicing that route that transports 25 percent or more of the total nonmail freight under subsection (i)(1).

“(ii) Additional 121 bush passenger carriers entering service on that city pair route after the first 3 shall not receive any additional mail share.

“(iii) If any 121 bush passenger carrier on a city pair route receiving an additional share of the mail under clause (ii) discontinues service on that route, the 121 bush passenger carrier that has been providing the longest period of service on that route and is otherwise eligible but is not receiving a share by reason of clause (ii), shall receive the share of the carrier discontinuing service.

“(C) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing at least 10 percent of the passenger service on such route.”;

(3) in paragraph (5)(A)—

(A) by striking “(i)” after “(A)”;

(B) by striking clause (ii).

(d) PERCENT OF NONMAIL FREIGHT.—Section 5402(i)(6) of title 39, United States Code, is amended—

(1) by striking “(A)” after “(6)”; and

(2) by striking subparagraph (B).

(e) PERCENT OF TENDER RATE.—Section 5402(j)(3)(B) of title 39, United States Code, is amended by striking “bush routes in the State of Alaska” and inserting “routes served exclusively by bush carriers in the State of Alaska”.

(f) DETERMINATION OF RATES.—Section 5402(k) of title 39, United States Code, is amended by striking paragraph (5).

(g) TECHNICAL AND CONFORMING AMENDMENT.—Section 5402(p)(3) of title 39, United States Code, is amended by striking “(g)(1)(D)” and inserting “(g)(1)(A)(iv)”.

39 USC 5402  
note.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the date of enactment of this Act.

(2) EQUITABLE TENDER.—Subsection (c) shall take effect on December 1, 2006.

**SEC. 1006. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.**

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

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

“(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

“(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).”

39 USC 404 note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

**SEC. 1007. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.**

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting “(a)” after “8.” and by adding at the end the following:

“(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.”

39 USC 1001  
note.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

**SEC. 1008. HAZARDOUS MATTER.**

(a) **NONMAILABILITY GENERALLY.**—Section 3001 of title 39, United States Code, is amended—

- (1) by redesignating subsection (n) as subsection (o); and  
 (2) by inserting after subsection (m) the following:

“(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

“(2) In this subsection, the term ‘hazardous material’ means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.”.

(b) **MAILABILITY.**—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

**“§ 3018. Hazardous material**

“(a) **IN GENERAL.**—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

Regulations.

“(b) **PROHIBITIONS.**—No person may—

“(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

“(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

“(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

“(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

“(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

“(c) **CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.**—

“(1) **IN GENERAL.**—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

“(A) a civil penalty of at least \$250, but not more than \$100,000, for each violation;

“(B) the costs of any clean-up associated with each violation; and

“(C) damages.

“(2) **KNOWING ACTION.**—A person acts knowingly for purposes of paragraph (1) when—

“(A) the person has actual knowledge of the facts giving rise to the violation; or

“(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

“(3) **SEPARATE VIOLATIONS.**—

“(A) **VIOLATIONS OVER TIME.**—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

“(B) **SEPARATE ITEMS.**—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

“(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

“(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

“(1) the nature, circumstances, extent, and gravity of the violation;

“(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

“(3) the impact on Postal Service operations; and

“(4) any other matters that justice requires.

“(f) CIVIL ACTIONS TO COLLECT.—

“(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

“(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

“(g) CIVIL JUDICIAL PENALTIES.—

“(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

“(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

“(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

“(h) DEPOSIT OF AMOUNTS COLLECTED.—

“(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

“(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.”.

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking “and” after the semicolon;

(B) in paragraph (8), by striking “purposes.” and inserting “purposes; and”; and

(C) by adding at the end the following:

“(9) any amounts collected under section 3018.”.

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

“3018. Hazardous material.”.

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after “explosives,” the following: “hazardous materials,”.

**SEC. 1009. ZIP CODES AND RETAIL HOURS.**

Deadlines.

(a) ZIP CODES.—Not later than September 30, 2007, the United States Postal Service shall assign a single, unified ZIP code to serve, as nearly as practicable, each of the following communities:

- (1) Auburn Township, Ohio.
- (2) Hanahan, South Carolina.
- (3) Bradbury, California.
- (4) Discovery Bay, California.

(b) RETAIL HOURS.—Not later than 60 days after the date of the enactment of this Act, the United States Postal Service shall provide the same window service hours for the Fairport Harbor Branch of the United States Post Office in Painesville, Ohio, as were in effect as of December 1, 2005.

**SEC. 1010. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking “section 3628” and inserting “sections 3662 through 3664”.

(b) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

**“§ 3682. Size and weight limits**

“The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.”.

(c) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

- (1) in section 503 (as so redesignated by section 601), by striking “this chapter.” and inserting “this title.”; and
- (2) in section 2401(d), by inserting “(as last in effect before enactment of the Postal Accountability and Enhancement Act)” after “3626(a)” and after “3626(a)(3)(B)(ii)”.

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking “Committee on Post Office and Civil Service” each place it appears and inserting “Committee on Government Reform”; and

(B) by striking “Not later than March 15 of each year,” and inserting “Each year,”.

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking “2401(g)” and inserting “2401(e)”.

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

“(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable

and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows “any provision” and inserting “of this title.”.

(g) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 1005(d)(2)—

(A) by striking “subsection (g) of section 5532,”; and  
(B) by striking “8344,” and inserting “8344”;

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

**“28. Strategic Planning and Performance Management ..... 2801”;**

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows “nonmailable” and precedes “(h),” and inserting “under section 3001(d),”; and

(B) in the sentence following paragraph (3), by striking all that follows “nonmailable” and precedes “(h),” and inserting “under such section 3001(d),”;

(4) in section 3210(a)(6)(C), by striking the matter after “if such mass mailing” and before “than 60 days” and inserting “is postmarked fewer”; and

(5) by striking the heading for section 3627 and inserting the following:

**“§ 3627. Adjusting free rates”.**

Approved December 20, 2006.

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LEGISLATIVE HISTORY—H.R. 6407 (S. 662):

CONGRESSIONAL RECORD, Vol. 152 (2006):

Dec. 8, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):

Dec. 20, Presidential statement.



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## II. Congressional Record, 109th Congress

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that they instead plan to convert these facilities to outpatient operations only.

Yet one more example of this apparent manipulation involves another facility now slated for bed closures, the Leavenworth VA Medical Center in Kansas. The network plan concluded that "[r]ealignment of workload from Leavenworth to Kansas City would exceed current capacity. . . . Elimination of inpatient and outpatient primary care capabilities at Leavenworth would seriously undermine continuity of care for the remaining long-term care patients, reduce timely access to care, hinder its ability to provide ongoing support to the DoD facility located at Ft. Leavenworth. . . . Again, analysis conducted at the regional level resulted in a recommendation that VA is now directing be reconsidered.

The VA facility in Knoxville, IA, is being targeted for significant changes as well. The current proposal is to move all of the beds from Knoxville to Des Moines. The Knoxville facility has more than 226 long-term care beds, 40 domiciliary beds, and 34 inpatient psychiatric beds. We need to take a look at this proposal and the many others that will affect veterans all across the country.

Other facilities asked to re-evaluate are: Batavia, Lyons, St. Albans, Montrose, Pittsburgh at Highland Drive, Augusta, Dublin, Lexington, Brecksville, Gulfport, Marlin/Waco, Vancouver, Livermore, and Hot Springs.

While VA intends to present a five-year capital plan to Congress, there is nothing that requires VA to inform Members about possible reductions, closures, and other decisions that would have a deleterious effect on VA health care services and our veterans. This is unacceptable. Congress' role should not be limited to merely funding the implementation of these decisions; rather, we should be involved in a process that could result in the significant loss of inpatient, long-term care, and domiciliary capacity at VA health care facilities nationwide. We can rectify this problem very easily, however, by enacting the legislation I propose today.

In an internal VA memo, Secretary Principi stated that "the CARES process may be one of the most important activities undertaken by VA this decade. The outcome of this process will construct the foundation for, and set the course of, our health care system for the first half of the 21st century." In light of the great impact of this initiative on VA health care services, as well as recent actions that threaten the integrity of the process, it is imperative that Congress be granted a mere 60 days to review VA's proposals. I urge my colleagues to join me in this effort to secure the future of health care for our nation's veterans.

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

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

S. 1283

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

**SECTION 1. ADVANCE NOTIFICATION OF A DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET REALIGNMENT INITIATIVE.**

(a) **REQUIREMENT FOR ADVANCE NOTIFICATION.**—Before taking any action proposed under the Capital Asset Realignment for Enhanced Services initiative of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall submit to Congress a written notification of the intent to take such action.

(b) **LIMITATION.**—The Secretary of Veterans Affairs may not take any proposed action described in subsection (a) until the later of—

(1) the expiration of the 60-day period beginning on the date on which the Secretary submits to Congress the notification of the proposed action required under subsection (a); or

(2) the expiration of a period of 30 days of continuous session of Congress beginning on such date of notification or, if either House of Congress is not in session on such date, the first day after such date that both Houses of Congress are in session.

(c) **CONTINUOUS SESSION OF CONGRESS.**—For the purposes of subsection (b)—

(1) the continuity of session of Congress is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

By Mr. CARPER:

S. 1285. A bill to reform the postal laws of the United States; to the Committee on Governmental Affairs.

Mr. CARPER. Madam President, I rise today to introduce the Postal Accountability and Enhancement Act of 2003, legislation that makes the reforms necessary for the Postal Service to thrive in the 21st Century and to better serve the American people.

The Postal Service has, for the most part, operated in the same manner for more than thirty years. In the early 1970s, Senator STEVENS and others led the effort in the Senate to create the Postal Service out of the failing Post Office Department. At the time, the Post Office Department received about 20 percent of its revenue from taxpayer subsidies. The service it provided was suffering and there was little money available to expand. By all accounts, the product of Senator STEVENS' labors, the Postal Reorganization Act signed into law by President Nixon in 1971, has been a phenomenal success. The Postal Service today receives virtually no taxpayer support and the service its hundreds of thousands of employees provide to every American, every day is second to none. More than thirty years later, the Postal Service now delivers to 141 million addresses each day and is the anchor of a \$900 billion mailing industry.

All that said, the Postal Service is clearly in need of modernization once

again. When it started out in 1971, nobody had access to fax machines, cell phones and pagers and nobody imagined that we would ever enjoy conveniences like e-mail and electronic bill pay. After decades of success, electronic diversion of mail volume coupled with economic recession and terrorism have made for some rough going at the Postal Service in recent years. In 2001, as Postmaster General Potter assumed his position, the Postal Service was projecting its third consecutive year of deficits. They lost \$199 million in fiscal year 2000 and \$1.68 billion in fiscal year 2001. They were projecting losses of up to \$4 billion in fiscal year 2002. Mail volume was falling, revenues were below projections and the Postal Service was estimating that it needed to spend \$4 billion on security enhancements in order to prevent a repeat of the tragic anthrax attacks that took several lives. The Postal Service was also perilously close to its \$15 billion debt ceiling and had been forced to raise rates three times in less than two years in order to pay for its operations, further eroding mail volume.

In recent months, however, the Postal Service's short-term financial outlook has improved. Under General Potter's strong leadership, Postal Service management cut a total of \$2.9 billion in costs fiscal year 2002. They did this mostly by eliminating 23,000 positions, mostly through attrition. This included 800 management positions at postal headquarters in Washington and 2,000 administrative positions in regional offices. They also continued their drive to further automate their processing operations, most notably in the area of flats processing. They have continued their construction freeze and ended their self-imposed ban on post office closings, resulting in the closing of dozens of post offices across the country.

Most dramatically, the Postal Service learned in 2002 that an unfunded pension liability they once believed was as high as \$32 billion was actually \$5 billion. My friend from Maine, Ms. COLLINS, and I responded with legislation, the Postal Civil Service Retirement System Funding Reform Act, signed into law by President Bush last month, which cuts the amount the Postal Service must pay into the Civil Service Retirement System each year by nearly \$3 billion. This will free up money for debt reduction and prevent the need for another rate increase until at least 2006.

Aggressive cost cutting and the lower pension payment, then, have put off the emergency that would have come if the Postal Service had reached their debt limit. Cost cutting can only go so far, however, and will not solve the Postal Service's long-term problems. It could actually hurt service. The Postal Service continues to add about 1.7 million new delivery points each year, creating the need for thousands of new routes and thousands of new letter carriers to work them. In addition, faster-

growing parts of the country will need new or expanded postal facilities in the coming years. Even if the economy recovers soon and the Postal Service begins to see volume and revenues improve, we will still need to make the fundamental reforms necessary to make the Postal Service as successful in the 21st Century as it was in the 20th Century.

As more and more customers turn to electronic forms of communication, letter carriers are bringing fewer and fewer pieces of mail to each address they serve. The rate increases that will be needed to maintain the Postal Service's current infrastructure, finance retirement obligations to its current employees, pay for new letter carriers and build facilities in growing parts of the country will only further erode mail volume. The Postal Service has been trying to improve on its own. They are making progress, but there is only so much they can do on their own.

That is where my bill comes in. First, the Postal Accountability and Enhancement Act begins the process of developing a modern rate system for pricing Postal Service products. The new rate system, to be developed by a strengthened Postal Rate Commission, re-named the Postal Regulatory Commission, would allow retained earnings, provide the Postal Service more flexibility in setting prices and streamline today's burdensome ratemaking process. It would also allow rates to be increased on an expedited basis during crises like a sharp spike in fuel prices and require that the Regulatory Commission develop a "phased rate" schedule whereby rate increases would be phased in gradually over a period of time.

In addition, the new rate system authorized through my bill will allow the Postal Service to negotiate service agreements with individual mailers. The Postal Rate Commission recently approved a service agreement the Postal Service negotiated with Capital One, but the process for considering the agreement took almost a year and the Postal Service's authority to enter into agreements is not clearly spelled out in law. The Postal Accountability and Enhancement Act allows the Postal Service to enter into agreements if the revenue generated from them covers all costs attributable to the Postal Service and results in a greater contribution to the Postal Service's institutional costs. No agreement would be permitted if it resulted in higher rates for any other mailer or prohibited any similarly situated mailer from negotiating a similar agreement.

Second, the Postal Accountability and Enhancement Act requires the Postal Regulatory Commission to set strong service standards for the Postal Service's Market Dominant products, a category made up mostly of those products, like First Class Mail, that are part of the postal monopoly. The Postal Service currently sets its own service standards, which allows them to

pursue efforts like the elimination of Saturday delivery, a proposal floated two years ago. The new standards set by the Commission will aim to improve service and will be used by the Postal Service to establish performance goals and to rationalize their physical infrastructure. Once the standards are established, the Postal Service will recommend a list of facilities that can be closed or consolidated without hindering their ability to meet the standards. A new commission, called the Postal Network Modernization Commission, would then study the Postal Service's recommendations. The closings and consolidations recommended by this commission would be carried out, subject to approval by the President, unless Congress passed a resolution disapproving them.

Third, the Postal Accountability and Enhancement Act ensures that the Postal Service competes fairly. The bill prohibits the Postal Service from issuing anti-competitive regulations and makes the State Department, instead of the Postal Service, responsible for setting U.S. foreign policy on mailing issues. It also subjects the Postal Service to State zoning; planning and land use laws, requires them to pay an assumed Federal income tax on products like packages and Express Mail that private firms also offer and requires that these products as a whole pay their share of the Postal Service's institutional costs.

Fourth, the Postal Accountability and Enhancement Act improves Postal Service accountability, mostly by strengthening oversight. Qualifications for membership on the Regulatory Commission would be stronger than those for the Rate Commission so that Commissioners would have a background in finance or economics. Commissioners would also have the power to demand information from the Postal Service, including by subpoena, and have the power to punish them for violating rate and service regulations. In addition, the Commission will make an annual determination as to whether the Postal Service is in compliance with rate law and meeting service standards and will have the power to punish them for any transgressions.

Finally, and most importantly, the Postal Accountability and Enhancement Act preserves universal service and forces the Postal Service to concentrate solely on what they do best—processing and delivering the mail to all Americans. The bill for the first time limits the Postal Service to providing "postal services," meaning they would be prohibited from engaging in other lines of business, such as e-commerce, that draw time and resources away from letter and package delivery. It also explicitly preserves the requirement that the Postal Service "bind the Nation together through the mail" and serve all parts of the country, urban, suburban and rural, in a non-discriminatory fashion. Any service standards established by the Postal Regulatory

Commission will continue to ensure delivery to every address, every day. In addition, the bill maintains the prohibition on closing post offices solely because they operate at a deficit, ensuring that rural and urban customers continue to enjoy full access to retail postal services.

One thing the Postal Accountability and Enhancement Act does not do, is blame postal employees for the Postal Service's problems. The bill preserves collective bargaining and does nothing that would harm postal employees' pay or benefits.

Another thing the Postal Accountability and Enhancement Act does not do is privatize or downsize the Postal Service. The bill preserves the Postal Service's monopoly along with its sole access to the mailbox. While it could result in the closing of some postal facilities, the process I have laid out in the bill is completely driven by the service standards established by the Postal Regulatory Commission. Nothing will be closed for the sake of being closed. Instead, the bill encourages the Postal Service to find ways to improve customer access to retail services through things like vending machines or post offices located in grocery stores or pharmacies.

As my colleagues are aware, President Bush last year announced the creation of the President's Commission on the United States Postal Service, which is expected to release a set of postal reform proposals this summer that I hope will offer some fair, balanced recommendations. It is also my hope, however, that the President's Commission look to the Postal Accountability and Enhancement Act as a touchstone as they complete their work. The bill is the product of nearly a decade's worth of work on postal reform in the House of Representatives led by Congressman JOHN McHUGH from New York and is based in large part on legislation Congressman McHUGH introduced towards the end of the 107th Congress. While I cannot claim that the McHugh bill had unanimous support, it did draw the support of most postal employees, much of the mailing industry and the Postal Service's Board of Governors.

When Treasury Department Under Secretary Peter Fisher addressed the President's Commission at its first meeting, he stated that everything was on the table and that the Commission's findings were not predetermined. I know there is some concern that the Commission will recommend privatization, and that this was the idea from the beginning. I will admit that I initially shared these feelings but, based on what I have heard about the Commission's deliberations, they appear on track to develop a reasonable set of recommendations. That said, I urge them to take careful consideration of the work Congress has done on postal reform in the past. Radical reforms undertaken at a number of foreign posts in recent years should teach us a lesson

about going too far. When the British deregulated Royal Mail, service began to suffer dramatically. When the New Zealand Post Office was privatized, universal service was eliminated and customers in rural areas were forced to pay for delivery. When Argentina privatized its Postal Authority, the new private entity went bankrupt even before the country's economic crisis began. We cannot afford to gamble with similar reforms at the Postal Service.

I look forward to working with Chairman COLLINS, the Governmental Affairs Committee and all of my colleagues in passing comprehensive postal reform this year.

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

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

S. 1285

*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 "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

#### TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Clerical amendment.

#### TITLE III—MODERN SERVICE STANDARDS

Sec. 301. Establishment of modern service standards.

Sec. 302. Postal service plan.

Sec. 303. Postal Network Modernization Commission.

Sec. 304. Closure and consolidation of facilities.

Sec. 305. Congressional consideration of commission report.

Sec. 306. Nonappealability to Postal Regulatory Commission.

#### TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 401. Postal Service Competitive Products Fund.

Sec. 402. Assumed Federal income tax on competitive products income.

Sec. 403. Unfair competition prohibited.

Sec. 404. Suits by and against the Postal Service.

Sec. 405. International postal arrangements.

Sec. 406. Change-of-address order involving a commercial mail receiving agency.

Sec. 407. Exception for competitive products.

#### TITLE V—GENERAL PROVISIONS

Sec. 501. Qualification requirements for Governors.

Sec. 502. Obligations.

Sec. 503. Private carriage of letters.

Sec. 504. Rulemaking authority.

Sec. 505. Noninterference with collective bargaining agreements, etc.

Sec. 506. Bonus authority.

#### TITLE VI—ENHANCED REGULATORY COMMISSION

Sec. 601. Reorganization and modification of certain provisions.

Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 603. Appropriations for the Postal Regulatory Commission.

Sec. 604. Redesignation of the Postal Rate Commission.

#### TITLE VII—INSPECTORS GENERAL

Sec. 701. Inspector General of the Postal Regulatory Commission.

Sec. 702. Inspector General of the United States Postal Service to be appointed by the President.

#### TITLE VIII—EVALUATIONS

Sec. 801. Definition.

Sec. 802. Assessments of ratemaking, classification, and other provisions.

Sec. 803. Study on equal application of laws to competitive products.

Sec. 804. Greater diversity in Postal Service executive and administrative schedule management positions.

Sec. 805. Contracts with women, minorities, and small businesses.

Sec. 806. Rates for periodicals.

Sec. 807. Assessment of certain rate deficiencies.

#### TITLE IX—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

Sec. 901. Employment of postal police officers.

Sec. 902. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.

Sec. 903. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.

Sec. 904. Obsolete provisions.

Sec. 905. Expanded contracting authority.

Sec. 906. Investments.

Sec. 907. Repeal of section 5403.

Sec. 908. Technical and conforming amendments.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

##### SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

"(5) 'postal service' refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other services ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate is applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36; and

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36; and

"(10) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year."

#### SEC. 102. POSTAL SERVICES.

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following: "(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services."

(b) CONFORMING AMENDMENTS.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking "404(a)(8)" and inserting "404(a)(7)".

(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking "and nonpostal".

#### TITLE II—MODERN RATE REGULATION

##### SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621, 3622, and 3623 and inserting the following:

##### "§ 3621. Applicability; definitions

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1)(A) single piece first-class letters (both domestic and international);

"(B) single piece first-class cards (both domestic and international);

"(C) single piece parcels (both domestic and international); and

"(D) special services;

"(2) all first-class mail not included under paragraph (1);

"(3) periodicals;

"(4) standard mail (except for parcel post);

"(5) media mail;

"(6) library mail; and

"(7) bound printed matter,

subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

##### "§ 3622. Modern rate regulation

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

"(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

"(1) To reduce the administrative burden of the ratemaking process.

"(2) To create predictability and stability in rates.

"(3) To maximize incentives to reduce costs and increase efficiency.

"(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

"(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

"(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

"(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

"(11) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

"(12) the policies of this title as well as such other factors as the Commission deems appropriate.

"(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include—

"(1) price caps, revenue targets, or other form of incentive regulation;

"(2) cost-of-service regulation; or

"(3) such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

"(e) REQUIREMENTS.—The system for regulating rates and classes for market-dominant products shall—

"(1) establish a schedule whereby rates, when necessary, would increase at regular intervals by predictable amounts; and

"(2) establish procedures whereby rates may be increased on an expedited basis when an unexpected decline in revenue or increase in costs threatens the ability of the Postal Service to maintain service at the standards established by the Postal Regulatory Commission under section 3691.

"(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.

"§ 3623. Service agreements for market-dominant products

"(a) IN GENERAL.—

"(1) AUTHORITY.—The Postal Service may enter into service agreements with mailers that provide for the provision of postal services under terms and conditions that differ from those that would apply under the otherwise applicable market-dominant mail classification.

"(2) AGREEMENTS.—An agreement under this section may involve—

"(A) performance by the contracting mail user of mail preparation, processing, transportation, or other functions that reduce costs to the Postal Service;

"(B) performance by the Postal Service of additional mail preparation, processing, transportation, or other functions that increase costs to the Postal Service; or

"(C) other terms and conditions that meet the requirements of subsections (b) and (c).

"(b) REQUIREMENTS.—A service agreement under this section may only be entered into if the agreement will benefit the contracting mailer, the Postal Service, and mailers who are not parties to the agreement and if each of the following conditions is met:

"(1) The total revenue generated under the agreement—

"(A) will cover all costs attributable to the Postal Service; and

"(B) will result in a greater contribution to the institutional costs of the Postal Service than would have been granted had the agreement not been entered into.

"(2) Rates and fees for other mailers will not increase as a result of the agreement.

"(3) The agreement pertains exclusively to products in the market-dominant category of mail.

"(4) The agreement will not preclude or materially hinder similarly situated mail users from entering into agreements with the Postal Service on the same, or substantially the same, terms, and the Postal Service remains willing and able to enter into such.

"(c) LIMITATIONS.—A service agreement under this section shall—

"(1) be for a term of not to exceed 3 years; and

"(2) provide that such agreement shall be subject to the cancellation authority of the Commission under section 3662.

"(d) NOTICE REQUIREMENTS.—

"(1) IN GENERAL.—At least 30 days before a service agreement under this section is to take effect, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register the following:

"(A) With respect to each condition under subsection (b), information in sufficient detail to demonstrate the bases for the Postal Service's view that such condition would be met.

"(B) A description of the type of mail the agreement involves.

"(C) The mail preparation, processing, transportation, administration; or other additional functions, if any, the mail user is to perform under the agreement.

"(D) The services or benefits the Postal Service is to perform under the agreement.

"(E) The rates and fees payable by the mail user during the term of the agreement.

"(2) AGREEMENTS LESS THAN NATIONAL IN SCOPE.—In the case of a service agreement under this section that is less than national in scope, the information described under paragraph (1) shall also be published by the Postal Service in a manner designed to afford reasonable notice to persons within any geographic area to which such agreement (or any amendment thereto) pertains.

"(e) EQUAL TREATMENT REQUIRED.—If the Postal Service enters into a negotiated service agreement with a mailer under this section, the Postal Service shall make such agreement available to other mailers on the same terms and conditions.

"(f) COMPLAINTS.—Any person who believes that a service agreement under this section is not (or, in the case of a proposed agreement or a proposed amendment to a service agreement under this section, would not be) in conformance with the requirements of this section and regulations thereunder, or who aggrieved by a decision of the Postal Service not to enter into an agreement under

this section, may file a complaint with the Postal Regulatory Commission in accordance with section 3662.

"(g) POSTAL REGULATORY COMMISSION ROLE.—

"(1) REGULATIONS.—The Postal Regulatory Commission may promulgate such regulations regarding service agreements as the Commission determines necessary to implement the requirements of this section.

"(2) REVIEW.—The Postal Regulatory Commission may review any agreement or proposed agreement under this section and may suspend, cancel, or prevent such agreement if the Commission finds that the agreement does not meet the requirements of this section or the regulations thereunder.

"(h) INTERPRETATION.—The determination of whether the revenue generated under the agreement meets the requirements of (b)(1)(B) shall be based on the actual contribution of the mail involved, not on the average contribution made by the mail classification most similar to the services performed under the agreement.

"(i) RATE DISCOUNTS.—In the administration of this section, the Postal Regulatory Commission shall not permit rate discounts for additional mail preparation, processing, transportation, or other functions that exceed the costs avoided by the Postal Service by virtue of the additional functions performed by the mailer. Such discounts are allowable only if the Commission has, after notice and opportunity for a public hearing and comment, determined that such discounts are reasonable and equitable and are necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States consistent with the service standards established under section 3691."

(b) REPEALED SECTIONS.—Sections 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS"

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"§ 3631. Applicability; definitions and updates

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) priority mail;

"(2) expedited mail;

"(3) mailgrams;

"(4) international mail; and

"(5) parcel post,

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

"(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

"(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply

with respect to any product then currently in the market-dominant category of mail.

**“§3632. Action of the Governors**

**“(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.**—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

**“(b) PROCEDURES.**—

**“(1) IN GENERAL.**—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

**“(2) PUBLICATION.**—The Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register by such date before the effective date of any new rates or classes as the Governors consider appropriate.

**“(c) TRANSITION RULE.**—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

**“§3633. Provisions applicable to rates for competitive products**

“The Postal Regulatory Commission shall, within 180 days after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

“(1) to prohibit the subsidization of competitive products by market-dominant products;

“(2) to ensure that each competitive product covers its costs attributable; and

“(3) to ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.”

**SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.**

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**

**“§3641. Market tests of experimental products**

**“(a) AUTHORITY.**—

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

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

**“(b) CONDITIONS.**—A product may not be tested under this section unless it satisfies each of the following:

**“(1) SIGNIFICANTLY DIFFERENT PRODUCT.**—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

**“(3) CORRECT CATEGORIZATION.**—The Postal Service identifies the product, for the purpose of a test under this section, as either

market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3)(relating to provisions applicable to competitive products collectively).

**“(c) NOTICE.**—

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

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

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

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

**“(d) DURATION.**—

**“(1) IN GENERAL.**—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

**“(2) EXTENSION AUTHORITY.**—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

**“(e) DOLLAR-AMOUNT LIMITATION.**—

**“(1) IN GENERAL.**—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g).

**“(2) EXEMPTION AUTHORITY.**—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

**“(f) CANCELLATION.**—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

**“(g) ADJUSTMENT FOR INFLATION.**—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a),

each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

**“(h) DEFINITION OF A SMALL BUSINESS CONCERN.**—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

**“(i) EFFECTIVE DATE.**—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

**“§3642. New products and transfers of products between the market-dominant and competitive categories of mail**

**“(a) IN GENERAL.**—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

**“(b) CRITERIA.**—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

**“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.**

**“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.**—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

**“(3) ADDITIONAL CONSIDERATIONS.**—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

**“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.**—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

**“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.**—

**“(1) NOTIFICATION REQUIREMENT.**—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the

criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

"(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

"(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or  
 "(2) by or under any other provision of law."

#### SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended by striking the heading for subchapter IV and inserting the following:

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW"

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

##### "§ 3651. Annual reports by the Commission

"(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

"(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

##### "§ 3652. Annual reports to the Commission

"(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex thereto as the Commission may require under subsection (e))—

"(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

"(2) which shall, for each market-dominant product provided in such year, provide—

"(A) market information, including mail volumes; and

"(B) measures of the service afforded by the Postal Service in connection with such product, including—

"(i) the level of service (described in terms of speed of delivery and reliability) provided; and

"(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex thereto and the information required under subsection (b)), the Postal Service shall have the informa-

tion contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.

"(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

"(A) The per-item cost avoided by the Postal Service by virtue of such discount.

"(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(C) The per-item contribution made to institutional costs.

"(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term 'workshare discount' refers to presorting, barcoding, dropshipping, and other similar discounts, as further defined under regulations which the Postal Regulatory Commission shall prescribe.

"(c) SERVICE AGREEMENTS AND MARKET TESTS.—In carrying out subsections (a) and (b) with respect to service agreements (including service agreements entered into under section 3623) and experimental products offered through market tests under section 3641 in a year, the Postal Service—

"(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

"(2) shall report such data as the Postal Regulatory Commission requires.

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

"(e) CONTENT AND FORM OF REPORTS.—

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

"(A) providing the public with adequate information to assess the lawfulness of rates charged;

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

"(C) protecting the confidentiality of commercially sensitive information.

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

"(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information

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

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

"(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

"(1) comprehensive statement under section 2401(e);

"(2) strategic plan under section 2802;

"(3) performance plan under section 2803; and

"(4) program performance reports under section 2804.

##### "§ 3653. Annual determination of compliance

"(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

"(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

"(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

"(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

"(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with section 3662.

"(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates."

#### SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

##### "§ 3662. Rate and service complaints

"(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under

any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

“(A) begin proceedings on such complaint; or

“(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance. Such action may include ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

“(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

#### “§ 3663. Appellate review

“A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

#### “§ 3664. Enforcement of orders

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”

#### SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

#### “CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

##### “SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“3623. Service agreements for market-dominant products.

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

##### “SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors,

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

##### “SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

##### “SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

##### “SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

##### “SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

“3682. Size and weight limits.

“3683. Uniform rates for books; films, other materials.

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Change-of-address order involving a commercial mail receiving agency.

“3687. Bonus authority.

##### “SUBCHAPTER VII—MODERN SERVICE STANDARDS

“3691. Establishment of modern service standards.”

#### TITLE III—MODERN SERVICE STANDARDS

##### SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

##### “SUBCHAPTER VII—MODERN SERVICE STANDARDS

“§ 3691. Establishment of modern service standards

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with sections 101 (a) and (b) and 403.

“(b) OBJECTIVES.—Such standards shall be designed to achieve the following objectives:

“(1) To increase the value of postal services to both senders and recipients.

“(2) To provide a benchmark for Postal Service performance goals.

“(3) To guarantee Postal Service customers delivery speed and frequency consistent with reasonable rates.

“(c) FACTORS.—In establishing or revising such standards, the Postal Regulatory Commission shall take into account—

“(1) any service standards previously established by the Postal Service;

“(2) the actual level of service Postal Service customers receive;

“(3) customer satisfaction with Postal Service performance;

“(4) mail volume and revenues projected for future years;

“(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

“(6) the current and projected future cost of serving Postal Service customers; and

“(7) the policies of this title as well as such other factors as the Commission determines appropriate.”

#### SEC. 302. POSTAL SERVICE PLAN.

(a) IN GENERAL.—Within 1 year after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENT.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals; and

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals.

(c) RECOMMENDATIONS.—The Postal Service plan shall include a list of any processing and retail facilities that can be closed or consolidated without hindering the Postal Service's ability to meet established service standards. The recommendations shall be consistent with the provisions in section 101(b) of title 39, United States Code prohibiting the closing of post offices, including post offices in rural areas and small towns, solely because they are not self-sustaining or operate at a deficit.

(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include, to the extent possible, plans to provide postal services by other means; including—

(1) vending machines;

(2) the Internet;

(3) Postal Service employees on delivery routes; and

(4) retail facilities in which overhead costs are shared with private businesses and other government agencies.

(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) INSPECTOR GENERAL REPORT.—

(1) IN GENERAL.—Before submitting the plan under this section to Congress, the Postal Service shall submit the plan to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) REPORT.—The Inspector General shall prepare a report describing the extent to which the Postal Service plan—

(A) is consistent with the continuing obligations of the Postal Service under title 39, United States Code; and

(B) provides for the Postal Service to meet the service standards established under section 3691.

(3) SUBMISSION OF REPORT.—The Postal Service shall submit the report of the Inspector General under this subsection with the

plan submitted to Congress under subsection (a).

(g) **RECOMMENDED FACILITY CLOSINGS AND CONSOLIDATIONS.**—The list of recommended facility closings and consolidations, including the criteria used for selection, justifications for each recommendation, and any comments received from affected communities, shall be transmitted to the Postal Network Modernization Commission at the same time the Postal Service plan is transmitted to Congress.

(h) **CONTINUING RESPONSIBILITIES.**—Nothing in this section shall affect the responsibilities of the Postal Service under section 404(b) of title 39, United States Code, with respect to any postal facility by reason of that facility being recommended for closing or consolidation under this section.

**SEC. 303. POSTAL NETWORK MODERNIZATION COMMISSION.**

(a) **ESTABLISHMENT.**—There is established an independent commission to be known as the "Postal Network Modernization Commission".

(b) **DUTIES.**—The Commission shall carry out the duties specified in this title.

(c) **APPOINTMENT.**—

(1) **IN GENERAL.**—

(A) **COMPOSITION.**—The Commission shall be composed of 8 members appointed by the President, by and with the advice and consent of the Senate.

(B) **LIMITATION ON POLITICAL PARTY MEMBERSHIP.**—No more than 4 members of the Commission at any time shall be from the same political party.

(C) **EMPLOYEE REPRESENTATION.**—One member of the Commission shall be chosen from among persons nominated for such office with the unanimous concurrence of all organizations representing postmasters and all employee organizations described under section 1004(b) of title 39, United States Code.

(D) **UNION REPRESENTATION.**—One member of the Commission shall be chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1) of title 39, United States Code.

(2) **CHAIRMAN.**—At the time the President nominates individuals for appointment to the Commission, the President shall designate one such individual who shall serve as Chairman of the Commission.

(d) **MEETINGS.**—

(1) **OPEN MEETINGS.**—Each meeting of the Commission shall be open to the public.

(2) **PROCEEDINGS, INFORMATION, AND DELIBERATIONS.**—All of the proceedings, information, and deliberation of the Commission shall be open, upon request, to the following:

(A) **COMMITTEE ON GOVERNMENTAL AFFAIRS.**—The Chairman and the ranking minority party member of the Committee on Governmental Affairs of the Senate, or such other members of the Committee designated by such Chairman or ranking minority party member.

(B) **COMMITTEE ON GOVERNMENT REFORM.**—The Chairman and the ranking minority party member of the Committee on Government Reform of the House of Representatives, or such other members of the Committee designated by such Chairman or ranking minority party member.

(C) **COMMITTEES ON APPROPRIATIONS.**—The Chairmen and ranking minority party members of the Subcommittees on Transportation, Treasury, and General Government of the Committees on Appropriations of the Senate and the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

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

(f) **PAY AND TRAVEL EXPENSES.**—

(1) **IN GENERAL.**—

(A) **PAY.**—Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) **PAY FOR CHAIRMAN.**—The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) **TRAVEL EXPENSES.**—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(g) **DIRECTOR OF STAFF.**—

(1) **APPOINTMENT.**—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who was not employed by the Postal Service during the 1-year period preceding the date of such appointment.

(2) **PAY.**—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(h) **STAFF.**—

(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) **CONDITIONS OF APPOINTMENTS.**—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the highest annual rate of basic pay payable for a position classified at above GS-15 of the General Schedule.

(3) **DETAILS.**—

(A) **IN GENERAL.**—Not more than 1/3 of the personnel employed by or detailed to the Commission may be on detail from the Postal Service.

(B) **ANALYSTS.**—Not more than 1/3 of the professional analysts of the Commission staff may be persons detailed from the Postal Service to the Commission.

(C) **LIMITATIONS.**—A person may not be detailed from the Postal Service to the Commission if that person participated personally and substantially in any matter within the Postal Service concerning the preparation of recommendations for closures or consolidations of postal facilities. No employee of the Postal Service may—

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

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

(iii) approve or disapprove such a report.

(4) **DETAIL UPON REQUEST.**—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

(5) **COMPTROLLER GENERAL ASSISTANCE.**—The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in

accordance with an agreement entered into with the Commission.

(6) **LIMITATION ON NUMBER OF STAFF.**—There may not be more than 15 persons on the staff at any one time.

(i) **OTHER AUTHORITY.**—

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

(2) **LEASE OF SPACE.**—The Commission may lease space and acquire personal property to the extent funds are available.

(j) **FUNDING.**—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

(k) **REVIEW OF POSTAL SERVICE RECOMMENDATIONS.**—

(1) **IN GENERAL.**—After receiving the recommendations from the Postal Service under section 302, the Commission shall conduct public hearings on the recommendations. All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath. The hearings shall solicit views from Postal Service customers and employees and community leaders and government officials in the communities affected by the Postal Service's recommendations.

(2) **REPORT.**—

(A) **TRANSMISSION.**—The Commission shall, no later than 1 year following receipt of the Postal Service's recommendations under section 302, transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Postal Service, together with the Commission's recommendations for closures and consolidations.

(B) **CHANGES IN RECOMMENDATIONS.**—In making its recommendations, the Commission may make changes in any of the recommendations made by the Postal Service if the Commission determines that the Postal Service's recommended closings and consolidations would not allow them to meet the service standards established by the Postal Regulatory Commission under section 301.

(3) **EXPLANATION.**—The Commission shall explain and justify in its report submitted to the President under paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Postal Service under section 302. The Commission shall transmit a copy of such report to the Committee on Governmental Affairs of the Senate, Committee on Government Reform of the House of Representatives and the Subcommittees on Transportation, Treasury, and General Government of the Committees on Appropriations of the Senate and the House of Representatives on the same date on which it transmits its recommendations to the President under paragraph (2).

(4) **PROVISION OF INFORMATION.**—After transmitting its recommendations, the Commission shall promptly provide, upon request, to any member of Congress information used by the Commission in making its recommendations.

(5) **COMPTROLLER GENERAL.**—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Postal Service under section 302; and

(B) not later than 30 days following receipt of the Postal Service's recommendations, transmit to Congress and the Commission a detailed analysis of the Postal Service's recommendations.

## (1) REVIEW BY THE PRESIDENT.—

(1) REPORT.—The President shall, no later than 14 days following receipt of the Commission's recommendations, transmit to the Commission and to Congress a report containing the President's approval or disapproval of the Commission's recommendations.

(2) APPROVAL.—If the President approves all the recommendations, the President shall transmit a copy of such recommendations to Congress, together with a certification of such approval.

(3) DISAPPROVAL.—If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, within 30 days, a revised list of recommendations.

(4) APPROVAL AFTER REVISIONS.—If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to Congress, together with a certification of such approval.

## SEC. 304. CLOSURE AND CONSOLIDATION OF FACILITIES.

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

(1) close all postal facilities recommended by the Commission in such report transmitted to the Congress by the President under section 303(1);

(2) consolidate all postal facilities recommended for consolidation by the Commission in such report;

(3) initiate all such closures and consolidations no later than 1 year after the date on which the President transmits a report to Congress under section 303(1) containing the recommendations for such closures or consolidations; and

(4) complete all such closures and consolidations no later than the end of the 2-year period beginning on the date on which the President transmits the report under section 303(1) containing the recommendations for such closures and consolidations.

## (b) CONGRESSIONAL DISAPPROVAL.—

(1) IN GENERAL.—The Postal Service may not carry out any closure or consolidation recommended by the Commission in a report transmitted from the President under section 303(1) if a joint resolution is enacted, in accordance with section 305, disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

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

(2) DAYS OF SESSION.—For purposes of paragraph (1) and subsections (a) and (c) of section 305, the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

## SEC. 305. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.

(a) TERMS OF THE RESOLUTION.—For purposes of this title, the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 303(1), and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Postal Facility Closure and Consolidation Commis-

sion as submitted by the President on \_\_\_\_\_", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Postal Facility Closure and Consolidation Commission."

(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Government Reform of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Governmental Affairs of the Senate.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 303(1), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

## (d) CONSIDERATION.—

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

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

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

(4) APPEALS.—Appeals from the decisions of the Chair relating to the application of

the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

## (e) CONSIDERATION BY OTHER HOUSE.—

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

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(1).

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

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

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

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

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

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

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

## SEC. 306. NONAPPEALABILITY TO THE POSTAL REGULATORY COMMISSION.

The closing or consolidation of any post office or other postal facility under this title may not be appealed to the Postal Regulatory Commission under the provisions of title 39, United States Code, including section 404(b)(5) of that title.

## TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

## SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

## "§ 2011. Provisions relating to competitive products

"(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(1) costs attributable to competitive products; and

"(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

"(1) revenues from competitive products;

"(2) amounts received from obligations issued by the Postal Service under subsection (e);

"(3) interest and dividends earned on investments of the Competitive Products Fund; and

"(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

"(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in—

"(1) obligations of, or obligations guaranteed by, the Government of the United States; and

"(2) in accordance with regulations which the Secretary of the Treasury shall prescribe (by not later than 12 months after the date of enactment of the Postal Accountability and Enhancement Act), such other obligations or securities as it considers appropriate, with the exception of obligations of or securities in any business entity subject to Postal Service regulations other than those regulations applying to the mailing public generally.

"(d) The Postal Service may, in its sole discretion, provide that moneys of the Competitive Products Fund be deposited in a Federal Reserve bank or a depository for public funds.

"(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as the Postal Service determines necessary or desirable.

"(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

"(A) the establishment of reserve, sinking, and other funds;

"(B) application and use of revenues and receipts of the Competitive Products Fund;

"(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

"(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

"(3) Obligations issued by the Postal Service under this subsection—

"(A) may not be purchased by the Secretary of the Treasury;

"(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

"(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

"(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically

provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

"(4)(A) This paragraph applies with respect to the period beginning on the date of the enactment of this paragraph and ending at the close of the 5-year period which begins on the date on which the Postal Service makes its submission under subsection (h)(1).

"(B) During the period described in subparagraph (A), nothing in subparagraph (A) or (D) of paragraph (3) or the last sentence of section 2006(b) shall, with respect to any obligations sought to be issued by the Postal Service under this subsection, be considered to affect such obligations' eligibility for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

"(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable securities of comparable maturity issued by entities with the same credit rating as the rating then most recently obtained by the Postal Service under subparagraph (D), as determined by the Bank.

"(D) In order to be eligible to borrow under this paragraph, the Postal Service shall first obtain a credit rating from a nationally recognized credit rating organization. Such rating—

"(i) shall be determined taking into account only those assets and activities of the Postal Service which are described in section 3634(a)(2) (relating to the Postal Service's assumed taxable income from competitive products); and

"(ii) may, before final rules of the Postal Regulatory Commission under subsection (h) are issued (or deemed to have been issued), be based on the best information available from the Postal Service, including the audited statements required by section 2008(e).

"(F) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

"(G) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

"(h)(1) The Postal Service, in consultation with an independent, certified public accounting firm and such other advisors as it considers appropriate, shall develop recommendations regarding—

"(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of identifying the capital and operating costs incurred by the Postal Service in providing competitive products, and preventing the cross-subsidization of such products by market-dominant products; and

"(B) the substantive and procedural rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

"(2)(A) Upon receiving the recommendations of the Postal Service under paragraph (1), the Commission shall give interested

parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

"(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

"(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

"(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

"(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Postal Service makes its submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). If final rules are not issued by the Commission by the deadline under the preceding sentence, the recommendations submitted by the Postal Service under paragraph (1) shall be treated as the final rules. The Commission is authorized to promulgate regulations revising such rules.

"(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

"(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

"(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

"(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g)."

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

"2011. Provisions relating to competitive products."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title," and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available)."

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking "There" and inserting "Except as otherwise provided in section 2011, there".

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (b), by adding at the end the following: "Nothing in this chapter shall be considered to permit or require the Secretary of the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005."; and

(B) in subsection (c), by inserting "under section 2005" before "shall be obligations".

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**"§3634. Assumed Federal income tax on competitive products income**

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

"(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

"(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

"(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

"(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a)—

"(1) compute its assumed Federal income tax on competitive products income for such year; and

"(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

"(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year."

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**"§404a. Specific limitations**

"(a) Except as specifically authorized by law, the Postal Service may not:

"(1) establish any rule or regulation (including any standard) the effect of which is

to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

"(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

"(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

"(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

"(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662."

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking "The" and inserting "Subject to the provisions of section 404a, the".

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking "Without" and inserting "Subject to the provisions of section 404a, but otherwise without".

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

"404a. Specific limitations."

**SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

"(A) shall be considered to be a 'person', as used in the provisions of law involved; and

"(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

"(2) This subsection applies with respect to—

"(A) the Act of July 5, 1946 (commonly referred to, as the 'Trademark Act of 1946' (16 U.S.C. 1051 and following)); and

"(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

"(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

"(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

"(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

"(1) the antitrust laws (as defined in such subsection); and

"(2) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

"(2) No damages, interest on damages, costs or attorney's fees may be recovered under the antitrust laws (as so defined) from the Postal Service or any officer or employee thereof acting in an official capacity for any conduct with respect to a product in the market-dominant category of mail.

"(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

"(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

"(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

"(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

"(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

"(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

"(i) a copy of such schedule before construction of the building is begun; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

"(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

"(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

"(6) For purposes of this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

"(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

"(A) Subsection (d) or (e) of this section.

"(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

"(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

"(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

"(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

"(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

"(1) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g)."

(b) **TECHNICAL AMENDMENT.**—Section 409(a) of title 39, United States Code, is amended by striking "Except as provided in section 3628 of this title," and inserting "Except as otherwise provided in this title,".

**SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.**

(a) **GENERAL.**—Section 407 of title 39, United States Code, is amended to read as follows:

**"§407. International postal arrangements**

"(a) It is the policy of the United States—

"(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

"(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

"(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by

intergovernmental organizations of which the United States is a member; and

"(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

"(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

"(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

"(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

"(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

"(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

"(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

"(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

"(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under

paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

"(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

"(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

"(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

"(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

"(2) For purposes of this subsection, the term 'private company' means a private company substantially owned or controlled by persons who are citizens of the United States.

"(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

"(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Customs Service may determine in writing."

(b) **EFFECTIVE DATE.**—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

**SEC. 406. CHANGE-OF-ADDRESS ORDER INVOLVING A COMMERCIAL MAIL RECEIVING AGENCY.**

(a) **REDESIGNATION.**—Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

**"SUBCHAPTER VI—GENERAL".**

(b) CHANGE-OF-ADDRESS ORDER INVOLVING A COMMERCIAL MAIL RECEIVING AGENCY.—Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by subsection (a)) is amended by adding at the end the following:

**"§3686. Change-of-address order involving a commercial mail receiving agency**

"(a) For the purpose of this section, the term 'commercial mail receiving agency' or 'CMRA' means a private business that acts as the mail receiving agent for specific clients.

"(b) Upon termination of an agency relationship between an addressee and a commercial mail receiving agency—

"(1) the addressee or, if authorized to do so, the CMRA may file a change-of-address order with the Postal Service with respect to such addressee;

"(2) a change-of-address order so filed shall, to the extent practicable, be given full force and effect; and

"(3) any mail for the addressee that is delivered to the CMRA after the filing of an appropriate order under this subsection shall be subject to subsection (c).

"(c) Mail described in subsection (b)(3) shall, if marked for forwarding and remailed by the CMRA, be forwarded by the Postal Service in the same manner as, and subject to the same terms and conditions (including limitations on the period of time for which a change-of-address order shall be given effect) as apply to, mail forwarded directly by the Postal Service to the addressee."

**SEC. 407. EXCEPTION FOR COMPETITIVE PRODUCTS.**

(a) IN GENERAL.—Section 403(c) of title 39, United States Code, is amended by striking "user." and inserting "user, except that this subsection shall not apply to competitive products."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services, classifications, rates, and fees, to the extent provided or applicable (as the case may be) on or after the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

**TITLE V—GENERAL PROVISIONS****SEC. 501. QUALIFICATION REQUIREMENTS FOR GOVERNORS.**

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause."

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

"(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate."

(c) RESTRICTION.—Section 202(b) of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

"(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

"(1) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

"(1) instead of the term that would otherwise apply under the first sentence of paragraph (1), the term of any person so appointed to such office shall be 3 years.

"(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply."

(d) APPLICABILITY.—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

**SEC. 502. OBLIGATIONS.**

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "title," and inserting "title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011."

(b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "\$2,000,000,000" and inserting "\$3,000,000,000".

(c) INCREASE IN MAXIMUM OUTSTANDING OBLIGATIONS ALLOWABLE.—Paragraph (2) of section 2005(a) of title 39, United States Code, is amended—

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

(2) by striking subparagraph (C) and inserting the following:

"(C) \$15,000,000,000 for each of fiscal years 1992 through 2002; and

"(D) \$25,000,000,000 for fiscal year 2003 and each fiscal year thereafter."

(d) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

(1) IN GENERAL.—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

"(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011."

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39,

United States Code, is amended by striking "any such obligations" and inserting "obligations issued by the Postal Service which may be".

(e) AMOUNTS WHICH MAY BE PLEDGED, ETC.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking "such obligations," and inserting "obligations issued by the Postal Service under this section."

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

"(2) Notwithstanding any other provision of this section—

"(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund."

**SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) A letter may also be carried out of the mails when—

"(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

"(2) the letter weighs at least 12½ ounces; or

"(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

"(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission."

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

**SEC. 504. RULEMAKING AUTHORITY.**

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

"(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;"

**SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.**

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the

United States Postal Service, or any collective bargaining agreement.

(b) **FREE MAILING PRIVILEGES CONTINUE UNCHANGED.**—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**SEC. 506. BONUS AUTHORITY.**

Title 39, United States Code, is amended by adding after section 3686 (as added by section 406(b)) the following:

**“§ 3687. Bonus authority**

“(a) **IN GENERAL.**—The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service to achieve the objectives of this chapter.

“(b) **WAIVER OF LIMITATION ON COMPENSATION.**—

“(1) **IN GENERAL.**—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2).

“(2) **APPROVAL PROCESS.**—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation referred to in paragraph (1)—

“(A) the Postal Service shall make an appropriate request to the Postal Regulatory Commission, in such form and manner as the Commission requires; and

“(B) the Postal Regulatory Commission shall approve any such request if it finds that the program is likely to achieve the objectives of this chapter.

“(3) **REVOCATION AUTHORITY.**—If the Postal Regulatory Commission finds that a program previously approved under paragraph (2) is not achieving the objectives of this chapter, the Commission may revoke or suspend the authority of the Postal Service to continue such program until such time as appropriate corrective measures have, in the judgment of the Commission, been taken.

“(c) **REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.**—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (a)(2);

“(2) the amount of the bonus or other reward; and

“(3) the amount by which the limitation referred to in subsection (a)(2) was exceeded as a result of such bonus or other reward.”.

**TITLE VI—ENHANCED REGULATORY COMMISSION**

**SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) **TRANSFER AND REDESIGNATION.**—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

**“CHAPTER 5—POSTAL REGULATORY COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

**“§ 501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

**“§ 502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by

the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”.

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602; and

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) **APPLICABILITY.**—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) pursuant to an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) **CLERICAL AMENDMENT.**—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission .. 501”**  
**SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

“(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

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

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

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

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

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

“(2) No officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

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

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

“(3) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.”.

**SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

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

(b) **BUDGET PROGRAM.**—

(1) **IN GENERAL.**—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”.

(2) **CONFORMING AMENDMENT.**—Section 2003(e)(1) of title 39, United States Code, is

amended by striking the first sentence and inserting the following: "The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8G(f) of the Inspector General Act of 1978."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

**SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.**

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503-504 (as so redesignated by section 601), 1001, 1002, by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission";

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking "Postal Rate Office" and inserting "Postal Regulatory Commission".

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**TITLE VII—INSPECTORS GENERAL**

**SEC. 701. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.**

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is amended by inserting "the Postal Regulatory Commission," after "the United States International Trade Commission,".

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding after subsection (g) (as added by section 602) the following:

"(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regu-

latory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

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

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

**SEC. 702. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE TO BE APPOINTED BY THE PRESIDENT.**

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking "and" before "the chief executive officer of the Resolution Trust Corporation";

(B) by striking "and" before "the Chairperson of the Federal Deposit Insurance Corporation"; and

(C) by inserting "the Postmaster General;" after "Social Security Administration;"; and

(2) in paragraph (2)—

(A) by striking "or" before "the Veterans' Administration"; and

(B) by inserting "the United States Postal Service," after "Social Security Administration,".

(b) SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE.—The Inspector General Act of 1978 is amended—

(1) by redesignating sections 8G (as amended by section 701(a)), 8H, and 8I as sections 8H through 8J, respectively; and

(2) by inserting after section 8F the following:

**"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE**

**"SEC. 8G. (a)** Notwithstanding the last two sentences of section 3(a), the Inspector General of the United States Postal Service shall report to and be under the general supervision of the Postmaster General, but shall not report to, or be subject to supervision by, any other officer or employee of the United States Postal Service or its Board of Governors. No such officer or employee (including the Postmaster General) or member of such Board shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena during the course of any audit or investigation.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

"(c) Any report required to be transmitted by the Postmaster General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the 7-day period specified under such section, to the Committee on Government Reform of the House of Rep-

resentatives and the Committee on Governmental Affairs of the Senate.

"(d) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

"(e) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

"(f) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.

"(g) As used in this section, 'Board of Governors' and 'Board' each has the meaning given it by section 102 of title 39, United States Code."

**(c) AUDITS OF THE POSTAL SERVICE.—**

(1) AUDITS.—Subsection (e) of section 2008 of title 39, United States Code, is amended to read as follows:

"(e)(1) At least once each year beginning with the fiscal year commencing after the date of the enactment of the Postal Accountability and Enhancement Act, the financial statements of the Postal Service (including those used in determining and establishing postal rates) shall be audited by the Inspector General or by an independent external auditor selected by the Inspector General.

"(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

"(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Postmaster General."

(2) RESULTS OF INSPECTOR GENERAL'S AUDIT TO BE INCLUDED IN ANNUAL REPORT.—Section 2402 of title 39, United States Code, is amended by inserting after the first sentence the following: "Each report under this section shall include, for the most recent fiscal year for which a report under section 2008(e) is available (unless previously transmitted under the following sentence), a copy of such report."

(3) COORDINATION PROVISIONS.—Section 2008(d) of title 39, United States Code, is amended—

(A) by striking "(d) Nothing" and inserting "(d)(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following:

"(2) An audit or report under paragraph (1) may not be obtained without the prior written approval of the Inspector General."

(4) SAVINGS PROVISION.—For purposes of any fiscal year preceding the first fiscal year commencing after the date of the enactment of this Act, the provisions of title 39, United States Code, shall be applied as if the amendments made by this subsection had never been enacted.

(d) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking "Postmaster General" each place it appears and inserting "Chief Postal Inspector".

**(e) TECHNICAL AND CONFORMING AMENDMENTS.—**

(1) **RELATING TO THE INSPECTOR GENERAL ACT OF 1978.**—(A) Subsection (a) of section 8H of the Inspector General Act of 1978 (as amended by section 701(a) and redesignated by subsection (b) of this section) is further amended—

(i) in paragraph (2) by striking “the Postal Regulatory Commission, and the United States Postal Service;” and inserting “and the Postal Regulatory Commission;” and

(ii) in paragraph (4) by striking “except that” and all that follows through “(Code);” and inserting “except that, with respect to the National Science Foundation, such term means the National Science Board;”.

(B)(i) Subsection (f) of section 8H of such Act (as so redesignated) is repealed.

(ii) Subsection (c) of section 8H of such Act (as so redesignated) is amended by striking “Except as provided under subsection (f) of this section, the” and inserting “The”.

(C) Section 8J of such Act (as so redesignated) is amended—

(i) by striking all after “8D,” and before “of this Act” and inserting “ 8E, 8F, 8G, or 8I”; and

(ii) by striking “8G(a)” and inserting “8H(a)”.

(2) **RELATING TO TITLE 39, UNITED STATES CODE.**—(A) Subsection (e) of section 202 of title 39, United States Code, is repealed.

(B) Paragraph (4) of section 102 of such title 39 (as amended by section 101) is amended to read as follows:

“(4) ‘Inspector General’ means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978.”.

(C) The first sentence of section 1003(a) of such title 39 is amended by striking “chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law,” and inserting “chapter 2 or 12 of this title, subsection (b) or (c) of section 1003 of this title, or any other provision of law.”.

(D) Section 1003(b) of such title 39 is amended by striking “respective” and inserting “other”.

(E) Section 1003(c) of such title 39 is amended by striking “included” and inserting “includes”.

(3) **RELATING TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.**—Section 304C(b)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d(b)(1)) is amended by striking “8G” and inserting “8H”.

(4) **RELATING TO THE ENERGY POLICY ACT OF 1992.**—Section 160(a) of the Energy Policy Act of 1992 (42 U.S.C. 8262(a)) is amended (in the matter before paragraph (1)) by striking all that follows “(5 U.S.C. App.)” and before “shall—”.

(f) **EFFECTIVE DATE; ELIGIBILITY OF PRIOR INSPECTOR GENERAL.**—

(1) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B) or subsection (c), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) **SPECIAL RULES.**—

(i) **IN GENERAL.**—If the position of Inspector General of the United States Postal Service is occupied on the date of enactment of this Act (other than by an individual serving due to a vacancy arising in that position before the expiration of his or her predecessor's term), then, for purposes of the period beginning on such date of enactment and ending on January 5, 2004, or, if earlier, the date on which such individual ceases to serve in that position, title 39, United States Code, and the Inspector General Act of 1978 shall be applied as if the amendments made by this section had not been enacted, except—

(I) for those made by subsections (c) and (d); and

(II) as provided in clause (ii).

(ii) **AUTHORIZATION OF APPROPRIATIONS.**—

(I) **IN GENERAL.**—Notwithstanding any other provision of this paragraph, subsection (f) of section 8G of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2002.

(II) **SAVINGS PROVISION.**—For purposes of the fiscal year ending on September 30, 2002, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(2) **ELIGIBILITY OF PRIOR INSPECTOR GENERAL.**—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

**TITLE VIII—EVALUATIONS****SEC. 801. DEFINITION.**

For purposes of this title, the term “Board of Governors” has the meaning given such term by section 102 of title 39, United States Code.

**SEC. 802. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.**

(a) **IN GENERAL.**—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

(1) the operation of the amendments made by the Postal Accountability and Enhancement Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) **POSTAL SERVICE VIEWS.**—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review such report and to submit written comments thereon. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

(c) **SPECIFIC INFORMATION REQUIRED.**—The Postal Regulatory Commission shall include, as part of at least its first report under subsection (a), the following:

(1) **COST-COVERAGE REQUIREMENT RELATING TO COMPETITIVE PRODUCTS COLLECTIVELY.**—With respect to section 3633 of title 39, United States Code (as amended by this Act)—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

(2) **COMPETITIVE PRODUCTS FUND.**—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 401), in consultation with the Secretary of the Treasury—

(A) a description of how such Fund has operated;

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

(3) **ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS FUND.**—With respect to section 3634 of title 39, United States Code (as amended by this Act), in consultation with the Secretary of the Treasury—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

**SEC. 803. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) **IN GENERAL.**—The Federal Trade Commission shall prepare and submit to the President and Congress, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to products of the United States Postal Service in the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) **RECOMMENDATIONS.**—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end.

(c) **CONSULTATION.**—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

**SEC. 804. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.**

(a) **STUDY.**—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) **PERFORMANCE EVALUATIONS.**—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

**SEC. 805. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.**

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

**SEC. 806. RATES FOR PERIODICALS.**

(a) **IN GENERAL.**—The United States Postal Service, acting jointly with the Postal Regulatory Commission and the General Accounting Office, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) **RECOMMENDATIONS.**—The report shall include recommendations for any administrative action or legislation that might be appropriate.

**SEC. 807. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

(a) **IN GENERAL.**—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) **SPECIFIC REQUIREMENTS.**—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

**TITLE IX—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS****SEC. 901. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

Section 404 of title 39, United States Code, as amended by sections 102 and 908(f), is further amended by adding at the end the following:

“(f)(1) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act cited in paragraph (2), and, as to such property, the Postmaster General (or his designee) may take any action that the Administrator of General Services (or his designee) may take under section 2 or 3 of such Act, attaching thereto penalties under the authority and within the limits provided in section 4 of such Act.

“(2) The Act cited in this paragraph is the Act of June 1, 1948 (62 Stat. 281), commonly known as the ‘Protection of Public Property Act.’”

**SEC. 902. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.**

(a) **IN GENERAL.**—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

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

“(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

“(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).”

(b) **EFFECTIVE DATE.**—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

**SEC. 903. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.**

(a) **IN GENERAL.**—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting “(a)” after “8.” and by adding at the end the following:

“(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.”

(b) **EFFECTIVE DATE.**—This section and the amendments made by this section shall take effect on October 1, 2001.

**SEC. 904. OBSOLETE PROVISIONS.**

(a) **REPEAL.**—

(1) **IN GENERAL.**—Chapter 52 of title 39, United States Code, is repealed.

(2) **CONFORMING AMENDMENTS.**—(A) Section 5005(a) of title 39, United States Code, is amended—

(1) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)) by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) **ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.**—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such length of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(c) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) **CLERICAL AMENDMENT.**—The analysis for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

**SEC. 905. EXPANDED CONTRACTING AUTHORITY. (a) AMENDMENT TO TITLE 39, UNITED STATES CODE.**

(1) **CONTRACTS WITH AIR CARRIERS.**—Subsection (d) of section 5402 of title 39, United States Code, is amended to read as follows:

“(d)(1) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate air transportation, including the rates therefor, either through negotiations or competitive bidding.

“(2) Notwithstanding subsections (a) through (c), the Postal Service may contract with any air carrier or foreign air carrier for the transportation of mail by aircraft in foreign air transportation, including the rates therefor, either through negotiations or competitive bidding, except that—

“(A) any such contract may be awarded only to (i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation, (ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or (iii) a combination of such air carriers or foreign air carriers (or both);

“(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

“(C) every contract that the Postal Service awards to a foreign air carrier under this paragraph shall be subject to the continuing requirement that air carriers shall be afforded the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier, if different, as the Postal Service has afforded the foreign air carrier; and

“(D) the Postmaster General shall consult with the Secretary of Defense concerning actions that affect the carriage of military mail transported in foreign air transportation.

“(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.”

(2) **DEFINITIONS.**—Subsection (e) of section 5402 of title 39, United States Code, is amended to read as follows:

“(e) For purposes of this section, the terms ‘air carrier’, ‘air transportation’, ‘foreign air carrier’, ‘foreign air transportation’, ‘interstate air transportation’, and ‘mail’ shall have the meanings given such terms in section 40102 of title 49.”

(b) **AMENDMENTS TO TITLE 49, UNITED STATES CODE.**—

(1) **AUTHORITY OF POSTAL SERVICE TO PROVIDE FOR INTERSTATE AIR TRANSPORTATION OF MAIL.**—Section 41901(a) of title 49, United States Code, is amended to read as follows:

“(a) **TITLE 39.**—The United States Postal Service may provide for the transportation of mail by aircraft in air transportation under this chapter and under chapter 54 of title 39.”

(2) **SCHEDULES FOR CERTAIN TRANSPORTATION OF MAIL.**—Section 41902(b)(1) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: “(other than foreign air transportation of mail)”.

(3) **PRICES FOR FOREIGN TRANSPORTATION OF MAIL.**—Section 41907 of title 49, United States Code, is amended—

(A) by striking “(a) LIMITATIONS.—”; and

(B) by striking subsection (b).

(4) **CONFORMING AMENDMENTS.**—Sections 41107, 41901(b)(1), 41902(a), 41903(a), and 41903(b) of title 49, United States Code, are amended by striking “in foreign air transportation or”.

**SEC. 906. INVESTMENTS.**

Subsection (c) of section 2003 of title 39, United States Code, is amended—

(1) by striking “(c) If” and inserting “(c)(1) Except as provided in paragraph (2), if”; and

(2) by adding at the end the following:

“(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

“(B) For purposes of this paragraph, the term ‘commercial entity’ means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.”

**SEC. 907. REPEAL OF SECTION 5403.**

(a) **IN GENERAL.**—Section 5403 of title 39, United States Code, is repealed.

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 54 of title 39, United States Code, is amended by repealing the item relating to section 5403.

**SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) **REDUCED RATES.**—Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a)—

(A) by striking all before paragraph (4) and inserting the following:

“(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail

or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

"(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c)."; and  
(B) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively;

(2) in subsection (g) by adding at the end the following:

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

"(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.  
(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.  
(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.";

(3) in subsection (j)(1)(D)—  
(A) by striking "and" at the end of subclause (I); and  
(B) by adding after subclause (II) the following:

"(III) clause (i) shall not apply to space advertising in mail matter that otherwise qualifies for rates under former section 4452(b) or 4452(c) of this title, and satisfies the content requirements established by the Postal Service for periodical publications."; and  
(4) by adding at the end the following:

"(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5)."  
(b) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking "section 3628" and inserting "sections 3662 through 3664".

(c) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:  
"§ 3682. Size and weight limits  
"The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.".

(d) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—  
(1) in section 503 (as so redesignated by section 601) by striking "this chapter." and inserting "this title."; and  
(2) in section 2401(d) by inserting "(as last in effect before enactment of the Postal Ac-

countability and Enhancement Act)" after "3626(a)" and after "3626(a)(3)(B)(1)".

(e) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking "Committee on Post Office and Civil Service" each place it appears and inserting "Committee on Government Reform"; and  
(B) by striking "Not later than March 15 of each year," and inserting "Each year,".

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking "2401(g)" and inserting "2401(e)".

(f) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

"(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.  
(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.".

(g) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows "any provision" and inserting "of this title.".  
(h) MISCELLANEOUS.—Title 39, United States Code, is amended—  
(1) in section 410(b), by moving the left margin of paragraph (10) 2 ems to the left;  
(2) in section 1005(d)(2)—  
(A) by striking "subsection (g) of section 5532,"; and  
(B) by striking "8344," and inserting "8344";  
(3) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

"28. Strategic Planning and Performance Management ..... 2801";  
(4) in subsections (h)(2) and (i)(2) of section 3001, by moving the left margin of subparagraph (C) of each 2 ems to the left;

(5) in section 3005(a)—  
(A) in the matter before paragraph (1), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under section 3001(d)."; and  
(B) in the sentence following paragraph (3), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under such section 3001(d).";

(6) in section 3210(a)(6)(C), by striking the matter after "if such mass mailing" and before "than 60 days" and inserting "is post-marked fewer";

(7) in section 3626(a), by moving the left margin of paragraphs (3), (5), and (6) (as so redesignated by subsection (a)(1)(B), and including each subparagraph thereunder (if any)) 2 ems to the left;

(8) by striking the heading for section 3627 and inserting the following:  
"§ 3627. Adjusting free rates"  
; and  
(9) in section 5402(g)(1), by moving the left margin of subparagraph (D) (including each clause thereunder) 2 ems to the left.

By Mr. LEAHY (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. FEINGOLD, and Mr. BINGAMAN):

S. 1286. A bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY, Madam President, today I am introducing the Seniors Safety Act of 2003, a bill to protect older Americans from crime. I am pleased to have Senators DASCHLE, KENNEDY, FEINGOLD, and BINGAMAN as cosponsors for this anti-crime bill.

The Seniors Safety Act is a comprehensive bill that addresses the most prevalent crimes perpetrated against seniors, including health care fraud, nursing home abuse, telemarketing fraud—and bribery, graft and fraud in pension and employee benefit plans. In addition, this legislation would help seniors obtain restitution if their pension plans are defrauded.

Older Americans are the most rapidly growing population group in our society, making them an even more attractive target for criminals. The Department of Health and Human Services has predicted that the number of older Americans will grow from 13 percent of the U.S. population in 2000 to 20 percent by 2030. In Vermont, seniors comprise about 12 percent of the population, a number that is expected to increase to 20 percent by 2025.

Crime against seniors has remained stubbornly resistant over the last decade. According to a 2000 Justice Department study, more than 90 percent of crimes committed against older Americans were property crimes, with theft the most common. As our Nation addressed our violent crime problem, we did not take a comprehensive approach to deterring the crimes that so affect the elderly, like telemarketing fraud, health care fraud, and pension fraud. The Seniors Safety Act provides such a comprehensive approach, and I urge the Senate to pass it.

The Seniors Safety Act instructs the U.S. Sentencing Commission to review current sentencing guidelines and, if appropriate, amend the guidelines to include the age of a crime victim as a criteria for determining whether a sentencing enhancement is proper. The bill also requires the Commission to review sentencing guidelines for health care benefit fraud, increases statutory penalties both for fraud resulting in serious injury or death and for bribery

the abortion procedure after being given the medical information, has the option of choosing anesthesia for the child, so that the unborn child's pain is less severe.

Women should not be kept in the dark; women have the right to know what their unborn child experiences during an abortion. After being presented with the medical and scientific information on the development of the unborn child 20 weeks after fertilization, the woman is more aware of the pain experienced by the child during an abortion procedure, and able—at the very least—to make an informed decision. It is simply not fair to keep women in the dark.

Unborn children do not have a voice, but they are young members of the human family. It is time to look at the unborn child, and recognize that it is really a young human, who can feel pain and should be treated with care.

I urge my colleagues to support and pass this important piece of legislation.

By Ms. COLLINS (for herself, Mr. CARPER, Mr. STEVENS, Mr. VOINOVICH, Mr. SUNUNU, Mr. LIEBERMAN, Mr. AKAKA, and Mr. DURBIN):

S. 2468. A bill to reform the postal laws of the United States; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today with my friend and colleague, Senator CARPER, to introduce the Postal Accountability and Enhancement Act of 2004, a bill designed to help the 225-year-old Postal Service meet the challenges of the 21st Century. This legislation represents the culmination of a process that began in the summer of 2002 when I introduced a bill to establish a Presidential Commission charged with examining the problems the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service could implement.

It has long been acknowledged that the financial and operational problems confronting the Postal Service are serious. At present, the Postal Service has more than \$90 billion in unfunded liabilities and obligations, which include \$6.5 billion in debt to the U.S. Treasury, nearly \$7 billion for Workers' Compensation claims, \$5 billion for retirement costs, and as much as \$45 billion to cover retiree health care costs. The General Accounting Office's Comptroller General, David Walker, has pointed to the urgent need for "fundamental reforms to minimize the risk of a significant taxpayer bailout or dramatic postal rate increases." The Postal Service has been on GAO's "High-Risk" List since April of 2001. The Postal Service is at risk of a "death spiral" of decreasing volume and increasing rates that lead to further decreases in volume.

In December of 2003, President Bush announced the creation of a bipartisan commission charged with identifying

the operational, structural, and financial challenges facing the U.S. Postal Service. The President charged this commission with examining all significant aspects of the Postal Service with the goal of recommending legislative and administrative reforms to ensure its long-term viability.

The President's Commission conducted seven public hearings across the country at which they heard from numerous witnesses. On July 31, 2003, the Commission released its final report, making 35 legislative and administrative recommendations for the reform of the Postal Service.

As I read through the Commission's report, I was struck by what I considered the Commission's wake up call to Congress: its statement that "an incremental approach to Postal Service reform will yield too little, too late given the enterprise's bleak fiscal outlook, the depth of current debt and unfunded obligations, the downward trend in First-Class mail volumes and the limited potential of its legacy postal network that was built for a bygone era." That is a very strong statement, and one that challenged both the Postal Service and Congress to embrace far-reaching reforms.

To the relief of many, including myself, the Commission did not recommend privatization of the Postal Service. Instead, the Commission sought to find a way for the Postal Service to do, as Co-Chair Jim Johnson described to me, "an overwhelmingly better job under the same general structure."

The Postal Service plays a vital role in our economy. The Service itself employs more than 750,000 career employees. Less well known is the fact that it is also the linchpin of a \$900-billion mailing industry that employs 9 million Americans in fields as diverse as direct mailing, printing, catalog production, paper manufacturing, and financial services. The health of the Postal Service is essential to the vitality of thousands of companies and the millions that they employ.

One of the greatest challenges for the Postal Service is the decrease in mail volume as business communications, bills and payments move more and more to the Internet. The Postal Service has experienced declining volumes of First-Class mail for the past four years. This is highly significant, given that First-Class mail accounts for 48 percent of total mail volume, and the revenue it generates pays for more than two-thirds of the Postal Service's institutional costs.

The Postal Service also faces the difficult task of trying to cut costs from its nationwide infrastructure and transportation network. These costs are difficult to cut. Even though volumes may be decreasing, carriers must still deliver six days a week to more than 139 million addresses.

As Chairman of the Committee on Governmental Affairs, I held a series of eight hearings, including a joint hear-

ing with the House, during which we reviewed the recommendations of the President's Commission. The bill Senator CARPER and I introduce today is the culmination of everything the Committee learned from dozens of witnesses over the past eight months.

First and foremost, the Collins-Carper bill preserves the basic features of universal service—affordable rates, frequent delivery, and convenient community access to retail postal services. As a Senator representing a large, rural State, I want to ensure that my constituents living in the northern woods, or on the islands, or in our many rural small towns have the same access to postal services as the people of our cities. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communication link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to rural Americans at rates charged by the Postal Service.

The Collins-Carper bill allows the Postal Service to maintain its current mail monopoly, and retain its sole access to customer mailboxes. It grants the Postal Service Board of Governors the authority to set rates for competitive products like Express Mail and Parcel Post, as long as these prices do not result in cross subsidy from market-dominant products. As a safeguard, our bill establishes a 30 day prior review period during which the proposed rate changes shall be reviewed by the Postal Regulatory Commission.

It replaces the current lengthy and litigious rate-setting process with a rate cap-based structure for market-dominant products such as First-Class Mail, periodicals and library mail. This would allow the Postal Service to react more quickly to changes in the mailing industry. The rate caps would be linked to an inflation indicator selected by the Postal Regulatory Commission. The goal would be to make rate increases more predictable and less frequent and to provide incentives for the Postal Service to operate efficiently. Price changes for market-dominant products would be subject to a 45-day prior review period by the Postal Regulatory Commission.

Our bill would introduce new safeguards against unfair competition by the Postal Service in competitive markets. Subsidization of competitive products by market-dominant products would be expressly forbidden, and an equitable allocation of institutional costs to competitive products would be required.

The President's Commission recommended that the regulator be granted the authority to make changes to the Postal Service's universal service obligation and monopoly. The vast majority of the postal community, however, shared my belief that these are important policy determinations that should be retained by Congress. The

Collins-Carper bill keeps those public policy decisions in congressional hands.

The existing Postal Rate Commission would be transformed into the Postal Regulatory Commission with greatly enhanced authority. Under current law, the Rate Commission has very narrow authority. We wanted to ensure that the Postal Service management has both greater latitude and stronger oversight. Among other things, the Postal Regulatory Commission will have the authority to regulate rates for non-competitive products and services; ensure financial transparency; establish limits on the accumulation of retained earnings by the Postal Service; obtain information from the Postal Service, if need be, through the use of new subpoena power; and review and act on complaints filed by those who believe the Postal Service has exceeded its authority. Members of the Postal Regulatory Board will be selected solely on the basis of their demonstrated experience and professional standing. Senate confirmation of all Board Members will be required.

The Governmental Affairs Committee dedicated two hearings to the examination of the Commission's workforce-related recommendations. The Postal Service is a highly labor intensive organization, using \$3 out of every \$4 to pay the wages and benefits of its employees. Their workforce is comprised of more than 700,000 dedicated letter carriers, clerks, mail handlers, postmasters, and others, who place great value on their right to collectively bargain. Our bill reaffirms that right. This bill only makes changes to the bargaining process that have been agreed to by both the Postal Service and the four major unions. We replace the rarely used fact-finding process with mediation, and shorten statutory deadlines for certain phases of the bargaining process.

Additionally, the Collins-Carper bill corrects what I believe to be an anomaly in the Federal workers' compensation law that results in high costs for the Postal Service. Under the Federal Employees Compensation Act (FECA), Federal employees with dependents are eligible for 75 percent of their take-home pay, tax free, plus cost of living allowances. In addition, there is no maximum dollar cap on FECA payments. As a result, employees often opt not to retire, staying on the more generous workers' compensation program permanently.

According to a March 2003 audit issued by the Postal Service's Office of Inspector General, the Postal Service's workers' compensation rolls include 81 cases that originated 40 to 50 years ago, with the oldest recipient being 102 years old. The IG's office found 778 cases that originated 30 to 40 years ago; and 1,189 cases that originated 20 to 29 years ago.

The Collins-Carper bill works to protect the financial resources of the Postal Service by converting workers'

compensation benefits for total or partial disability to a retirement annuity when the affected employee reaches 65 years of age. This change would reflect the fact that disabled postal employees would likely retire at some point were they not receiving workers' compensation. I would like to note that the average postal employee retires far earlier than age 65, so this is still a generous program. It is important to point out that the Postal Service has reduced their workplace injury rate by twenty-eight percent over the past three years.

The Collins-Carper bill also puts into place a three-day waiting period before an employee is eligible to receive 45 days of continuation of pay. This is consistent with every state's workers' compensation program that requires a three- to seven-day waiting period before benefits are paid.

Our bill has reached an important compromise on the issue of workshare discounts. Some have raised concerns that the Postal Service has set rates so that mailers get a discount greater than the cost avoided by the Postal Service. While this may have occurred in a handful of instances, those mailers are still covering their attributable costs, as well as making a healthy contribution to overhead. The language in our bill sets a policy that the Postal Service shall not create new discounts greater than the cost avoided by the Postal Service. The only exception is in those cases where the Postal Regulatory Commission believes those rates are necessary.

The bill has also, for the first time, explicitly created the authority for the Postal Service to enter into negotiated service agreements with individual customers. This will allow the Postal Service to create agreements with customers to increase its revenue. I would point out that these agreements must cover all attributable costs, and will likely result in greater contribution to overhead. In addition, our bill requires that other similarly situated mailers will be able to enter into such agreements with the Postal Service.

Finally, our bill would repeal a provision of Public Law 108-18 which requires that money owed to the Postal Service due to an overpayment into the Civil Service Retirement System Fund be held in an escrow account. Repealing this provision would essentially "free up" \$78 billion over a period of 60 years. These savings would be used to not only pay off debt to the U.S. Treasury and to fund health care liabilities, but to mitigate rate increases as well. In fact, failure to release these escrow funds would mean, for mailers, a double-digit rate increase in 2006—an expense most American businesses and many consumers are ill-equipped to afford.

The bill would also return to the Department of Treasury the responsibility for funding CSRS pension benefits relating to the military service of postal retirees. No other agency is required to make this payment. Rate-

payers should not be held responsible for this \$27 billion obligation.

The Postal Service has reached a critical juncture. If we are to save and strengthen this vital service upon which so many Americans rely for communication and their livelihoods, the time to act is now.

Our bill has the strong endorsements of the National Rural Letter Carriers Association, the National Association of Letter Carriers, the National Association of Postmasters of the United States, and the Coalition for a 21st Century Postal Service—which represents thousands of the major mailers, employee groups, small businesses, and other users of the mail. I am also very pleased to add Senators TED STEVENS, GEORGE VOINOVICH and JOHN SUNUNU as originated cosponsors of this bill.

I look forward to working with all of my colleagues in the Senate, and House Government Reform and Oversight Committee Chairman Tom Davis, who just last week passed a postal reform bill out of his committee by a vote of 40-0.

I ask unanimous consent that the text of the bill be printed in the RECORD, along with a letter sent to me from David Walker, Comptroller General of the General Accounting Office, addressing the need for comprehensive postal reform.

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

S. 2468

*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 "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

Sec. 101. Definitions.

Sec. 102. Postal services.

**TITLE II—MODERN RATE REGULATION**

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Clerical amendment.

**TITLE III—MODERN SERVICE STANDARDS**

Sec. 301. Establishment of modern service standards.

Sec. 302. Postal service plan.

**TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION**

Sec. 401. Postal Service Competitive Products Fund.

Sec. 402. Assumed Federal income tax on competitive products income.

Sec. 403. Unfair competition prohibited.

Sec. 404. Suits by and against the Postal Service.

**TITLE V—GENERAL PROVISIONS**

Sec. 501. Qualification and term requirements for Governors.

Sec. 502. Obligations.  
 Sec. 503. Private carriage of letters.  
 Sec. 504. Rulemaking authority.  
 Sec. 505. Noninterference with collective bargaining agreements.

#### TITLE VI—ENHANCED REGULATORY COMMISSION

Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.  
 Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.  
 Sec. 603. Appropriations for the Postal Regulatory Commission.  
 Sec. 604. Redesignation of the Postal Rate Commission.  
 Sec. 605. Financial transparency.

#### TITLE VII—EVALUATIONS

Sec. 701. Assessments of ratemaking, classification, and other provisions.  
 Sec. 702. Report on universal postal service and the postal monopoly.  
 Sec. 703. Study on equal application of laws to competitive products.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Sec. 801. Short title.  
 Sec. 802. Civil Service Retirement System.  
 Sec. 803. Health insurance.  
 Sec. 804. Repeal of disposition of savings provision.  
 Sec. 805. Effective dates.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

Sec. 901. Temporary disability; continuation of pay.  
 Sec. 902. Disability retirement for postal employees.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

##### SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other services ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate is applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36; and

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36; and

“(10) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”.

##### SEC. 102. POSTAL SERVICES.

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

“(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.”.

(b) CONFORMING AMENDMENTS.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C.

10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.

(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking “and nonpostal”.

#### TITLE II—MODERN RATE REGULATION SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621, 3622, and 3623 and inserting the following:

##### “§ 3621. Applicability; definitions

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

- “(1) first-class mail letters;
- “(2) first-class mail cards;
- “(3) periodicals;
- “(4) standard mail;
- “(5) single-piece parcel post;
- “(6) media mail;
- “(7) bound printed matter;
- “(8) library mail;
- “(9) special services; and
- “(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

##### “§ 3622. Modern rate regulation

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 12 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

“(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

“(1) To reduce the administrative burden and increase the transparency of the rate-making process.

“(2) To create predictability and stability in rates.

“(3) To maximize incentives to reduce costs and increase efficiency.

“(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

“(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

“(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

“(7) To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.

“(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

“(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the econ-

omy engaged in the delivery of mail matter other than letters;

“(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

“(11) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

“(12) the policies of this title as well as such other factors as the Commission deems appropriate.

“(d) REQUIREMENTS.—The system for regulating rates and classes for market-dominant products shall—

“(1) require the Postal Rate Commission to set annual limitations on the percentage changes in rates based on inflation using indices, such as the Consumer Price Index, the Employment Cost Index, the Gross Domestic Product Price Index, or any similar measure as the Postal Rate Commission may prescribe;

“(2) establish a schedule whereby rates, when necessary and appropriate, would increase at regular intervals by predictable amounts;

“(3) not later than 45 days before the implementation of any adjustment in rates under this section—

“(A) require the Postal Service to provide public notice of the adjustment;

“(B) provide an opportunity for review by the Postal Rate Commission;

“(C) provide for the Postal Rate Commission to notify the Postal Service of any non-compliance of the adjustment with the limitation under paragraph (1); and

“(D) require the Postal Service to respond to the notice provided under subparagraph (C) and describe the actions to be taken to comply with the limitation under paragraph (1).

“(4) notwithstanding any limitation set under paragraphs (1) and (3), establish procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.

“(e) WORKSHARE DISCOUNTS.—

“(1) DEFINITION.—In this subsection, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

“(2) REGULATIONS.—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

“(A) the discount is—

“(i) associated with a new postal service or with a change to an existing postal service; and

“(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service;

“(B) a reduction in the discount would—

“(i) lead to a loss of volume in the affected category of mail and reduce the aggregate contribution to institutional costs of the Postal Service from the mail matter subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

“(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

“(iii) impede the efficient operation of the Postal Service;

“(C) the amount of the discount above costs avoided—

“(i) is necessary to mitigate rate shock; and

“(ii) will be phased out over time;

“(D) the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value; or

“(E) the Postal Regulatory Commission determines that such discounts are reasonable and equitable and consistent with the objectives and factors taken into account under subsections (b) and (c).

“(3) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report and explanation of the Postal Service’s reasons for establishing or maintaining the rate, setting forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate.

“(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.

**“§ 3623. Service agreements for market-dominant products**

“(a) IN GENERAL.—

“(1) AUTHORITY.—The Postal Service may enter into service agreements with a customer or group of customers that provide for the provision of postal services under terms, conditions, or service standards that differ from those that would apply under the otherwise applicable classification of market-dominant mail.

“(2) AGREEMENTS.—An agreement under this section may involve—

“(A) performance by the contracting mail user of mail preparation, processing, transportation, or other functions;

“(B) performance by the Postal Service of additional mail preparation, processing, transportation, or other functions; or

“(C) other terms and conditions that meet the requirements of subsections (b) and (c).

“(b) REQUIREMENTS.—A service agreement under this section may be entered into only if each of the following conditions is met:

“(1) The total revenue generated under the agreement—

“(A) will cover all Postal Service costs attributable to the postal services covered by the agreement; and

“(B) will result in no less contribution to the institutional costs of the Postal Service than would have been generated had the agreement not been entered into.

“(2) Rates or fees for other mailers will not increase as a result of the agreement.

“(3) The agreement pertains exclusively to products in the market-dominant category of mail.

“(4) The agreement will not preclude or materially hinder similarly situated mail users from entering into agreements with the Postal Service on the same, or substantially the same terms or conditions, and the Postal Service remains willing and able to enter into such.

“(c) LIMITATIONS.—A service agreement under this section shall—

“(1) be for a term not to exceed 3 years; and

“(2) provide that such agreement shall be subject to the cancellation authority of the Commission under section 3662.

“(d) NOTICE REQUIREMENTS.—

“(1) IN GENERAL.—At least 30 days before a service agreement under this section is to take effect, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register the following information with respect to such agreement:

“(A) A description of the postal services the agreement involves.

“(B) A description of the functions the customer is to perform under the agreement.

“(C) A description of the functions the Postal Service is to perform under the agreement.

“(D) The rates and fees payable by the customer during the term of the agreement.

“(E) With respect to each condition under subsection (b), information sufficient to demonstrate the bases for the view of the Postal Service that such condition would be met.

“(2) AGREEMENTS LESS THAN NATIONAL IN SCOPE.—In the case of a service agreement under this section that is less than national in scope, the information described under paragraph (1) shall also be published by the Postal Service in a manner designed to afford reasonable notice to persons within any geographic area to which such agreement (or any amendment to that agreement) pertains.

“(e) EQUAL TREATMENT REQUIRED.—If the Postal Service enters into a service agreement with a mailer under this section, the Postal Service shall make such agreement available to similarly situated mailers on functionally equivalent terms and conditions consistent with the regulatory system established under section 3622 without unreasonable distinctions based on mailer profiles, provided that such distinctions, if ignored, would not render any subsequent agreement uneconomic or impractical.

“(f) COMPLAINTS.—Any person who believes that a service agreement under this section is not in conformance with the requirements of this section, or who is aggrieved by a decision of the Postal Service not to enter into an agreement under this section, may file a complaint with the Postal Regulatory Commission in accordance with section 3662.

“(g) POSTAL REGULATORY COMMISSION ROLE.—

“(1) REGULATIONS.—The Postal Regulatory Commission may promulgate such regulations regarding service agreements as the Commission determines necessary to implement the requirements of this section.

“(2) REVIEW.—The Postal Regulatory Commission may review any agreement or proposed agreement under this section and may suspend, cancel, or prevent such agreement if the Commission finds that the agreement does not meet the requirements of this section.

“(h) INTERPRETATION.—The determination of whether the revenue generated under the agreement meets the requirements of subsection (b)(1)(B) shall be based, to the extent practicable, on the actual contribution of the mail involved, not on the average contribution made by the mail classification most similar to the services performed under the agreement. If mailer-specific data is not available, the bases for the determination

used shall be provided and shall include a discussion of the suitability of the data used, in accordance with regulations established by the Postal Regulatory Commission.”.

(b) REPEALED SECTIONS.—Sections 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

**SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

**“§ 3631. Applicability; definitions and updates**

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) priority mail;

“(2) expedited mail;

“(3) bulk parcel post;

“(4) bulk international mail; and

“(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

“(b) DEFINITION.—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product.

“(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

“(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

**“§ 3632. Action of the Governors**

“(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) PROCEDURES.—

“(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

“(2) PUBLIC NOTICE; REVIEW; AND COMPLIANCE.—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

“(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

“(B) the Postal Rate Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

“(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

“(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

**“§ 3633. Provisions applicable to rates for competitive products**

“The Postal Regulatory Commission shall, within 180 days after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

“(1) prohibit the subsidization of competitive products by market-dominant products;

“(2) ensure that each competitive product covers its costs attributable; and

“(3) ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.”.

**SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.**

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**

**“§ 3641. Market tests of experimental products**

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

“(c) NOTICE.—

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

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

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

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

under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

**“§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists,

removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

“(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

“(1) under this subchapter; or

“(2) by or under any other provision of law.”.

**SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”;

and

(2) by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

**“§ 3651. Annual reports by the Commission**

“(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

“(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**“§ 3652. Annual reports to the Commission**

“(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) product information, including mail volumes; and

“(B) measures of the service afforded by the Postal Service in connection with such product, including—

“(i) the level of service (described in terms of speed of delivery and reliability) provided; and

“(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

“(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(1) The per-item cost avoided by the Postal Service by virtue of such discount.

“(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(3) The per-item contribution made to institutional costs.

“(c) SERVICE AGREEMENTS AND MARKET TESTS.—In carrying out subsections (a) and

(b) with respect to service agreements (including service agreements entered into under section 3623) and experimental products offered through market tests under section 3641 in a year, the Postal Service—

“(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

“(2) shall report such data as the Postal Regulatory Commission requires.

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

“(e) CONTENT AND FORM OF REPORTS.—

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

“(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

“(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) strategic plan under section 2802;

“(3) performance plan under section 2803; and

“(4) program performance reports under section 2804.

**“§ 3653. Annual determination of compliance**

“(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

“(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).

“(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.”.

**SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.**

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

**“§ 3662. Rate and service complaints**

“(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

“(A) begin proceedings on such complaint; or

“(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service

take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance including ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

“(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

#### “§ 3663. Appellate review

“A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

#### “§ 3664. Enforcement of orders

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”

#### SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

### “CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

#### “SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“3623. Service agreements for market-dominant products.

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

#### “SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

#### “SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

#### “SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

#### “SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

#### “SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

“3682. Size and weight limits.

“3683. Uniform rates for books; films, other materials.

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Bonus authority.

#### “SUBCHAPTER VII—MODERN SERVICE STANDARDS

“3691. Establishment of modern service standards.”

### TITLE III—MODERN SERVICE STANDARDS

#### SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

#### “SUBCHAPTER VII—MODERN SERVICE STANDARDS

##### “§ 3691. Establishment of modern service standards

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 12 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with sections 101 (a) and (b) and 403.

“(b) OBJECTIVES.—Such standards shall be designed to achieve the following objectives:

“(1) To enhance and preserve the value of postal services to both senders and recipients.

“(2) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

“(3) To guarantee Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

“(c) FACTORS.—In establishing or revising such standards, the Postal Regulatory Commission shall take into account—

“(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

“(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

“(3) mail volume and revenues projected for future years;

“(4) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

“(5) the current and projected future cost of serving Postal Service customers;

“(6) the effect of changes in technology, demographics and population distribution on the efficient and reliable operation of the postal delivery system; and

“(7) the policies of this title as well as such other factors as the Commission determines appropriate.”

#### SEC. 302. POSTAL SERVICE PLAN.

(a) IN GENERAL.—Within 6 months after the establishment of the service standards under

section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENT.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service’s processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals; and

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals.

(c) POSTAL FACILITIES.—The Postal Service plan shall include a description of its long-term vision for rationalizing its infrastructure and workforce and how it intends to implement that vision, including—

(1) a strategy for how it intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(2) an update on how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, and other areas will impact network rationalization plans;

(3) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes; and

(4) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan.

(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

(1) vending machines;

(2) the Internet;

(3) Postal Service employees on delivery routes; and

(4) retail facilities in which overhead costs are shared with private businesses and other government agencies.

(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) INSPECTOR GENERAL REPORT.—

(1) IN GENERAL.—Before submitting the plan under this section to Congress, the Postal Service shall submit the plan to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) REPORT.—The Inspector General shall prepare a report describing the extent to which the Postal Service plan—

(A) is consistent with the continuing obligations of the Postal Service under title 39, United States Code; and

(B) provides for the Postal Service to meet the service standards established under section 3691.

(3) SUBMISSION OF REPORT.—The Postal Service shall submit the report of the Inspector General under this subsection with the plan submitted to Congress under subsection (a).

**TITLE IV—PROVISIONS RELATING TO  
FAIR COMPETITION**

**SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.**

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

**“§2011. Provisions relating to competitive products**

“(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(1) costs attributable to competitive products; and

“(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term ‘costs attributable’ has the meaning given such term by section 3631.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;

“(2) amounts received from obligations issued by the Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

“(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in accordance with regulations which the Secretary of the Treasury shall prescribe within 12 months after the date of enactment of the Postal Accountability and Enhancement Act.

“(d) The Postal Service may, in its sole discretion, provide that moneys of the Competitive Products Fund be deposited in a Federal Reserve bank or a depository for public funds.

“(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as the Postal Service determines necessary or desirable.

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

“(3) Obligations issued by the Postal Service under this subsection—

“(A) may not be purchased by the Secretary of the Treasury;

“(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

“(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

“(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

“(4)(A) This paragraph applies with respect to the period beginning on the date of the enactment of this paragraph and ending at the close of the 5-year period which begins on the date on which the Postal Service makes its submission under subsection (h)(1).

“(B) During the period described in subparagraph (A), nothing in subparagraph (A) or (D) of paragraph (3) or the last sentence of section 2006(b) shall, with respect to any obligations sought to be issued by the Postal Service under this subsection, be considered to affect such obligations’ eligibility for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

“(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable securities of comparable maturity issued by entities with the same credit rating as the rating then most recently obtained by the Postal Service under subparagraph (D), as determined by the Bank.

“(D) In order to be eligible to borrow under this paragraph, the Postal Service shall first obtain a credit rating from a nationally recognized credit rating organization. Such rating—

“(i) shall be determined taking into account only those assets and activities of the Postal Service which are described in section 3634(a)(2) (relating to the Postal Service’s assumed taxable income from competitive products); and

“(ii) may, before final rules of the Postal Regulatory Commission under subsection (h) are issued (or deemed to have been issued), be based on the best information available from the Postal Service, including the audited statements required by section 2008(e).

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

“(h)(1) The Postal Service, in consultation with an independent, certified public ac-

counting firm and such other advisors as it considers appropriate, shall develop recommendations regarding—

“(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of identifying the capital and operating costs incurred by the Postal Service in providing competitive products, and preventing the cross-subsidization of such products by market-dominant products; and

“(B) the substantive and procedural rules that should be followed in determining the Postal Service’s assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no later than 12 months after the effective date of this section.

“(2)(A) Upon receiving the recommendations of the Postal Service under paragraph (1), the Commission shall give interested parties, including the Postal Service, enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

“(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Postal Service makes its submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). If final rules are not issued by the Commission by the deadline under the preceding sentence, the recommendations submitted by the Postal Service under paragraph (1) shall be treated as the final rules. The Commission is authorized to promulgate regulations revising such rules.

“(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

“(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).”

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund.”

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title,” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (b), by adding at the end the following: “Nothing in this chapter shall be considered to permit or require the Secretary of the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005.”; and

(B) in subsection (c), by inserting “under section 2005” before “shall be obligations”.

#### SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

#### “§ 3634. Assumed Federal income tax on competitive products income

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”

#### SEC. 403. UNFAIR COMPETITION PROHIBITED.

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

##### “§ 404a. Specific limitations

“(a) Except as specifically authorized by law, the Postal Service may not:

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”

#### SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered under the antitrust laws (as so defined) from the Postal Service or any officer or employee thereof acting in an official capacity for any conduct with respect to a product in the market-dominant category of mail.

“(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

“(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

“(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by

striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title.”

#### TITLE V—GENERAL PROVISIONS

##### SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of the enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”

(c) 5-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended in the first sentence by striking “9 years” and inserting “5 years”.

(2) APPLICABILITY.—

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 5 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 5-year term.

(C) VACANCY BY INCUMBENT AFTER 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 5 years or more of that term, that term shall be deemed to have been a 5-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 5-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 5-year term under this subparagraph.

(d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end the following:

“(2) No person may serve more than 3 terms as a Governor.”

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

##### SEC. 502. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”

(b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of title 39, United States Code, is amended by striking the third sentence.

(c) AMOUNTS WHICH MAY BE PLEDGED.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section.”

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.”

##### SEC. 503. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces; or

“(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of

title 39, United States Code (as amended by section 202) take effect.

**SEC. 504. RULEMAKING AUTHORITY.**

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;”.

**SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

**“§ 1207. Labor disputes**

“(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days of such notice, if no agreement has been reached by that time.

“(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

“(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

“(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

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

“(d) In the case of a bargaining unit whose recognized collective-bargaining representa-

tive does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days of the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.”.

(b) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(c) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**TITLE VI—ENHANCED REGULATORY COMMISSION**

**SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

**“CHAPTER 5—POSTAL REGULATORY COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

**“§ 501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

**“§ 502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”;

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602; and

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission . . . 501”**  
**SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

“(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

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

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

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

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

“(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f),

or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

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

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

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

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

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

#### SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

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

#### (b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject

to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.”

#### (c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

#### SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”;

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

#### SEC. 605. FINANCIAL TRANSPARENCY.

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

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

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

“(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.”

#### TITLE VII—EVALUATIONS

#### SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 3 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

#### SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.

#### (a) REPORT BY THE POSTAL SERVICE.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as “universal service and the postal monopoly”), including the monopoly on the delivery of mail and on access to mailboxes.

(2) CONTENTS.—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic advantages provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

**TITLE VII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING**

**SEC. 801. SHORT TITLE.**

This title may be cited as the “Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004”.

**SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

“(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.”; and

(2) by amending section 8348(h) to read as follows:

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

“(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

“(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A) Not later than June 30, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a. If the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

“(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

“(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

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

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

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

**SEC. 803. HEALTH INSURANCE.**

(a) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8906(g)(2)(A), by striking “shall be paid by the United States Postal Service.” and inserting “shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.”; and

(2) by inserting after section 8909 the following:

**“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

“(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

“(d)(1) Not later than December 31, 2006, and by December 31 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

“(2)(A) Not later than December 31, 2006, the Office shall compute, and by December 31 of each succeeding year, the Office shall recompute the difference between—

“(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

“(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

“(II) the net present value computed under paragraph (1).

“(B) Not later than December 31, 2006, the Office shall compute, and by December 31 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by January 31, 2046, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

“(3) Not later than January 31, 2007, and by January 31 of each succeeding year, the United States Postal Service shall pay into such Fund—

“(A) the net present value computed under paragraph (1); and

“(B) the annual installment computed under paragraph (2)(B).

“(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

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

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

**SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) is repealed.

**SEC. 805. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2005.

(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The amendment made by paragraph (1) of section 802(a) shall take effect on the

first day of the first pay period beginning on or after October 1, 2005.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

##### SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.

(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of title 5, United States Code, is amended—

(1) by striking “An employee” and inserting “(a) An employee other than a Postal Service employee”; and

(2) by adding at the end the following:

“(b) A Postal Service employee is not entitled to compensation or continuation of pay for the first 3 days of temporary disability. A Postal Service employee may use annual leave, sick leave, or leave without pay during that 3-day period.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

“(1) without a break in time, except as provided under section 8117;”

##### SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOYEES.

(a) TOTAL DISABILITY.—Section 8105 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

(b) PARTIAL DISABILITY.—Section 8106 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (d).”; and

(2) by adding at the end the following:

“(d)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

UNITED STATES GENERAL  
ACCOUNTING OFFICE,

Washington, DC, February 6, 2004.

Hon. SUSAN M. COLLINS,  
Chairman, Committee on Governmental Affairs,  
United States Senate.

Need for Comprehensive Postal Reform

DEAR CHAIRMAN COLLINS: This letter responds to your request for our views on the

need for postal reform and is based upon our prior testimonies related to this issue. In summary, we believe that comprehensive postal reform is urgently needed. The ability of the Service to remain financially viable is at risk because its current business model—which relies on mail volume growth to cover the costs of its expanding delivery network—is not well aligned with 21st century realities. Since we placed the Postal Service’s transformation efforts and financial outlook on our High-Risk List in April 2001, I have testified on several occasions about the governance, financial, operational, and human capital challenges that threaten the Service’s ability to carry out its mission. If not effectively addressed in a timely manner, these challenges serve to threaten the Service’s ability to remain self-supporting while providing affordable, high-quality and universal postal services to all Americans.

The following key trends serve to reinforce our view that enactment of postal reform legislation is needed:

Declining mail volume: Total mail volume declined in fiscal year 2003 for the third year in a row—a historical first for the Service, which has depended on rising mail volume to help cover rising costs and mitigate rate increases. First-Class Mail volume declined by a record 3.2 percent in fiscal year 2003 and is projected to decline annually for the foreseeable future. Some of this decline is due to technology advances (e.g. E-mail, digital phones, faxes, and electronic bill payments) that are likely to increase in the future. This trend is particularly significant because First-Class Mail covers more than two-thirds of the Service’s institutional costs.

Changes in the mail mix: The Service’s mail mix is changing with declining volume for high-margin products, such as First-Class Mail, and increasing volume of lower-margin products, such as some types of Standard Mail. These changes reduce revenues available to cover the Service’s institutional costs.

Increased competition from private delivery companies: Private delivery companies dominate the market for parcels greater than 2 pounds and appear to be making inroads into the market for small parcels. Priority Mail volume fell 13.9 percent in fiscal year 2003 and over the last 3 years has declined nearly 30 percent. Once a highly profitable growth product for the Service, Priority Mail volume is declining as the highly competitive parcel market turns to lower-priced ground shipment alternatives. Express Mail volume is declining for the same reason. In addition, United Parcel Service (UPS) and FedEx have established national retail networks through UPS’s acquisition of MailBoxes Etc., now called UPS Stores, and FedEx’s recent acquisition of Kinko’s.

Subpar revenue growth: The Service’s revenues are budgeted for zero growth in fiscal year 2004, which would be the first year since postal reorganization that postal revenues have failed to increase. However, as the Service has recognized, even the zero-growth target will be challenging. In the absence of revenue growth generated by increasing volume, the Service must rely more heavily on rate increases to cover rising costs and help finance capital investment needs.

Declining capital investment: The Service’s capital cash outlays declined from \$3.3 billion in fiscal year 2000 to \$1.3 billion in fiscal year 2003, which was the lowest level since fiscal year 1986, and far below the level of the late 1990s, when the Service spent more than \$3 billion annually. Capital cash outlays are budgeted to increase to \$2.4 billion in fiscal year 2004, but this level may not be sufficient to enable the Service to fully fund its capital investment needs. In the longer term, it is unclear what the Serv-

ice’s needs will be to maintain and modernize its physical infrastructure, as well as how these needs will be funded.

Renewed difficulties in substantially improving postal productivity: The Service’s productivity increased by 1.8 percent in fiscal year 2003 but is estimated to increase by only 0.4 percent in fiscal year 2004. In the absence of mail volume growth, substantial productivity increases will be required to help cover cost increases generated by rising wages and benefit costs and to mitigate rate increases.

Significant financial liabilities and obligations: Despite the passage of legislation that reduced the Service’s pension obligations, the Service has about \$88 billion to \$98 billion in liabilities and obligations that include \$47 billion to \$57 billion in unfunded retiree health benefits. Under the current pay-as-you-go system, the Service may have difficulty financing its retiree health benefits obligation in the future if mail volume trends continue to impact revenues while costs in this area continue to rise. The Service has recently proposed two options to Congress, so the Service could prefund this obligation to the extent that it is financially able.

Uncertain funding for emergency preparedness: The Service requested \$350 million for emergency preparedness for fiscal year 2004, which it did not receive, and \$779 million for fiscal year 2005. If the money is not appropriated, funding for this purpose may have to be built into postal rates.

Challenges to achieve sufficient cost cutting: The Service achieved additional cost cutting to compensate for below-budget revenues in fiscal year 2003. Despite this progress, in the longer term it is unclear whether continued cost-cutting efforts can offset declines in First-Class Mail volume without impacting the quality of service.

Although we have discussed numerous actions that the Postal Service can take within its existing authority to improve its overall efficiency and effectiveness, we do not believe that incremental steps toward postal transformation can resolve the fundamental and systemic issues associated with the Service’s current business model. To avoid the risk of a significant taxpayer bailout or dramatic postal rate increases, we believe that Congress should enact comprehensive postal reform legislation that includes the Service’s overall statutory framework, resolution of issues regarding the Service’s pension and retiree health benefits obligations, and whether there is a continued need for an escrow account.

The key areas of the Service’s statutory framework that need to be addressed include:

Clarifying the Service’s mission and role by defining the scope of universal service and the postal monopoly and by clarifying the role of the Service in regard to competition and its regulatory functions.

Enhancing governance, transparency, and accountability by delineating public policy, operational, and regulatory responsibilities; by ensuring managerial accountability through a strong, well-qualified corporate-style board that holds its officers responsible and accountable for achieving real results; and by defining appropriate reporting mechanisms to enhance the Service’s transparency and accountability for financial and performance results.

Improving flexibilities and oversight by balancing increased flexibility for the Service—through streamlining the rate-setting process and allowing a certain amount of retained earnings—with appropriate oversight by a independent regulatory body to protect postal customers against undue discrimination, to restrict cross-subsidies, and to ensure due process. In addition, the Service

needs additional flexibility to rationalize its infrastructure and reshape its workforce. Any such additional flexibility should be accompanied by appropriate safeguards to prevent abuse along with enhanced transparency and accountability mechanisms.

Making needed human capital reforms such as (1) determining the Service's responsibility for pension costs related to military service, funding retiree health benefits, and determining what action to take on the escrow account established in recent pension legislation; (2) deciding whether postal workers' compensation benefits should be on par with those in the private sector; and (3) clarifying pay comparability standards.

We believe that Congress now has a rare opportunity to assure the Service's long-term financial viability through comprehensive postal reform legislation that addresses the Service's key structural and systemic deficiencies, its unfunded obligations, including its retiree health benefits obligation, and the escrow requirement. Key legislative and administrative actions in connection with transforming the Postal Service can also serve as positive examples for other key government transformation efforts.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will provide copies to interested congressional committees. We will also make copies available to others on request. In addition, the report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

For additional information about this report, please contact Mark L. Goldstein, Director, Physical Infrastructure Issues at (202) 512-2834 or at [goldsteinm@gao.gov](mailto:goldsteinm@gao.gov). Please contact me if I can be of any further assistance to help make comprehensive postal reform a reality.

Sincerely yours,

DAVID M. WALKER,

*Comptroller General of the United States.*

Mr. CARPER. Mr. President, I rise today to join Senator COLLINS in introducing the Postal Accountability and Enhancement Act of 2004, legislation that makes the reforms necessary for the Postal Service to thrive in the 21st Century and to better serve the American people.

This bill is based in part on S. 1285, the comprehensive postal reform legislation I introduced nearly a year ago. S. 1285 was itself based on ten years of work on postal reform in the House of Representatives, led by Congressman, JOHN MCHUGH from New York. It is also inspired by the work of the postal commission formed by President Bush last year, called the President's Commission on the United States Postal Service, which studied all aspects of the Postal Service and made recommendations on how it could be modernized.

When I rose to introduce S. 1285 last June, the House Government Reform Committee had only recently failed to report out the latest version of the McHugh reform bill and the President's Commission was only weeks away from issuing its final recommendations. Along with a number of other observers, I feared that the McHugh bill's fate might have spelled the end of postal reform for some time. I also feared that the Commission's recommendations

would focus on some of the more extreme reform proposals floated in the past, such as postal privatization. While the Commission did make a handful of recommendations that I believe go too far, I was pleased to see that its work largely mirrored the provisions in S. 1285 and the various House reform bills we have seen in recent years.

I'd like to begin, then, by thanking Congressman MCHUGH and his colleagues on the House Government Reform Committee for its visionary leadership on postal reform over the years. I'd also like to thank the members of the President's Commission, especially co-chairs James A. Johnson and Harry J. Pearce, for their service. Postal reform is a difficult issue. It is also a vitally important issue for every American who depends on the Postal Service every day. Their willingness to listen to all sides of the debate and to craft what is, for the most part, a set of balanced reform recommendations is admired and appreciated. The work they have done has brought to light a number of the key issues facing the Postal Service and has made it possible to get a bipartisan postal reform bill signed into law this year.

Senator COLLINS also deserves our thanks and applause for her hard work on this issue. Under her leadership, the Governmental Affairs Committee held a series of eight excellent hearings on postal reform over the past few months. She and I and our staffs have also held countless meetings with the various stakeholders for more than a year now. Everyone with an interest in the Postal Service was given an opportunity to have their say, and I think that's reflected in the balanced bill we're introducing today.

It's always a pleasure working with Senator COLLINS. We've worked together on a number of issues over the years—from welfare reform to homeland security and the future of passenger rail in our country. Her dedication to bipartisanship, and simply doing the right thing, is rare these days. It's a honor to be introducing this historic bill with her today.

Let me also express to Senator LIEBERMAN, our Committee's Ranking Member, my appreciation for giving me the opportunity as a freshman Senator to work so closely on one of the most important issues to come before Governmental Affairs. The support he and his staff have offered us throughout this process has been invaluable.

Some of our colleagues may wonder why we need postal reform. They probably receive few complaints about the service their constituents get from the Postal Service and its employees. In fact, a survey conducted by the President's Commission indicated that the American people like the Postal Service just the way it is. We must keep in mind, however, that, despite the fact that the mailing industry, and the economy as a whole, have changed radically over the years, the Postal

Service has, for the most part, remained unchanged for more than three decades now.

In the early 1970s, Senator STEVENS and others led the effort in the Senate to create the Postal Service out of the failing Post Office Department. At the time, the Post Office Department received about 20 percent of its revenue from taxpayer subsidies. Service was suffering and there was little money available to expand.

By all accounts, the product of Senator STEVENS' labors, the Postal Reorganization Act signed into law by President Nixon in 1971, has been a phenomenal success. The Postal Service today receives virtually no taxpayer support and the service its hundreds of thousands of employees provide to every American, every day is second to none. More than thirty years after its birth, the Postal Service now delivers to 141 million addresses each day and is the anchor of a \$900 billion per year mailing industry.

As we celebrate the Postal Service's successes, however, we need to be thinking about what needs to be done to make them just as successful in the years to come. When the Postal Service started out in 1971, no one had access to fax machines, cell phones and pagers. No one imagined that we would ever enjoy conveniences like e-mail and electronic bill payment. Most of the mail I receive from my constituents these days arrives via fax and e-mail instead of hard copy mail, a marked change from my days in the House and even from my more recent days as Governor of Delaware.

This continuing electronic diversion of mail, coupled with economic recession and terrorism, has made for some rough going at the Postal Service in recent years. In 2001, as Postmaster General Potter came onboard, the Postal Service was projecting its third consecutive year of deficits. They lost \$199 million in fiscal year 2000 and \$1.68 billion in fiscal year 2001. They were projecting losses of up to \$4 billion in fiscal year 2002. Mail volume was falling, revenues were below projections and the Postal Service was estimating that it needed to spend \$4 billion on security enhancements in order to prevent a repeat of the tragic anthrax attacks that took several lives. The Postal Service was also perilously close to its \$15 billion debt ceiling and had been forced to raise rates three times in less than two years in order to pay for its operations, further eroding mail volume.

Good things have happened since 2001, though. First, General Potter has led a commendable effort to make the Postal Service more efficient. Billions of dollars in costs and have been taken out of the system. Thousands of positions have been eliminated through attrition. Successful automation programs have yielded great benefits. Perhaps more dramatically, the Postal Service also learned that an unfunded pension liability they once believed was an high as \$32 billion was actually

\$5 billion. Senator COLLINS and I responded with legislation, the Postal Civil Service Retirement System Funding Reform Act, signed into law by President Bush last year, which cuts the amount the Postal Service must pay into the Civil Service Retirement System each year by nearly \$3 billion. This has freed up money for debt reduction and prevented the need for another rate increase until at least 2006.

Aggressive cost cutting and a lower pension payment, then, have put off the emergency that would have come if the Postal Service had reached its debt limit. But cost cutting can only go so far and will not solve the Postal Service's long-term challenges. These long-term challenges were laid out in stark detail earlier this year when Postmaster General Potter and Postal Board of Governors Chairman David Fineman testified before the House Government Reform Committee's Special Panel on Postal Reform. Chairman Fineman pointed out then that the total volume of mail delivered by the Postal Service has declined by more than 5 billion pieces since 2000. Over the same period, the number of homes and businesses the Postal Service delivers to have increased by more than 5 million. First Class mail, the largest contributor to the Postal Service's bottom line, is leading the decline in volume. Some of those disappearing First Class letters are being replaced by advertising mail, which earns significantly less. Many First Class letters have likely been lost for good to the fax machine, e-mail and electronic bill pay.

Despite electronic diversion, the Postal Service continues to add about 1.7 million new delivery points each year, creating the need for thousands of new routes and thousands of new letter carriers to work them. In addition, faster-growing parts of the country will need new or expanded postal facilities in the coming years. As more and more customers turn to electronic forms of communication, letter carriers are bringing fewer and fewer pieces of mail to each address they serve. The rate increases that will be needed to maintain the Postal Service's current infrastructure, finance retirement obligations to its current employees, pay for new letter carriers and build facilities in growing part of the country will only further erode mail volume.

As I've mentioned, the Postal Service has been trying to improve on its own. They are making progress, but there is only so much they can do. Even if the economy begins to recover more quickly and the Postal Service begins to see volume and revenues improve, we will still need to make fundamental changes in the way the Postal Service operates in order to make them as successful in the 21st Century as they were in the 20th Century.

This is where the Postal Accountability and Enhancement Act comes in. First, our bill begins the process of de-

veloping a modern rate system for pricing Postal Service products. The new system, to be developed by a strengthened Postal Rate Commission, renamed the Postal Regulatory Commission, would allow retained earnings, provide the Postal Service significantly more flexibility in setting prices and streamline today's burdensome ratemaking process. To provide stability, predictability and fairness for the Postal Service's customers, rates would remain within an inflation-based cap to be developed by the Commission.

In addition, the new rate system will allow the Postal Service to negotiate service agreements with individual mailers. The Postal Rate Commission in recent years did approve a service agreement the Postal Service negotiated with Capital One, but the process for considering the agreement took almost a year and the Postal Service's authority to enter into such agreements is not clearly spelled out in law. The Postal Accountability and Enhancement Act allows the Postal Service to enter into agreements if the revenue generated from them covers all costs attributable to the Postal Service and will result in no less contribution to the institutional costs of the Postal Service than would have been generated had the agreement not been entered into. No agreement would be permitted if it resulted in higher rates for any other mailer or prohibited any similarly situated mailer from negotiating a similar agreement.

The new rate system also includes some important safeguards meant to prohibit worksharing discounts that exceed costs avoided by the Postal Service. Now, worksharing on the part of mailers has been an important part of the productivity improvements at the Postal Service in recent years. Mailers should get credit in the form of a discount for work they do to their mail, such as presorting and barcoding or transporting mail deeper into the postal system. The discounts they receive, however, should have some rational relation to the benefit the Postal Service gets from the worksharing. The Postal Service should continue to be free to use discounts to incent mailers to be more efficient. They also should not be forced to impose large rate increases on worksharred mail in order to comply with a strict prohibition on discounts in excess of costs avoided. Discounts in excess of costs avoided, however, should be temporary and reasonable. Our worksharing language strikes a good balance in that it prohibits the Postal Service from outsourcing work that could be performed cheaper in house while maintaining pricing flexibility.

The second major provision in the Postal Accountability and Enhancement Act requires the Postal Regulatory Commission to set strong service standards for the Postal Service's Market Dominant products, a category made up mostly of those products, like

First Class mail, that are part of the postal monopoly. The Postal Service currently sets its own service standards, which allows them to pursue efforts like the elimination of Saturday delivery, a proposal floated three years ago. The new standards set by the Commission will aim to improve service and will be used by the Postal Service to establish performance goals, rationalize its physical infrastructure and streamline its workforce.

In a rate system featuring rate caps, as any system established under the Postal Accountability and Enhancement Act must, I believe it is especially important that the Regulatory Commission, not the Postal Service, be charged with determining the appropriate level of service postal customers should receive. This will prevent the Postal Service from cutting service as a way to keep rates below the cap. The Postal Service should be forced to look to productivity enhancements, not poorer quality service, to find savings.

Third, the Postal Accountability and Enhancement Act ensures that the Postal Service competes fairly. The bill prohibits the Postal Service from issuing anti-competitive regulations. It also subjects the Postal Service to state zoning, planning and land use laws, requires them to pay an assumed Federal income tax on products like packages and Express Mail that private firms also offer and requires that these products as a whole pay their share of the Postal Service's institutional costs. The Federal Trade Commission will further study any additional legal benefits the Postal Service enjoys that its private sector competitors do not. The Regulatory Commission will then find a way to use the rate system to level the playing field.

Fourth, the Postal Accountability and Enhancement Act improves Postal Service accountability, mostly by strengthening oversight. Qualifications for membership on the Regulatory Commission would be stronger than those for the Rate Commission so that Commissioners would have a background in finance or economics. Commissioners would also have the power to demand information from the Postal Service, including by subpoena, and have the power to punish them for violating rate and service regulations. In addition, the Commission will make an annual determination as to whether the Postal Service is in compliance with rate law and meeting service standards and will have the power to punish them for any transgressions.

Fifth, the Postal Accountability and Enhancement Act revises two provisions from the Postal Civil Service Retirement System Funding Reform Act in an effort to shore up the Postal Service's finances in the years to come. As our colleagues may be aware, that bill requires the Postal Service, beginning in 2006, to deposit any savings it enjoys by virtue of lower pension payments into an escrow account. In this bill, we eliminate that requirement in

order to allow the Postal Service to spend the money that would have gone into escrow according to the plan submitted by the Postal Service in September of last year, which called for using most of the savings to begin paying down the Postal Service's \$50 billion retiree health obligation. The bill Senator COLLINS and I are introducing today also reverses the provision in the Postal Civil Service Retirement System Funding Reform Act that made the Postal Service the only Federal agency shouldered with the burden of paying the additional pension benefits owed to their employees by virtue of past military service.

Finally, and most importantly, the bill preserves universal service and the postal monopoly and forces the Postal Service to concentrate solely on what it does best—processing and delivering the mail to all Americans. Our bill limits the Postal Service, for the first time, to providing “postal services,” meaning they would be prohibited from engaging in other lines of business, such as e-commerce, that draw time and resources away from letter and package delivery. It also explicitly preserves the requirement that the Postal Service “bind the Nation together through the mail” and serve all parts of the country, urban, suburban and rural, in a non-discriminatory fashion. Any service standards established by the Postal Regulatory Commission will continue to ensure delivery to every address, every day. In addition, the bill maintains the prohibition on closing post offices solely because they operate at a deficit, ensuring that rural and urban customers continue to enjoy full access to retail postal services.

The President's Commission, while calling for the preservation of universal service and the postal monopoly, opened the door for future changes by recommending that the Regulatory Commission be given the authority to make them themselves. While I believe that Congress will find it difficult to roll back universal service or limit the postal monopoly in the future if it is deemed necessary to do so, I believe the recommendation from the President's Commission would give too much power to a relatively small, political body. In order to keep Congress focused on the Postal Service's future, however, our bill asks the Regulatory Commission to report every three years on the state of universal service and the postal monopoly. When necessary, they would also make recommendations to Congress when they feel like one is necessary.

We have a once-in-a-generation opportunity this year to enact meaningful postal reform legislation. The House Government Reform Committee marked up its version of the Postal Accountability and Enhancement Act last week by a unanimous 40-0 vote. The President has indicated his support for a bill, releasing a set of postal reform principles at the end of last year calling on Congress to make some key

changes to the way the Postal Service operates. We now have everyone from the National Association of Letter Carriers to former opponents of reform like UPS supporting our efforts, as well as those in the House. I know there are still some concerns about certain provisions in our bill, but I look forward to working with Senator COLLINS and each of our colleagues in the coming weeks to continue this momentum and get a bill through Congress that can be signed into law this year.

It's amazing to me to think that the Postal Service, something Senator STEVENS was able to put together at the beginning of his career, could have lasted so long and had such an impact on every American. I'm hopeful that the model Senator COLLINS and I have set out in this bill today can last at least that long and have just as positive an impact on our nation and our economy as the Postal Service did so many years ago.

Mr. STEVENS. Mr. President, I am pleased to join Chairman COLLINS and Senator CARPER as an original cosponsor of S. 2468, the Postal Accountability and Enhancement Act. In 2002, the President formed a Commission to evaluate the operations of the United States Postal Service. Earlier this year, the President's Commission issued a comprehensive report filled with suggestions on how to improve the Postal Service. Senator COLLINS became actively engaged on the issue of postal reform and held a series of hearing this year on postal reform. This bill is the product of the postal reform hearings held before the Government Affairs Committee.

I expect I will have suggestions on this legislation as the bill moves through the legislative process. However, I support Senator COLLINS's commitment to postal reform. I look forward to working with her and Senator CARPER in Committee and on the Senate floor to ensure the success of this legislation.

Mr. AKAKA. Mr. President, I am pleased to join with Senator COLLINS and Senator CARPER, who today have introduced the Postal Accountability and Enhancement Act. I commend both of my Governmental Affairs Committee colleagues for their leadership in crafting a postal reform bill.

For some time, the General Accounting Office has warned that the long-term financial outlook for the U.S. Postal Service was at risk without significant changes. At the request of the Governmental Affairs Committee, the U.S. Postal Service developed a transformation plan that offered its vision for the future. Late in 2002, a Presidential Postal Commission was convened, which issued a number of recommendations in 2003.

Over the past 6 months, I have participated in a series of hearings chaired by Senator COLLINS which examined the recommendations of the Postal Commission. I commend Senator COLLINS for guaranteeing that the diver-

gent views were seriously considered throughout our eight hearings. I also wish to commend my colleague from Delaware, Senator CARPER, for his strong and early commitment to postal reform.

I support modernizing the U.S. Postal Service to ensure that its mission of providing 6 days a week universal service at an affordable rate is preserved. Although the legislation introduced today responds to many of the recommendations and concerns we heard in our hearings, it wisely rejects others. However, like most bills, there are provisions that trouble me. I am particularly concerned with the sections relating to worksharing and changes to the Federal Employees' Compensation Act (FECA). I will continue to work with the bill's sponsors to address these provisions, which I believe do not promote cost savings for the Postal Service or fairness for postal workers.

I look forward to working with my colleagues on this legislation to guarantee that the U.S. Postal Service will be in position to best serve the public in the 21st century, be a model employer, and protect the retirement future of its employees.

By Mr. BOND (for himself, Mr. HARKIN, Mr. DURBIN, Mr. TALENT, Mr. GRASSLEY, Mr. COLEMAN, Mr. FITZGERALD, and Mr. PRYOR):

S. 2470. A bill to enhance navigation capacity improvements and the ecosystem restoration plan for the Upper Mississippi River and Illinois Waterway System; to the Committee on Environment and Public Works.

Mr. BOND. Mr. President, today, I join my colleagues, Senators HARKIN, DURBIN, TALENT, GRASSLEY, COLEMAN, FITZGERALD and PRYOR to introduce bipartisan legislation to provide transportation efficiency and environmental sustainability on the Mississippi and Illinois Rivers.

As the world becomes more competitive, we must also. In the heartland, the efficiency, reliability, capacity, and safety of our transportation options are critical—often make-or-break. As we look 50 years into the future, and as we anticipate and try to promote commercial and economic growth, we have to ask ourselves a fundamental question: should we have a system that permits and promotes growth, or should we be satisfied to restrict our growth to the confines of a transportation straight jacket designed not for 2050, but for 1980?

Further, we must ask ourselves if dramatic investments should be made to address environmental problems and opportunities that exist on these great waterways.

In both cases, the answer is, “Of course we should modernize and improve.”

We have a system which is in environmental and economic decline. Jobs and markets and the availability of habitat for fish and wildlife are at stake.

the Entertainment Software Ratings Board to avoid an ‘Adults-Only’ rating.” **Page H6407**

**Moment of Silence:** The House observed a moment of silence in remembrance of Officer Jacob J. Chestnut and Detective John M. Gibson of the United States Capitol Police who were killed in the line of duty defending the Capitol against an intruder armed with a gun on July 24, 1998. **Page H6406**

**Suspension—Proceeding Postponed:** The House completed debate on the following measure under suspension of the rules. Further consideration will continue at a later date.

**Paul Kasten Post Office Building Designation Act:** H.R. 2977, designating the facility of the United States Postal Service located at 306 2nd Avenue in Brockway, Montana, as the “Paul Kasten Post Office Building”; **Pages H6393–94**

**Abraham Lincoln Birthplace Post Office Building Designation Act:** H.R. 2894, designating the facility of the United States Postal Service located at 102 South Walters Avenue in Hodgenville, Kentucky, as the “Abraham Lincoln Birthplace Post Office Building”; **Pages H6394–95**

**James T. Malloy Post Office Building Designation Act:** H.R. 3339, designating the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the “James T. Malloy Post Office Building”; and **Pages H6397–98**

**Supporting the goals of National Marina Day:** H. Res. 308, supporting the goals of National Marina Day and urging marinas continue providing environmentally friendly gateways to boating. **Pages H6400–01**

**Recess:** The House recessed at 3:47 p.m. and reconvened at 6:30 p.m. **Page H6405**

**Quorum Calls—Votes:** 3 yea-and-nay votes developed during the proceedings of today and appear on pages H6405, H6406, and H6406–07. There were no quorum calls.

**Adjournment:** The House met at 12:30 p.m. and adjourned at 10:29 p.m.

## Committee Meetings

### HOMELAND SECURITY DEPARTMENT REVIEW

*Committee on Homeland Security:* Concluded hearings entitled “The Secretary’s Second-State Review: Rethinking the Department of Homeland Security’s Organization and Policy Direction.” Testimony was heard from Michael Chertoff, Secretary of Homeland Security.

### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

*Committee on Rules:* Granted, by voice vote, a structured rule providing one hour of general debate on H.R. 22, Postal Accountability and Enhancement Act, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. The rule waives all points of order against consideration of the bill. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill shall be considered as an original bill for the purpose of amendment. The rule waives all points of order against the amendment in the nature of a substitute recommended by the Committee on Government Reform. The rule makes in order only those amendments printed in the Rules Committee report accompanying the resolution, and provided that those amendments may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman Tom Davis of Virginia and Representatives McHugh and Waxman.

### SMALL BUSINESS HEALTH FAIRNESS ACT OF 2005

*Committee on Rules:* Granted, by voice vote, a structured rule providing one hour of debate in the House on H.R. 525, Small Business Health Fairness Act of 2005, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. The rule waives all points of order against consideration of the bill. The rule makes in order the amendment in the nature of a substitute printed in the Rules Committee report accompanying the resolution, if offered by Representative Kind of Wisconsin or his designee, which shall be considered and read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent. The rule waives all points of order against the amendment printed in the report. Finally, the rule provides one motion to recommit with or without instructions. Testimony was heard from Chairman

a yea-and-nay vote of 198 yeas to 230 nays, Roll No. 425. **Pages H6506–08**

Rejected the Kind amendment (No. 1 printed in H. Rept. 109–183) in the nature of a substitute regarding the establishment of a Small Employer Health Benefits Plan (SEHB), by a yea-and-nay vote of 197 yeas to 230 nays, Roll No. 424; and

**Pages H6497–H6506**

H. Res. 379, the rule providing for consideration of the bill was agreed to by voice vote.

**Pages H6466–72**

**Postal Accountability and Enhancement Act:** The House passed H.R. 22, to reform the postal laws of the United States, by a recorded vote of 410 yeas to 20 noes, Roll No. 430. **Pages H6511–49**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill was considered as an original bill for the purpose of amendment. **Page H6522**

Rejected:

Hensarling amendment (No. 3 printed in H. Rept. 109–184) that sought to reduce the bill's cost by ensuring that 100% of the Civil Service Retirement System saving released will be directed to pay the Postal Service's unfunded healthcare liability;

**Pages H6544–47**

Pence amendment (No. 1 printed in H. Rept. 109–184) that sought to remove the requirement that the first vacant slot on the Board of Governors is to be filled by an individual with unanimous backing by the labor unions, (by a recorded vote of 82 yeas to 345 noes, Roll No. 428); and

**Pages H6538–41, H6547–48**

Flake amendment (No. 2 printed in H. Rept. 109–184) that sought to establish a domestic pilot program to empower local postmasters to employ their experience and management expertise to test certain fundamental assumptions relating to the provisions of universal mail service in the U.S. (by a recorded vote of 51 yeas to 379 noes, Roll No. 429).

**Pages H6541–44, H6548**

H. Res. 380, the rule providing for consideration of the bill was agreed to by voice vote.

**Pages H6472–77**

**Late Report:** Agreed that the managers on the part of the House have until midnight tonight, July 26, to file conference reports to accompany H.R. 2361, Department of the Interior, Environment, and Related Agencies Appropriations Act for FY 2006 and H.R. 2985, Legislative Branch Appropriations Act for FY 2006. **Pages H6509–10**

**Federal Food, Drug and Cosmetic Act:** The House agreed by unanimous consent to H.R. 3423,

to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

**Pages H6510–11**

**Senate Message:** Message received from the Senate today appears on page H6510.

**Quorum Calls—Votes:** 9 yea-and-nay votes and 3 recorded votes developed during the proceedings today and appear on pages H6464, H6464–65, H6465, H6466, H6506, H6508, H6508–09, H6509, H6547–48, H6548, H6549, and H6549–50. There were no quorum calls.

**Adjournment:** The House met at 9 a.m. and adjourned at 11:46 p.m.

## Committee Meetings

### FDA FISCAL YEAR 2006 APPROPRIATIONS

*Committee on Appropriations:* Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a hearing on FDA Fiscal Year 2006 Appropriations. Testimony was heard from the following officials of the Department of Health and Human Services: Lester M. Crawford, D.V.M., Commissioner, and Kathleen D. Heuer, Associate Commissioner of Management, both with the FDA; and Lester Cash, Director, Division of Budget Policy, Execution and Review, Acting Assistant Secretary, Budget.

### WEST BANK/GAZA ASSISTANCE

*Committee on Appropriations:* Subcommittee on Foreign Operations, Export Financing, and Related Agencies held a hearing on West Bank/Gaza Assistance. Testimony was heard from James Wolfensohn, Quartet Special Envoy for Gaza Disengagement; the following officials of the Department of State: David C. Welch, Assistant Secretary, Bureau of Near Eastern Affairs; and James Bever, Mission Director, West Bank/Gaza Operations, U.S. Agency for International Development; and LTG William E. Ward, Deputy Commander, USA, Deputy Commander, U.S. Army Europe, Coordinate for Security, Department of Defense.

### MENTAL HEALTH

*Committee on Armed Services:* Subcommittee on Military Personnel held a hearing on mental health. Testimony was heard from the following officials of the Department of Defense: William Winkenwerder, Jr., M.D., Assistant Secretary, Health Affairs; LTG Kevin C. Kiley, USA, Surgeon General; VADM Donald C. Arthur, USN, Surgeon General; LTG George P. Taylor, Jr., USAF, Surgeon General, Department of the Air Force; COL Virgil J. Patterson, USA, Chief, Soldier and Family Support Branch, Army Medical Department Center and School;

CAPT Kristiaan C. Hughes, USA, C Company, 1/46 IN, Fort Knox, Kentucky; and Specialist Stephanie Stretch, 233rd Military Police Company, Illinois Army National Guard; Jonathan B. Perlin, M.D., Under Secretary of Health, Department of Veterans' Affairs; and a public witness.

### FIGHTING METH IN AMERICA'S HEARTLAND

*Committee on Government Reform:* Subcommittee on Criminal Justice, Drug Policy, and Human Resources held a hearing entitled "Fighting Meth in America's Heartland: Assessing the Impact on Local Law Enforcement and Child Welfare Agencies." Testimony was heard from Scott Burns, Deputy Director, State and Local Affairs, Office of National Drug Control Policy; Joseph Rannazzisi, Deputy Chief, Office of Enforcement, DEA, Department of Justice; Freida S. Baker, Deputy Director, Family and Children's Services, Department of Human Resources, State of Alabama; and public witnesses.

### DOE/ESE SECURITY

*Committee on Government Reform:* Subcommittee on National Security, Emerging Threats and International Relations held a hearing entitled "DOE/ESE Security: How Ready is the Protective Force?" Testimony was heard from Eugene E. Aloise, Director, Natural Resources and Environment, GAO; the following officials of the Department of Energy: Gregory H. Friedman, Inspector General; Glenn S. Podonsky, Director, Office of Security and Safety Performance Assurance; and Robert Walsh, Security Manager, Office of Energy, Science and Environment; Lawrence Brede, Wackenhut DOE Operations; and a public witness.

### LONDON ATTACKS

*Committee on Homeland Security:* Subcommittee on Emergency Preparedness, Science, and Technology held a hearing entitled "The London Attacks: Training to Respond in a Mass Transit Environment." Testimony was heard from Tim Beres, Director, Preparedness Programs Division, Office for Domestic Preparedness, Office of State and Local Government Coordination and Preparedness, Department of Homeland Security; Robert Jamison, Deputy Administrator, Federal Transit Administration Department of Transportation; Polly Hanson, Chief of Metro Police, Washington Metro Area Transit Authority; Paul Lennon, Director, Intelligence and Emergency Preparedness Management, Los Angeles County Metropolitan Transit Authority; William A. Morange, Deputy Executive Director/Director of Security, New York City Metropolitan Transportation Authority; and a public witness.

### BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005 IMPLEMENTATION

*Committee on the Judiciary:* Subcommittee on Commercial and Administrative Law held an oversight hearing entitled "Implementation of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." Testimony was heard from Clifford J. White, III, Acting Director, Executive Office for United States Trustees; A. Thomas Small, United States Bankruptcy Judge, Eastern District of North Carolina, on behalf of the Judicial Conference of the United States; and public witnesses.

### OVERSIGHT—NATIONAL TRAILS SYSTEM ACT IMPLEMENTATION

*Committee on Resources:* Subcommittee on National Parks held an oversight hearing on the Implementation of the National Trails System Act. Testimony was heard from Chris Jarvi, Associate Director, Partnerships, Interpretation and Education, Volunteers and Outdoor Recreation, National Park Service, Department of the Interior; and public witnesses.

### DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT

*Committee on Rules:* Granted, by voice vote, a closed rule providing two hours of debate in the House on H.R. 3045, to implement the Dominican Republic-Central America-United States Free Trade Agreement, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against the bill and against its consideration. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker in consonance with section 151 of the Trade Act of 1974. The rule provides that a motion to proceed to consideration of the bill under section 151 of the Trade Act of 1974 shall be in order only if offered by the Majority Leader or his designee. Testimony was heard from Representatives Shaw and Cardin.

### HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

*Committee on Rules:* Granted, by voice vote, a closed rule providing two hours of debate in the House on H.R. 5, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, equally divided and controlled by the Majority Leader and the Minority Leader or their designees. The rule waives

all points of order against consideration of the bill. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. The rule provides one motion to recommit. Testimony was heard from Representatives Smith of Texas, Shadegg, Berman, Jackson-Lee of Texas, Costello, Baird, Emanuel, Berry, Davis of Tennessee and Lipinski.

#### UNITED STATES TRADE RIGHTS ENFORCEMENT ACT

*Committee on Rules:* Granted, by a vote of 9 to 4, a closed rule providing one hour of debate in the House on H.R. 3283, to enhance resources to enforce United States trade rights, equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill. The rule provides that the amendment in the nature of a substitute printed in the Rules Committee report accompanying the resolution shall be considered as adopted. The rule provides one motion to recommit with or without instructions. Testimony was heard from Representatives English, Cardin, and Ryan of Ohio.

#### HONORING PROTECTORS OF THE CAPITOL—PASSENGERS AND CREW OF FLIGHT 93

*Committee on Transportation and Infrastructure:* Subcommittee on Economic Development, Public Buildings and Emergency Management held a hearing on Honoring the Protectors of the Capitol: The Passengers and Crew of Flight 93. Testimony was heard from Brent Glass, member, Flight 93 Memorial Advisory Commission, Director, National Museum of American History, Smithsonian Institution; Hamilton Peterson, President, Families of Flight 93; and public witnesses.

#### RESULTS—FUTURE IMAGERY ARCHITECTURE RED TEAM REVIEW

*Permanent Select Committee on Intelligence:* Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on the results of the Future Imagery Architecture Red Team Review. Testimony was heard from departmental witnesses.

### Joint Meetings

#### ENERGY POLICY ACT

*Conferees* agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy.

#### APPROPRIATIONS: DEPARTMENT OF THE INTERIOR

*Conferees* agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2361, making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006.

#### APPROPRIATIONS: LEGISLATIVE BRANCH

*Conferees* agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2985, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006.

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### COMMITTEE MEETINGS FOR WEDNESDAY, JULY 27, 2005

*(Committee meetings are open unless otherwise indicated)*

#### Senate

*Committee on Agriculture, Nutrition, and Forestry:* Subcommittee on Forestry, Conservation, and Rural Revitalization, to hold an oversight hearing to examine the Conservation Reserve Program, 10 a.m., SR-328A.

*Committee on Commerce, Science, and Transportation:* Subcommittee on Disaster Prevention and Prediction, to hold hearings to examine all-hazards alert systems, focusing on the need for a national all-hazards alert and public warning system, 10 a.m., SR-253.

Full Committee, to hold hearings to examine S. 1372, to provide for the accuracy of television ratings services, 2:30 p.m., SR-253.

*Committee on Energy and Natural Resources:* Subcommittee on Energy, to hold hearings to examine recent progress in hydrogen and fuel cell research sponsored by the Department of Energy and by private industry, including challenges to the development of these technologies, 3 p.m., SD-366.

*Committee on Finance:* to hold hearings to examine the role of value-based purchasing relating to improving quality in Medicare, 10 a.m., SD-215.

*Committee on Foreign Relations:* to hold hearings to examine the nominations of William Robert Timken, Jr., of Ohio, to be Ambassador to the Federal Republic of Germany, William J. Burns, of the District of Columbia, to be Ambassador to the Russian Federation, Richard Henry Jones, of Nebraska, to be Ambassador to Israel, and Francis Joseph Ricciardone, Jr., of New Hampshire, to be Ambassador to the Arab Republic of Egypt, 9:30 a.m., SD-419.

Subcommittee on International Operations and Terrorism, to hold hearings to examine United Nations peacekeeping reform, 2:30 p.m., SD-419.

*Committee on Health, Education, Labor, and Pensions:* business meeting to consider the nominations of Thomas A. Fuentes, of California, and Bernice Phillips, of New York, each to be a Member of the Board of Directors of the

Energy and Commerce and the Committee on Appropriations of the House of Representatives.”;

(3) in subsection (d)—

(A) in paragraph (1), by inserting after the first sentence the following: “For the purposes of this paragraph, the term ‘small business’ means an entity that reported \$30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms.”; and

(B) in paragraph (2)(A), by—

(i) striking “(i) **IN GENERAL.**—”;

(ii) striking “subsection,” and inserting “paragraph,”;

(iii) striking “\$30,000,000” and inserting “\$100,000,000”; and

(iv) striking clause (ii);

(4) in subsection (e)(2)(A), by striking “\$30,000,000” and inserting “\$100,000,000”;

(5) in subsection (g)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i) and inserting the following:

“(i) For fiscal year 2005, the Secretary is expected to meet all of the performance goals identified for the fiscal year if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is equal to or greater than \$205,720,000 multiplied by the adjustment factor applicable to the fiscal year.”; and

(ii) in clause (ii), by striking the matter preceding subclause (I) and inserting the following:

“(ii) For fiscal year 2005, if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is more than 1 percent less than the amount that applies under clause (i), the following applies:”;

(B) in subparagraph (C)—

(i) in the matter preceding clause (i), by—

(I) striking “2003 through” and inserting “2005 and”; and

(II) inserting “more than 1 percent” after “years, is”; and

(ii) in clause (ii), by striking “sum” and inserting “amount”; and

(C) in subparagraph (D)(i), by inserting “more than 1 percent” after “year, is”;

(6) in subsection (h)(3)—

(A) in subparagraph (C), by striking the semicolon and inserting “; and”; and

(B) by striking subparagraphs (D) and (E) and inserting the following:

“(D) such sums as may be necessary for each of fiscal years 2006 and 2007.”; and

(7) by striking “subsection (c)(5)” each place it appears and inserting “subsection (c)(1)”.

(b) **ANNUAL REPORTS.**—Section 103 of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107-250 (116 Stat. 1600)) is amended—

(1) by striking “Beginning with” and inserting “(a) **In General.**—Beginning with”; and

(2) by adding at the end the following:

“(b) **ADDITIONAL INFORMATION.**—For fiscal years 2006 and 2007, the report described under subsection (a)(2) shall include—

“(1) information on the number of different types of applications and notifications, and the total amount of fees paid for each such type of application or notification, from businesses with gross receipts or sales from \$0 to \$100,000,000, with such businesses categorized in \$10,000,000 intervals; and

“(2) a certification by the Secretary that the amounts appropriated for salaries and expenses of the Food and Drug Administration for such fiscal year and obligated by the Secretary for the performance of any function relating to devices that is not for the

process for the review of device applications, as defined in paragraph (5) of section 737 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i), are not less than such amounts for fiscal year 2002 multiplied by the adjustment factor, as defined in paragraph (7) of such section 737.”.

(c) **MISBRANDED DEVICES.**—

(1) **IN GENERAL.**—Section 502(u) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(u)) is amended to read as follows:

“(u)(1) Subject to paragraph (2), if it is a reprocessed single-use device, unless it, or an attachment thereto, prominently and conspicuously bears the name of the manufacturer of the reprocessed device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer.

“(2) If the original device or an attachment thereto does not prominently and conspicuously bear the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, a reprocessed device may satisfy the requirements of paragraph (1) through the use of a detachable label on the packaging that identifies the manufacturer and is intended to be affixed to the medical record of a patient.”.

(2) **GUIDANCE.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue guidance to identify circumstances in which the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, is not “prominent and conspicuous”, as used in section 502(u) of Federal Food, Drug, and Cosmetic Act (as amended by paragraph (1)).

(d) **EFFECTIVE DATE.**—Section 301(b) of the Medical Device User Fee and Modernization Act of 2002 (Public Law 107-250 (116 Stat. 1616)), as amended by section 2(c) of Public Law 108-214 (118 Stat. 575), is amended to read as follows:

“(b) **EFFECTIVE DATE.**—Section 502(u) of the Federal Food, Drug, and Cosmetic Act (as amended by section 2(c) of the Medical Device User Fee Stabilization Act of 2005)—

“(1) shall be effective—

“(A) with respect to devices described under paragraph (1) of such section, 12 months after the date of enactment of the Medical Device User Fee Stabilization Act of 2005, or the date on which the original device first bears the name of the manufacturer of the original device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, whichever is later; and

“(B) with respect to devices described under paragraph (2) of such section 502(u), 12 months after such date of enactment; and

“(2) shall apply only to devices reprocessed and introduced or delivered for introduction in interstate commerce after such applicable effective date.”.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3423, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

#### GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material on H.R. 22.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

#### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

The SPEAKER pro tempore. Pursuant to House Resolution 380 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 22.

□ 1850

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 22) to reform the postal laws of the United States, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from California (Mr. WAXMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. BURTON), the former chairman of the Government Reform and Oversight Committee, who has played a lead role in moving this bill to where it is today, and spent 6 long years in the vineyards laboring on this when he was chairman of the committee.

Mr. BURTON of Indiana. Mr. Chairman, first of all, I want to congratulate the gentleman from New York (Mr. MCHUGH), who has done yeoman's service to the committee and to this government in fighting for a postal reform measure. He has just done a great job. I want to congratulate him on all of the hard work in bringing this thing to the floor.

I want to congratulate our chairman, the gentleman from Virginia (Mr. TOM DAVIS). We fought for, I think, 6 years when I was chairman to bring this bill to the floor and pass it, and, Mr. Chairman, I want to congratulate you on being able to get this thing to the floor.

I hope that we are successful in getting it not only through here, but through the Senate as well.

I want to congratulate the gentleman from Illinois (Mr. DAVIS), my good buddy, who has one of the best voices in the Congress. If I could talk like

him, I would be President. He has got that deep, resonant voice.

I want to thank you and the gentleman from California (Mr. WAXMAN) for all of the hard work that you have put in on this bill. I want to congratulate you as well.

Let me just say that we have been working on this now for, gosh, I guess at least 10 years, but 6 years when I was chairman and now 4 years that you have been chairman. We have finally brought a bill to the floor. I do not think it is perfect, but it sure is a giant step in the right direction.

If we do not do something about postal reform, what is going to happen is the costs are going to go through the roof, and instead of this being an agency that deals with the expenses themselves, we are going to be seeing taxpayers footing the bill for additional costs for postal service.

With the advent of faxes and e-mails, you have seen the Postal Service have a lot more problems with revenues than they have had in the past. And it is absolutely essential, if we are going to have a viable Postal Service in this country, that we pass this legislation.

So I think this is a very good bill. I believe it will pass tonight, and I hope that all of my colleagues will vote for it. Once again, I want to thank all of those responsible, especially the gentleman from New York (Mr. MCHUGH), the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) for working so hard on this.

Mr. DAVIS of Illinois. Mr. Chairman, I ask unanimous consent that I control the time of the gentleman from California (Mr. WAXMAN).

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, Members of the House have worked over a decade to reform this important part of our national culture and economy. I am truly pleased to serve in this Congress which is moving this historic reform forward.

I also want to commend the gentleman from New York (Mr. MCHUGH), the gentleman from Virginia (Chairman DAVIS), and the gentleman from California (Mr. WAXMAN) and their dedicated staffs for their commitment to postal reform and for the bipartisan cooperation to work for its passage.

The gentleman from New York (Mr. MCHUGH) deserves particular recognition for his leadership and perseverance with regard to postal reform.

Postal reform is a significant issue for my congressional district as it is for much of America. I represent one of the primary postal hubs in the Midwest, the great city of Chicago. In addition to the 12,000 postal employees who deliver mail daily to 1.2 million homes and businesses in the Chicago area, we have many respected companies like

R.R. Donnelley, the largest printing company in North America, that are clients of the Postal Service.

The Postal Accountability and Enhancement Act of 2005 modernizes the postal system, helping it remain healthy and affordable well into the 21st century. This bill is a delicate compromise that has gone through a series of processes of hearings, meetings and negotiations. We have worked extensively and effectively with administration representatives to address their concerns.

There is something in this bill for everyone. It may not be everything that interest groups desire; however, as the gentleman from Virginia (Chairman TOM DAVIS) has said, it is our best chance at solving the structural, legal and financial constraints that put the Postal Service at risk of catastrophe.

As the Comptroller General recognized this past January, comprehensive postal reform is urgently needed. The Postal Service historically has accumulated billions of dollars in debt and currently has massive unfunded liabilities.

Declining first class mail volumes, high infrastructure-related costs and rigid statutes necessitate reform. It has been 35 years since comprehensive postal reform occurred. It is our responsibility to protect our treasured national asset before it is in crisis. The time for reform is now.

H.R. 22 has many highlights for the Postal Service. It provides the rate-making flexibility and incentives needed to operate as an efficient business. For businesses it provides rate stability, fair competition rules, financial transparency, and procurement protections needed to predict costs and operate on a level playing field. For consumers it preserves universal service, maintains high-quality standards, and eliminates unfair mailing costs so that they have an affordable and reliable means of communication. For workers it protects collective bargaining and offers whistleblower protections that are needed to ensure safe employment. For taxpayers it ensures the viability of a national asset and removes the threat of a taxpayer bail-out of the Postal Service due to financial insolvency.

These are just some of the provisions that will go a long way to helping the Postal Service better serve its customers, compete fairly with the mailing industry and contribute to our Nation.

In addition, I am pleased that the bill requires a study of the number of contracts with women, minorities and small businesses, and that it protects our domestic airlines from outsourcing of jobs to foreign carriers. I represent many members from each of these groups, and it is important that our reforms treat them all fairly. I reiterate that this bill is the best option to protect our treasured national asset before it is in crisis.

I know that the issue of classifying single-piece parcels as competitive or

market-dominant has caused a good deal of anxiety for many parties affected by postal reform. I look forward to addressing this issue in conference.

And at this time, Mr. Chairman, I would like to enter into a colloquy with the distinguished chairman of the Government Reform Committee, the gentleman from Virginia (Mr. TOM DAVIS).

Mr. Chairman, section 404 of the Postal Accountability and Enhancement Act alters paragraph 2 of section 401 of title 39 of the U.S. Code. This section pertains to the rulemaking authority of the United States Postal Service. Obviously the issue of fairness in rulemaking by the Postal Service affects a number of businesses in my district.

I would like to ask the distinguished chairman to clarify how rulemaking by the Postal Service should consider the circumstances within the postal sector.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. DAVIS of Illinois. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. I thank the gentleman for yielding.

Mr. Chairman, the committee intends that the Postal Service will exercise the more clearly delineated rule-making powers provided under this section in a way that is rationally related to the policy objectives set out in the revised statute, and it is predicated upon an understanding of the effect the regulations will have on the conditions in the postal sector.

□ 1900

Mr. DAVIS of Illinois. Reclaiming my time, I would like to ask the distinguished chairman of the Committee on Government Reform to further clarify the meaning of the language related to the role of the Postal Regulatory Commission in entering complaints related to rule-making.

I yield to the chairman to find out his understanding.

Mr. TOM DAVIS of Virginia. I thank the gentleman for yielding. Mr. Chairman, the committee further expects that the Postal Regulatory Commission will distinguish carefully between abuses of the Regulatory Authority set out in section 404 and the legitimate exercise of managerial discretion by the Postal Service in its implementation of the complaint provisions contained in section 205 of the bill.

Mr. DAVIS of Illinois. Reclaiming my time, I would like to thank the distinguished chairman for his answers and for his cooperation.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, most of us are familiar with the engraved saying outside the James A. Farley Post Office in New York City: "Neither rain, nor snow, nor heat, nor gloom of night might stay these couriers from the swift completion of their appointed rounds."

This is the unofficial motto depicting some of the circumstances our Nation's letter carriers face in fulfillment of the universal service obligation of the United States Postal Service.

Mr. Chairman, I rise today in support of H.R. 22, the Postal Accountability and Enhancement Act, which addresses a problem plaguing our Postal Service today that is far greater than the snow or rain or heat or gloom of night. That problem is the outdated and unsustainable structural framework of the Postal Service which threatens to bring it to the brink of catastrophe unless Congress acts immediately.

This legislation is about more than reforming the Postal Service itself. It is about reforming and sustaining a vital sector of our overall economy. After all, the Postal Service currently has about 707,000 career and 98,000 non-career employees. In addition, more than 9 million American jobs, \$900 billion in commerce, 9 percent of the Nation's gross domestic product, let me repeat, 9 percent of GDP depend on mail and package delivery. Thus, the Postal Service is not only vital to our national communication network but also to our national economy.

Each year the Postal Service processes and delivers 208 billion pieces of mail to more than 130 million addressees in the United States. That is 208 billion magazines, catalogs, thank-you notes, birthday cards, wedding invitations, Social Security checks, IRS refunds, letters to Congressmen, movie rentals, all delivered in fulfillment of the Postal Service's promise of universal service.

The last time Congress successfully passed legislation to overhaul the post office was 1970 when President Nixon signed the Postal Reorganization Act, before e-mails, before fax machines. It is time to bring the service into the 21st century.

The legislation we are considering today, the Postal Accountability and Enhancement Act, is the culmination of a decade of hard work and study, not to mention a great deal of bipartisan negotiation and cooperation amongst various groups. Consequently, H.R. 22 now represents our best chance at solving the structural, legal, and financial constraints that have brought the Postal Service to the brink of utter breakdown.

This past April, the Postal Service filed paperwork with the Postal Rate Commission to request a 5.4 percent rate increase for most categories of mail. These rate hikes, which are scheduled to take effect early next year unless Congress acts to prevent them, will impose a significant cost burden, let us call it what it is, a tax on the postal consumer.

For direct marketers, financial service companies and businesses relying heavily on shipping and mailing, these rate hikes are devastating. To make matters worse, increasing postal rates could send the postal office into what many observers call a death spiral,

where declining business leads to higher rates which in turn leads to decline in business until it is too late to change course.

Unfortunately, under current law, the Postal Service's only recourse to remain competitive in today's market is to raise rates. That is no way to run an operation. In addition, the Postal Service's most recent request for a rate increase was spurred in part by an existing requirement that the Postal Service contribute \$3.1 billion to a Federal pension escrow account which now houses more than \$73 billion in civil service retirement savings that rightfully belongs to the United States Postal Service.

This is just one of many instances in which the USPS is hampered by the current legal framework. And it is one of many outdated requirements that H.R. 22 seeks to reform.

Quite simply, the laws that the Postal Service has today are outdated and unsuited for today's competitive environment. Let me take just a minute to highlight a few of the reform components included in this comprehensive bill that will enable the service to move into the 21st century.

Universal service. First and foremost, the bill preserves the Postal Service's commitment to universal service, the guaranteed delivery 6 days a week to each and every address in the United States.

Pension responsibility. It returns responsibility for funding the military cost of postal retirees' pension to the Treasury Department where it belongs. It is recommended by the President's commission. This liability was shifted to the Postal Service in the last Congress. That shift was little more than an accounting gimmick, but it is one that must be reversed if we are to be serious about fixing the Postal Service's long-term balance sheet.

The escrow account. As I have already mentioned, the bill frees up the \$73 billion in civil service retirement savings that has been held in escrow, allowing the Postal Service to use this money to defray rate increases, among other options.

Modern rate regulation. This legislation shifts the basis of the Postal Rate Commission from a costly, complex scheme of rates to a modern system designed to ensure that rate increases generally do not exceed the annual change in the consumer price index. This applies only to market-dominated products, such as letters, periodicals, and advertising mail, because the Postal Service has provided different pricing freedom for its competitive products, like express mail and priority mail.

Strengthening the commission. This act will rename the Postal Rate Commission the Postal Regulatory Commission and give it teeth by granting it subpoena power and a broader scope for regulation and oversight.

Finally, the act sets the stage for future reforms by mandating several

studies including a comprehensive assessment of the scope of standards for universal service.

Today, the White House released its statement of administration policy, its SAP, regarding this legislation. While we share the ultimate goal of effectively reforming the Postal Service, some issues still lack consensus between the Congress and the White House. The administration has established some general, overarching principles to guide the framing of the comprehensive reform of the U.S. Postal Service. These include best practices of corporate governance, transparency, flexibility, accountability, and self-financing.

Our bill shares these goals, but recognizes these principles are often times at odds with one another and may require some give and take. For example, the administration has proposed segment reporting for each and every class of mail, a practice which would unfortunately place the Postal Service at a competitive disadvantage with some of its toughest competitors. Thus, this requirement would be contrary to the administration's first stated proposal of best practices of corporate governance. It is just one example of an instance in which compromise is needed if we are to enact meaningful, comprehensive reform.

This bill, the refined product of nearly 10 years of careful negotiation and compromise, strikes an ideal balance among the guiding principles on which both the House and administration are in agreement. I just want to assure the administration we will continue to work closely will them as H.R. 22 heads toward a conference.

Before I conclude, I want to take this opportunity to thank the gentleman from New York (Mr. MCHUGH), who chaired our special panel on postal reform and was the original bill's chief sponsor. He was, without doubt, the right leader to undertake this daunting task.

I also want to thank the former chairman of the Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), who played an integral role in moving the ball forward on postal reform that allowed us to be where we are today.

Finally, I want to thank the Committee on Government Reform's ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS), the ranking member on the special panel, for their dedication to this subject and their willingness to operate in a bipartisan manner and work through this, through the difficult issues that have been presented.

Bipartisan cooperation is the primary reason why this bill has finally reached the House floor and why we have been able to keep such diverse stakeholders around the table in productive discussions.

Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. CLAY), a member of the Committee on Government Reform whose father preceded him, and his father preceded him not only in office but in having a great interest in postal matters.

Mr. CLAY. Mr. Chairman, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me time.

I too want to join my colleagues in congratulating and thanking the gentleman from New York (Mr. MCHUGH), the gentleman from Virginia (Chairman TOM DAVIS), and the ranking members, the gentleman from California (Mr. WAXMAN) and the gentleman from Illinois (Mr. DAVIS), for the hard work they put into advancing this bill to this point.

I rise in support of the Postal Accountability and Enhancement Act. I am committed to protecting the interests of the U.S. Postal Service. I have the honor of representing over 3,000 Postal Service employees. Together they earn over \$167 million in annual payroll and pay almost \$20 million dollars in income taxes.

Postal employees represent an important part of my community economic base. Several months ago, I hosted a postal roundtable with groups representing postal-reliant businesses that depend on the postal system to deliver their products and collect their revenues. In addition, postmasters, letter carriers, direct mailers, and representatives of trucking companies participated in this roundtable.

While overwhelming support was expressed for this legislation, many concerns were raised about single-piece parcels, single-piece parcel post, or single letters, whether they should continue to be classified as market dominant so that the Postal Service can continue to offer fair rates for items mailed anywhere, including rural and more remote areas. The U.S. Postal Service would have to dramatically raise prices on such packages and possibly be forced to stop offering the universally affordable rate for single-piece parcels to individuals and small businesses.

This would result in the loss of many jobs within the Postal Service and create an inconvenience to customers. The U.S. Postal Service provides a vital public service to all of our constituents and is an essential part of our Nation's economic infrastructure.

I urge my colleagues to put single-piece parcels back in the market dominance category and support the Postal Accountability and Enhancement Act.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MCHUGH), the chief author of this, someone who has championed this cause since I came to Congress.

Mr. MCHUGH. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, today, obviously, represents a critical step in what has to

this point been a journey of more than 10 years, a decade and a half of hearings and meeting, of negotiations followed by more hearings, more meetings, more negotiations, to rewrite and rewrite again and again a piece of legislation that will serve as the first true serious reform of the sector known as the United States Postal Service, that since 1970.

In that length of effort, Mr. Chairman, that incredible commitment to the issue speaks directly to the critical importance of the Postal Service of this Nation and the complexity of this system that each and every day and each and every year delivers some 206 billion pieces of mail going through 38,000 postal facilities to 143 million addresses in virtually every community in every State in this Nation, 6 days a week, day in, day out, week in and week out.

So since 1775 this is the service that American people and American businesses alike have come and grown to expect. Universal service at a uniform price, no questions asked. No one in this country, Mr. Chairman, goes to his or her mailbox or his or her local post office wondering if the mail will be there. It is always there. It has always been there. But the true question, the question that this bill seeks to answer with a resounding yes, I might add, is will the mail always be there?

I am concerned that truly without this legislation the answer might well be far different than that resounding yes. Postal service of today is far removed from that of 30 years ago when reform was last enacted. Unlike then, the mail stream of today has diminished by such things as e-mails and faxes and cell phones and text messages, largely electronic means of communication that replace mail. They replace stamps. And thus they replace the revenues necessary to operate our key mail delivery system.

Some ask, if people are choosing to communicate in different ways, why do we need to change things at all? Some even go so far as to suggest that the time of the Postal Service has passed, that we ought to let the private sector take over.

□ 1915

But the fact is, Mr. Chairman, for all the challenges the Postal Service of the 21st century faces, it still retains its traditional place as a key cog in how American businesses conduct their affairs and how Americans all across this land communicate.

The postal business sector of this Nation, as we have heard the distinguished chairman of the full committee clearly state, represents a \$900-billion-a-year industry, with 9 million jobs, and more than 8 percent, nearly 9 percent, of our entire Nation's economy.

The fact is, Mr. Chairman, if the Postal Service did not exist here in 2005, we would have to invent it. That is why more than 200 major companies

in this country have strongly endorsed this measure, 200 companies representing the lifeblood of the economy of this Nation. That is why virtually every major labor organization within the Postal Service has endorsed it, why even those companies that compete against the Postal Service have endorsed H.R. 22, including United Parcel Service, including FedEx, and others.

Now, I have no doubt there are going to be those who believe they have a better idea, those who will say they can improve this bill by adding or diminishing its provisions. And, Mr. Chairman, speaking honestly, as someone who has been involved from day one for more than 10 years, probably some, if not all, of these critics may be right. But what I would urge my colleagues to resist this day is the understandable temptation to make the perfect the enemy of the good.

This bill's formation has taken more than a decade for some very good reasons. It is, frankly, based upon the complexity of the system itself. We have considered those interests of the people who manage it, those who man it, the businesses that rely upon it, those who compete against it, those who depend upon it, so many interests whose input and whose needs are all carefully balanced in this bill. Perfection? No, perhaps not, but a solution nevertheless, a solution to the challenges that provide the United States Postal Service with the necessary tools to operate in a manner that most of us expect, like a modern, flexible, nimble business competing on a fair playing field, operating in an efficient and professional manner.

Mr. Chairman, at the risk of sounding immodest, I am very, very proud of this legislation. I am proud of its vision, I am proud of its construct and its provisions, but I am truly prouder still of those organizations and those special people, those individuals involved in those organizations and in this reform effort that have been there from the start.

They say a year in government and politics is a lifetime, and if that is true, 10 years has to approach infinity. But through it all, we have had special people devoted to extraordinary efforts in a singularly vital cause. And our thanks, and clearly my thanks, are owed to so many to even begin to list at this moment. Many of them are cited on the page that I just held up, all those more than 200 interests who strongly support this.

Many, if it were appropriate under the House rules, I would note are in the gallery today. But seeing as how it is not appropriate to say that under the House rules, I will resist the temptation. But without naming them specifically, I owe them thanks.

At perhaps the risk of offending many, I have to acknowledge a particularly special few: The gentleman from Illinois (Mr. DAVIS) and the gentleman from Pennsylvania (Mr. FATTAH), the two ranking members who first began

to help us move this issue forward. Mr. Chairman, the gentleman from Illinois (Mr. DAVIS) has been a stalwart, a ranking member who lost focus at no time and never lost faith.

The gentleman from California (Mr. WAXMAN), the full committee ranking member, who put aside partisanship, not an easy thing to do in Washington these days, for the simple reason he understood and deeply cared about the conclusion of this challenge.

Bill Clinger, followed by the gentleman from Indiana (Mr. BURTON), the first and second chairman of the Committee on Government Reform, who continued to bring our attention to it and keep us focused.

And our current chairman, the gentleman from Virginia (Mr. TOM DAVIS), who might have, who might have, but thankfully did not, let this effort die; who urged us forward; whose political skills, intellectual depth, and administrative acumen have really advanced us to this threshold of success.

These are all important folks, but I want to say, as much as I deeply indebted for those efforts, in my opinion the success of today's consideration is predicated largely upon the efforts of one very special, very dedicated man: Robert Taub. Through it all, Robert has been the intellectual and spiritual glue that has held this effort together. He was always willing, even anxious, to my amazement, to do one more meeting, one more effort to advance reform. And when others saw failure, Robert saw a challenge. When others lost hope, Robert remained focused. When others remained angry, including myself, Robert remained calm. He has been the eye of the storm in a torrent of conflict, of divergent and seemingly irreconcilable differences. I am very, very proud that the payroll lists this very extraordinary man as my chief of staff. I am prouder still that in my heart I consider him a friend, and I am deeply in his debt particularly.

So I will, with again a thanks to Chairman DAVIS for all that he has done, look forward to the passage of this bill.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume to say that there is a big difference between vanity and pride, and the gentleman from New York (Mr. MCHUGH) has every reason to be proud of this product, and we do not think it is vanity at all.

Mr. Chairman, it is my pleasure to yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me this time and for his extraordinary leadership on the Task Force for Postal Reform, on which I have served, and I rise in strong support of it.

It has been a long and difficult journey which has brought us here today, well over 10 years, and I thank everyone who has been involved in this bipartisan effort to reform the way the Postal Service currently operates: the

gentleman from Virginia (Mr. TOM DAVIS), our chairman; the ranking member, the gentleman from California (Mr. WAXMAN); the gentleman from New York (Mr. MCHUGH); the gentleman from Illinois (Mr. DAVIS); and their hard and dedicated working staffs.

This is very strongly supported legislation. It is a balance that we have achieved. We urge everyone to vote for it and to vote against the amendments that will be coming forward. It is supported by many of the unions, APWU, the Letter Carriers, the Postmasters, and the postal-reliant businesses, some of whom are located in my district, the Magazine Publishers of America, the direct marketers, the financial services. In fact, there is a coalition of many, literally hundreds, of businesses, and the 21st Century Postal Service Committee has issued a statement of support along with the over seven union statements in support of this bipartisan legislation.

As we know, this is incredibly important to our economy, with more than 9 million workers worldwide. They generate over \$900 billion annually of our GDP, and represent nearly 9 percent of our overall budget. If we fail to act on this very pressing issue, the public and the postal-reliant businesses surely will face higher postal rates in the near future.

With the Postal Service facing billions of dollars in debt over the next few years, this Congress, 2 years ago, passed bipartisan legislation that reduced the Postal Service's contribution to the Civil Service Retirement and Disability Fund after it was determined that it had been making overpayments. This reform was expected to help the Service reduce its debt to the Treasury by approximately \$3 billion each year and to keep rates stable until 2006. It also created an escrow account designed to ensure that the Postal Service uses these savings wisely. The bill before us today releases that escrow account and will help us to keep our rates stable.

Earlier this year, the Postal Service filed a request with the Rate Commission for yet another increase of 5.4 percent. It would be the fourth increase since 2001, and it is critical that we release these monies in the escrow to delay this rate increase.

Mr. Chairman, this legislation relieves the Postal Service and postal customers of the \$27 billion burden in military service payments by returning that responsibility to the Treasury. After all, every other agency has this responsibility in the Treasury, and Postal should also.

This legislation also creates a Postal Regulatory Commission with authority to create a modern system for postal rate regulation. Mr. Chairman, a number of magazines have gone out of business because of rate increases, and so this legislation is vital to our economy.

Mr. Chairman, I submit for the RECORD the material I referred to

above regarding the unions in favor of this legislation, and also a listing of numerous companies and organizations in favor of the legislation:

[From the Coalition for a 21st Century Postal Service]

9 MILLION WORKERS . . . \$900 BILLION ECONOMY . . . 9 PERCENT OF U.S. GDP HELP KEEP THE MAILING INDUSTRY STRONG AND THE USPS VIABLE—VOTE YES ON H.R. 22

DEAR REPRESENTATIVE: The companies and organizations below urge you to support H.R. 22, the "Postal Accountability and Enhancement Act of 2005." This legislation will bring urgently needed modernization and meaningful reform to the United States Postal Service (USPS), the lynchpin of the mailing industry—a key economic sector that employs 9 million workers adding \$900 billion annually to the U.S. Gross Domestic Product. In fact, 9 percent of the nation's GDP can be directly attributed to the mailing industry.

H.R. 22 will bring increased efficiencies to the USPS, and would allow for more predictability and affordability in future postal rate increases. Without postal reform, American jobs will be placed at risk as companies are forced to compensate for capricious and expensive rate hikes in the future.

The companies and organizations listed below consider passing postal reform legislation this year an urgent priority, and urge you to cast a "YES" vote on H.R. 22 when it is considered on the House floor. Thank you for your consideration.

ADVERTISING/MARKETING/RETAIL INDUSTRIES

Arandell, CCB, Direct Marketing Association, Domtar, Hayzlett Companies, Inc., J.C. Penney, National Retail Federation, Vertis Direct Marketing Services.

FINANCIAL SERVICES/INSURANCE INDUSTRIES

Aegon, American Express, Bank of America, CapitalOne, Chase, JP Morgan Chase, Citigroup, CUNA Mutual, The Financial Services Roundtable, LaSalle Bank, MBNA, Property Casualty Insurers Association of America, USAA, Wachovia.

FORESTRY/PAPER/PRINTING INDUSTRIES

American Forest & Paper Association, Banta, International Paper, MeadWestvaco, National Association for Printing Leadership, Paramount Cards, Quad Graphics, Quebecor World, R.R. Donnelly, Richardson Printing, Inc., Solar Communications, Stora Enso, Weyerhaeuser Company, Wisconsin Paper Council.

NEWSPAPER/PUBLISHING INDUSTRIES

Harcourt, Inc., Holt Reinhart & Winston, Inc., IDEAlliance, LexisNexis, Magazine Publishers of America, McGraw-Hill, National Newspaper Association, Printing Industries of America/GATF, Publishers Press, Reed Business Information, Reed Elsevier, Inc., Time, Inc.

MAILING/FULFILLMENT/SHIPPING INDUSTRIES

Alliance of Non-Profit Mailers, Association for Postal Commerce, Association of Priority Mail Users, Mailers Council, Mailing and Fulfillment Service Association, National Postal Policy Council, Parcel Shippers Association, Pitney Bowes, PSI Group, Total Systems Services, Inc.

MANUFACTURING/TECHNOLOGY INDUSTRIES

Document Management Industries Association, Envelope Manufacturers Association, Keyspan, Kodak, Multi-Plastics, Inc., National Association of Manufacturers, NPES The Association for Suppliers of Printing, Publishing and Converting Technologies.

SMALL BUSINESS/GENERAL COMMERCE

National Federation of Independent Business, Small Business Legislative Council.

## USPS MANAGEMENT/LABOR ORGANIZATIONS

National Association of Postal Supervisors, National Rural Letter Carriers Association.

## STATE AND LOCAL ORGANIZATIONS

Printing Industry Association of the South, Inc., Pacific Printing and Imaging Association, PIA, Inc. of Arizona, PIA of Southern California, PIA of San Diego, Printing Industries of Northern California, Printing & Imaging Association Mountain States, The Association of Graphic Communications, Graphic Arts Association, Printing and Graphics Association MidAtlantic, Printing Association of Florida, Inc., PIA of Georgia, Inc., Printing Industries of Illinois/Indiana Association, Printing Industries of the Midlands, Inc., Printing and Imaging Association of Mid America, Printing Industries of New England, Printing Industries of Michigan, Printing Industry of Minnesota, Inc., Printing Industries of St. Louis, Printing & Imaging Association of New York State, Inc., PI of the Carolinas, Inc., Printing Industries of Utah, Printing Industries of Virginia, Inc., Printing Industries of Wisconsin.

JULY 25, 2005.

DEAR REPRESENTATIVE: On Tuesday, July 26, the House is scheduled to consider H.R. 22, the Postal Enhancement and Accountability Act. We understand that a series of amendments may be offered that will have a catastrophic impact upon more than 740,000 postal employees and the American public. Therefore, we urge you to vote NO on amendments that jeopardize affordable and universal mail service to your constituents, and undermine a carefully drafted bill that balances the needs of the mailing public and postal employees.

H.R. 22 is the product of years of give and take and delicate negotiations with all sides making major concessions along the way. Many of these amendments ignore the results of those negotiations. Specifically, we oppose amendments being offered by Congressmen Flake, Hensarling, McHenry, and Pence because they individually or collectively undermine the ten-year effort by the authors of H.R. 22.

Sincerely,

American Postal Workers Union.  
National Association of Postmasters of the U.S.

National Association of Letter Carriers.  
National League of Postmasters of the U.S.  
National Rural Letter Carriers Association.

National Association of Postal Supervisors.

National Postal Mail Handlers Union.

Mr. TOM DAVIS of Virginia. Mr. Chairman, may I inquire as to how much time remains on each side?

The CHAIRMAN. The gentleman from Virginia (Mr. TOM DAVIS) has 11 minutes remaining, and the gentleman from Illinois (Mr. DAVIS) has 17½ minutes remaining.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), who has been very helpful in putting this bill together.

Mr. CANNON. Mr. Chairman, first of all, I would like to thank the chairman of the full committee, the gentleman from Virginia (Mr. TOM DAVIS), my friend, for entering into this colloquy, and also my friend, the gentleman from New York (Mr. MCHUGH), for the work they have done on this bill. This has

been extraordinary. Since I have gotten here, I have had hundreds of inquiries about this issue, as has every other Member of Congress, and the gentleman from New York (Mr. MCHUGH) has handled them remarkably well. I strongly support H.R. 22. It is long overdue.

Mr. Chairman, I want to bring to the attention of the gentleman from Virginia (Mr. TOM DAVIS) an important problem in my district. The city of Taylorsville, Utah, has been assigned four different ZIP codes, and its citizens must access services at five different post offices, all outside the city.

Mr. Chairman, if we were talking about New York City or Los Angeles, more ZIP codes would be common, but in a city of only 60,000, we should not have four different ZIP codes and be serviced by five different post offices. So it is my sincere hope that the chairman and I can work together to reduce the number of ZIP codes for Taylorsville from four to one, and work towards a fully functioning post office located within the city proper.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CANNON. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Mr. Chairman, we have tried on this legislation to not get into some of the specific shortcomings of Postal Service delivery on ZIP codes and the like, but I want to tell the gentleman that I have looked at this Taylorsville issue. I want to pledge to work with the gentleman from Utah and with the Postmaster General to make sure these needs are resolved and to support a thoughtful solution for the city of Taylorsville, and just assure the gentleman that that is a priority.

Mr. CANNON. Reclaiming my time, Mr. Chairman, I thank the gentleman from Virginia for his commitment to helping me solve this problem, and I want to thank Taylorsville Mayor Janice Auger for her tireless effort on this issue.

Mr. DAVIS of Illinois. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today in support of H.R. 22, the Postal Accountability and Enhancement Act. I am extremely happy that after years of work, we are finally bringing this important bill to the floor for a vote.

In my congressional district alone, there are 66 postal facilities accounting for over 1,600 postal workers and \$79 million in wages. The men and women of the United States Postal Service bind our Nation together, offering prompt and reliable services at uniform prices.

Many people do not realize the economic power this industry has. The postal industry accounts for over 8 percent of the gross national product, and it is the backbone of a \$900 billion

mailing industry that drives the U.S. economy. To maintain the current level of high-quality service, we must reform our postal system for the new information age.

The United States Postal Service is the world's most efficient postal system. While America is adding almost 2 million addresses per year, the number of postal employees have held steady, meaning that the same number of letter carriers are walking further, while delivering more mail.

This bill must be passed because it addresses many pressing issues, such as rate changes, the Postal Service Retirement System, escrow accounts, and military pension issues. This is the only Federal agency where funds in the civil retirement system have to be used to fulfill military obligations within the Department.

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The bill also addresses the issue of the United States Postal Service overpayment of over \$78 billion in civil service retirement benefits. The Congressional Budget Office estimates that the escrow requirements will cost the United States Postal Service nearly \$3 billion in 2006 and over \$36 billion over the next 8 years. If the postal system is not fixed, our constituents will bear the cost.

This Nation is very fortunate to have a Postal Service system that handles such a large volume of mail while operating at affordable costs to our citizens.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Chairman, although we may be living in the age of technology and more than a few of us cannot live without our e-mail, the United States Postal Service continues to serve a key role for both personal and business communications. With 9 million jobs and \$900 billion in annual commerce dependent on services provided by USPS, consideration of this reform package could not come soon enough.

In recent years, the U.S. Postal Service has struggled to perform its core mission of providing affordable mail service 6 days a week to every American. Today, the Postal Service operates under the same set of rules established in 1970; yet the service now delivers nearly 2½ times more mail to almost twice as many homes.

Rising costs and financial losses, coupled with rate increases meant to remedy a declining fiscal situation, have left the Postal Service in a position that threatens the long-term viability of mail as an affordable, effective business communications channel.

I am pleased H.R. 22 protects universal service while taking steps to alleviate the seemingly constant threat of rate increases by modernizing rate regulation and by freeing up \$73 billion in civil service retirement savings that have been held in escrow.

Accountability and transparency are of particular interest to me as there continues to be unresolved questions surrounding the unfair and inconsistent application of a postal regulation more than 5 years ago.

This particular issue is one I have championed for some time, and while I am disappointed that we were unable to reach a resolution before the bill reached the House floor, I look forward to working with the committee and the Pennsylvania Senators on the issue of postal reform legislation moves into conference.

Comprehensive legislation is 10 years in the making; and without the passage of this bill, we are putting in jeopardy millions of American jobs and the future availability of affordable mail service, the repercussions of which will be felt well beyond the mailing industry.

In the last session of Congress when I was a member of the Subcommittee on Postal Reform and the Committee on Government Reform, we worked on this bill. I am pleased it has come before us, and I urge my colleagues to support H.R. 22.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I came to Congress to help the Federal Government be a better partner and make communities more livable. One of the simplest ways to achieve that objective does not require new rules or regulations. It simply requires that the Federal Government follow the same rules as others.

Well, H.R. 22 contains language from the Community Postal Partnership Act which I first introduced in the 105th Congress. It requires the Postal Service to abide by the same zoning and land use laws as everybody else and requires that the Postal Service garner input from communities on proposed changes for facilities.

We have had tremendous support for this concept, from homebuilders, the National Association of Postmasters, the Trust for Historic Preservation, Realtors, landscape architects, planners, and from within the postal community itself.

Good government organizations across the country have joined with mayors and local officials who understand that the over-37,000 postal facilities are not just remote outposts of Federal activity. They can, often are, and always should be centers of community activity.

This legislation has had bipartisan support from the majority of the House of Representatives and has passed the Senate, only to become victim of the politics of postal reform which I am pleased the committee has been able to sort out.

It is time, however, to make this relationship something that every community can count on. It should not be the exception, nor should it require extraordinary political action. There

should be no variation in the commitment to provide the finest facilities that are part of each and every community. I am happy that the committee has chosen to include this language in the comprehensive postal reform bill.

In turn, I think it is essential that we recognize the valuable service provided by the Postal Service. It delivers more items in one day than Fed Ex does in a year; it manages half the world's mail with one-fourth of the revenue and a fifth of the workforce. It is important that we not just applaud these accomplishments, but give the Postal Service the tools it needs to continue to deliver its valuable service.

This bill accomplishes that goal. It is a delicately balanced compromise which I hope the House will support, rejecting amendments that would upset that balance, and build on this for a better Postal Service in the future.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for yielding me this time and rise in support of H.R. 22. It is a good bill that should be enacted this year.

I applaud the gentleman from Illinois (Mr. DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from New York (Mr. MCHUGH). The gentleman from New York (Mr. MCHUGH) has made a career of this bill, and we are thankful for that. He is not on the floor, but I want to congratulate him on his efforts.

Just a few months ago, the Committee on Government Reform marked up and passed this bill 39-0. Given the current political environment, that is amazing. An extraordinary achievement. Such bipartisanship on Capitol Hill is all too rare these days. When it happens, we should take note. The fact that every Democrat and Republican on the committee embraced H.R. 22 testifies to the need for postal reform that puts politics aside and focuses on pressing issues.

It is also a tribute to the hard work and energy that postal employees, business groups, and postal customers brought to bear educating lawmakers about the merits of reform.

Let me say something as an aside. The United States Postal Service is the most efficient and productive postal service in the world. It may surprise some to learn that some years ago when I took testimony in the Treasury Postal Subcommittee as chairman, the United States Postal Service was 40 percent more efficient than the number two postal service in the world which was Japan. I observed if we had that kind of productivity efficiency with respect to VCRs, we would not be buying JVCs, we would be buying RCAs made in America or Emerson or some other manufacturer.

Why has H.R. 22 earned my support and the support of a bipartisan group? Simply put, because it satisfies four areas. First, it protects universal service. That is absolutely essential. Secondly, it protects collective bargaining. Since the Postal Reorganization Act of 1970 established collective bargaining as a fundamental right, there has not been a single work stoppage or significant disruption in service as a result of labor-management discord. It is appropriate to protect it and continue it.

I noticed the gentleman from New York (Mr. MCHUGH) is back on the floor. I congratulate the gentleman. I said how steadfast you have been in the face of coming right up to the brink of passage and then having to withdraw. We all owe you a debt of gratitude and appreciation for the work you have done on this particular piece of legislation.

H.R. 22 ensures the Postal Service is treated exactly the same way every other Federal agency is in the area of military pensions. Our postal workers who served in the military served America, not the Postal Service, America. It is the U.S. Government that ought to compensate those military veterans. H.R. 22 mandates that the proportion of their retirement that comes from military service will be paid for by the Treasury, as it should be.

Lastly, H.R. 22 provides the Postal Service the flexibility it needs to set postal rates in a competitive manner. This is a difficult area. I know the committee has grappled with it, but I think the committee has come out with a solution that ought to be supported. There is no legislative reason why postal reform should not be enacted before the end of the year.

Unfortunately, however, I understand the administration has signaled its opposition to key provisions of H.R. 22 and its Senate counterpart S. 662. It is my hope and, yes, my expectation, that the gentleman from Virginia (Mr. TOM DAVIS), the gentleman from New York (Mr. MCHUGH), and the gentleman from Illinois (Mr. DAVIS) will be successful in resisting efforts by the administration to weaken or repeal provisions that are the product of years of hard bipartisan work.

I urge support of this product. I again congratulate the gentleman from New York (Mr. MCHUGH) on the work he has so ably led for so long.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Chairman, I rise in support of H.R. 22. This will be the first major postal reform bill to receive our consideration in 35 years. I would like to, obviously, credit the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from New York (Mr. MCHUGH), the subcommittee chairman, for their great work as well as the ranking member, the gentleman from

California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) for all of the great work they have done.

But I would be remiss if I did not mention the number of other people who have worked so hard on this, namely, the postal employees themselves who have been very active in this whole process, including the leadership of the American Postal Workers Union, the National Letter Carriers Union, and the National Mail Handlers Union who have been active and committed to this whole process.

All of us will remember in the days and weeks following September 11, we had a series of anthrax attacks conducted through the U.S. mail system. Tragically, among the victims of these attacks were included the lives of two of our postal workers, Joseph Curseen, Jr., and Thomas Morris, Jr., at the Brentwood facility in the D.C. area.

At that time, all of our postal workers, every clerk, every mail handler, was faced with a difficult choice, and that choice was to continue to come to work every day in a very difficult environment caused by anthrax exposure, and perhaps even endangering their families; or staying away from work and thereby risking the stability of our own economy and upsetting the flow of commerce and shaking the confidence of the American people.

The American postal workers, every clerk, every carrier, every mail handler chose to come to work under those conditions. They came here because they felt it was their particular patriotic duty to do so. H.R. 22 takes note of their service and regards postal employees as partners and a great asset toward affecting postal reform.

Notably, this bill does not seek to curtail essential worker rights, it does not reduce worker protections with respect to collective bargaining, and it deserves our support. I ask only that we resist any amendments that would weaken this bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. SCHIFF) for a colloquy.

Mr. SCHIFF. Mr. Chairman, I rise today to express my support for H.R. 22 and for the purpose of engaging the chairman and the gentleman in a brief colloquy.

H.R. 22 is long overdue and goes a long way towards ensuring the future competitiveness and viability of the U.S. Post Office. I am proud to cosponsor this important piece of legislation, and I encourage my colleagues to support its passage.

One issue of concern to me, however, has to do with the consolidation and realignment of postal facilities. I believe it is critical that Congress and the U.S. Postal Service understand that the closing of a postal facility has a great impact on its local community. I remain concerned that the U.S. Post-

al Service's realignment and consolidation plan may not fully take into account all of the costs associated with each individual facility impacted by such a plan.

Clearly, there are benefits to the consolidation and realignment of postal operations, but I rise today to ask the chairman and the ranking member and the gentleman from Illinois (Mr. DAVIS) for their support in working with the Postal Service to make sure that all impacts are taken into account, not just those that are fiscal in nature. It is critical that Congress understands the closing of a postal facility has a very great impact on its local community.

Mr. DAVIS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Illinois.

Mr. DAVIS of Illinois. Mr. Chairman, I appreciate the gentleman's desire to see that the Postal Service takes into account the impact on local communities. I share his desire for a comprehensive evaluation of all issues regarding the realignment and consolidation of postal facilities, including individual impact on our local communities.

Mr. TOM DAVIS of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Virginia.

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Mr. TOM DAVIS of Virginia. Mr. Chairman, I thank the gentleman from California for his support of this legislation and his efforts. I think it is important, as he points out, that all of these different impacts are taken into account when the Postal Service undertakes the realignment and consolidation of postal facilities. I look forward to working with him and the Postal Service as these unfold.

Mr. DAVIS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

We have heard a great deal of discussion, all good, and again I think it is important that we realize that it took the coming together not only of dedicated Members of the House, but also tremendous staff work. I know that the gentleman from California (Mr. WAXMAN) is not here at the moment, but I want to take the time to commend not only him, but his staff, Phil Schiliro, Phil Barnett, Naomi Seiler, Althea Gregory, as well as the members of my staff, Richard Boykin, Jill Hunter-Williams, and, of course, Denise Wilson, who have worked tirelessly and tirelessly for months and some of them even into years of trying to make sure that we shaped a comprehensive bill, one that all of the stakeholders and shareholders could, in fact, agree with and be proud of, one that did, in fact, continue to protect universal service, everyday delivery, knowing that people can get their mail no matter where they live, whether it is on a remote countryside, up the mountain, across

the way, across the river, knowing that the mail is going to come.

Again, I want to commend, as we have done so often, and not without reason, the hard work and continuous dedication of the gentleman from New York (Mr. MCHUGH), who almost single-mindedly and sometimes people would say single-handedly has kept this train rolling, has kept this ship going, and has prevented it from veering off course. I am very pleased to have been a part of the process. I again commend all of those for making it happen.

Mr. Chairman, I urge strong support for the passage of this important piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Mr. DAVIS of Illinois. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I want to acknowledge the gentleman from New York (Mr. MCHUGH) and the authors of this very, very strong legislation that has taken us more than a decade. To the gentleman from Virginia (Mr. TOM DAVIS), to the gentleman from California (Mr. WAXMAN), to the gentleman from Illinois (Mr. DAVIS), who have worked extremely hard on this issue, might I add my applause and congratulations.

Might I, Mr. Chairman, to the distinguished chairman of the full committee just say one thing. Might I thank the many, many postal workers around America who have been there when you needed them and who have managed to do a major industry with less than a third of the personnel. They are to be congratulated. I thank you very much, and I thank you for your interest in discussing the issue of whistleblower protection for Federal employees in the context of considering H.R. 22 today. I do want to recognize that you have in the bill itself provisions dealing with the inspector general.

Let me, first of all, say that I would have offered an amendment today, but I want the supporters of that amendment, those who have advocated for the No Fear Act that was passed by this body, legislation authored by myself and the gentleman from Wisconsin (Mr. SENSENBRENNER) and signed by the President, that my amendment would have tracked the No Fear Act, which would have established a Civil Rights and Civil Liberties Board pilot program within the Postal Service to monitor and enforce claims of abuse that would call for congressional review after 3 years. There is a grave need for such a body not only within the Postal Service, but in every Federal agency given the poor implementation of the No Fear Act. This public law is known as Public Law 107-174. I understand that the legislation as currently drafted contains, as I said, several new provisions that would protect

Federal employees and minorities such as the antikickback provisions, increase oversight functions for the inspector general, and a study of the Board of Governors of the number of contracts awarded to women and minority contractors. I applaud the gentleman for this.

My real point is that the No Fear Act has been slowly implemented. There are people in the government, workers in the government that we respect for their service wanting us to give oversight on the No Fear Legislation. I would like to work with the gentlemen as they go through conference, and as we go forward to ensure that this particular legislation is implemented, and enhanced civil rights are given to federal employees and our fine postal workers have the whistleblower protection and as well their civil liberties and civil rights are also protected.

Mr. Chairman, I rise in support of the H.R. 22. It is important that it was brought through Committee and to the Floor for expeditious consideration. I have an amendment that was made in order that would seek to address the very critical issue of slow implementation of Public Law No. 107-174, the No FEAR Act (5 U.S.C. 2301) and provide avenues of relief for the many federal employees who continue to complain of workplace civil rights abuse.

My amendment would establish a Civil Rights and Civil Liberties Board Pilot Program within the Postal Service to monitor and enforce claims of abuse that will call for congressional review after three years. There is a grave need for such a body—not only within the Postal Service but in every federal agency, given the poor implementation of the No FEAR Act.

I joined Chairman SENSENBRENNER and Ranking Member JOHN CONYERS in authorizing the Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002, or No Fear Act, that was signed into law by President Bush on May 15, 2002. This legislation was passed in order to bring immediate relief to federal government employees who have suffered from civil rights or other abuse in the workplace.

The product that we have before us today has many highlights. For the Postal Service, it provides the ratemaking flexibility and incentives needed to operate as an efficient business. For businesses, it provides the rate stability, fair competition rules, financial transparency, and procurement protections needed to predict costs and operate on a level playing field. For consumers, it preserves universal service, maintains high quality standards, and eliminates unfair mailing costs so that they have an affordable and reliable means of communication. For workers, it protects collective bargaining and offers whistle-blower protections that are needed to ensure safe employment. For taxpayers, it ensures the viability of a national asset and removes the threat of a tax-payer bailout of the Postal Service due to financial insolvency. These provisions, I am sure, will go a long way toward helping the Postal Service to better serve its customers, compete fairly with the mailing industry, and contribute to our nation.

In addition, I am pleased that the bill requires a study of the number of contracts with women, minorities, and small businesses and

that it protects our domestic airlines from outsourcing of jobs to foreign air carriers.

Nevertheless, the issue of slow implementation of No FEAR remains a tremendous problem that I hope the Chairman, Ranking Member, and the members of the Committee on Government Reform will pursue both as this bill goes to Conference and in hearing forum.

Mr. Chairman, I support H.R. 22 and hope that the Chairman, Ranking Member, and the Conferees on this bill will address the issues that I presented with my amendment, and I hope that both the Committee on Government Reform as well as that of the Judiciary will hold oversight hearings on the implementation of the No Fear Act, and I yield back. It is critical that we use opportunities such as is afforded today to address the slow implementation of the No Fear Act. I yield back.

Mr. DAVIS of Illinois. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. WAXMAN), the ranking member.

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized for 2 minutes.

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, I want to thank my friend and colleague for yielding to me and also, more importantly, for the enormous contribution he has made to this legislation along with the gentleman from New York (Mr. MCHUGH) and the gentleman from Virginia (Mr. TOM DAVIS). The four of us have been working very, very closely and produced legislation that was unanimously voted out of our committee.

The legislation is to modernize the structure of the Postal Service. It is a \$69 billion entity with 700,000 employees. It supports industries that produce goods and services worth \$900 billion annually. For generations Americans have relied on the system for universal service for letters and packages.

Reaching unanimity was not easy. A primary goal of postal reform was to give the Postal Service the flexibility it needs to survive in a changing and increasingly competitive environment. At the same time, we took into account the varied and complex needs of the mailing community and the American people. The result is a strong bill with the primary goal of allowing the Postal Service to continue to fulfill its universal service mission at a reasonable cost.

The legislation makes a number of key changes, but all of the changes in this bill are calibrated to balance out conflicting forces so that we could bring everybody on board. That is why this bill, I would urge my colleagues to understand, is one that we need to support in its entirety and to resist changes, however attractive they may be.

The bill, in closing, will make sure that the Postal Service can go into this 21st century as a viable institution; where it competes, to make sure that it will not compete unfairly; and where it is doing its job as a unique establish-

ment, it will be handled in a way so that it will be run efficiently and effectively for the public good.

I ask support for the legislation before us.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut (Mr. SHAYS), the vice chairman of the Committee on Government Reform.

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding time. I just want to congratulate him, the ranking member of the committee and particularly the gentleman from New York (Mr. MCHUGH) for what he has done for over 10 years in this battle. His effort is awesome. This legislation is needed. We believe in universal coverage for mail, but know cost savings need to be made. Congratulations to all of you for doing such a great job in bringing this legislation before us.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself the balance of my time.

It has been said that victory has 1,000 fathers, and defeat is an orphan. As we approach a victory on this bill tonight, at least on the House side, let me thank some of the fathers. We have talked about some of the Members being involved, but thanks also go out to the National Association of Manufacturers, the National Federation of Independent Business, the Small Business Legislative Council; a group of financial service companies like American Express, Bank of America, Capital One, Chase, Citigroup, Financial Services Roundtable, J.P. Morgan; groups in the newspaper and publisher business like Magazine Publishers of America, National Newspaper Association, Printing Industries of America, Time, Inc.; labor unions like the American Postal Workers Union, National Association of Letter Carriers, National Rural Letter Carriers and the National Postal Mail Handlers Association; postal management organizations like the National Association of Postmasters, National League of Postmasters, National Association of Postal Supervisors; postal competitors like United Parcel Express, UPS and FedEx; and other organizations like the Alliance of Nonprofit Mailers, the Mailers Council, the Parcel Shippers Association, Pitney-Bowes and others.

And on the staff side, Melissa Wojciak, my staff director; Jack Callender, who has made his career on the committee the Postal Service; Robert Taub, who the gentleman from New York (Mr. MCHUGH) rightly, I think, gives the credit for being the father of this behind the scenes; Ellen Brown, Mason Alinger of our staff, Rob Borden, Kristina Sherry, Michael Layman, Phil Barnett, Michelle Ash, Denise Wilson, Naomi Seiler, Jill Hunter-Williams and Richard Boykin from the committee as well. All of these made major contributions.

What does this tell us if we pass this legislation? The cost of stamps is going up, but if we pass this legislation, it

will be nowhere near the increases that we will get without this important legislation.

The need for postal reform is obvious in this case. Failure to act is a job-killer. Inaction will jeopardize at least 1.5 million jobs. This is a top priority for industry, the mailing industry, a \$900-billion-a-year industry, nearly 9 percent of GDP, its economic value, 9 million jobs. Failure to act would be the same as a tax increase on American consumers. If we do not seize this moment, we effectively impose a significant new tax and a new tax burden on every American who uses stamps. If we do not take action, the Postal Service will be forced to begin increasing postal rates, starting with 2 cents at the beginning of next year. A small business that spends \$5,000 annually on postage will lose almost \$300 a year. An industry like financial services would get slammed with over \$600 million in increases annually with no increase in productivity. And the American public will waste over \$20 billion in unnecessary postage over the next decade. That is why this legislation needs to be passed.

What is wrong with the current Postal Service? We have got some of the best and most dedicated workers in the world, as the gentleman from Maryland (Mr. HOYER) and the gentleman from California (Mr. WAXMAN) and others have pointed out, but they are operating under a 30-year-old system that completely missed the information technology revolution. It is a service that is saddled with \$7 billion in workers' comp claims, \$5 billion in retirement payments and \$57 billion in health care costs. The statutes governing USPS are some of the most rigid and restrictive in the U.S. Code.

Finally, this means jobs. We can talk about trade and everything else, but failure to enact this will cost jobs in every State.

Let me conclude by saying and echoing what the gentleman from California (Mr. WAXMAN) noted, and that is, this bill is not a perfect bill. It is not a perfect bill today. It will not be perfect probably when it comes out of conference. But as we look at this, this is a finely balanced piece of legislation that today has almost unanimous agreement in the industries that are affected, among the workers that are affected and among the consumers that are affected.

We want to keep this balance as this comes to the floor. There are some very attractive amendments, well-meaning amendments that are going to be offered, but they upset this balance and jeopardize this bill. We have in front of us jobs, we have productivity, and we have almost 9 percent of the gross domestic product of this country at stake if we fail to pass this bill. I urge my colleagues to support it.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today in support of H.R. 22, the Postal Accountability and Enhancement Act. This bill will allow for the Postal Service to better serve

the American People by significantly modernizing its outdated policies.

The last postal reform bill was signed by President Nixon in 1971 and at that time no one could have anticipated all of the technological advances our society would create. At that time we all sent letters to keep in contact with each other and email was something that we never could have imagined. Unfortunately, while we have advanced with the times, the Postal Service has been slow to keep up with our advancing technology. H.R. 22 will allow the Postal Service to continue providing comprehensive universal service, but at a much lower cost.

This bill is the product of hard work between the labor unions, the Postal Service, and the Government Reform Committee. It is a good piece of legislation that will give the Postal Service the rate modernization it needs and it will create a level playing field for the Postal Service to compete with other companies.

I strongly support this bill not only because my late father-in-law was a letter carrier, but because the Postal Service has provided a vital service to the public for many years. It's time that we allow them to modernize so that we may continue to enjoy all of the benefits that they have afforded us.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to speak in support of The Postal Accountability and Enhancement Act of 2005

As we move into a new phase of technological advancements, now is the time for significant reform of our postal system. With over 600-thousand postal workers, the U.S Postal Service is an essential part of today's national economic infrastructure.

In my home town of Dallas, TX, the roles of postal workers are vividly seen in homes, businesses, and even churches. We must have a firm commitment to ensuring that these vital public servants have guaranteed healthcare and retirement benefits, collective bargaining rights, and a decent pay.

H.R. 22 will bring increased efficiencies to the United States Postal Service, and strengthen the long-term viability of universal postal services. We must act now to ensure that 6-day a week delivery is maintained for all Americans.

I hope my colleagues will join me in supporting this key piece of legislation.

Mr. BACA. Mr. Chairman, since the days of the pony express, the USPS has become a part of the American family.

Consider the special place of the Postal Service in our society and its importance to Americans: to the teenagers waiting by the mailbox for the college acceptance letters, to families waiting for letters from loved ones serving abroad, to businesses reaching out to new customers and to so many others.

The Postal Service delivers mail six days a week to nearly 140 million addresses. Every year this number increases by 2 million.

The Postal Service's unmatched ability to reach every household and business in America six days a week is a vital part of the nation's infrastructure.

The Postal Service needs tools to modernize and compete. That is why today I am a cosponsor of H.R. 22, the Postal Accountability and Enhancement Act.

This legislation will not only ensure survival of the Postal Service but also help preserve universal service at affordable rates for American mailing consumers.

We need to ensure the long-term viability of this \$900 billion industry and its nine million employees.

I only wish that we could also pass H.R. 147, the Social Security Fairness Act.

We need to correct the Windfall Elimination Provision, which lowers Social Security benefits for retirees who receive a Civil Service Retirement System annuity and Social Security benefits from other jobs.

Too many Postal Service employees have seen their Social Security benefits reduced by as much as 55 percent because of the Windfall Elimination Provision.

We also need to fix the Government Pension Offset, so that spouses and survivors do not have their benefits reduced.

Mr. Chairman, H.R. 22 is a good first step and I encourage my colleagues to support the bill.

Mr. TOM DAVIS of Virginia. Mr. Chairman, please include the attached exchange of letters between Chairman DON YOUNG of the Committee on Transportation and Infrastructure, Chairman F. JAMES SENSENBRENNER, Jr. of the Committee on the Judiciary, Chairman BILL THOMAS of the Committee on Ways and Means and myself.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE,

Washington, DC, April 25, 2005.

Hon. TOM DAVIS,  
Chairman, Committee on Government Reform,  
Rayburn Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 22, the Postal Accountability and Enhancement Act.

Our Committee recognizes the importance of H.R. 22 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the Congressional Record when the bill considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON GOVERNMENT REFORM,  
Washington, DC, April 26, 2005.

Hon. DON YOUNG,  
Chairman Committee on Transportation Infra-  
structure, House of Representatives, Wash-  
ington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Transportation and Infrastructure's jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 22 by the Committee on Transportation and Infrastructure.

I agree that the Committee on Transportation and Infrastructure has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to not request a sequential referral of H.R. 22. In addition, I will support your request for the appointment of outside conferees from the Committee on Transportation and Infrastructure to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Government Reform Committee's report on H.R. 22 and in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,  
*Chairman.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC, May 12, 2005.*

Hon. TOM DAVIS,  
*Chairman, Committee on Government Reform,  
House of Representatives, Washington, DC.*

DEAR CHAIRMAN DAVIS: In recognition of the desire to expedite floor consideration of H.R. 22, the "Postal Accountability and Enhancement Act," the Committee on the Judiciary hereby waives consideration of the bill. In so doing, I wish to express my appreciation for your willingness to address an incorporate concerns raised by the Committee on the Judiciary during its markup of similar legislation last Congress.

There are several provisions contained in H.R. 22 within the Committee on the Judiciary's subject matter jurisdiction. Specifically, section 205 of the legislation revises the complaint and appellate review of the Postal Regulatory Commission. Section 301 establishes an off-budget fund within the Treasury Department for revenues and expenditures associated with services offered by the Postal Service on a competitive basis. Section 303 prohibits the Postal Service from issuing regulations that preclude competition or compel the disclosure of protected intellectual property. Section 304 ensures that laws regulating the conduct of private commercial activities also apply to competitive activities undertaken by the Postal Service, including the antitrust laws. Section 502 provides authority for the Postal Regulatory Commission to issue subpoenas to compel disclosure of evidence in its proceedings, and to refer failures to adhere to Commission directives to Federal district court. Section 703 requires the Federal Trade Commission to prepare a report detailing how Federal and State laws apply differently to competitive activities of the Postal Service and private companies. Section 801 provides permanent authority for the Postal Service to employ postal police to protect property and persons on Postal Service property, and gives the Attorney General authority to collect penalties and clean up costs associated with the unlawful mailing of hazardous materials.

The Committee agrees to waive additional consideration of H.R. 22 with the understanding that the Committee's jurisdiction over these provisions is in no way altered or diminished. I also ask that you support my request to be appointed conferee on any provisions over which the Committee on the Judiciary has jurisdiction during any House-Senate conference on this legislation. Finally, I would appreciate your including this letter in Congressional Record during consideration of H.R. 22 on the House floor.

Thank you for your attention to this request.

Sincerely,

F. JAMES SENSENBRENNER JR.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON GOVERNMENT REFORM,  
*Washington, DC, May 12, 2005.*

Hon. F. JAMES SENSENBRENNER,  
*Chairman, Committee on the Judiciary, House  
of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your May 12th letter regarding the Judiciary Committee's jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 22 by your committee. As you noted, the Committee on the Judiciary considered a similar bill last Congress, H.R. 4341; and the amendments agreed to by your committee last Congress were significant improvements that were gladly incorporated in H.R. 22 this Congress by Congressman McHugh and myself.

I agree that the Committee on the Judiciary has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to not call a business meeting to consider H.R. 22. In addition, I will support your request for the appointment of outside conferees from the Committee on the Judiciary to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 22 on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,  
*Chairman.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
*Washington, DC, July 25, 2005.*

Hon. TOM DAVIS,  
*Chairman, Committee on Government Reform,  
Rayburn House Office Building, Wash-  
ington, DC.*

DEAR CHAIRMAN DAVIS: I am writing concerning H.R. 22, the "Postal Accountability and Enhancement Act," which was reported by the Committee on Government Reform on May 27, 2005.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning customs revenue functions. A provision in Section 305 of H.R. 22 directs the Bureau of Customs and Border Protection to apply United States customs laws to certain mail, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 22, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,

*Chairman.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON GOVERNMENT REFORM,  
*Washington, DC, July 25, 2005.*

Hon. WILLIAM M. THOMAS,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Ways and Means' jurisdictional interest in H.R. 22, the Postal Accountability and En-

hancement Act, and your willingness to forego action on H.R. 22.

I agree that the Committee on Ways and Means has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to take no action at this time. In addition, I will support your request for the appointment of outside conferees from the Committee on Ways and Means to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,  
*Chairman.*

Mr. REYES. Mr. Chairman, I rise today in strong support of H.R. 22, the Postal Accountability and Enhancement Act.

Employing nine million workers nationwide, many of whom reside in my Congressional District of El Paso, Texas, the United States Postal Service (USPS) has been delivering hundreds of millions of pieces of mail each day keeping an important link of communication open to millions of people.

Many of my constituents from El Paso, Texas who have expressed their strong support for postal reform. I share their support and have co-sponsored the bill before us today.

Mr. Chairman, this legislation would ensure that the USPS is provided with the tools to remain competitive and viable in the 21st century. As a co-sponsor of H.R. 22, I would urge all my colleagues to support the passage of this important legislation.

Ms. DELAURO. Mr. Chairman, I rise in strong support of H.R. 22, the Postal Accountability and Enhancement Act. This legislation, which is long overdue, will improve commerce in this country, better the lives of the nation's postal workers, and guarantee that the mail will be delivered each day to the 140 million American households that look forward to a daily visit from their letter carrier.

In a time of declining revenues and increased costs, it is no secret that the Postal Service faces financial challenges. Competition in the package-delivery business and from Internet-based communication has intensified. And, as a result, each year, the dedicated letter carriers of the Postal Service are asked to carry less mail to more households and businesses nationwide. In part, that is because the Postal Service is operating under laws written 35 years ago—long before anyone had ever heard of the Internet.

This legislation will modernize the Postal Service, giving it the resources and flexibility it needs to manage its operations and set fair prices. The bill will help the Postal Service cut through the bureaucratic red tape and allow it to act more like the businesses it must compete against.

In addition to providing a more streamlined rate-setting process that will allow the Postal Service to make business decisions quickly, the bill also will allow the Postal Service to enter into partnerships with second- and third-class mailers, while preserving the jobs of those at postal sorting and processing centers. I welcome these improvements, although I anticipate more will need to be done to balance

the mailing industry's need for price certainty with unanticipated or extraordinary fiscal needs of the Postal Service.

The bill will alleviate a \$27 billion burden by limiting the Postal Service's responsibility to pay the benefits of veterans who also worked in the Postal Service. To be clear, this provision does not limit the benefits of our brave veterans who, after military service, went to work for the Postal Service. This bill simply says that the U.S. Treasury must pay veterans benefits, and the Postal Service must pay postal benefits.

Mr. Chairman, this legislation is also good for one of the Postal Service's best assets—its human capital. I am particularly pleased that this bill preserves the right of more than 500,000 postal workers and letter carriers to bargain collectively. These dedicated men and women work in processing centers, they work in local post offices, and they work in our neighborhoods delivering the mail to our doorsteps each day. They are the reason that the postal service has a 96 percent on-time delivery record for first-class mail.

Mr. Chairman, this is a good bill. It will make the Postal Service leaner and more efficient, while preserving the collective bargaining rights of its workers. And it will continue the legacy of universal service. Since the birth of this nation, the United States Postal Service has been committed to delivering the mail to every single household in the country—142 million in all today. The daily mail delivery is something that many Americans look forward to, and this bill will ensure that the Postal Service has the resources it needs to maintain that commitment well into the future. I urge my colleagues to support this important legislation.

Mr. BACA. Mr. Chairman, since the days of the pony express, the USPS has become a part of the American family.

Consider the special place of the Postal Service in our society and its importance to Americans: to the teenagers waiting by the mailbox for the college acceptance letters, to families waiting for letters from loved ones serving abroad, to businesses reaching out to new customers and to so many others.

The Postal Service delivers mail six days a week to nearly 140 million addresses. Every year this number increases by 2 million. The Postal Service's unmatched ability to reach every household and business in America six days a week is a vital part of the nation's infrastructure.

The Postal Service needs tools to modernize and compete. That is why today I am a cosponsor of H.R. 22, the Postal Accountability and Enhancement Act. This legislation will not only ensure survival of the Postal Service but also help preserve universal service at affordable rates for American mailing consumers. We need to ensure the long-term viability of this \$900 billion industry and its nine million employees. I only wish that we could also pass H.R. 147, the Social Security Fairness Act.

We need to correct the Windfall Elimination Provision, which lowers Social Security benefits for retirees who receive a Civil Service Retirement System annuity and Social Security benefits from other jobs. Too many Postal Service employees have seen their Social Security benefits reduced by as much as 55 percent because of the Windfall Elimination Provision. We also need to fix the Government Pension

Offset, so that spouses and survivors do not have their benefits reduced.

Mr. Chairman, H.R. 22 is a good first step and I encourage my colleagues to support the bill.

Mr. LEACH. Mr. Chairman, I rise in support of the legislation before us: the most important postal reform of our generation.

The specific reforms contained in the bill have been well described in the preceding comments of various members, but I would simply like to underscore the importance of the United States Postal Service to the country, particularly rural America, and emphasize the immense respect that citizens have for their mail carriers.

The United States Postal Service began with the founding of the Republic; it grew as the nation grew; it has continuously transformed itself with entrepreneurial enterprise and technological innovation.

Before Henry Ford developed mass assembly techniques in the automobile industry, mail carriers on horseback—the pony express—used analogous methods of passing along packages to next-step destinations. And just as rail cars added speed, labor- and horse-saving capabilities to mail delivery in the latter half of the 19th century, the airplane has provided the means to bring greater speed and service efficiency in the last century. Likewise, at the various decentralized post offices and more centralized postal hubs, innovative machinery to help sort and distribute the mail has been developed.

But the unique aspect of mail delivery is that it remains a people-centric service. Good people make a difference and the Postal Service has a heritage of decency and quality of employee—from the clerk at the counter to the rural mail carrier to postmasters in small towns and urban centers. This country takes great pride in their dedication and professionalism.

Now is not the time to either ideologically tamper with the private express statutes or saddle the Postal Service with liabilities developed by other parts of the government.

The bottom line is that the United States Postal Service has served the country well for more than two centuries. We in the Congress respect this record and are obligated to ensure that the viability of this universal system is maintained.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 22

*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 "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

Sec. 101. Definitions.

Sec. 102. Postal services.

Sec. 103. Financial transparency.

**TITLE II—MODERN RATE REGULATION**

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Workshare discounts.

Sec. 207. Clerical amendment.

**TITLE III—PROVISIONS RELATING TO FAIR COMPETITION**

Sec. 301. Postal Service Competitive Products Fund.

Sec. 302. Assumed Federal income tax on competitive products income.

Sec. 303. Unfair competition prohibited.

Sec. 304. Suits by and against the Postal Service.

Sec. 305. International postal arrangements.

Sec. 306. Redesignation.

**TITLE IV—GENERAL PROVISIONS**

Sec. 401. Qualification requirements for Governors.

Sec. 402. Obligations.

Sec. 403. Private carriage of letters.

Sec. 404. Rulemaking authority.

Sec. 405. Noninterference with collective bargaining agreements, etc.

Sec. 406. Bonus and compensation authority.

Sec. 407. Mediation in collective-bargaining disputes.

**TITLE V—ENHANCED REGULATORY COMMISSION**

Sec. 501. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.

Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 503. Appropriations for the Postal Regulatory Commission.

Sec. 504. Redesignation of the Postal Rate Commission.

Sec. 505. Officer of the Postal Regulatory Commission representing the general public.

**TITLE VI—INSPECTORS GENERAL**

Sec. 601. Inspector General of the Postal Regulatory Commission.

Sec. 602. Inspector General of the United States Postal Service to be appointed by the President.

**TITLE VII—EVALUATIONS**

Sec. 701. Universal postal service study.

Sec. 702. Assessments of ratemaking, classification, and other provisions.

Sec. 703. Study on equal application of laws to competitive products.

Sec. 704. Greater diversity in Postal Service Executive and administrative schedule management positions.

Sec. 705. Plan for assisting displaced workers.

Sec. 706. Contracts with women, minorities, and small businesses.

Sec. 707. Rates for periodicals.

Sec. 708. Assessment of certain rate deficiencies.

Sec. 709. Network optimization.

Sec. 710. Assessment of future business model of the postal service.

Sec. 711. Study on certain proposed amendments.

Sec. 712. Definition.

**TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS**

Sec. 801. Employment of postal police officers.

Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.

Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.

Sec. 804. Obsolete provisions.

Sec. 805. Investments.

Sec. 806. Reduced rates.

Sec. 807. Hazardous matter.

Sec. 808. Provisions relating to cooperative mailings.

Sec. 809. Technical and conforming amendments.

#### 7TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

Sec. 901. Civil Service Retirement System.

Sec. 902. Health insurance.

Sec. 903. Repeater.

Sec. 904. Ensuring appropriate use of escrow and military savings.

Sec. 905. Effective dates.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

##### SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36;

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36;

“(10) ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

“(11) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”.

##### SEC. 102. POSTAL SERVICES.

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

“(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.”.

(b) CONFORMING AMENDMENT.—Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.

##### SEC. 103. FINANCIAL TRANSPARENCY.

(a) IN GENERAL.—Section 101 of title 39, United States Code, is amended by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and by inserting after subsection (c) the following:

“(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.”.

(b) CONFORMING AMENDMENT.—Section 5001 of title 39, United States Code, is amended by strik-

ing “101(e) and (f)” and inserting “101(f) and (g)”.

#### TITLE II—MODERN RATE REGULATION

##### SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

###### “§3621. Applicability; definitions

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1)(A) single piece first-class letters (both domestic and international);

“(B) single piece first-class cards (both domestic and international); and

“(C) special services;

“(2) all first-class mail not included under paragraph (1);

“(3) periodicals;

“(4) standard mail;

“(5) media mail;

“(6) library mail; and

“(7) bound printed matter, subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

###### “§3622. Modern rate regulation

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

“(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

“(1) To establish and maintain a fair and equitable schedule for rates and classification.

“(2) To maximize incentives to reduce costs and increase efficiency.

“(3) To create predictability and stability in rates.

“(4) To maintain high quality service standards.

“(5) To allow the Postal Service pricing flexibility.

“(6) To assure adequate revenues, including retained earnings, to maintain financial stability.

“(7) To reduce the administrative burden of the ratemaking process.

“(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(2) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

“(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(7) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(8) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(9) the desirability of special classifications from the point of view of both the user and of the Postal Service;

“(10) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

“(11) the policies of this title as well as such other factors as the Commission deems appropriate.

“(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

“(1) Price caps, revenue targets, or other form of incentive regulation.

“(2) Cost-of-service regulation.

“(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

“(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

“(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.”.

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 501(a)(2), but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

##### SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

###### “§3631. Applicability; definitions and updates

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) priority mail;

“(2) expedited mail;

“(3) mailgrams;

“(4) international mail; and

“(5) parcel post,

subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) DEFINITION.—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product.

“(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

###### “§3632. Action of the Governors

“(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors shall establish rates

and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) PROCEDURES.—

“(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

“(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors’ proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

“(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

“(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

“(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

“§3633. Provisions applicable to rates for competitive products

“The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

“(1) to prohibit the subsidization of competitive products by market-dominant products;

“(2) to ensure that each competitive product covers its costs attributable; and

“(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.”

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“§3641. Market tests of experimental products

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

“(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or

any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

“(c) NOTICE.—

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

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

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

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

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may be tested under this section only if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 nationwide in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

“§3642. New products and transfers of products between the market-dominant and competitive categories of mail

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice

setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

“(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

“(f) PROHIBITION.—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

“(1) under this subchapter; or

“(2) by or under any other provision of law.”

#### SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

#### “§3651. Annual reports to the Commission

“(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

“(b) ADDITIONAL INFORMATION.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

“(1) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

“(2) free or reduced rates for postal services as required by this title; and

“(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

The Commission shall detail the bases for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

“(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

#### “§3652. Annual reports to the Commission

“(a) COSTS, REVENUES, AND RATES.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex thereto as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that the rates in effect for all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) market information, including mail volumes; and

“(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

“(i) the service standard applicable to such product;

“(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

“(iii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

“(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

“(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(A) The per-item cost avoided by the Postal Service by virtue of such discount.

“(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(C) The per-item contribution made to institutional costs.

“(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term ‘workshare discount’ has the meaning given such term under section 3687.

“(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service—

“(1) may report summary data on the costs, revenues, and quality of service by market test; and

“(2) shall report such data as the Postal Regulatory Commission requires.

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

“(e) CONTENT AND FORM OF REPORTS.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

“(A) providing the public with adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

“(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) performance plan under section 2803; and

“(3) program performance reports under section 2804.

#### “§3653. Annual determination of compliance

“(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) DETERMINATION OF COMPLIANCE OR NON-COMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder);

“(2) whether any performance goals established under section 2803 or 2804 for such year were not met; and

“(3) whether any market-dominant product failed to meet any service standard during such year.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of

noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

“(d) **REBUTTABLE PRESUMPTION.**—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.

#### “§3654. Additional financial reporting

“(a) **ADDITIONAL FINANCIAL REPORTING.**—

“(1) **IN GENERAL.**—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

“(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

“(2) **REGISTRANT DEFINED.**—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the ‘registrant’ described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

“(3) **INTERNAL CONTROL REPORT.**—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2007.

“(b) **FINANCIAL REPORTING.**—

“(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service’s pension and post-retirement health obligations—

“(A) the funded status of the Postal Service’s pension and —postretirement health obligations;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic post-retirement health cost and the accumulated obligation;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2)(A) Beginning with reports for the fiscal year 2007, for purposes of the reports required

under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

“(c) **TREATMENT.**—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(d) **SUPPORTING MATTER.**—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

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

“(1) the data have become significantly inaccurate or can be significantly improved; or

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

“(f) **CONFIDENTIAL INFORMATION.**—

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

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

#### **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.**

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

##### “§3662. Rate and service complaints

“(a) **IN GENERAL.**—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) **PROMPT RESPONSE REQUIRED.**—

“(1) **IN GENERAL.**—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

“(A) begin proceedings on such complaint; or

“(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

“(2) **TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.**—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant

to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) **ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.**—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

“(d) **SUSPENSION AUTHORITY.**—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

“(e) **AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.**—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

##### “§3663. Appellate review

“A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term ‘person’ includes the Postal Service.

##### “§3664. Enforcement of orders

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”

#### **SEC. 206. WORKSHARE DISCOUNTS.**

(a) **IN GENERAL.**—Title 39, United States Code, is amended by adding after section 3686 (as added by section 406) the following:

##### “§3687. Workshare discounts

“(a) **IN GENERAL.**—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as the result of workshare activity, unless—

“(1) the discount is—

“(A) associated with a new postal service, a change to an existing postal service, or a new workshare initiative related to an existing postal service; and

“(B) necessary to induce mailer behavior that furthers the economically efficient operation of

the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

“(2) a reduction in the discount would—

“(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

“(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

“(C) impede the efficient operation of the Postal Service;

“(3) the amount of the discount above costs avoided—

“(A) is necessary to mitigate rate shock; and

“(B) will be phased out over time; or

“(4) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

“(b) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

“(1) explains the Postal Service’s reasons for establishing or maintaining the rate;

“(2) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

“(3) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

“(c) DEFINITION.—For purposes of this section, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under section 3622(a).”

(b) CLERICAL AMENDMENT.—The analysis for chapter 36 of title 39, United States Code (as amended by section 207) is amended by adding after the item relating to section 3686 the following:

“3687. Workshare discounts.”

#### SEC. 207. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

#### “CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

##### “SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“3626. Reduced rates.

“3627. Adjusting free rates.

“3629. Reduced rates for voter registration purposes.

##### “SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

##### “SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

##### “SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

“3654. Additional financial reporting.

#### “SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

#### “SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

“3682. Size and weight limits.

“3683. Uniform rates for books; films, other materials.

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Bonus authority.”

### TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

#### SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

#### “§2011. Provisions relating to competitive products

“(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(1) costs attributable to competitive products; and

“(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term ‘costs attributable’ has the meaning given such term by section 3631.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;

“(2) amounts received from obligations issued by the Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

“(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund. Any such borrowings by the Postal Service shall be supported and serviced by the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e), but in either case subject to paragraph (5)).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations,

and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

“(3) The obligations issued by the Postal Service under this section—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions;

as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that they are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c) of this title, shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e)). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

“(A) the assets related to the provision of competitive products; or

“(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

“(h)(1) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and such other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

“(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

“(B) the substantive and procedural rules that should be followed in determining the Postal Service’s assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

“(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments, with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

“(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

“(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

“(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”.

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund.”.

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title.” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”.

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), by inserting “or section 2011” before “of this title.”;

(B) in subsection (b), by inserting “under section 2005” before “in such amounts” in the first sentence and before “in excess of such amount.” in the second sentence; and

(C) in subsection (c), by inserting “or section 2011(e)(4)(E)” before “of this title.”.

**SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**“§3634. Assumed Federal income tax on competitive products income**

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”.

**SEC. 303. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**“§404a. Specific Limitations**

“(a) Except as specifically authorized by law, the Postal Service may not—

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

**SEC. 304. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any competitive product, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

“(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

“(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting,

and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title.”

#### SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

##### “§ 407. International postal arrangements

“(a) It is the policy of the United States—

“(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

“(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

“(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

“(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

“(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

“(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

“(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

“(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

“(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

“(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

“(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

“(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

“(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

“(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission’s decision.

“(d) Nothing in this section shall be considered to prevent the Postal Service from entering

into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

“(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

“(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

“(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

“(2) For purposes of this subsection, the term ‘private company’ means a private company substantially owned or controlled by persons who are citizens of the United States.

“(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary’s control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

“(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.”

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### SEC. 306. REDESIGNATION.

Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

#### “SUBCHAPTER VI—GENERAL”.

#### TITLE IV—GENERAL PROVISIONS

#### SEC. 401. QUALIFICATION REQUIREMENTS FOR GOVERNORS.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sen-

tence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”

(c) RESTRICTION.—Section 202(b) of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

“(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

“(ii) instead of the term that would otherwise apply under the first sentence of paragraph (1), the term of any person so appointed to such office shall be 3 years.

“(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.”

(d) APPLICABILITY.—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

#### SEC. 402. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”

(b) LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: “In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of \$3,000,000,000.”

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

(1) IN GENERAL.—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

“(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time,

and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.”

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “any such obligations” and inserting “obligations issued by the Postal Service which may be”.

(d) AMOUNTS WHICH MAY BE PLEDGED, ETC.—(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section.”

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.”

#### SEC. 403. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces; or

“(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2004) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### SEC. 404. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title.”

#### SEC. 405. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in section 407, nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or

benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(b) **FREE MAILING PRIVILEGES CONTINUE UNCHANGED.**—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**SEC. 406. BONUS AND COMPENSATION AUTHORITY.**

Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by section 306) is amended by adding at the end the following:

**“§3686. Bonus authority**

“(a) **IN GENERAL.**—The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

“(b) **LIMITATION ON TOTAL COMPENSATION.**—

“(1) **IN GENERAL.**—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

“(2) **APPROVAL PROCESS.**—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

“(A) the Postal Service shall make an appropriate request to the Board of Governors in such form and manner as the Board requires; and

“(B) the Board of Governors shall approve any such request if it certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

“(3) **REVOCACTION AUTHORITY.**—If the Board of Governors finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

“(c) **EXCEPTIONS FOR CRITICAL POSITIONS.**—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

“(d) **INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.**—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

“(2) the amount of the bonus or other payment; and

“(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

“(e) **REGULATIONS.**—The Board of Governors may prescribe regulations for the administration of this section.”.

**SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DISPUTES.**

(a) **IN GENERAL.**—Section 1207(b) of title 39, United States Code, is amended by striking all that follows “the Director of the Federal Mediation and Conciliation Service shall” and inserting “, within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.”.

(b) **PROVISIONS RELATING TO ARBITRATION BOARDS.**—Section 1207(c) of title 39, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “90” and inserting “60”;

(B) by striking “not members of the fact-finding panel,”; and

(C) by striking all that follows “shall be made” and inserting “from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.”; and

(2) in paragraph (3), by striking “factfinding panel” and inserting “mediation”.

(c) **CONFORMING AMENDMENT.**—Section 1207(d) of title 39, United States Code, is amended by striking “factfinding panel will be established” and inserting “mediator shall be appointed”.

**TITLE V—ENHANCED REGULATORY COMMISSION**

**SEC. 501. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) **TRANSFER AND REDESIGNATION.**—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

**“CHAPTER 5—POSTAL REGULATORY COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

**“§501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

**“§502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (e).

“(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(e) The Commissioners shall serve for terms of 6 years.”;

(2) in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), by striking the heading for such subchapter I and all that follows through section 3602; and

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) **DETERMINATIONS.**—Section 503 of title 39, United States Code, as so redesignated by subsection (a)(3), is amended by adding at the end the following: “Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.”.

(c) **APPLICABILITY.**—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 504) pursuant to an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(d) **CLERICAL AMENDMENT.**—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission ..... 501”.  
SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

“(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

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

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

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

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

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

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

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

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

“(3)(A) Paragraph (2) shall not prevent the Commission from publicly disclosing relevant information in furtherance of its duties under this title if the Commission has adopted regulations under section 553 of title 5 that establish a procedure for accord appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest, as required by section 101(d) of this title for financial transparency of a government establishment.

“(B) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.”

#### SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 501) is amended to read as follows:

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

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8L(e) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the

same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8L(e) of the Inspector General Act of 1978.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2005.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

#### SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 501), 1001, and 1002 by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”.

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

#### SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMISSION REPRESENTING THE GENERAL PUBLIC.

(a) IN GENERAL.—Chapter 5 of title 39, United States Code (as added by this Act) is amended by adding after section 504 the following:

##### “§505. Officer of the Postal Regulatory Commission representing the general public

“The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 39, United States Code (as amended by section 501(a)(1)) is amended by adding after the item relating to section 504 the following:

“505. Officer of the Postal Regulatory Commission representing the general public.”

#### TITLE VI—INSPECTORS GENERAL

#### SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is

amended by inserting “the Postal Regulatory Commission,” after “the United States International Trade Commission.”

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding after subsection (g) (as added by section 502) the following:

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

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

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

#### SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE TO BE APPOINTED BY THE PRESIDENT.

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking “or” before “the President of the Export-Import Bank;” and

(B) by inserting “or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);” after “the President of the Export-Import Bank;” and

(2) in paragraph (2)—

(A) by striking “or” before “the Export-Import Bank;” and

(B) by inserting “or the United States Postal Service,” after “the Export-Import Bank.”

(b) SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE.—

(1) IN GENERAL.—The Inspector General Act of 1978 is amended by inserting after section 8K the following:

##### “SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

“SEC. 8L. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

“(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term ‘appropriate committees of Congress’ to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

“(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may

select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

“(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

“(e) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.”.

(2) RELATED PROVISIONS.—For certain related provisions, see section 503(b).

(c) EXERCISE OF CERTAIN POWERS.—Section 6(e)(3) of the Inspector General Act of 1978 is amended—

(1) by striking “and the” before “Tennessee Valley Authority”; and

(2) by inserting “, and United States Postal Service” after “Tennessee Valley Authority”.

(d) PUBLIC CONTRACTS.—

(1) ADDITIONAL PROVISIONS APPLICABLE.—Section 410(b)(5) of title 39, United States Code, is amended—

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

(B) by adding after subparagraph (B) the following:

“(C) the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and

“(D) section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265) (relating to protecting contractor employees from reprisal for disclosure of certain information);”.

(2) REGULATIONS ON ALLOWABLE COSTS.—Section 410 of title 39, United States Code, is amended by adding at the end the following:

“(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.”.

(e) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking “Postmaster General” each place it appears and inserting “Chief Postal Inspector”.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—(A) Subsection (a) of section 8G of the Inspector General Act of 1978 (as amended by section 601(a)) is further amended—

(i) in paragraph (2), by striking “the Postal Regulatory Commission, and the United States Postal Service;” and inserting “and the Postal Regulatory Commission;” and

(ii) in paragraph (4), by striking “except that” and all that follows through “Code;” and inserting “except that, with respect to the National Science Foundation, such term means the National Science Board;”.

(B)(i) Subsection (f) of section 8G of such Act is repealed.

(ii) Subsection (c) of section 8G of such Act is amended by striking “Except as provided under subsection (f) of this section, the” and inserting “The”.

(C) Section 8J of such Act is amended by striking the matter after “8D,” and before “of this Act” and inserting “8E, 8F, 8H, or 8L”.

(2) RELATING TO TITLE 39, UNITED STATES CODE.—(A) Subsection (e) of section 202 of title 39, United States Code, is repealed.

(B) Paragraph (4) of section 102 of such title 39 (as amended by section 101) is amended to read as follows:

“(4) ‘Inspector General’ means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;”.

(C) The first sentence of section 1003(a) of such title 39 is amended by striking “chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law;” and inserting “chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law;”.

(D) Section 1003(b) of such title 39 is amended by striking “respective” and inserting “other”.

(E) Section 1003(c) of such title 39 is amended by striking “included” and inserting “includes”.

(3) RELATING TO THE ENERGY POLICY ACT OF 1992.—Section 160(a) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(a)) is amended (in the matter before paragraph (1)) by striking all that follows “(5 U.S.C. App.)” and before “shall—”.

(g) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2) or subsection (c), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION PROVISIONS.—

(A) PRESIDENTIAL APPOINTMENT AUTHORITY AVAILABLE IMMEDIATELY.—The authority to appoint an Inspector General of the United States Postal Service in accordance with the amendments made by this section shall be available as of the effective date of this section.

(B) CONTINUATION IN OFFICE.—Pending the appointment of an Inspector General of the United States Postal Service in accordance with the amendments made by this section, the individual serving as the Inspector General of the United States Postal Service on the day before the effective date of this section may continue to serve—

(i) in accordance with applicable provisions of the Inspector General Act of 1978 and (except as provided in clause (ii)) of title 39, United States Code, as last in effect before the effective date of this Act; but

(ii) subject to the provisions of such title 39 as amended by subsection (e) of this section (deeming any reference to the “Inspector General” in such provisions, as so amended, to refer to the individual continuing to serve under authority of this subparagraph) and subparagraph (C).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, section 8L(e) of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2005.

(ii) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2005, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(D) ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

#### TITLE VII—EVALUATIONS

##### SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.

(a) REPORT BY THE POSTAL SERVICE.—The United States Postal Service shall, within 12 months after the date of the enactment of this Act, submit to the President, the Congress, and the Postal Regulatory Commission, a written report on universal postal service in the United

States (hereinafter in this section referred to as “universal service”). Such report shall include at least the following:

(1) A comprehensive review of the history and development of universal service, including how the scope and standards of universal service have evolved over time.

(2) The scope and standards of universal service provided under current law (including sections 101 and 403 of title 39, United States Code) and current rules, regulations, policy statements, and practices of the Postal Service.

(3) A description of any geographic areas, populations, communities, organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.

(4) The scope and standards of universal service likely to be required in the future in order to meet the needs and expectations of the American public, including all types of mail users, based on such assumptions or alternative sets of assumptions as the Postal Service considers plausible.

(5) Such recommendations as the Postal Service considers appropriate.

(b) REPORT BY THE POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall, within 12 months after receiving the report of the Postal Service under subsection (a), submit to the President and the Congress a written report evaluating the report of the Postal Service. The report of the Commission shall include at least the following:

(1) Such comments and observations relating to the matters addressed in the Postal Service’s report as the Commission considers appropriate.

(2) An estimate of the cost attributable to the obligation to provide universal service under prior and current law, respectively.

(3) An estimate of the likely cost of fulfilling the obligation to provide universal service under—

(A) the assumptions or respective sets of assumptions of the Postal Service described in subsection (a)(4); and

(B) such other assumptions or sets of assumptions as the Commission considers plausible.

(4) Such additional topics and recommendations as the Commission considers appropriate.

(c) CONSULTATION.—In preparing the reports required by this section, the Postal Service and the Postal Regulatory Commission—

(1) shall consult with each other, other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of mail, and the general public; and

(2) shall address in their respective reports any written comments received under this section.

(d) CLARIFYING PROVISION.—Nothing in this section shall be considered to relate to any services that are not postal services (within the meaning of section 102 of title 39, United States Code, as amended by section 101).

##### SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

(1) the operation of the amendments made by the Postal Accountability and Enhancement Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review such report and to submit written comments thereon. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

(c) **SPECIFIC INFORMATION REQUIRED.**—The Postal Regulatory Commission shall include, as part of at least its first report under subsection (a), the following:

(1) **COST-COVERAGE REQUIREMENT RELATING TO COMPETITIVE PRODUCTS COLLECTIVELY.**—With respect to section 3633 of title 39, United States Code (as amended by this Act)—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

(2) **COMPETITIVE PRODUCTS FUND.**—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 301, in consultation with the Secretary of the Treasury)—

(A) a description of how such Fund has operated;

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

(3) **ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS FUND.**—With respect to section 3634 of title 39, United States Code (as amended by this Act), in consultation with the Secretary of the Treasury—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) **IN GENERAL.**—The Federal Trade Commission shall prepare and submit to the President, the Congress, and the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and private companies providing similar products.

(b) **RECOMMENDATIONS; ADJUSTMENTS.**—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end and, in the interim, to account under section 3633, for the net economic effects provided by those laws.

(c) **CONSULTATION.**—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) **COMPETITIVE PRODUCT RATE REGULATION.**—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required by section 3633 of title 39, United States Code.

**SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.**

(a) **STUDY.**—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) **PERFORMANCE EVALUATIONS.**—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary

to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

**SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.**

(a) **PLAN.**—The United States Postal Service shall, before the deadline specified in subsection (b), develop and be prepared to implement, whenever necessary, a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the United States Postal Service shall submit to the Board of Governors and to Congress a written report describing its plan under this section.

**SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.**

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

**SEC. 707. RATES FOR PERIODICALS.**

(a) **IN GENERAL.**—The United States Postal Service, acting jointly with the Postal Regulatory Commission, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) **RECOMMENDATIONS.**—The report shall include recommendations for any administrative action or legislation that might be appropriate.

**SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

(a) **IN GENERAL.**—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) **SPECIFIC REQUIREMENTS.**—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

**SEC. 709. NETWORK OPTIMIZATION.**

(a) **IN GENERAL.**—The Postal Service shall, within 90 days after the end of each fiscal year, prepare and submit to the Postal Regulatory Commission, the Congress, and the Board of Governors a written report on the postal processing, transportation, and distribution networks. Such report shall include at least the following:

(1) An account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of the processing, transportation, and distribution networks, while preserving the timely delivery of postal services.

(2) An account of—

(A) actions taken to identify any excess capacity within the processing, transportation, and distribution networks; and

(B) actions taken to implement savings through realignment or consolidation of facilities.

(3) Identification of statutory or regulatory obstacles that prevented or will prevent the Postal Service from taking action to realign or consolidate facilities.

(4) Such additional topics and recommendations as the Postal Service considers appropriate.

(b) **TREATMENT AS PERFORMANCE GOALS.**—The Postal Service shall establish and report the matters set forth in subsection (a) as performance goals in the reports required by sections 2803 and 2804.

(c) **ACTIONS TO BE TAKEN.**—The Postal Service shall take such actions it considers, in its sole discretion, necessary and appropriate to provide the Nation with a modern and efficient network for the processing, transportation, and distribution of mail. Nothing in this section shall prevent the Postal Service from making such improvements in the efficiency and effectiveness of the network as it deems appropriate.

**SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.**

(a) **APPOINTMENT OF RESEARCH ORGANIZATION.**—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall appoint, in such manner and under such terms as he in his sole discretion determines appropriate, an independent, impartial, and expert research organization (hereinafter in this section referred to as the “research organization”) to prepare and submit to the President and to Congress a comprehensive report that evaluates what business model would best promote an efficient, reliable, innovative, and viable Postal Service that can meet the needs of the Nation and its citizens in the 21st century. The final report required by this section shall be submitted within 27 months of the date of the enactment of this Act. The final report shall identify costs, benefits, and feasible options, if any, associated with one or more strategies for—

(1) maintaining the Postal Service in its current form as an independent establishment in the executive branch of the Government; and

(2) transforming the Postal Service into an ordinary corporation, owned wholly by the Government, wholly by private shareholders, or partly by the Government and partly by private shareholders.

(b) **PROTECTION OF UNIVERSAL SERVICE.**—The research organization may include such recommendations as it considers appropriate with respect to how the Postal Service’s business model can be maintained or transformed in an orderly manner that will minimize adverse effects on all interested parties and assure continued availability of affordable, universal postal service throughout the United States (based on the reports required by section 701). The research organization shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States.

(c) **ELEMENTS OF REPORT.**—

(1) **TOPICS TO ADDRESS.**—The report shall address at least the following:

(A) Specification of nature and bases of one or more sets of reasonable assumptions about the development of the postal services market, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the research organization.

(B) Specification of the nature and bases of one or more sets of reasonable assumptions about the development of the regulatory framework for postal services, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the research organization.

(C) Qualitative and, to the extent possible, quantitative effects that each strategy identified by the research organization may have on universal service generally, the Postal Service,

mailers, postal employees, private companies that provide delivery services, and the general public.

(D) Financial effects that each strategy identified by the research organization may have on the Postal Service, postal employees, the Treasury of the United States, and other affected parties, including the American mailing consumer.

(E) Feasible and appropriate procedural steps and timetables for implementing each strategy identified by the research organization.

(F) Such additional topics as the Comptroller General or the research organization shall consider necessary and appropriate.

(2) MATTERS TO CONSIDER.—For each strategy identified, the research organization shall assess how each business model might—

(A) address the human-capital challenges facing the Postal Service, including how employee-management relations within the Postal Service may be improved;

(B) optimize the postal infrastructure, including the best methods for providing retail services that ensure convenience and access to customers;

(C) ensure the safety and security of the mail and of postal employees;

(D) minimize areas of inefficiency or waste and improve operations involved in the collection, processing, or delivery of mail; and

(E) impact other matters that the Comptroller General or the research organization determines are relevant to evaluating a viable long-term business model for the Postal Service.

(3) EXPERIENCES OF OTHER COUNTRIES.—In preparing the report required by subsection (a), the research organization shall comprehensively and quantitatively investigate the experiences of other industrialized countries that have transformed the national post office. The research organization shall undertake such original research as it deems necessary. In each case, the research organization shall describe as fully as possible the costs and benefits of transformation of the national post office on all affected parties and shall identify any lessons that foreign experience may imply for each strategy identified by the research organization.

(d) OUTSIDE EXPERTS.—In preparing its study, the research organization may retain the services of additional experts and consultants.

(e) CONSULTATION.—In preparing its report, the research organization shall consult fully with the Postal Service, the Postal Regulatory Commission, other Federal agencies, postal employee unions and management associations, mailers, private companies that provide delivery services, and the general public. The research organization shall include with its final report a copy of all formal written comments received under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Postal Service Fund such sums as may be necessary to carry out this section.

#### SEC. 711. STUDY ON CERTAIN PROPOSED AMENDMENTS.

The Government Accountability Office shall study and, within 12 months after the date of the enactment of this Act, submit to the Congress a report on sections 805 and 807 of H.R. 22 (109th Congress), as introduced. Such report shall include the following:

(1) A description of the efficiencies of the current system under section 5402 of title 39, United States Code.

(2) The potential for cost savings to the United States Postal Service if the Postal Service, rather than the Department of Transportation, were to administer international mail carriage.

(3) The potential for harm to domestic air carriers and American workers currently employed by domestic air carriers.

(4) The potential loss of revenue to domestic air carriers and American workers currently employed by domestic air carriers.

(5) The process by which the United States Postal Service would administer any changes in current law.

(6) The process by which the Department of Transportation administers current law.

(7) The potential for change in protection of national security by carriage by foreign carriers of international mail to and from the United States.

#### SEC. 712. DEFINITION.

For purposes of this title, the term “Board of Governors” has the meaning given such term by section 102 of title 39, United States Code.

### TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

#### SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

“(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) With respect to such property, such officers shall have the power to—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms; and

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

“(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

“(A) serve warrants and subpoenas issued under the authority of the United States; and

“(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

“(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

“(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.”

#### SEC. 802. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

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

“(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

“(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).”

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made

available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

#### SEC. 803. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting “(a)” after “8.” and by adding at the end the following:

“(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.”

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

#### SEC. 804. OBSOLETE PROVISIONS.

(a) REPEAL.—

(1) IN GENERAL.—Chapter 52 of title 39, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(d) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) CLERICAL AMENDMENT.—The analysis for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

#### SEC. 805. INVESTMENTS.

Subsection (c) of section 2003 of title 39, United States Code, is amended—

(1) by striking “(c) If” and inserting “(c)(1) Except as provided in paragraph (2), if”;

(2) by adding at the end the following:

“(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

“(B) For purposes of this paragraph, the term ‘commercial entity’ means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.”

#### SEC. 806. REDUCED RATES.

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

“(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or

kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with section 3622.

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

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

(2) in subsection (g), by adding at the end the following:

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

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

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

“(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.”; and

(3) by adding at the end the following:

“(m) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).”

#### SEC. 807. HAZARDOUS MATTER.

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

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

“(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

“(2) In this subsection, the term ‘hazardous material’ means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.”

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

#### “§3018. Hazardous material

“(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

“(b) PROHIBITIONS.—No person may—

“(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

“(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

“(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

“(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

“(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

“(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

“(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

“(A) a civil penalty of at least \$250, but not more than \$100,000, for each violation;

“(B) the costs of any clean-up associated with each violation; and

“(C) damages.

“(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

“(A) the person has actual knowledge of the facts giving rise to the violation; or

“(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

“(3) SEPARATE VIOLATIONS.—

“(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

“(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

“(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

“(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

“(1) the nature, circumstances, extent, and gravity of the violation;

“(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

“(3) the impact on Postal Service operations; and

“(4) any other matters that justice requires.

“(f) CIVIL ACTIONS TO COLLECT.—

“(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

“(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

“(g) CIVIL JUDICIAL PENALTIES.—

“(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

“(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

“(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

“(h) DEPOSIT OF AMOUNTS COLLECTED.—

“(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

“(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.”

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking “and” after the semicolon;

(B) in paragraph (8), by striking “purposes.” and inserting “purposes; and”; and

(C) by adding at the end the following:

“(9) any amounts collected under section 3018.”

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

“3018. Hazardous material.”

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after “explosives,” the following: “hazardous materials.”

#### SEC. 808. PROVISIONS RELATING TO COOPERATIVE MAILINGS.

(a) DETERMINATION.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against (1) abuses of rates for nonprofit mail and (2) deception of consumers.

(b) REGULATIONS.—If the Postal Regulatory Commission determines that section E670.5.3 of the Domestic Mail Manual does not contain adequate safeguards as described in the preceding subsection, the Commission shall promulgate such regulations as may be necessary to ensure such safeguards.

(c) TIMING.—The Postal Regulatory Commission shall complete the examination required by subsection (a) and the promulgation of any necessary regulations required by subsection (b) within one year after the date of the enactment of this section.

#### SEC. 809. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking “section 3628” and inserting “sections 3662 through 3664”.

(b) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

#### “§3682. Size and weight limits

“The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.”

(c) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

(1) in section 503 (as so redesignated by section 501), by striking “this chapter.” and inserting “this title.”; and

(2) in section 2401(d), by inserting “(as last in effect before enactment of the Postal Accountability and Enhancement Act)” after “3626(a)” and after “3626(a)(3)(B)(ii)”.

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking “Committee on Post Office and Civil Service” each place it appears and inserting “Committee on Government Reform”; and

(B) by striking “Not later than March 15 of each year,” and inserting “Each year,”

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking “2401(g)” and inserting “2401(e)”.

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

“(b) Except as otherwise provided, the Governors are authorized to establish reasonable

and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows “any provision” and inserting “of this title.”

(g) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 1005(d)(2)—

(A) by striking “subsection (g) of section 5532.”; and

(B) by striking “8344,” and inserting “8344”;

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

“28. Strategic Planning and Performance Management ..... 2801”;

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows “nonmailable” and precedes “(h),” and inserting “under section 3001(d),”; and

(B) in the sentence following paragraph (3), by striking all that follows “nonmailable” and precedes “(h),” and inserting “under such section 3001(d),”;

(4) in section 3210(a)(6)(C), by striking the matter after “if such mass mailing” and before “than 60 days” and inserting “is postmarked fewer”; and

(5) by striking the heading for section 3627 and inserting the following:

“§3627. Adjusting free rates”.

**TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS**

**SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.**

(a) TERMINATION OF OBLIGATION TO PAY GOVERNMENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of title 5, United States Code, is amended by striking all that follows “be equal to” and inserting “zero.”

(b) DETERMINATION AND DISPOSITION OF POSTAL SURPLUS OR SUPPLEMENTAL LIABILITY.—Section 8348(h) of title 5, United States Code, is amended to read as follows:

“(h)(1) For purposes of this subsection, a Postal surplus (or supplemental liability) is the amount, as estimated by the Office, by which—

“(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, is less than (or greater than)

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the Postal Service currently subject to this subchapter pursuant to section 8334;

“(ii) that portion of the Fund balance, as of the date such surplus or supplemental liability is determined, attributable to payments to the

Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.

“(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2005, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

“(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

“(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

“(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

“(iii)(I) If a surplus of \$500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

“(II) If a surplus of less than \$500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

“(C)(i) Not later than June 15, 2040, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2039.

“(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2039, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2040, which provides for the liquidation of such liability by September 30, 2043.

“(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

“(I) shall be applied first toward reducing the amount of any supplemental liability described in section 8423(b)(1)(B); and

“(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

“(D) An amortization schedule under this paragraph—

“(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

“(ii) shall supersede any amortization schedule previously established under this paragraph; and

“(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

“(E)(i) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph, to the extent not superseded or canceled.

“(ii) A determination under subparagraph (B)(i) or (C)(i) that no supplemental liability ex-

ists shall cancel any amortization schedule previously established under this paragraph, to the extent of any amounts first coming due after the close of the fiscal year to which such determination relates.

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

“(4) As used in this subsection, ‘Postal Service Retiree Health Benefits Fund’ refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.”

(c) PROVISIONS RELATING TO AMOUNTS FOR MILITARY SERVICE.—In the application of paragraph (2) of section 8348(g) of title 5, United States Code, for fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service if Public Law 108-18 had not been enacted (including earnings thereon) and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(d) REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, any determination or redetermination made by the Office of Personnel Management under this section shall, upon request of the United States Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

**SEC. 902. HEALTH INSURANCE.**

(a) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8906(g)(2)(A), by striking “by the United States Postal Service.” and inserting “first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.”;

(2) by inserting after section 8909 the following:

**“§8909a. Postal Service Retiree Health Benefits Fund**

“(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the ‘Fund’) which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

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

“(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of

the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

“(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

“(A) the portion of the net present value described in paragraph (1) attributable to the current year’s service of Postal Service employees; and

“(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value;

except that the amount otherwise payable by the Postal Service under the preceding provisions of this paragraph by not later than September 30, 2006, shall be reduced by the total contributions made by the Postal Service under section 8906(g)(2) and attributable to fiscal year 2006 (as determined by the Office).

“(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

“(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection.”; and

(3) in the analysis by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

(b) REVIEW.—

(1) IN GENERAL.—Any regulation established under section 8909a(c)(4) of title 5, United States Code (as amended by subsection (a)) shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its regulation in light of such report, and shall take such action as it considers appropriate. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

#### SEC. 903. REPEALER.

Section 3 of Public Law 108-18 is repealed.

#### SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND MILITARY SAVINGS.

(a) DEFINITION.—For purposes of this section, the term “total savings” means, for any fiscal year, the amount equal to—

(1) the amount of contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund under subchapter III of chapter 83 of title 5, United States Code, for such fiscal year if Public Law 108-18 and this Act had not been enacted, minus

(2) the amount of amortization payments (if any) required under section 8348(h)(2) of title 5, United States Code, for such fiscal year.

(b) CALCULATIONS.—The following calculations shall be made for each of fiscal years 2006 through 2015:

(1) Not later than January 31 of the fiscal year following the fiscal year involved, the Office of Personnel Management (in consultation with the Postal Service) shall determine the total savings for the fiscal year.

(2) On the date of making its determination under paragraph (1), the Office shall also determine (in consultation with the Postal Service) the amount by which—

(A) the amount the Postal Service paid for that fiscal year into the Postal Service Retiree Health Benefits Fund in accordance with 8909a(c)(2) of title 5, United States Code, exceeds (if at all)

(B) the amount of payments made by the Postal Service for that fiscal year from such Fund in order to satisfy the requirements of section 8906(g)(2) of such title 5.

(c) REQUIREMENTS.—

(1) IF THRESHOLD IS MET.—If the amount calculated under subsection (b)(2) for a fiscal year is greater than or equal to two-thirds of the total savings in such fiscal year, no further action under this section is necessary with respect to such fiscal year.

(2) IF THRESHOLD IS NOT MET.—

(A) IN GENERAL.—If the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, the Postal Service shall pay into the Postal Service Retiree Health Benefits Fund, by June 30 of the following fiscal year, an amount equal to the difference.

(B) ALLOWABLE ALTERNATIVE.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), and subject to clause (ii), the Postal Service may instead use the amount that it would otherwise be required to pay into the Postal Service Retiree Health Benefits Fund for a year (or any portion thereof) to reduce the postal debt.

(ii) LIMITATION.—Amounts used to reduce the postal debt under this subparagraph may not exceed a total of \$3,000,000,000.

(3) AGGREGATION ALLOWED.—Notwithstanding paragraph (2), if the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, but the sum of the amounts calculated under subsection (b)(2) for all fiscal years from 2006 to the fiscal year involved is greater than or equal to two-thirds of the sum of the total savings for such years, no further action under this section is necessary with respect to such fiscal year.

(d) REPORTING REQUIREMENT.—The Office of Personnel Management shall submit a report containing the results of its calculations under subsection (b) to the Postal Service, the Postal Regulatory Commission, and the Congress.

(e) WAIVER AUTHORITY.—The requirements of subsection (c)(2)(A) may, upon application of the Postal Service, be waived by the Postal Regulatory Commission, to the extent that the Commission determines that such waiver is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

#### SEC. 905. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title shall take effect on October 1, 2005.

(b) GOVERNMENT CONTRIBUTIONS.—Section 901(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 109-184. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall

be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109-184.

AMENDMENT NO. 1 OFFERED BY MR. PENCE

Mr. PENCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. PENCE:

Page 73, strike line 7 and all that follows through page 74, line 2.

Page 74, line 3, strike “(d)” and insert “(c)”.

Page 74, strike all after “Act” on line 7 and before “any” on line 9, and insert “or”.

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The CHAIRMAN. Pursuant to House Resolution 380, the gentleman from Indiana (Mr. PENCE) and the gentleman from Virginia (Mr. TOM DAVIS) each will control 10 minutes.

The Chair recognizes the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer the Pence amendment to the Postal Accountability and Enhancement Act, and, along with several of my colleagues, will endeavor to bring real reform and real enhancement to a bill however well conceived and well intentioned by my colleagues. In fact, I rise today to begin by thanking the gentleman from Virginia (Chairman TOM DAVIS) and the gentleman from New York (Mr. MCHUGH), the author of this legislation, for their leadership on this measure and their sincerity in attempting to ensure the ongoing vitality of the U.S. Postal Service and the tradition that it has enjoyed in this Nation, an invaluable part of our economy since before our Nation was formed.

But before I get to the substance of the Pence amendment, Mr. Chairman, I want to begin to address the reasons why the Bush administration did today issue a Statement of Administration Policy opposing significant portions of this legislation and, in fact, suggesting that if this legislation did not achieve the objective of budget restraint and fiscal reform, that the President’s advisers would encourage him to veto this legislation that will come before the House today.

A few observations from the report on the President’s Commission of the United States Postal Service are in order. The Commission found that the number one problem facing the United States Postal Service is its complete inability to control costs, and ratepayers have been paying the freight as

a result of that along with taxpayers, who recently financed nearly \$7 billion in a Postal Service bailout just a few short years ago. Of that uncontrollable cost, 80 percent of the United States Postal Service costs are constituted in labor, this in a competitive marketplace where its competitors like UPS and FedEx spend only 56 percent and 42 percent of their cost on labor. Clearly the United States Postal Service is, as the President's Commission found, desperately in need of flexibility to achieve labor and workforce reforms.

The USPS is currently providing its workers roughly \$870 million more in benefits than Federal workers receive as a result of lucrative health and life insurance benefits, and that is just the beginning.

H.R. 22 that we will consider today contains none of the main collective bargaining proposals offered by the President's Commission. It contains none of the reforms offered by the Commission to establish a BRAC-style process to consolidate and shut down facilities that use money. And while H.R. 22 does laudably contain a cap on postal rate increases, many are highly skeptical about how that will work. The Congressional Budget Office states that the USPS will "increase rates . . . more frequently than under current law, but by smaller increments." In addition, the cap could be blown if such an increase were "reasonable and equitable and necessary" for the continuation of services. Such a cap hardly equips the U.S. Postal Service with the tools to control costs and renegotiate its labor costs.

So we come today, a series of us, with the kind of reforms that we believe will give the Postal Service the opportunity and the flexibility to achieve reforms necessary to live within its means. That is why I submitted an amendment to enact the Commission's recommendation to ensure that health care and pension benefits ought to be a part of normal collective bargaining. It was rejected and will not be considered today. That is why the gentleman from North Carolina (Mr. MCHENRY) had offered an amendment to enact the Commission's recommendation to reform the workmen's compensation reforms to align more closely with the private sector. Unfortunately, these amendments were made not in order.

In fact, today the Pence amendment will deal with a provision of this legislation that, believe it or not, would set aside a seat on the Board of Governors specifically for an individual unanimously approved by all labor unions. More on that in a moment.

I say this with deep respect, Mr. Chairman. I understand why the Democratic minority whip just said on this floor that this was "a good bill that should be passed this year." I just do not understand why a Republican majority in Congress, with the firm and clear opposition of a Republican President, would do likewise.

Let me get to the substance of the Pence amendment, if I may. The Pence amendment essentially removes a provision of H.R. 22 that requires that the first vacant slot on the Board of Governors literally be filled by an individual with the unanimous backing of "all labor organizations." The headlines today would attest that it might be difficult, depending on the definition of "all labor organizations," to get all labor organizations to agree on anything these days.

Currently the Board of Governors consists of nine members with no more than five from the same party. This bill would ensure that one of these seats would be set aside to represent the interests of one special interest group to the exclusion of other interests like mailers or, dare I say it, taxpayers. It is this type of provision that we must confront in this legislation, and the Pence amendment humbly seeks to strike that.

And workforce is the issue. Mr. Chairman, the U.S. Postal Service is the second largest employer in the United States, second only to Walmart. And according to the President's Commission report, 3 out of every \$4 earned by the Postal Service went to pay wages and benefits of its employees in fiscal year 2002. The unions have been extraordinarily effective over the last 25 years, as has been said over and over again, preventing layoffs and recently announcing having inked the second largest pay increase in the unions' history. I believe that is why the Statement of Administration Policy that was issued today simply read, and I quote, "Should the final bill have such an adverse impact on the federal budget, the President's senior advisers would recommend that he veto the bill."

The Pence amendment is all about bringing the kind of reforms in this bill that will allow the U.S. Postal Service to maintain its vitality and its fiscal integrity for years to come. The Pence amendment in its effort to strike section 401 is a modest effort to achieve that goal.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the gentleman from Indiana described the President's Commission on Postal Reform. Many of the broad outlines of that Commission's recommendations are in the legislation before us today.

The legislation before us today is supported by not Democrats, not just Republicans, but by labor unions and management, the National Association of Manufacturers, the National Federation of Independent Businesses, Small Business Legislative Council, and the postal unions. And I will not go through all of them, but all the newspapers, the publishers, the mailers, all the people that look to the Postal Service for their service.

This amendment, when we get right to what the amendment is all about, is to take the one out of nine seats on the Board of Governors away from a union representative. The Postal Service has 700,000 career employees. They are the ones who make the system work. Are they not entitled to have one representative on this board? This idea of giving them representation is backed by labor, management, business. We have all worked cooperatively together on postal reform legislation. They have built trust and made compromises. That is why this legislation is so broadly supported.

This amendment would undermine the consensus behind the legislation. It singles out one group and says they lose, they lose their seat on the Board. That may be good politics for people who want to say they are antiunions, but it is not good for this legislation or for the Postal Service.

So I would urge my colleagues to oppose the Pence amendment and to support the bill, not to adopt this or any other amendment that would undermine the consensus behind the legislation. And then let us move forward. We will have to be talking to the other body. We will have to be talking to the President and people in his administration in order to get a law, but we have a consensus for a bill that we hope will become law.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me this time.

This amendment that is proposed would remove a provision from a very carefully crafted piece of legislation that would require the first vacant slot on the Postal Service Board of Governors to be filled by an individual with unanimous backing by labor unions. Currently there are 11 members. This bill would provide that one of those seats become a labor seat, certainly not documented by labor. One seat would be a labor seat.

The provision requiring the seat to become a labor seat has been in the Postal Accountability and Enhancement Act for 11 years. No group on either side of the issue has ever expressed any opposition to the change in statute, and I am unclear why this issue has actually risen today. Simply requiring one of a nine-member Board speak on behalf of thousands of employees in everyone's district here hardly seems to be unreasonable or undoable.

H.R. 22 is a bill that we have heard many people on the floor say how many years it has been worked on, well over decades. I urge my colleagues to vote against this and other amendments under consideration today that do not provide for any real improvements in the underlying text of the bill that we have before us tonight.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to be very quick here, and I certainly appreciate our distinguished colleague's comments and deeply appreciate his concern.

Just a couple of points. As the gentleman from California (Mr. WAXMAN) said, I have to disagree with the gentleman's comments that somehow the President's Commission is at odds with what this bill entails. In fact, I think it is fair to say the President's Commission adopted at least, at least, 80 percent of H.R. 22 as it was originally crafted and continues to be contained therein.

He also spoke about the Statement of Administration Policy, the SAP, and talked about labor representation as though the President has opposed this. That is not true. The President's SAP does not address this issue, and, in fact, the United States Postal Service has not taken a position on this particular provision as well, which is the context of the gentleman's amendment. So with all due respect, I think that clarification is vital.

It also talked about Republican-Democrat. I do not think this is a novel concept. Many major corporations from DaimlerChrysler, TWA, and on and on have labor union representation on their boards. I would also note that many organizations that are generally not considered liberal, perhaps Democrat, not just support H.R. 22, but oppose the gentleman's amendment. I will name just a few: American Express, Bank of America, Capital One, JP Morgan Chase, the Citigroup, Financial Services Roundtable. As I said, pretty conservative organizations that oppose this amendment.

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The fact of the matter is, this is well accepted in the industry sector. There will be one out of nine members of the Board of Governors, and I do not think it is unreasonable to have such a labor-intensive organization have a labor vote on that. While I do respect the gentleman's intent, I think, as has been suggested, these are issues that are much better dealt with in the context of the committee.

Mr. PENCE. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I rise in support of the Pence amendment.

It is important to remove this language in H.R. 22 that reserves one seat on the Postal Board of Governors for a representative of labor unions.

The U.S. Postal Service is a government-owned corporation and, as such, is technically owned by the U.S. taxpayers. Reserving one space exclusively for labor representatives confers preferential status and, in my view, undue influence to one interest group

at the expense of all other stakeholders in postal operations, particularly first-class mail users.

I think it is a good amendment. I think it is something that I believe this kind of set-aside may not be in the Senate version of the bill. It is certainly a topic that needs to be debated and taken up in conference, and I would encourage my colleagues to accept it.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, one of the great accomplishments of this legislation is the fact that it was able to bring labor and management together, to bring both sides to the table and have them agree. The gentleman from Indiana's amendment did not mention the fact that four of the slots were designated for management. So certainly, if management would have at least four slots pretty much designated, then certainly labor ought to have one.

The other point is that throughout the deliberations, very seldom did we hear much conversation about Democrats and Republicans. We really talked about moving a postal system and a postal service forward. So I would oppose the gentleman's amendment.

Mr. PENCE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of his amendment.

As I understand it, if there are nine members of this board, no more than five can be from the party of the President. Inasmuch as the President is presently a Republican, that would mean that at least four seats would be allocated to those who are members of the Democrat party. The last time I looked, although perhaps some labor unions are having a falling out amongst themselves, there has not been a falling out between the labor union movement and the Democrat Party, so I would think they would be well represented.

I think perhaps somebody that might be terribly underrepresented tonight would be the poor beleaguered taxpayer. Given that there are over 140 million of them, perhaps we should consider reserving at least one seat for them, to make sure that their interests are represented since, too often, so many of the aspects of this legislation that we are discussing tonight ultimately could fall upon them. If there is anybody who deserves special recognition, and not that all stakeholders should not be considered, I would suggest that we reserve a seat for the taxpayer.

Mr. PENCE. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

First of all, I cannot thank the ranking member and the chairman of the full committee, and the ranking member of the subcommittee and chairman of the subcommittee enough for such a thoughtful piece of legislation. But with respect to this amendment, might I say the composition of this board and the representation of one union member is what you call consensus and what you call cooperation.

Just listening to the leadership of my local union, the letter carriers, with the President, President Prissy Grace, and the American Postal Workers Union, as well as the Postmaster General in my congressional district, Ms. Green, they have had a working relationship that can be exhibited by the structure in which this particular legislation allows: representation of the workers, the workers who are committed to delivering the mail, rain or shine. I think that to eliminate this particular position really eliminates the voice of the workers.

We are already saying that we are committed to the work ethic of the postal workers in the postal system. This is a reform and reformation of the postal system for the better, to make them efficient, to make them productive, and to serve the American people. Having their work represented on this board serves the American people, and I ask my colleagues to support the amendment.

Mr. PENCE. Mr. Chairman, I yield myself such time as I may consume.

I thank the members of the committee, especially the author of this bill, for their sincerity of purpose and civility in this debate. I also thank my colleagues who have risen in support of the Pence amendment, which, again, simply removes the provision of H.R. 22 that requires that the first vacant slot on the Board of Governors be filled by an individual with unanimous backing by all labor organizations.

The Pence amendment is supported by National Right to Work, by Americans For Tax Reform. We already have fairness on the board, Mr. Chairman: five members of one political party, the party in power in the White House, and four members appointed by the other political party. We do not need a tie-breaker member that is selected by the unanimous consent of all the labor unions.

If we are going to achieve the labor and workforce reforms necessary to restore efficiency to the Postal Service and ensure its vitality in the 21st century, we must ensure that those reforms are not stymied by a reserved seat for labor unions on the postal board.

Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as

I may consume. I thank my friend for offering his amendment. I am unable to support it, but I understand the spirit in which he is giving it to try to make this a better bill.

This is a carefully crafted bill in which Republicans and Democrats have come together to try to work through a lot of issues, and moving one part out really jeopardizes the total package.

The gentleman quoted the minority leader, or the minority whip, as saying, This is a good bill and it should be passed this year; and he understood that, but why would a Republican Congress do it.

A Republican Congress would pass this bill because we do not want a 2-cent rate increase next January. The only way we can forestall that rate increase is by passing this legislation; and to pass this legislation, we need to work together with Republicans and Democrats. That means we give on some issues and we take on others.

The question was raised, well, we ought to have a taxpayer on the board. I think everybody who is on the board is a taxpayer. The fact of the matter is, there are four members of the board who are management, but they are not postal management. There are two postal management members of the board, and this would reserve one for the unions to pick; and by the way, there are diversity among the postal unions. That is a tough job to pick somebody because of competing interests over mail handlers versus letter carriers and the like.

But this is good legislation, and I am afraid that this amendment, in my judgment, despite I think the best intentions of its author, will upset that delicate balance that we have created to this point. It is not something that is new to corporate America to have a member of labor sitting on corporate boards. It is actually done quite frequently, particularly in the airline industry and a number of other industries where this is fairly common at this point. And since the postal workers have a lot to gain or lose by this as well, we think their voice can be very constructive at the end of the day.

So for those reasons and the fact that this particular provision has been in the bill since its introduction 11 years ago, and until this amendment was filed, I do not think any objections have been raised. I understand where the gentleman is coming from; but for those reasons, I would ask my colleagues to reject the Pence amendment and to support the final passage.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. PENCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. PENCE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on

the amendment offered by the gentleman from Indiana (Mr. PENCE) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 109-184.

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

Mr. FLAKE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FLAKE:

Page 120, after line 8, insert the following (and make such technical and conforming changes as may be appropriate):

**SEC. 712. PILOT PROGRAM TO TEST ALTERNATIVE METHODS FOR THE DELIVERY OF POSTAL SERVICES.**

(a) **PILOT PROGRAM.**—The United States Postal Service may conduct a pilot program to test the feasibility and desirability of alternative methods for the delivery of postal services. Subject to the provisions of this section, the pilot program shall not be limited by any lack of specific authority under title 39, United States Code, to take any action contemplated or, to the extent specified in a waiver granted by the Postal Service in accordance with regulations under subsection (f), by any provision of law, rule, or regulation inconsistent with any action contemplated (any such waiver to be granted or denied in consultation with the Attorney General, to the extent any provision of title 18, United States Code, is involved).

(b) **REQUIREMENTS.**—

(1) **IN GENERAL.**—Under the pilot program, alternative methods for the delivery of postal services may be tested only in those communities that submit an appropriate application (together with a written plan) in such time, form, and manner as the Postal Service by regulation requires, and whose application has been duly approved. Any such application shall include—

(A) a description of the postal services that would be affected;

(B) the alternative providers selected and the postal services each would furnish (or the manner in which those decisions would be made);

(C) the anticipated costs and benefits to the Postal Service and users of the mail;

(D) the anticipated duration of the community's participation;

(E) a specific description of any actions contemplated for which there is a lack of specific authority or for which a waiver (as described in subsection (a)) would be necessary; and

(F) such other information as the Postal Service may require.

(2) **REVIEW BOARDS.**—Under the pilot program, the postmaster or postmasters within a community may, in accordance with regulations prescribed by the Postal Service, establish a postal performance review board (hereinafter in this section referred to as a "review board"). It shall be the function of a review board to submit any application under paragraph (1) on behalf of the community that it represents and to carry out the plan on the basis of which any such application with respect to such community is approved. A review board shall consist of the postmaster for the community (or, if there is more than one, the postmaster designated in accordance with regulations under subsection (f)), at least 1 individual who shall represent the interests of business concerns, and at least 1 individual who shall represent the interests of users of the class of mail for which the most expeditious handling and transportation is afforded by the Postal

Service. The postmaster (or postmaster so designated) shall serve as chairman of the review board.

(3) **ALTERNATIVE PROVIDERS.**—To be eligible to be selected as an alternative provider of postal services, a provider must be a commercial enterprise, nonprofit organization, labor organization, or other person that—

(A) possesses the personnel, equipment, and other capabilities necessary to furnish the postal services concerned;

(B) satisfies such security and other requirements as may be necessary to safeguard the mail, users of the mail, and the general public;

(C) submits a bid to the appropriate review board in such time, form, and manner (together with such accompanying information) as the review board may require; and

(D) meets such other requirements as the review board may require, consistent with any regulations under subsection (f) that may apply.

(4) **USE OF POSTAL FACILITIES AND EQUIPMENT.**—Postmasters shall at their discretion be permitted to allow alternative providers the use of facilities and equipment of the Postal Service, and any such proposed use shall, for purposes of the competitive bidding process, be taken into account using fair market value.

(c) **LIMITATIONS.**—The pilot program—

(1) may involve not more than a total of 20 communities; and

(2) shall terminate not later than 5 years after the date on which the program commences.

(d) **TERMINATION AUTHORITY.**—Subject to such conditions as the Postal Service may by regulation prescribe and the terms of any written agreement or contract entered into in conformance with such regulations, the participation of a community in the pilot program may be terminated by the Postal Service or by the review board for such community if either determines that the continued participation of the community is not in the best interests of the public or the Government of the United States.

(e) **EVALUATIONS.**—The Postal Service shall provide for an evaluation of the operation of the pilot program within each community that participates. Any such evaluation shall examine, at least and if applicable, reliability of mail delivery (including the rate of misdeliveries), timeliness of mail delivery (including the time of day that mail is delivered and the time elapsing from the postmarking to delivery of mail), volume of mail delivered, and any cost savings or additional costs to the Postal Service attributable to the use of alternative providers. Data included in any such evaluation shall be analyzed—

(1) by community characteristics, time of year, and type of postal service;

(2) by residential, business, and any other type of mail user; and

(3) on such other bases as the Postal Service may determine.

Each such evaluation and an overall evaluation of the pilot program shall be transmitted by the Postal Service to the President and each House of Congress by not later than 90 days after the date on which the program terminates.

(f) **REGULATIONS.**—The Postal Service may prescribe any regulations necessary to carry out this section.

(g) **RULE OF CONSTRUCTION.**—Nothing in this section shall be considered to affect the obligation of the Postal Service to continue providing universal service, in accordance with otherwise applicable provisions of law, in all aspects not otherwise provided for pursuant to this section.

The CHAIRMAN. Pursuant to House Resolution 380, the gentleman from Arizona (Mr. FLAKE) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I yield myself such time as I may consume.

My amendment is quite simple. It establishes a pilot program in at least 20 test communities, which would sunset in 5 years, to allow the U.S. Postal Service and the Congress to simply gather information. This pilot program would test the feasibility and desirability of alternative methods for the delivery of postal services.

The pilot program would test the current following assumptions about the Postal Service: Are consumers better off if the Postal Service remains a monopoly? Does the current postal infrastructure allow for as many delivery offerings as possible? Is the total value of the universal service model for postal delivery worth the expense?

Now, universal service by the Postal Service would continue to be provided, but participating postmasters would not be limited by the current monopoly statutes on first-class delivery and the use of postal mailboxes. If the postmaster so chooses, alternative providers, such as commercial enterprise, nonprofit organization, or a labor organization that satisfies a strict set of criteria could serve as an alternative provider for postal services. They would also be able to use the equipment and facilities of the USPS at the discretion of the postmaster for fair market value.

Mr. Chairman, with the dramatic reduction in first-class mail volume, coupled with the inability of the Postal Service to control costs, the Postal Service and Congress must have many well-tested alternatives for the future of mail delivery in the U.S.

Many European countries are well ahead of the U.S. on some new innovative ideas for structuring their respective postal delivery services. The pilot program is simply a test program to provide the Postal Service and Congress with useful information to make future changes to postal services, if needed.

I might add, Mr. Chairman, we know that some changes are needed. We are running into deficits; and every 4 years, we are bailing out the USPS. I do not want to be here 4 years from now doing the same thing. So let us test some alternatives. Let us see what else works. Let us see what other countries are doing that we might adopt to control costs and improve quality.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise to claim the time in opposition, and I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I understand this amendment is to do something on a pilot project basis with

the idea that we are going to promote innovation in the delivery of the mail. Well, I support that goal.

H.R. 22 has many provisions to promote flexibility and innovation; but this amendment, maybe it was not intended this way, but it is drafted in a way that is an open invitation to abuse. It allows a local postmaster to contract out the delivery of the mail to private companies; and in the course of that amendment, it provides that any provision of Federal law that might otherwise apply to these contracts and the delivery of mail can be waived.

Well, that is incredibly far-reaching. It would mean a local postal official could set up his own company. He can ask his brother-in-law to set up another company and then contract with that company to do the job of delivering the mail. It is certainly a blatant conflict of interest.

But even criminal laws could be waived under this amendment. There would be no prohibition against under-the-table kickbacks. The provision could allow the waiver of the privacy of first-class mail. This could lead to a lot of unforeseen problems.

That is why the postmasters of this country, the National League of Postmasters, which represents the local postmasters, has said that the postmasters very strongly oppose the amendment: "The Congressman's approach would be harmful to universal service."

So it is not just that this amendment goes against the compromise that has brought this whole bill together, but I do not think it has been thought through, and I do not think we ought to adopt something that has so many possible ramifications to it that we would certainly regret.

Mr. FLAKE. Mr. Chairman, I yield myself 1 minute.

I should point out to the gentleman that postmasters would have full authority under this legislation, under this amendment to actually contract out or not. They can disband the alternative at any time.

Now, under the law, only the government can do it right, and we ought to take over the entire economy. If we do not trust the private sector to deliver services more effectively and more efficiently than the government can, shoot, why do we not get in every business.

We know that that is not the case. We know the private sector typically can do it better, faster, cheaper, smarter than government.

Every 4 years, we are back in again to bail out the USPS. This simply says, why do we not try something, try some alternatives that are working in other countries; try some things that might work, that might lower the cost, that might be more taxpayer-friendly than this. That is what this amendment is all about.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

We are not bailing out the post office every 4 years; it is like every 35 years, since the last act. We did come out with some additional money because of anthrax and because of the added burdens that we put on the post office at that point, but the post office has to operate under its own budget; and right now, the only thing they can rely on is rate increases, and rate increases drive mail away into other areas, which is why we are working this bill tonight.

I appreciate the gentleman's amendment, but I think it is unnecessary. The Postal Service already has considerable authority to test and implement different methods of providing services to the public. Nothing in the current law, I repeat, nothing in the current law or in H.R. 22 prevents the Postal Service from employing contractors in providing mail service.

The post office has a long history of doing so, starting with the Pony Express. For most of its history, the Postal Service has relied on dedicated contractors to manage small post offices, often in rural communities. Almost 8 percent of all of the post offices are operated under contract, not by postal employees; 8 percent.

Also, for 160 years, the Postal Service has relied on private contractors for the transportation and delivery of mail. Star route carriers today continue to operate, transporting mail efficiently and effectively nationwide, even delivering the mail to over 2 million homes 6 days a week. In many rural communities, those served by both contract postal units and star route carriers, the Postal Service's entire relationship with their customers is already handled by contractors, not employees.

□ 2030

For these longstanding and successful postal contract arrangements, this amendment is at best unnecessary. At worst it adds a new layer of procedures that will place burdens on expanding these programs into newer areas. One puzzling aspect is its provision allowing the Postal Service to waive laws, rules and regulations, including sections of the criminal code, which I am not sure I understand. Maybe the gentleman on his time will explain.

But the Service does not need this waiver to contract the provisions. In fact, it only serves to remove needed protections safeguarding the sanctity, privacy and security of the mail. Do customers really want their mail delivered by contractors to whom no laws apply?

In short, the Postal Service has been conducting pilot tests of these ideas since the 19th century. I would say the evaluation phase is over, the results are in, they work. Let us not mess them up with a new, unnecessary, convoluted regulation. Both postmaster organizations oppose this.

And so I would urge that we defeat this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, before yielding 2 minutes to the gentleman from Indiana, let me just say that asking the Postal Service to give up what might lead to giving up their monopoly or a portion of their monopoly is unreasonable. We need to prime the pump a little. No private business would in their self-interest do that either. That is why this amendment is important.

Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the Flake amendment. There are 38,000 post offices, stations and branches in the U.S. Postal Service. The Flake amendment contemplates a pilot program that would affect 20 communities.

By my bad math, that is about 1/20 of 1 percent of the communities that are served by 38,000 post offices, stations and branches. But that is an unacceptable reform.

I rise with great respect to the gentleman from California (Mr. WAXMAN), who has been a champion of postal reform for much longer than I have been in Congress. I do respect the gentleman and have great respect for the chairman. It is lost on me why we cannot say, in the name of reform, in the greatest free-market economy in the history of the world, that we will allow for competition in 20 pilot programs to run out inefficiencies and to bring innovation and new ideas to the delivery of postal services.

The Flake amendment is just simply that; 38,000 post offices, stations and branches. The Flake amendment asks humbly that we identify 20 communities to test the feasibility and desirability of alternative methods of delivery of postal services, and this reform bill and its reformers oppose that pilot program.

Let us bring real reform to reform. If we cannot, let us introduce a pilot program where reform and the ideas of reform might be able to take hold to create a truly diverse 21st century postal delivery system for America.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, a couple of comments. The gentleman from Arizona (Mr. FLAKE) said you cannot expect the Postal Service to give back any of its monopoly powers. With all due respect, the Postal Service has agreed to this bill. In this bill there is a substantial reduction in the monopoly scope on first class mail.

Right now first class mail and monopoly is whatever the Postal Service says it is. Under this bill there is a bright line determination; it is six times the rate of the first class stamp, which is a substantial give-back.

I also have to underscore the distinguished chairman's concerns about the suspension of title 18. You can argue

about the needs for reform in pilot tests and such, but maybe it was an inadvertent step, but the fact still remains the amendment before the committee today will be a suspension of the criminal code, which would empower, rightly or wrongly, those who would be entrusted with the mail of the United States Postal Service to be totally absolved under criminal responsibility.

Now, I can leave it to the imagination of the Members what that could potentially mean for identity theft and on and on and on. I doubt that the gentleman from Arizona (Mr. FLAKE) meant it, but regardless, that is what this reform calls for.

The last thing I would say is I think that a concern is about a new model for the Postal Service, and I would agree, and this bill understands that as well. We specifically negotiated with the administration a study to be conducted under the auspices of GAO. They will hire a contract specialty firm that will look at establishing a future business model that, in part, and I will quote from the bill, "seeks to study the maintenance of the Postal Service in its current form as an independent establishment in the executive branch; and, two, transforming the Postal Service into an ordinary corporation, wholly owned by the government or wholly owned by private shareholders or partly by the government and partially by private shareholders."

This bill admits we have to take a careful look at the future of the business model of the Postal Service. That is why this amendment should be rejected.

Mr. FLAKE. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment. I do want to add my voice to those congratulating the gentleman from Virginia (Chairman TOM DAVIS) for his good work, and I know that the job has been very tough to try to reconcile all of the differing interests and opinions that are brought to bear. But I find it very difficult to believe that we have something to fear from a pilot program in 20 communities out of 38,000. It appears that something is not working, or we would not be here this evening.

Many, many years ago when I was in high school, I played both football and tennis, and I was equally poor at both, but I remember something a tennis coach once told me: There are many ways to lose at tennis. Try them all.

Well, we are losing here tonight if we are contemplating rate increases and imposing \$6 billion on the taxpayers. Maybe we should try something new. Maybe we should try some pilot programs. Maybe we should get some more experimentation, some more innovation, some more competition into the system, and maybe we can find ways to start winning at this.

And because of that, I do rise in strong support of the gentleman's amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, let me just say this: On the \$6 billion figure floating around, it is important to understand that the reason the Congressional Budget Office scores this as an increase is because they have contemplated and put into their figuring that there will be rate increases. Our legislation takes away those rate increases, so that is not coming into the Treasury. So if you do not have a rate increase, it scores.

When you sit here and say it is going to cost the taxpayers, that means they do not have to go with a rate increase. We are being penalized because we are not doing rate increases, and it scores against us. We need to understand that. And that is why this legislation is being passed.

Mr. Chairman, I yield 1½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me the time.

The Postal Service delivers to 140 million sites, and there is about a million new sites every year. It provides universal service.

When I hear my colleagues talk about fine-tuning this bill, that is what we have been doing for the last 10 years. This is a bill that has been fine-tuned, and it has been fine-tuned in a way that has gotten support from disparate parts.

The employees who work at the postal system know that more than 200,000 jobs are going to be lost. That is why we opposed the first amendment by the gentleman from Indiana (Mr. PENCE) because we need employee buy-in.

The reason why we opposed this amendment, it seems to fail to understand that there is competition with FedEx, with UPS, with DHL and many more things. They are also competing with the newspapers.

We are trying to provide flexibility to the postal system. So I understand the concept of fine-tuning, but I would dispute significantly the failure to recognize that the bill has been fine-tuned. And when I am hearing my colleagues offer their amendments, I feel like they have not read the bill, because the bill allows for competition, it allows for flexibility, and it has buy-in in all of these disparate parts.

This amendment needs to be defeated if we are going to pass this bill.

Mr. FLAKE. Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I will reserve the balance of my time.

Mr. FLAKE. Mr. Chairman, I yield myself the balance of the time. I will go ahead and wrap up.

Labor costs consume 80 percent of the Postal Service revenue, whereas UPS and FedEx spend only 56 and 42 percent of their revenues on labor. I

know there are differences. It is a little different animal when we are talking about first class mail delivery, and what FedEx and UPS do, but 80 percent versus 56 and 42 percent respectively.

I think we ought to be questioning ourselves, what are they doing that we are not? What can we do so we will not have either more money out of the general fund or a rate increase? Whether it is paid by the consumer with monopoly service or the taxpayer is the same. It is both money coming out of the taxpayers' or consumers' pockets.

And I do not want to be here, like I said, 4 years from now talking about another rate increase or talking about more money from the general fund because we simply have not done anything about making sure that competition drives improvement in service and it controls cost. We know that from everything we know about the economy. We know that from education reform. We know that in other areas as well. Competition and choice controls costs and improve quality. This is what we are trying to jump-start here. That is the purpose of this amendment.

As the gentleman from Indiana (Mr. PENCE) mentioned, this is hardly revolutionary. A fraction of 1 percent would be allowed to actually test this proposition, that maybe competition would help control cost and improve quality, a fraction of 1 percent of all of the sites out there, of all of the systems running.

So this is a very modest amendment. I think it is important.

Mr. Chairman, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I would just note that the universal service obligation of the post office gives it a burden in requirements that some of the other facts and figures alluded to do not have to meet.

Mr. Chairman, I would yield the remaining time to my colleague, the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, where I come from, there is an old saying: If it looks like a duck, acts like a duck, quacks like a duck, talks like a duck, then it is a duck. And it seems to me that the bottom line is this is an attempt to privatize the Postal Service, which would decimate the concept of universal service. There could be no universal service if this amendment is passed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. FLAKE).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FLAKE. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Arizona (Mr. FLAKE) will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 109-184

AMENDMENT NO. 3 OFFERED BY MR. HENSARLING  
of Texas

Mr. HENSARLING. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. HENSARLING:

Page 138, line 13, strike "(h)(1)" and insert "(h)(1)(A)".

Page 138, line 16, strike "(A)" and insert "(i)".

Page 138, line 22, strike "(B)" and insert "(ii)".

Page 138, line 23, strike "(i)" and insert "(I)".

Page 139, line 1, strike "(ii)" and insert "(II)".

Page 139, line 7, strike "(iii)" and insert "(III)".

Page 139, after line 10, insert the following:  
“(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

“(ii) Military service so included shall not be included in the computation of any amount under subsection (g)(2).

Page 142, strike line 21 and all that follows through page 143, line 7.

Page 143, line 8, strike "(d)" and insert "(c)".

Page 147, lines 12 through 13, strike “**ES-CROW AND MILITARY**” (and make such technical and conforming changes as may be appropriate).

Page 148, line 2, strike “for each of fiscal years 2006 through 2015” and insert “for fiscal year 2006 and each fiscal year thereafter”.

Page 148, line 24, strike “two-thirds of”.

Page 149, line 6, strike “two-thirds of”.

Page 149, line 25 through page 150, line 1, strike “two-thirds of”.

Page 150, line 4, strike “two-thirds of”.

Page 150, strike lines 13 through 21.

The CHAIRMAN. Pursuant to House Resolution 380, the gentleman from Texas (Mr. HENSARLING) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, earlier this evening some Members rose in support of postal workers. Other rose in support of large postal customers. This is good, and this is well, and I respect that.

But tonight I wish to rise in support of the taxpayer. Today our Nation is riding a wave, an impending fiscal tsunami, that threatens to drown our children and grandchildren in a sea of red ink.

Since 2000, the amount that government spends annually per household has risen from \$18,000 to over \$20,000 in 2004. This is only the fourth time in our Nation's history that spending exceeded \$20,000 per household. It also represents the largest expansion of the Federal Government since the Vietnam era.

The Federal debt now stands at a staggering \$7.8 trillion, or roughly \$26,600 for every man, woman and child in America. And the Nation's financial challenges are about to get markedly worse over the next decade.

Without reforms we know that Medicare will grow at a rate of 9 percent, Medicaid 7.8 percent and Social Security at 5.5 percent a year, far outstripping our country's economic growth or our ability to pay for them. Where will it all end?

□ 2045

According to the GAO, if we ignore the runaway growth of government spending, we will have to double taxes, double taxes on our children and grandchildren just to balance the budget by the year 2040. If this occurs, we stand to become the first generation of Americans to leave our children with a lower standard of living, not to mention a legacy of limited freedom and unlimited government.

Now, day after day Member after Member comes to this floor to decry the Federal deficit and the legacy of debt that we are leaving our children. Rarely have so many of us spoken so passionately against the Federal deficit and yet done so little about it.

Today, I wish to provide us with an opportunity to change that. In 1970, the fundamental principle of postal reform was established, that the Postal Service would become a self-financed entity. According to title 39 of the U.S. Code: “Postal rates shall be established to apportion the costs of all postal operations to all users of the mail.”

Simply put, the U.S. Postal Service is supposed to pay its own freight; but according to the Congressional Budget Office, and I understand that the chairman of the full committee respectfully disagrees with their score, the CBO says H.R. 22 will actually place us further in debt by almost \$6 billion over 10 years. And who should pay for that \$6 billion?

It either must be paid by those who use the Postal Service or the taxpayers. I vote for those who actually use the service. Now, some of my colleagues have argued that the Postal Service faces unique responsibilities and thus taxpayers must subsidize them. It is true. The Postal Service does have some unique responsibilities, but they also enjoy a host of unique benefits that private businesses do not. The Postal Service pays no Federal, States, or local taxes. They are immune from most regulations such as zoning, motor vehicle registration, and even parking tickets.

The Postal Service can borrow from the Treasury at below-market rates and is immune from anti-trust laws despite the fact that it can compete against private companies.

The number one problem facing the United States Postal Service is not the lack of a taxpayer subsidy. It is their seeming inability to control costs. Labor costs consume 80 percent of the

Postal Service's revenue, whereas UPS and Fed Ex spend only 56 percent and 42 percent of their revenues on labor.

The Postal Service has been unable to close existing facilities or consolidate new operations. In fact, Mr. Chairman, over half of its 38,000 facilities do not generate enough revenue to cover their costs.

Mr. Chairman, again, I want to state that I respect the hard work that the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from New York (Mr. McHUGH) have done on this bill. And I do understand that many different opinions had to be reconciled to get a postal reform bill to the floor. But I believe that we need to stand with President Bush, we need to stand with the American taxpayer and make this a budget-neutral bill. Instead, if we want to make the Postal Service more cost competitive, what we really need to do is enact all of the Presidential commission's workforce reforms.

In 2003, Congress decided that the Postal Service was on a course to possibly overpay its civil service retirement system costs. Rather than let the Postal Service spend the money, it retained it and an escrow account was created within the U.S. Treasury.

H.R. 22 releases that escrow account to pre-fund Postal Service health care liabilities. I agree this is a sound use of funds, but it is unfortunately incomplete. Under H.R. 22, only two-thirds of the funds would be used to fund the health care liabilities letting 2 to \$3 billion a year slip back to the Postal Service for other expenditures.

With the Postal Service currently facing an unfunded health care liability of roughly \$75 billion, I believe every dollar in the escrow account should be used to offset this growing concern. If not, taxpayers will surely be called upon to make up this tremendous shortfall.

Mr. Chairman, my amendment would reduce the cost of H.R. 22 substantially by ensuring that 100 percent of the civil service retirement system savings will be directed to the Postal Service's unfunded health care liability. In addition, this amendment would maintain the Postal Service's financial responsibility for paying the civil service retirement system costs associated with military service credits, instead of passing the cost on to the Treasury and the American taxpayer.

Again, the question is not whether but who will pay, the customers that use the Postal Service or the American taxpayers.

Mr. Chairman, I want the Postal Service to become more efficient, and I believe we can do so by enacting more of the President's initiatives. Let us not pass the buck to American taxpayers yet again. Let us not pile further debt upon our grandchildren. Let us ensure the United States Postal Service continues to pay its own freight. I do appreciate the good work of the gentleman from Virginia (Mr.

TOM DAVIS), but let us make H.R. 22 budget neutral. I urge all of my colleagues to vote for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. TOM DAVIS of California. Mr. Chairman, I claim the time in opposition to the amendment.

Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate where the gentleman is trying to go with this, but even the White House does not want to have this scored neutrally under CBO numbers. They have asked for the Office of Management and Budget numbers because the Congressional Budget Office ends up counting rate increases that have not taken effect as already being part of revenue. And to the extent that we can stave off stamp tax rate increases, what the gentleman's amendment would do, not stave it off but it includes it, to the extent we do that, then it counts against the budget.

The other problem in terms of budget neutrality comes from the President's own commission on the Postal Service which recommended that the military years of service for postal employees under the CSRS retirement program, that those years be paid for by the military like they are for every other agency of government instead of having postal patrons for that. This was the President's commission which recommended that.

What I have talked about, we save money, not take money away. But the question is why should rate payers have to pay for military service in an agency where you have veterans hiring preference? It is not fair to rate payers. It is driving up rates.

Finally, let me say, it is not two-thirds of the escrow funds that is funding health care. Ninety percent of the escrow funds over the next 5 years are to fund health care. That is more than any other agency in government. Not enough for some Members, I am sure; but this is the appropriate way in my opinion for the post office to operate.

We have committed to the White House. We are going to work to try to get this as budget neutral as we can as we move forward to the conference working with OMB, but the Congressional Budget Office's arcane scoring rules make it virtually impossible to get here in this particular case.

Once again, let me remind everyone, what is the alternative? The alternative to this legislation is rate increases, postal rate increases, a stamp act, on every man, woman and child that mails a letter in this country. That is what we are trying to stave off, because as rate increases go up, people quit using the post office; and it gets this downward spiral that will lead to the demise of the post office as we know it. That is why this legislation has such broad support from such diverse groups in the private sector and in the public sector.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I join my chairman in opposing this amendment. It sounds like the gentleman from Texas (Mr. HENSARLING) has some vision of postal reform. Well, I just think that is great, except we cannot pass it.

The alternative to this, as the chairman has pointed out, is going to be the existing system and undesirable increases on rates.

So what is the amendment before us? It is not a different version of reform of the Postal Service. It would micro-manage the Postal Service's use of money that is now in an escrow and will tell them they have to use most of that money to pre-fund health benefits.

Well, we say they must use some of that money for that, but if they shift the money for that purpose, then to run the Postal Service they are going to have to ask for an increase in rates. That is why in amendment would certainly be opposed by all the people who use the Postal Service, the mailers, the enterprises, the businesses in this country that rely on the Postal Service for their success.

Now, the amendment does something else, and I just have to underscore it. As the chairman of the Committee on Government Reform mentioned, it would require the Postal Service to pay for the pensions for those who served in the military before they went to work for the Postal Service. If you were in the military and went to work for any other agency of government, that agency would not be required to pay for your military pension. They might be required to pay for the pension accrued from service in that agency.

Why should the Postal Service have to pay for the military pensions? It does not make sense. And the consequence of it would be that the Postal Service would have to ask for an increase in rates because they have this extra financial burden to pay for military pensions. That is why this amendment is one that I think it to be a poison pill for the legislation.

You could imagine the groups that oppose this legislation like the National Association of Manufacturers and NFIB and others opposing this because they do not want higher rates. I urge opposition to the amendment.

Mr. HENSARLING. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Texas (Mr. HENSARLING) has 3½ minutes remaining.

Mr. HENSARLING. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I want to thank the gentleman from Texas (Mr. HENSARLING) for his work on this amendment and, of course, our chairman of the Committee on Government Reform, who has worked so diligently on this bill and for years has worked to be able to move it to the body.

Mr. Chairman, you know, we are hearing a lot about the military benefits. From my service on the Committee on Government Reform, I think I remember that there was in 2003 \$103 billion overpayment in pension benefits that was refunded to the Postal Service, and as a part of that agreement they were made responsible for the military pension costs of the employees. And this bill would reverse those provisions.

I think it is also worthy to notice that the gentleman from Texas (Mr. HENSARLING) has pointed out in 1971 the reform efforts put in place at the Postal Service, it would be a self-financing agency, and with that mandate they were given certain exemptions and advantages such as tax and anti-trust. And they are obliged and obligated to manage their finances in a manner that covers its full costs.

We must continue to encourage the Postal Service to be self-sufficient and not be subsidized by the taxpayer. I urge my colleagues to vote in favor of the amendment.

Mr. TOM DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Let me just note for the record that we did agree at that point as a condition of releasing overpayment by the Post Office Department into pension funds that they, for a temporary period of time, fund the military for CSRS retirees. But we awaited studies; and the President's own commission, which has been quoted here, came back and recommended that in point of fact the post office should not be making these payments, that it should go to the general fund side of the ledger.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, a couple points with respect to the gentleman's comments about the 1971 legislation. She is right, but she is also a little behind because that is why we are making changes.

H.R. 22, in fact, applies anti-trust provisions against the Postal Service, overturning the 1971 bill. We require taxes paid on the business computations for the competitive products portion of the Postal Service, again over-changing the 1971 bill. So that is what this is all about. I am glad I had the opportunity to update the gentleman's perspective on that.

The other thing I would note is that, again, this would be the only Federal agency treated in this manner, the only Federal agency. And there is really no justification for it. I have heard a great deal about budget scoring, and I cannot speak as to the author of this amendment, but I suspect he along with others including myself, stood in the well of this House many, many times and spoke about the moronic perspective of scoring when it came to tax cuts. We did not want that kind of scoring, the same kind of scoring that is applied here. We wanted dynamic

scoring, and if we were dynamically scoring, I think we would be referring to the statistics provided by others including the Envelope Manufacturing Association that says if this amendment were to pass, it would result in the loss of \$64 billion in tax revenues from those firms that use the Postal Service for mailing and such that pay sales taxes and others; 245,000 jobs would be impacted just in the first year; and 3.5 million jobs would be impacted over 10 years, all of whom are taxpayers.

So if we are dynamically scoring, as all of us who were so strongly in support of it when it came to the tax cuts, this would not be even an issue.

Let me just state, here is what the Postal Service says about this particular amendment: "If the Hensarling amendment is adopted, the Postal Service will be in worse financial situation then it occupied before the CSRS overfunding was identified and corrected. If the Hensarling amendment is adopted, the total of these four payments would be \$97 billion over the next 10 years." That is a tax on the American mailing public, and I think we ought to resist this amendment.

□ 2100

Mr. HENSARLING. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Chairman, I rise today to speak in favor of the amendment introduced by my friend, the gentleman from Texas (Mr. HENSARLING), that would encourage fiscal responsibility by the U.S. Postal Service. I, along with others, support the Postal Service that is staffed by thousands of resourceful and hard-working individuals who I believe have the ability, by themselves, to adapt and create a smoothly functioning postal system that can really be a world leader for us all.

I support the Postal Service and the valuable contribution that it provides to our economy, and the common-sense bill before us will move the U.S. Postal Service in the right direction so it will no longer be a drain on the U.S. taxpayer. This amendment will encourage the Postal Service to move forward, to take responsibility for its own liabilities, just as other large corporations have to do.

Recently Fortune Magazine ranked the Postal Service as the 44th largest corporation in the world and looked at the many assets that they have. Unfortunately, the Postal Service has not taken advantage of those assets and its potential. Instead, it has not moved in the direction of other industrialized nations in providing us with a mail system of innovation, financial soundness, and quality of services.

That study also looked at nine different postal services, two private and seven from industrial nations, and in seven out of those nine categories found the U.S. Postal Service ranked last.

I believe that the Hensarling amendment will change that. It will move the Postal Service of this country in the right direction, make it more efficient, and, most importantly, take the burden off the U.S. taxpayer.

For that reason, Mr. Chairman, I encourage my colleagues to support the gentleman from Texas in his amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Chairman, I thank the gentleman for yielding me this time, and I certainly appreciate the intentions of my good friend from Texas in his amendment tonight, but this amendment would do absolutely nothing to stop a stamp rate increase for next year. In fact, it seems very clear this amendment would have the opposite impact. In fact, it would trigger large increases in the postal rates.

These rate increases would be caused by denying the Postal Service access to billions of dollars which are set aside in their escrow accounts, because the Postal Service will be forced actually to completely finance the escrow requirement as well as the annual health benefit premium for all of their retirees. This will not stop what we are all trying to stop, and that is a postal rate increase, which is really a tax. I guess you can call it a stamp tax, if you want, on the American people.

This amendment is not fiscally conservative. In fact, if you are an individual who just mails a couple of letters a year, I suppose it does not matter if you have a tax increase, a stamp tax increase, of 1 or 2 cents a letter. However, think if you are a catalogue mailing company or a large user of the Postal Service.

This amendment would also require the Postal Service to spend all of their savings released under H.R. 22 on paying the Postal Service's unfunded health care liability rather than giving the Postal Service some much-needed flexibility to use on other pressing issues.

This underlying bill is based on the premise of making the Postal Service more cost-effective, more cost-efficient, making it run in a more businesslike, user-friendly type of way, and this amendment, I believe, is a step backward. So I urge my colleagues to vote "no" on this amendment and also to support the underlying bill, which is a great bipartisan effort and a great bipartisan piece of legislation.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, the argument for budget-neutral reform reminds me of the teaching of Frederick Douglass when he said that he understood one thing, if he did not understand anything else; and that is that in this world we may not get everything that we pay for, but we most

certainly will pay for everything that we get.

As the Comptroller General has pointed out, respected accounting principles indicate that the burden for payment for service belongs to the beneficiary. The U.S. Government benefited from military service, and it should cover the cost.

To ensure predictable rate increases, H.R. 22 employs strict rate caps at the subclass level, prohibiting rate increases at a rate greater than CPI. These restrictions, however, make it important that the Service have access to the one-third of its own money to help cover operational costs if need be. Otherwise there is no alternative but to accumulate debt.

Mr. Chairman, the Hensarling amendment would have us embedded in debt. I oppose it.

Mr. HENSARLING. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, 2 years ago the Postal Service was here asking for \$7 billion from the taxpayer. They come here tonight asking for \$6 billion from the taxpayers. Again, I ask the question: Where will it all end?

If we do not change the way we do business in Washington, we will have to double taxes on future generations just to balance the budget. Somehow, somewhere, some way, someday we must stop the madness of the spending.

I agree with many of my colleagues that there are only two choices: Either ratepayers or taxpayers are going to pick up this tab. I vote for ratepayers.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I urge opposition to this. First of all, the Postal Service is self-operating. What it raises, it spends. The increased money that was added was because of the anthrax issue. It was a national security issue.

This amendment is bad for the economy. We are talking about 8 percent of GDP now having at least a 2 percent increase. In fact, under this amendment, it would not just be a rate increase, this would be basically a rate shock to Americans. It would be far in excess of that.

This hurts Americans' competitiveness, it is bad for the economy, and I urge my colleagues to vote against this amendment.

Mrs. MALONEY. Mr. Chairman, I rise in opposition to the Hensarling amendment.

This amendment would strip critical provisions contained in the underlying bill.

The gentleman's amendment would require the Postal Service to continue to be responsible for the military retirement costs of its employees.

No agency other than the Postal Service is responsible for the military retirement costs that Treasury pays for all other Federal employees.

It is absolutely essential to the long-term survival of the Postal Service to relieve it and postal customers of this \$27 billion burden by returning that responsibility to the Treasury.

Additionally, his amendment would mandate that 100 percent, rather than 2/3, of the Civil Service Retirement System savings that re-

sulted from the fix Congress enacted 2 years ago and are currently in an escrow account, must go to the Retiree Health Benefits Fund.

This provision would have the effect of increasing postal rates by preventing the USPS from using these savings to help keep postal rates stable.

If Congress had not fixed this formula, the Postal Service's required share of this Federal government retirement fund would have resulted in a long-term overpayment of more than \$70 billion.

These savings were intended to provide the Postal Service with much-needed fiscal relief and a promise of stable postal rates until 2006.

A vote for this amendment would undermine the very reason why this bill is on the Floor today . . . to enact long overdue reforms of the Postal Service.

I urge my colleagues to vote "no."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. HENSARLING).

The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report number 109-184.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 1 offered by the gentleman from Indiana (Mr. PENCE) and amendment No. 2 offered by the gentleman from Arizona (Mr. FLAKE).

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. PENCE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. PENCE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 82, noes 345, not voting 6, as follows:

[Roll No. 428]

AYES—82

Aderholt	Cole (OK)	Hayworth
Akin	Conaway	Hefley
Barrett (SC)	Cox	Hensarling
Bartlett (MD)	Culberson	Herger
Bass	Deal (GA)	Hostettler
Beauprez	DeLay	Hunter
Blackburn	Feeney	Hyde
Blunt	Flake	Inglis (SC)
Bonilla	Foxx	Issa
Boustany	Franks (AZ)	Istook
Brady (TX)	Garrett (NJ)	Jindal
Burgess	Gingrey	Johnson, Sam
Buyer	Gohmert	Jones (NC)
Cantor	Goodlatte	King (IA)
Carter	Granger	Kingston
Chabot	Hall	Kirk
Chocola	Hayes	Mack

Marchant	Otter	Stearns
McCaul (TX)	Paul	Sullivan
McCrery	Pence	Tancredo
McHenry	Pitts	Thornberry
McMorris	Poe	Tiahrt
Miller (FL)	Price (GA)	Weldon (FL)
Miller, Gary	Rohrabacher	Westmoreland
Musgrave	Royce	Whitfield
Myrick	Ryun (KS)	Wilson (SC)
Neugebauer	Sessions	
Norwood	Shadegg	

NOES—345

Abercrombie	Doolittle	Larsen (WA)
Ackerman	Doyle	Larson (CT)
Alexander	Drake	Latham
Allen	Dreier	LaTourette
Andrews	Duncan	Leach
Baca	Edwards	Lee
Bachus	Ehlers	Levin
Baird	Emanuel	Lewis (CA)
Baker	Emerson	Lewis (GA)
Baldwin	Engel	Lewis (KY)
Barrow	English (PA)	Linder
Barton (TX)	Eshoo	Lipinski
Bean	Etheridge	LoBiondo
Becerra	Evans	Lofgren, Zoe
Berkley	Everett	Lowe
Berman	Farr	Lucas
Berry	Fattah	Lungren, Daniel
Biggert	Ferguson	E.
Bilirakis	Filner	Lynch
Bishop (GA)	Fitzpatrick (PA)	Maloney
Bishop (NY)	Foley	Manzullo
Bishop (UT)	Forbes	Markey
Blumenauer	Ford	Marshall
Boehrlert	Fortenberry	Matheson
Boehner	Fossella	Matsui
Bonner	Frank (MA)	McCarthy
Bono	Frelinghuysen	McCormack (MN)
Boozman	Galleghy	McCotter
Boren	Gerlach	McDermott
Boswell	Gilchrest	McGovern
Boucher	Gillmor	McHugh
Boyd	Gonzalez	McIntyre
Bradley (NH)	Goode	McKeon
Brady (PA)	Gordon	McKinney
Brown (OH)	Graves	McNulty
Brown (SC)	Green (WI)	Meehan
Brown, Corrine	Green, Al	Meek (FL)
Brown-Waite,	Green, Gene	Meeks (NY)
Ginny	Grijalva	Melancon
Burton (IN)	Gutierrez	Menendez
Butterfield	Gutknecht	Mica
Calvert	Harman	Michaud
Camp	Harris	Millender-
Cannon	Hart	McDonald
Capito	Hastings (FL)	Miller (MI)
Capps	Hastings (WA)	Miller (NC)
Capuano	Herse	Mollohan
Cardin	Higgins	Moore (KS)
Cardoza	Hinchey	Moore (WI)
Carnahan	Hobson	Moran (KS)
Carson	Hoekstra	Moran (VA)
Case	Holden	Murphy
Castle	Holt	Murtha
Chandler	Honda	Nadler
Clay	Hooley	Napolitano
Cleaver	Hoyer	Neal (MA)
Clyburn	Hulshof	Ney
Coble	Inslee	Northup
Conyers	Israel	Nunes
Costa	Jackson (IL)	Nussle
Costello	Jackson-Lee	Oberstar
Cramer	(TX)	Oliver
Crenshaw	Jefferson	Ortiz
Crowley	Jenkins	Osborne
Cubin	Johnson (CT)	Owens
Cuellar	Johnson (IL)	Pallone
Cummings	Johnson, E. B.	Pascarell
Cunningham	Jones (OH)	Pastor
Davis (AL)	Kanjorski	Payne
Davis (CA)	Kaptur	Pearce
Davis (FL)	Keller	Pelosi
Davis (IL)	Kelly	Peterson (MN)
Davis (KY)	Kennedy (MN)	Peterson (PA)
Davis (TN)	Kennedy (RI)	Petri
Davis, Jo Ann	Kildee	Pickering
Davis, Tom	Kilpatrick (MI)	Platts
DeFazio	Kind	Pombo
DeGette	King (NY)	Pomeroy
Delahunt	Kline	Porter
DeLauro	Knollenberg	Price (NC)
Dent	Kolbe	Pryce (OH)
Diaz-Balart, L.	Kucinich	Putnam
Diaz-Balart, M.	Kuhl (NY)	Radanovich
Dicks	LaHood	Rahall
Dingell	Langevin	Ramstad
Doggett	Lantos	Rangel

Regula	Serrano	Tiberi	Shadegg	Sullivan	Weldon (FL)	Rangel	Serrano	Tiberi
Rehberg	Shaw	Tierney	Stearns	Tancredo	Wilson (SC)	Regula	Shaw	Tierney
Reichert	Shays	Towns				Rehberg	Shays	Towns
Renzi	Sherman	Turner				Reichert	Sherman	Turner
Reyes	Sherwood	Udall (CO)				Renzi	Sherwood	Udall (CO)
Reynolds	Shimkus	Udall (NM)	Abercrombie	Diaz-Balart, M.	Kline	Reyes	Shimkus	Udall (NM)
Rogers (AL)	Shuster	Upton	Ackerman	Dicks	Knollenberg	Reynolds	Shuster	Upton
Rogers (KY)	Simmons	Van Hollen	Aderholt	Dingell	Kucinich	Rogers (AL)	Simmons	Van Hollen
Rogers (MI)	Simpson	Velázquez	Alexander	Doggett	Kuhl (NY)	Rogers (KY)	Simpson	Velázquez
Ros-Lehtinen	Skelton	Visclosky	Allen	Doolittle	LaHood	Rogers (MI)	Skelton	Visclosky
Ross	Slaughter	Walden (OR)	Andrews	Doyle	Langevin	Ros-Lehtinen	Slaughter	Walden (OR)
Rothman	Smith (NJ)	Walsh	Baca	Drake	Lantos	Ross	Smith (NJ)	Walsh
Roybal-Allard	Smith (TX)	Wamp	Bachus	Dreier	Larsen (WA)	Rothman	Smith (TX)	Wamp
Ruppersberger	Smith (WA)	Wasserman	Baird	Edwards	Larson (CT)	Roybal-Allard	Smith (WA)	Wasserman
Rush	Snyder	Schultz	Baker	Ehlers	Latham	Ruppersberger	Snyder	Schultz
Ryan (OH)	Sodrel	Waters	Baldwin	Emanuel	LaTourette	Rush	Sodrel	Waters
Ryan (WI)	Solis	Watson	Barrow	Emerson	Leach	Ryan (OH)	Solis	Watson
Sabo	Souder	Watt	Barton (TX)	Engel	Lee	Ryan (WI)	Souder	Watt
Salazar	Spratt	Waxman	Bass	English (PA)	Levin	Ryun (KS)	Spratt	Waxman
Sánchez, Linda T.	Stark	Weiner	Bean	Eshoo	Lewis (CA)	Sabo	Stark	Weiner
Sánchez, Loretta	Strickland	Weldon (PA)	Beauprez	Etheridge	Lewis (GA)	Salazar	Strickland	Weldon (PA)
Sanders	Stupak	Weller	Becerra	Evans	Lewis (KY)	Sánchez, Linda T.	Stupak	Weller
Saxton	Sweeney	Wexler	Berkley	Everett	Lipinski	Sánchez, Loretta T.	Sweeney	Westmoreland
Schakowsky	Tanner	Wicker	Berman	Farr	LoBiondo	Sanders	Tanner	Wicker
Schiff	Tauscher	Wilson (NM)	Berry	Fattah	Lofgren, Zoe	Saxton	Tauscher	Whitfield
Schwartz (PA)	Taylor (MS)	Wolf	Biggert	Ferguson	Lowey	Schakowsky	Taylor (MS)	Wicker
Schwarz (MI)	Taylor (NC)	Woolsey	Bilirakis	Filner	Lucas	Schiff	Taylor (NC)	Wilson (NM)
Scott (GA)	Terry	Wu	Bishop (GA)	Fitzpatrick (PA)	Lynch	Schwartz (MI)	Terry	Wolf
Scott (VA)	Thomas	Wynn	Bishop (NY)	Foley	Maloney	Schwartz (MI)	Thomas	Woolsey
Sensenbrenner	Thompson (CA)	Young (AK)	Bishop (UT)	Forbes	Manzullo	Schwartz (MI)	Thompson (CA)	Wu
	Thompson (MS)	Young (FL)	Blumenauer	Ford	Marchant	Schwartz (MI)	Thompson (MS)	Wynn
			Blunt	Fortenberry	Markey	Schwartz (MI)	Thornberry	Young (AK)
			Boehert	Fossella	Marshall	Schwartz (MI)	Tiahrt	Young (FL)
			Boehner	Frank (MA)	Matheson	Schwartz (MI)		
			Bonilla	Frelinghuysen	Matsui	Schwartz (MI)		
			Bonner	Gallegly	McCarthy	Schwartz (MI)		
			Bono	Gerlach	McCollum (MN)	Schwartz (MI)		
			Boozman	Gilchrest	McCotter	Schwartz (MI)		
			Boren	Gillmor	McCrary	Schwartz (MI)		
			Boswell	Gohmert	McDermott	Schwartz (MI)		
			Boucher	Gonzalez	McGovern	Schwartz (MI)		
			Boustany	Goode	McHugh	Schwartz (MI)		
			Boyd	Goodlatte	McIntyre	Schwartz (MI)		
			Bradley (NH)	Gordon	McKeon	Schwartz (MI)		
			Brady (PA)	Granger	McKinney	Schwartz (MI)		
			Brown (OH)	Graves	McNulty	Schwartz (MI)		
			Brown (SC)	Green (WI)	Meehan	Schwartz (MI)		
			Brown, Corrine	Green, Al	Meeke (FL)	Schwartz (MI)		
			Brown-Waite,	Green, Gene	Meeke (NY)	Schwartz (MI)		
			Ginny	Grijalva	Melancon	Schwartz (MI)		
			Burgess	Gutierrez	Menendez	Schwartz (MI)		
			Burton (IN)	Gutknecht	Michaud	Schwartz (MI)		
			Butterfield	Hall	Millender-	Schwartz (MI)		
			Calvert	Harman	McDonald	Schwartz (MI)		
			Camp	Hart	Miller (MI)	Schwartz (MI)		
			Cannon	Hastings (FL)	Miller (NC)	Schwartz (MI)		
			Cantor	Hastings (WA)	Miller, Gary	Schwartz (MI)		
			Capito	Hayes	Mollohan	Schwartz (MI)		
			Capps	Hefley	Moore (KS)	Schwartz (MI)		
			Capuano	Herger	Moore (WI)	Schwartz (MI)		
			Cardin	Herseth	Moran (KS)	Schwartz (MI)		
			Cardoza	Higgins	Moran (VA)	Schwartz (MI)		
			Carnahan	Hinchee	Murphy	Schwartz (MI)		
			Carson	Hinojosa	Murtha	Schwartz (MI)		
			Case	Hobson	Nadler	Schwartz (MI)		
			Castle	Hoekstra	Napolitano	Schwartz (MI)		
			Chabot	Holden	Neal (MA)	Schwartz (MI)		
			Chandler	Holt	Ney	Schwartz (MI)		
			Clay	Honda	Northup	Schwartz (MI)		
			Cleaver	Hooley	Norwood	Schwartz (MI)		
			Clyburn	Hostettler	Nunes	Schwartz (MI)		
			Coble	Hoyer	Nussle	Schwartz (MI)		
			Cole (OK)	Hulshof	Oberstar	Schwartz (MI)		
			Conyers	Hunter	Obey	Schwartz (MI)		
			Cooper	Hyde	Oliver	Schwartz (MI)		
			Costa	Insee	Ortiz	Schwartz (MI)		
			Costello	Israel	Osborne	Schwartz (MI)		
			Cramer	Issa	Owens	Schwartz (MI)		
			Crenshaw	Istook	Pallone	Schwartz (MI)		
			Crowley	Jackson (IL)	Pascarell	Schwartz (MI)		
			Cubin	Jackson-Lee	Pastor	Schwartz (MI)		
			Cuellar	(TX)	Payne	Schwartz (MI)		
			Cummings	Jefferson	Pearce	Schwartz (MI)		
			Cunningham	Jenkins	Pelosi	Schwartz (MI)		
			Davis (AL)	Johnson (CT)	Peterson (MN)	Schwartz (MI)		
			Davis (CA)	Johnson (IL)	Peterson (PA)	Schwartz (MI)		
			Davis (FL)	Johnson, E. B.	Petri	Schwartz (MI)		
			Davis (IL)	Jones (NC)	Pickering	Schwartz (MI)		
			Davis (KY)	Jones (OH)	Pitts	Schwartz (MI)		
			Davis (TN)	Kanjorski	Platts	Schwartz (MI)		
			Davis, Jo Ann	Kaptur	Pombo	Schwartz (MI)		
			Davis, Tom	Keller	Pomeroy	Schwartz (MI)		
			Deal (GA)	Kelly	Porter	Schwartz (MI)		
			DeFazio	Kennedy (MN)	Price (GA)	Schwartz (MI)		
			DeGette	Kennedy (RI)	Price (NC)	Schwartz (MI)		
			Delahunt	Kildee	Pryce (OH)	Schwartz (MI)		
			DeLauro	Kilpatrick (MI)	Putnam	Schwartz (MI)		
			DeLay	Kind	Radanovich	Schwartz (MI)		
			Dent	King (NY)	Rahall	Schwartz (MI)		
			Diaz-Balart, L.	Kirk	Ramstad	Schwartz (MI)		

NOES—379

NOT VOTING—6

Cooper	Hinojosa	Obey
Gibbons	Miller, George	Oxley

□ 2128

Messrs. PETERSON of Pennsylvania, UDALL of Colorado, STUPAK, RAMSTAD, Ms. HARMAN, Ms. CARSON, Mrs. NORTHUP, and Ms. HART changed their vote from “aye” to “no.”

Mr. MACK and Mr. KIRK changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 428, had I been present, I would have voted “no.”

AMENDMENT NO. 2 OFFERED BY MR. FLAKE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. FLAKE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 51, noes 379, not voting 3, as follows:

[Roll No. 429]

AYES—51

Akin	Garrett (NJ)	McHenry
Barrett (SC)	Gingrey	McMorris
Bartlett (MD)	Harris	Mica
Blackburn	Hayworth	Miller (FL)
Brady (TX)	Hensarling	Musgrave
Buyer	Inglis (SC)	Myrick
Carter	Jindal	Neugebauer
Chocola	Johnson, Sam	Otter
Conaway	King (IA)	Paul
Cox	Kingston	Pence
Culberson	Kolbe	Poe
Duncan	Linder	Rohrabacher
Feeney	Lungren, Daniel	Royce
Flake	E.	Sessions
Foxx	Mack	
Franks (AZ)	McCaul (TX)	

Bonior	Boozman	Boren	Boswell	Boucher	Boustany	Boyd	Bradley (NH)	Brady (PA)	Brown (OH)	Brown (SC)	Brown, Corrine	Brown-Waite,	Ginny	Burgess	Burton (IN)	Butterfield	Calvert	Camp	Cannon	Cantor	Capito	Capps	Capuano	Cardin	Cardoza	Carnahan	Carson	Case	Hobson	Castle	Chabot	Chandler	Clay	Cleaver	Clyburn	Coble	Cole (OK)	Conyers	Cooper	Costa	Costello	Cramer	Crenshaw	Crowley	Cubin	Cuellar	Cummings	Cunningham	Davis (AL)	Davis (CA)	Davis (FL)	Davis (IL)	Davis (KY)	Davis (TN)	Davis, Jo Ann	Davis, Tom	Deal (GA)	DeFazio	DeGette	Delahunt	DeLauro	DeLay	Dent	Diaz-Balart, L.
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NOT VOTING—3  
Miller, George Oxley

□ 2136

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that 2 minutes remain in this vote.

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BASS) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 22) to reform the postal laws of the United States, pursuant to House Resolution 380, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by a 5-minute vote on the motion to suspend the rules and pass H.R. 3339.

The vote was taken by electronic device, and there were—ayes 410, noes 20, not voting 3, as follows:

[Roll No. 430]

AYES—410

Abercrombie	Cummings	Holt
Ackerman	Cunningham	Honda
Aderholt	Davis (AL)	Hooley
Alexander	Davis (CA)	Hostettler
Allen	Davis (FL)	Hoyer
Andrews	Davis (IL)	Hulshof
Baca	Davis (KY)	Hunter
Bachus	Davis (TN)	Hyde
Baird	Davis, Tom	Inglis (SC)
Baker	Deal (GA)	Inslee
Baldwin	DeFazio	Israel
Barrow	DeGette	Issa
Bartlett (MD)	Delahunt	Jackson (IL)
Barton (TX)	DeLauro	Jackson-Lee
Bass	DeLay	(TX)
Bean	Dent	Jefferson
Beauprez	Diaz-Balart, L.	Jenkins
Becerra	Diaz-Balart, M.	Jindal
Berkley	Dicks	Johnson (CT)
Berman	Dingell	Johnson (IL)
Berry	Doggett	Johnson, E. B.
Biggert	Doolittle	Jones (NC)
Bilirakis	Doyle	Jones (OH)
Bishop (GA)	Drake	Kanjorski
Bishop (NY)	Dreier	Kaptur
Bishop (UT)	Duncan	Keller
Blackburn	Edwards	Kelly
Blumenauer	Ehlers	Kennedy (MN)
Blunt	Emanuel	Kennedy (RI)
Boehlert	Emerson	Kildee
Boehner	Engel	Kilpatrick (MI)
Bonilla	English (PA)	Kind
Bonner	Eshoo	King (IA)
Bono	Etheridge	King (NY)
Boozman	Evans	Kingston
Boren	Everett	Kirk
Boswell	Farr	Kline
Boucher	Fattah	Knollenberg
Boustany	Ferguson	Kolbe
Boyd	Filner	Kucinich
Bradley (NH)	Fitzpatrick (PA)	Kuhl (NY)
Brady (PA)	Foley	LaHood
Brady (TX)	Forbes	Langevin
Brown (OH)	Ford	Lantos
Brown (SC)	Fortenberry	Larsen (WA)
Brown, Corrine	Fossella	Larson (CT)
Brown-Waite,	Fox	Latham
Ginny	Frank (MA)	LaTourette
Burgess	Frelinghuysen	Leach
Burton (IN)	Gallely	Lee
Butterfield	Garrett (NJ)	Levin
Buyer	Gerlach	Lewis (CA)
Calvert	Gilchrest	Lewis (GA)
Camp	Gillmor	Lewis (KY)
Cannon	Gingrey	Linder
Cantor	Gonzalez	Lipinski
Capito	Goode	LoBiondo
Capps	Goodlatte	Lofgren, Zoe
Capuano	Gordon	Lowe
Cardin	Granger	Lucas
Cardoza	Graves	Lungren, Daniel
Carnahan	Green (WI)	E.
Carson	Green, Al	Lynch
Carter	Green, Gene	Mack
Case	Grijalva	Maloney
Castle	Gutierrez	Manzullo
Chabot	Gutknecht	Marchant
Chandler	Hall	Markey
Clay	Harman	Marshall
Cleaver	Harris	Matheson
Clyburn	Hart	Matsui
Coble	Hastings (FL)	McCarthy
Cole (OK)	Hastings (WA)	McCaul (TX)
Conaway	Hayes	McCollum (MN)
Conyers	Hayworth	McCotter
Cooper	Hefley	McCreery
Costa	Herger	McDermott
Costello	Herseth	McGovern
Cox	Higgins	McHenry
Cramer	Hinche	McHugh
Crenshaw	Hinojosa	McIntyre
Crowley	Hobson	McKeon
Cubin	Hoekstra	McKinney
Cuellar	Holden	McMorris

McNulty	Putnam	Solis
Meehan	Radanovich	Souder
Meek (FL)	Rahall	Spratt
Meeks (NY)	Ramstad	Stark
Melancon	Rangel	Stearns
Menendez	Regula	Strickland
Mica	Rehberg	Stupak
Michaud	Reichert	Sullivan
Millender-	Renzi	Sweeney
McDonald	Reyes	Tancredo
Miller (FL)	Reynolds	Tanner
Miller (MI)	Rogers (AL)	Tauscher
Miller (NC)	Rogers (KY)	Taylor (MS)
Miller, Gary	Rogers (MI)	Taylor (NC)
Mollohan	Rohrabacher	Terry
Moore (KS)	Ros-Lehtinen	Thomas
Moore (WI)	Ross	Thompson (CA)
Moran (KS)	Rothman	Thompson (MS)
Moran (VA)	Roybal-Allard	Thornberry
Murphy	Ruppersberger	Tiahrt
Murtha	Rush	Tiberti
Myrick	Ryan (OH)	Tierney
Nadler	Ryan (WI)	Towns
Napolitano	Ryun (KS)	Turner
Neal (MA)	Sabo	Udall (CO)
Neugebauer	Salazar	Udall (NM)
Ney	Sanchez, Linda	Upton
T.	Sanchez, Loretta	Van Hollen
Northup	Sanders	Velazquez
Norwood	Saxton	Visclosky
Nunes	Schakowsky	Walden (OR)
Oberstar	Obe	Walsh
Obey	Oliver	Wamp
Ortiz	Ortiz	Wasserman
Osborne	Osborne	Schultz
Owens	Owens	Waters
Pallone	Pallone	Watson
Pascarella	Pascarella	Watt
Pastor	Pastor	Waxman
Payne	Payne	Weiner
Pearce	Pearce	Weldon (PA)
Pelosi	Pelosi	Weller
Peterson (MN)	Peterson (MN)	Westmoreland
Peterson (PA)	Peterson (PA)	Wexler
Petri	Petri	Whitfield
Pickering	Pickering	Wicker
Pitts	Pitts	Wilson (NM)
Platts	Platts	Wilson (SC)
Poe	Poe	Wolf
Pombo	Pombo	Woolsey
Pomeroy	Pomeroy	Wu
Porter	Porter	Wynn
Price (GA)	Price (GA)	Young (AK)
Price (NC)	Price (NC)	Young (FL)
Pryce (OH)	Pryce (OH)	

NOES—20

Akin	Franks (AZ)	Otter
Barrett (SC)	Gohmert	Paul
Chocola	Hensarling	Pence
Culberson	Istook	Royce
Davis, Jo Ann	Johnson, Sam	Shadegg
Feehey	Musgrave	Weldon (FL)
Flake	Nussle	

NOT VOTING—3

Gibbons	Miller, George	Oxley
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□ 2154

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

**WISHING THE HON. DAN BOREN AND HIS BRIDE WELL ON THE OCCASION OF THEIR MARRIAGE**

(Mr. HOYER asked and was given permission to speak out of order for 1 minute.)

Mr. HOYER. Mr. Speaker, we talk a lot about families on this floor, and properly so. We talk a lot about caring on this floor, and properly so. We talk a lot about relationships on this floor, and properly so.

And I am proud to rise today to say how pleased I am, and I know all Members of the House will be, the youngest Member on our side of the aisle is the gentleman from Oklahoma (Mr.

BOREN), and the gentleman from Oklahoma (Mr. BOREN) this weekend took to himself a beautiful bride from South Dakota, Andrea.

Let us wish them well as they embark upon this new family.

**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore (Mr. BASS). Without objection, the next vote will be a 5-minute vote.

There was no objection.

**JAMES T. MOLLOY POST OFFICE BUILDING**

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3339.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 3339, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 431]

YEAS—423

Abercrombie	Buyer	Dicks
Ackerman	Calvert	Dingell
Aderholt	Camp	Doggett
Akin	Cannon	Doolittle
Alexander	Cantor	Doyle
Allen	Capito	Drake
Andrews	Capps	Dreier
Baca	Capuano	Duncan
Bachus	Cardin	Edwards
Baird	Cardoza	Ehlers
Baker	Carnahan	Emanuel
Baldwin	Carson	Emerson
Barrett (SC)	Carter	Engel
Barrow	Case	English (PA)
Bartlett (MD)	Castle	Eshoo
Barton (TX)	Chabot	Etheridge
Bass	Chandler	Evans
Bean	Chocola	Everett
Beauprez	Clay	Farr
Becerra	Cleaver	Fattah
Berkley	Clyburn	Feehey
Berman	Coble	Ferguson
Berry	Cole (OK)	Filner
Biggert	Conaway	Fitzpatrick (PA)
Bilirakis	Conyers	Flake
Bishop (GA)	Cooper	Foley
Bishop (NY)	Costa	Forbes
Bishop (UT)	Costello	Ford
Blackburn	Cox	Fortenberry
Blumenauer	Cramer	Fossella
Blunt	Crenshaw	Fox
Boehlert	Crowley	Frank (MA)
Boehner	Cubin	Franks (AZ)
Bonilla	Cuellar	Frelinghuysen
Bonner	Culberson	Gallely
Bono	Cummings	Garrett (NJ)
Boozman	Cunningham	Gerlach
Boren	Davis (AL)	Gilchrest
Boswell	Davis (CA)	Gillmor
Boucher	Davis (IL)	Gingrey
Boustany	Davis (KY)	Gohmert
Boyd	Davis (TN)	Gonzalez
Bradley (NH)	Davis, Jo Ann	Goode
Brady (PA)	Davis, Tom	Goodlatte
Brady (TX)	Deal (GA)	Gordon
Brown (OH)	DeFazio	Granger
Brown (SC)	DeGette	Graves
Brown, Corrine	Delahunt	Green (WI)
Brown-Waite,	DeLauro	Green, Al
Ginny	DeLay	Green, Gene
Burgess	Dent	Grijalva
Burton (IN)	Diaz-Balart, L.	Gutierrez
Butterfield	Diaz-Balart, M.	Gutknecht

practicable, the withdrawal of nuclear material from any centrifuge enrichment facility;

Whereas, on February 24, 2004, the Government of Iran informed the IAEA of its decision to expand the scope and clarify the nature of its decision to suspend to the furthest extent possible the assembly and testing of centrifuges and the domestic manufacture of centrifuge components, including those related to existing contracts, informed the IAEA that any components that are manufactured under existing contracts that cannot be suspended will be stored and placed under IAEA seal, invited the IAEA to verify these measures, and confirmed that the suspension of enrichment activities applied to all facilities in Iran;

Whereas, in November 2004, the Governments of the United Kingdom, France, and Germany entered into an agreement with Iran on Iran's nuclear program (commonly referred to as the "Paris Agreement"), securing a formal commitment from the Government of Iran to voluntarily suspend uranium enrichment operations in exchange for discussions on economic, technological, political, and security issues;

Whereas the Department of State has reported for a decade on Iran's state sponsorship of terrorism and has declared in its most recent Country Reports on Terrorism that Iran "remained the most active state sponsor of terrorism in 2004";

Whereas President of Iran Mahmoud Ahmadinejad expressed, in an October 26, 2005, speech, his hope for "a world without America" and his desire "to wipe Israel off the map" and has subsequently denied the existence of the holocaust;

Whereas Article XII.C of the Statute of the IAEA requires the IAEA Board of Governors to report the noncompliance of any member of the IAEA with its IAEA safeguards obligations to all members and to the Security Council and General Assembly of the United Nations;

Whereas Article III.B-4 of the Statute of the IAEA specifies that "if in connection with the activities of the Agency there should arise questions that are within the competence of the Security Council, the Agency shall notify the Security Council, as the organ bearing the main responsibility for the maintenance of international peace and security";

Whereas, on September 24, 2005, the IAEA Board of Governors adopted a resolution finding that Iran's many failures and breaches of its obligations to comply with the Safeguards Agreement constitute non-compliance in the context of Article XII.C of the Statute of the IAEA and that matters concerning Iran's nuclear program have given rise to questions that are within the competence of the Security Council as the organ bearing the primary responsibility for the maintenance of international peace and security;

Whereas, on January 3, 2006, the Government of Iran announced that it planned to restart its nuclear research efforts, nullifying the Paris Agreement;

Whereas, in January 2006, Iranian officials, in the presence of IAEA inspectors, began to remove IAEA seals from the enrichment facility in Natanz, Iran;

Whereas Foreign Secretary of the United Kingdom Jack Straw warned Iranian officials that they were "pushing their luck" by removing the United Nations seals that were placed on the Natanz facility by the IAEA 2 years earlier;

Whereas President of France Jacques Chirac said that the Governments of Iran and North Korea risk making a "serious error" by pursuing nuclear activities in defiance of international agreements;

Whereas Foreign Minister of Germany Frank-Walter Steinmeier said that the Government of Iran had "crossed lines which it knew would not remain without consequences";

Whereas Secretary of State Condoleezza Rice stated, "It is obvious that if Iran cannot be brought to live up to its international obligations, in fact, the IAEA Statute would indicate that Iran would have to be referred to the U.N. Security Council.";

Whereas President Ahmadinejad stated, "The Iranian government and nation has no fear of the Western ballyhoo and will continue its nuclear programs with decisiveness and wisdom."; and

Whereas the United States has joined with the Governments of Britain, France, and Germany in calling for a meeting of the IAEA Board of Governors to discuss Iran's non-compliance with its IAEA safeguards obligations: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress—*

(1) condemns the many failures of the Government of Iran to comply faithfully with its nuclear nonproliferation obligations, including its obligations under the Safeguards Agreement (as reported by the Director General of the IAEA to the IAEA Board of Governors since 2003), its suspension commitments under the Paris Agreement, and prior commitments to the EU-3 to suspend all enrichment- and reprocessing-related activities;

(2) commends the efforts of the Governments of France, Germany, and the United Kingdom to seek a meaningful and credible suspension of Iran's enrichment- and reprocessing-related activities and to find a diplomatic means to address the noncompliance of the Government of Iran with its obligations, requirements, and commitments related to nuclear non-proliferation;

(3) strongly urges the IAEA Board of Governors, at its special meeting on February 2, 2006, to order that Iran's noncompliance with its safeguards obligations be reported to the United Nations Security Council; and

(4) calls on all members of the United Nations Security Council, in particular the Russian Federation and the People's Republic of China, to act expeditiously to consider any report of Iran's noncompliance in fulfillment of the mandate of the Security Council to respond to and deal with situations bearing on the maintenance of international peace and security.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2696. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 662, to reform the postal laws of the United States; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 2696. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 662, to reform the postal laws of the United States; which was ordered to lie on the table; as follows:

On page 256, after line 3 add the following:  
**SEC. 1005. APPLICATION OF LAWS ASSURING FAIR TREATMENT OF SMALL BUSINESSES AND OTHER POSTAL SUPPLIERS.**

(a) APPLICATION OF OTHER LAWS.—Section 410(b) of title 39, United States Code, is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by adding "and" at the end; and

(C) by adding at the end the following:

“(C) chapter 9 (the Contract Disputes Act of 1978);”;

(2) by striking paragraph (9) and inserting the following:

“(9) the following provisions of title 31:

“(A) subchapter V of chapter 35 (known as the bid protest provisions of the Competition in Contracting Act of 1984); and

“(B) chapter 39 (known as the Prompt Payment Act);”;

(3) in paragraph (10), by striking "and" at the end;

(4) in paragraph (11), by striking the period at the end and inserting "and"; and

(5) by adding at the end the following:

“(12) the Small Business Act (15 U.S.C. 631 et seq.).”.

(b) CONFORMING AMENDMENT.—Section 3(b) of the Small Business Act (15 U.S.C. 632(b)) is amended by striking "the United States Postal Service or" .

#### CONTINUATION OF RELIEF RESPONSE TO EARTHQUAKE IN SOUTH ASIA

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 356 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 356) urging a commitment by the United States and the international community to continue relief efforts in response to the earthquake in South Asia and to help rebuild critical infrastructure in the affected areas.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 356) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 356

Whereas on October 8, 2005, a magnitude 7.6 earthquake struck Pakistan, India, and Afghanistan;

Whereas the epicenter of the earthquake was located near Muzaffarabad, approximately 60 miles north-northeast of Islamabad, with aftershocks and landslides continuing to affect the area;

Whereas more than 75,000 people have died, including approximately 17,000 children, nearly 70,000 people are injured and approximately 3,000,000 people are homeless as a result of the earthquake;

Whereas the United States has pledged a total of \$510,000,000 in assistance to the affected areas, including \$300,000,000 for relief and reconstruction, \$110,000,000 to support Department of Defense relief operations, and

And when they go bankrupt, thousands and thousands of people lose their pensions and the jobs are lost. Now is our opportunity.

Just yesterday, I know there were a lot of statements made by those on the other side of the aisle that we should stop this bill; it is a bad bill; we should not be addressing it and using postponing procedural moves and delay. But we just can't delay anymore.

I am delighted with the outcome of the vote today which shows that this body is ready to take up this important issue. We will be going to that issue tomorrow, and I look forward to addressing, through debate and amendments, an issue that will have a huge impact on people's lives both right now and well into the future.

#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### HONORING OUR ARMED FORCES

DUSTIN L. KENDALL

Mrs. LINCOLN. Mr. President, I rise today to honor a young man from Arkansas who recently lost his life while heroically serving our Nation in uniform. SPC Dustin Kendall will be remembered by those who knew him as a charming and charismatic young man, who was beloved by his friends and family and had a special gift for bringing smiles to the faces of everyone he met.

Growing up with a brother and four sisters, Specialist Kendall spent his childhood as many children do: playing sports, causing mischief, and enjoying the company of his family and friends. As the son of missionaries, he spent his childhood in a variety of places and wherever he ended up, his outgoing and friendly nature was sure to follow. These qualities allowed him to make friends quickly and adapt to new surroundings, and that was certainly the case when his family moved to Bryant, an Arkansas town just south of Little Rock, in 2002. In Bryant, Specialist Kendall worked at a local restaurant, where he became a favorite of the regular customers, while he finished his schooling. Later, when his parents moved to Europe to continue their missionary work, he stayed in Arkansas to continue classes at the University of Central Arkansas in nearby Conway. At UCA, he studied business but was considering following one of his passions and pursuing a career in golf, possibly in golf-course design.

As a student, Specialist Kendall joined the U.S. Army Reserve for primarily financial reasons but, over time, came to enjoy his military life and was ultimately considering a ca-

reer in the Army. Upon signing up for active duty last summer, he was stationed at Fort Carson, CO, before being deployed with his unit to Iraq in November of 2005. In Iraq, Specialist Kendall served with the 68th Armor Regiment of the 3rd Heavy Brigade Combat Team, where he served with distinction, most recently as a bodyguard for an Army colonel. Tragically, he was killed on January 15 in Baqouba, Iraq, when his military humvee was accidentally struck by an American Abrams tank. He was 21 years old.

A memorial service was held for Specialist Kendall on January 21, in Summerville, SC. Many of his friends and his family gathered to remember the charming young man with the infectious smile and to honor the brave soldier who had given his life in the fight for freedom. Although words cannot convey the sorrow felt by his loved ones, I hope they may find some solace remembering the way he lived his life and knowing that he touched the lives of so many others. My thoughts and prayers go out to his parents, Brandi Lee and Penelope Jean, his brother and his sisters, and to all those who knew and loved him. His time with us was far too short but his spirit will live on in us forever.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

In February, 2004 in Durham, NC, Sean Ethan Owen, a 23-year-old gay man, was shot to death. According to police, three men wanted to steal a car and targeted Owen on a gay chat line. They then coaxed Owen to meet them for a date, then beat him, shot him, and threw him into the Eno River.

Matthew Lawrence Taylor, Shelton Deangelo Epps, and Derrick Arness Maiden beat their victim before attempting to rob him of anything. According to pathologists, Owen probably died relatively slowly by drowning in the river.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### POSTAL REFORM

Mr. BOND. Mr. President, I rise to engage the chairman of the Homeland

Security and Governmental Affairs Committee in a colloquy regarding a provision contained within the manager's amendment to S. 662, the Postal Accountability and Enhancement Act.

The manager's amendment offered by Senator COLLINS changes the language of section 3622 concerning rate and service complaints that are brought to the Postal Regulatory Commission. I ask the Senator to explain the purpose and intent of this change. I particularly want to be sure that this amendment to the bill is not intended to, and does not deprive the Postal Regulatory Commission of its power to consider complaints relating to rates and the provision of postal services.

Ms. COLLINS. I thank the gentleman from Missouri. He is correct. The amendment I propose to section 3622 does not and is not intended to preclude any interested party from securing a hearing before the Postal Regulatory Commission if it believes that the rates being charged or the manner in which services being provided to that mailer or mailer group violates the act. It is my hope that in conference that we can work to assure that the Postal Regulatory Commission does not become embroiled in attempts to resolve disputes as to internal affairs or purely operational decisions of the Postal Service. This provision is intended to protect the rights of the mailing public against the potential for monopoly abuse or other unjust or unfair conduct by the Postal Service in terms of rates charged or the nature of service provided.

Mr. BOND. I thank the chairman.

#### VOTE EXPLANATION

Mr. INHOFE. Mr. President, on February 2, 2006, I was absent for the roll-call vote on the motion to waive the Congressional Budget Act on Conrad amendment No. 2729 to Senate amendment 2702 to H.R. 4297, Tax Relief Extension Reconciliation Act of 2005. My absence was due to a previously scheduled speaking engagement at the Africa Dinner in conjunction with the National Prayer Breakfast. Had I been present, I would have voted nay on the motion to waive. Additionally, I would like to note that this absence did not affect the final outcome of the vote.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO WILLIAM "BILL" TALLMAN

● Mr. THUNE. Mr. President, today I rise to honor William "Bill" Tallman. Bill was the meteorologist in charge at the Aberdeen office of the National Weather Service. At the time of his death, Bill was on a voluntary, temporary assignment with the Federal Emergency Management Agency helping with the relief efforts in the gulf coast region that was devastated by hurricanes this last season.

# Daily Digest

## Senate

### Chamber Action

*Routine Proceedings, pages S875–S1045*

**Measures Introduced:** Nine bills were introduced, as follows: S. 2262–2270. **Pages S978–79**

**Measures Passed:**

**Postal Accountability and Enhancement Act:** Senate passed H.R. 22, to reform the postal laws of the United States, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 662, Senate companion measure, after agreeing to the committee amendment in the nature of a substitute, and the following amendments proposed thereto: **Pages S898–S943**

Frist (for Collins/Bond) Amendment No. 2750, to modify provisions relating to objectives, unused rate adjustment authority, transition rules, rate and service complaints. **Pages S926–27**

Frist (for Harkin) Amendment No. 2751, to provide for procedures by the Postal Service to give notice on certain actions affecting communities. **Pages S926–27**

Frist (for Reid) Amendment No. 2752, to modify qualifications and terms of Governors of the United States Postal Service. **Pages S926–27**

Frist (for Stevens) Amendment No. 2753, to modify contracts for the transportation of mail by air. **Pages S926–27**

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Collins, Stevens, Voinovich, Coleman, Bennett, Lieberman, Akaka, and Carper. **Page S942**

A unanimous-consent agreement was reached providing that S. 662 be returned to the calendar, and that it not be in order for the Senate to consider any conference report or House amendments to H.R. 22, if it would cause a net increase in on- or off-budget direct spending in excess of \$5 billion in any of the four 10-year periods beginning in 2016–2055, as estimated by the Congressional Budget Office. **Page S942**

**Honoring Coal Miners:** Senate agreed to H. Con. Res. 331, honoring the sacrifice and courage of the 16 coal miners killed in various mine disasters in West Virginia, and recognizing the rescue crews for their outstanding efforts in the aftermath of the tragedies. **Page S1044**

**Hurricane Election Relief Act:** Committee on Rules and Administration was discharged from further consideration of S. 2166, to direct the Election Assistance Commission to make grants to States to restore and replace election administration supplies, materials, records, equipment, and technology which were damaged, destroyed, or dislocated as a result of Hurricane Katrina or Hurricane Rita, and the bill was then passed. **Page S1044**

**Fairness in Asbestos Injury Resolution Act:** Senate continued consideration of S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, withdrawing the committee amendments, and taking action on the following amendments proposed thereto: **Pages S879–98, S944–68**

Pending:

Frist (for Specter/Leahy) Amendment No. 2746, in the nature of a substitute. **Pages S879–98, S944–57**

Specter Modified Amendment No. 2747 (to Amendment No. 2746), to provide guidelines in determining which defendant participants may receive inequity adjustments the Administrator shall give preference. **Pages S880–98, S944–57, S968**

Kyl Amendment No. 2754 (to Amendment No. 2746), to reduce the impact of the trust fund on smaller companies and to expand hardship adjustments. **Pages S957–68**

Ensign point of order that the pending bill and the pending amendment in the nature of a substitute (Frist (for Specter/Leahy)) Amendment No. 2746 (listed above) violate section 407 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2006. **Pages S960–68**

Specter motion to waive the point of order (listed above). **Pages S960–68**

Rejected:

Cornyn Amendment No. 2748 (to the language proposed to be stricken by Amendment No. 2746),

There are tons of scientific studies that show there is no connection between that and asbestos, but we have this in the bill. It is dependent on an IOM study, but it should not be in the bill. If new science sometime later shows some connection between colorectal cancer, stomach cancer, or esophageal, laryngeal, and pharyngeal cancer, we can put it back. We are putting it in, when there is no science whatsoever—and the small studies on laryngeal and pharyngeal cancer that show some connection were not modified for smoking and alcohol use, the No. 1 and No. 2 causes. So it is not good science.

Therefore, we have a large group. If you take lung cancers combined with all the other cancers and put them together and you say 10 percent of those who are coming through will try to go to the trust fund, you have \$267 billion that will blow this thing wide open.

This trust fund, with the medical criteria it has today, will not work. That is why having a bill that has specific medical criteria in it will work.

Let me be clear why I support the Cornyn substitute. The Cornyn substitute does not shut anyone out of the courts. If you think you have asbestos exposure, and you want to sue, you can. But you will have to meet the medical criteria for it to be related to asbestos or silicosis. There is no unreasonable requirement; there is just up-front medical criteria that must be met to have application and that requirement must apply.

It does not mean you cannot have your day in court. You can. You have to demonstrate your disease matches the medical criteria which are recognized medical criteria associated with asbestos disease.

The other thing that is good about this bill is if you have had asbestos exposure and have no disease now, this does not cut you off from the future. If you develop disease that is truly related to asbestos, you will be able to have your day in court years—30, 40 years—down the road if, in fact, you develop impairment related to asbestos within this medical criteria that the medical community and the scientific community recognize is accurate.

Under this substitute, as compared to the present bill, physicians will have to comply with strict scientifically sound requirements. There is no room for doctors and x-ray B readers to fudge the data under the Cornyn substitute. The substitute makes sense. The trust fund concept will work if we have good medical criteria. We do not, so it is not going to work.

The answer is to keep people in the court system but define the medical criteria where they can win when they truly have a disease that is caused by asbestos, and they lose when they do not have a disease caused by asbestos.

The science is not that hard. But we cannot take care of the trial lawyers and take care of all the executives who want this problem solved the way they want it. They want an answer now. The

answer is, use what this country has used in the past: the judgment of courts based on sound criteria that cannot be manipulated. Then we will get this problem solved and the people who are suffering today, who cannot get into court because of false claims—hundreds of thousands of them by people who do not have asbestos-related illness—the people who are injured will get compensated.

I thank Senator CORNYN for, first, his courage to offer a substitute. He is on the Judiciary Committee. We have a great chairman. He has done a lot of hard work on this. He has brought a bipartisan bill to the Senate. The bill will fail. It takes a great deal of courage on Senator CORNYN's part to offer a commonsense alternative to this. It is my hope that the many Members in this Senate will look at the trust fund with the medical criteria as set out today, and reject it as it is written. Either modify this bill or take the Cornyn substitute and put it in its stead.

This is an issue we will spend a lot of time on. I know people are considering points of order against the legislation. In fairness to the Senate and also the public, if that is going to happen, they ought to do it so we do not continue to spend time. Part of the process around here is to make things not happen so you can have a political advantage. If people are going to offer a point of order, they ought to offer it. Let's go on to the next thing on the agenda for the American people. If they are not going to offer it, let's have a real debate, file cloture, get a vote on this bill and move on.

I suggest the absence of a quorum. The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 164, S. 662.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 662) to reform the postal laws of the United States.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 662

*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 "Postal Accountability and Enhancement Act".

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

[Sec. 1. Short title; table of contents.

#### [TITLE I—DEFINITIONS; POSTAL SERVICES

[Sec. 101. Definitions.

[Sec. 102. Postal services.

#### [TITLE II—MODERN RATE REGULATION

[Sec. 201. Provisions relating to market-dominant products.

[Sec. 202. Provisions relating to competitive products.

[Sec. 203. Provisions relating to experimental and new products.

[Sec. 204. Reporting requirements and related provisions.

[Sec. 205. Complaints; appellate review and enforcement.

[Sec. 206. Clerical amendment.

#### [TITLE III—MODERN SERVICE STANDARDS

[Sec. 301. Establishment of modern service standards.

[Sec. 302. Postal service plan.

#### [TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

[Sec. 401. Postal Service Competitive Products Fund.

[Sec. 402. Assumed Federal income tax on competitive products income.

[Sec. 403. Unfair competition prohibited.

[Sec. 404. Suits by and against the Postal Service.

[Sec. 405. International postal arrangements.

#### [TITLE V—GENERAL PROVISIONS

[Sec. 501. Qualification and term requirements for Governors.

[Sec. 502. Obligations.

[Sec. 503. Private carriage of letters.

[Sec. 504. Rulemaking authority.

[Sec. 505. Noninterference with collective bargaining agreements.

[Sec. 506. Bonus authority.

#### [TITLE VI—ENHANCED REGULATORY COMMISSION

[Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.

[Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.

[Sec. 603. Appropriations for the Postal Regulatory Commission.

[Sec. 604. Redesignation of the Postal Rate Commission.

[Sec. 605. Financial transparency.

#### [TITLE VII—EVALUATIONS

[Sec. 701. Assessments of ratemaking, classification, and other provisions.

[Sec. 702. Report on universal postal service and the postal monopoly.

[Sec. 703. Study on equal application of laws to competitive products.

[Sec. 704. Report on postal workplace safety and workplace-related injuries.

[Sec. 705. Study on recycled paper.

#### [TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

[Sec. 801. Short title.

[Sec. 802. Civil Service Retirement System.

[Sec. 803. Health insurance.

[Sec. 804. Repeal of disposition of savings provision.

[Sec. 805. Effective dates.

#### [TITLE IX—COMPENSATION FOR WORK INJURIES

[Sec. 901. Temporary disability; continuation of pay.

[Sec. 902. Disability retirement for postal employees.

**TITLE X—MISCELLANEOUS**

[Sec. 1001. Employment of postal police officers.

[Sec. 1002. Expanded contracting authority.

[Sec. 1003. Report on the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service.

[Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

**SEC. 101. DEFINITIONS.**

[Section 102 of title 39, United States Code, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other functions ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate or rates are applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36; and

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36; and

“(10) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”.

**SEC. 102. POSTAL SERVICES.**

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

[(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

[(2) by adding at the end the following:

“(c) Except as provided in section 411, nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.”.

[(b) CONFORMING AMENDMENTS.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.  
(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking “and nonpostal”.

**TITLE II—MODERN RATE REGULATION**

**SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.**

[(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

**“§ 3621. Applicability; definitions**

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) first-class mail letters and sealed parcels;

“(2) first-class mail cards;

“(3) periodicals;

“(4) standard mail;

“(5) single-piece parcel post;

“(6) media mail;

“(7) bound printed matter;

“(8) library mail;

“(9) special services; and

“(10) single-piece international mail,

[subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**“§ 3622. Modern rate regulation**

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 12 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

“(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

“(1) To reduce the administrative burden and increase the transparency of the rate-making process while affording reasonable opportunities for interested parties to participate in that process.

“(2) To create predictability and stability in rates.

“(3) To maximize incentives to reduce costs and increase efficiency.

“(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

“(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

“(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

“(7) To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.

“(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

“(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

“(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

“(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

“(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable, universal postal service; and

“(13) the policies of this title as well as such other factors as the Commission determines appropriate.

**“(d) REQUIREMENTS.—**

“(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

“(A) require the Postal Regulatory Commission to set annual limitations on the percentage changes in rates based on the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the 12-month period preceding the date the Postal Service proposes to increase rates;

“(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

“(C) not later than 45 days before the implementation of any adjustment in rates under this section—

“(i) require the Postal Service to provide public notice of the adjustment;

“(ii) provide an opportunity for review by the Postal Regulatory Commission;

“(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

“(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A); and

“(D) notwithstanding any limitation set under subparagraphs (A) and (C), establish procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.

**“(2) LIMITATIONS.—**

“(A) CLASSES OF MAIL.—The annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

“(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

**“(e) WORKSHARE DISCOUNTS.—**

“(1) DEFINITION.—In this subsection, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

“(2) REGULATIONS.—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

“(A) the discount is—

“(i) associated with a new postal service, a change to an existing postal service, or with a new workshare initiative related to an existing postal service; and

“(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the

Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

["(B) a reduction in the discount would—

["(i) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

["(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

["(iii) impede the efficient operation of the Postal Service;

["(C) the amount of the discount above costs avoided—

["(i) is necessary to mitigate rate shock; and

["(ii) will be phased out over time; or

["(D) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

["(3) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

["(A) explains the Postal Service's reasons for establishing or maintaining the rate;

["(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

["(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

["(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section."

["(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

["(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

["SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS"]

**[SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.]**

[Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

["SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

**["§ 3631. Applicability; definitions and updates**

["(a) APPLICABILITY.—This subchapter shall apply with respect to—

["(1) priority mail;

["(2) expedited mail;

["(3) bulk parcel post;

["(4) bulk international mail; and

["(5) mailgrams;

[subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

["(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

["(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for pur-

poses of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

["(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

**["§ 3632. Action of the Governors**

["(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

["(b) PROCEDURES.—

["(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

["(2) PUBLIC NOTICE; REVIEW; AND COMPLIANCE.—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

["(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

["(B) the Postal Regulatory Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

["(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

["(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section.

**["§ 3633. Provisions applicable to rates for competitive products**

["(a) IN GENERAL.—The Postal Regulatory Commission shall, within 180 days after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

["(1) prohibit the subsidization of competitive products by market-dominant products;

["(2) ensure that each competitive product covers its costs attributable; and

["(3) ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.

["(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products."

**[SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.]**

[Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

["SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

**["§ 3641. Market tests of experimental products**

["(a) AUTHORITY.—

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

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

["(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

["(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

["(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

["(c) NOTICE.—

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

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

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

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

["(d) DURATION.—

["(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

["(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

["(e) DOLLAR-AMOUNT LIMITATION.—

["(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g).

["(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1)

if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

["(A) the product is likely to benefit the public and meet an expected demand;

["(B) the product is likely to contribute to the financial stability of the Postal Service; and

["(C) the product is not likely to result in unfair or otherwise inappropriate competition.

["(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

["(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

["(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

["(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).

**["§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail**

["(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

["(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

["(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.

["(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term 'product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

["(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

["(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

["(B) the views of those who use the product involved on the appropriateness of the proposed action; and

["(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

["(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

["(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

["(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. ["The provisions of section 504(g) shall be available with respect to any information required to be filed.

["(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

["(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

["(1) under this subchapter; or

["(2) by or under any other provision of law."']

**["SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

["(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

["(1) by striking the heading for subchapter IV and inserting the following:

["SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW"; and

["(2) by striking the heading for subchapter V and inserting the following:

["SUBCHAPTER VI—GENERAL"']

["(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

["SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

**["§ 3651. Annual reports by the Commission**

["(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

["(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**["§ 3652. Annual reports to the Commission**

["(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

["(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

["(2) which shall, for each market-dominant product provided in such year, provide—

["(A) product information, including mail volumes; and

["(B) measures of the service afforded by the Postal Service in connection with such product, including—

["(i) the level of service (described in terms of speed of delivery and reliability) provided; and

["(ii) the degree of customer satisfaction with the service provided.

["Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

["(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

["(1) The per-item cost avoided by the Postal Service by virtue of such discount.

["(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

["(3) The per-item contribution made to institutional costs.

["(c) SERVICE AGREEMENTS AND MARKET TESTS.—In carrying out subsections (a) and (b) with respect to service agreements and experimental products offered through market tests under section 3641 in a year, the Postal Service—

["(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

["(2) shall report such data as the Postal Regulatory Commission requires.

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

["(e) CONTENT AND FORM OF REPORTS.—

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

["(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

["(C) protecting the confidentiality of commercially sensitive information.

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

["(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

["(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

["(f) CONFIDENTIAL INFORMATION.—

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

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

["(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

["(1) comprehensive statement under section 2401(e);

["(2) strategic plan under section 2802;

["(3) performance plan under section 2803; and

["(4) program performance reports under section 2804.

#### ["§ 3653. Annual determination of compliance

["(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

["(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

["(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

["(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

["(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).

["(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates."

#### ["SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

["Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

##### ["§ 3662. Rate and service complaints

["(a) IN GENERAL.—Any person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

["(b) PROMPT RESPONSE REQUIRED.—

["(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

["(A) begin proceedings on such complaint;

["or

["(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

["(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

["(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance including ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

["(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

##### ["§ 3663. Appellate review

["A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such

order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

##### ["§ 3664. Enforcement of orders

["The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission."

#### ["SEC. 206. CLERICAL AMENDMENT.

["Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

#### ["CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

##### ["SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

["Sec.

["3621. Applicability; definitions.

["3622. Modern rate regulation.

["3623. Repealed.]

["3624. Repealed.]

["3625. Repealed.]

["3626. Reduced Rates.

["3627. Adjusting free rates.

["3628. Repealed.]

["3629. Reduced rates for voter registration purposes.

##### ["SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

["3631. Applicability; definitions and updates.

["3632. Action of the Governors.

["3633. Provisions applicable to rates for competitive products.

["3634. Assumed Federal income tax on competitive products.

##### ["SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

["3641. Market tests of experimental products.

["3642. New products and transfers of products between the market-dominant and competitive categories of mail.

##### ["SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

["3651. Annual reports by the Commission.

["3652. Annual reports to the Commission.

["3653. Annual determination of compliance.

##### ["SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

["3661. Postal Services.

["3662. Rate and service complaints.

["3663. Appellate review.

["3664. Enforcement of orders.

##### ["SUBCHAPTER VI—GENERAL

["3681. Reimbursement.

["3682. Size and weight limits.

["3683. Uniform rates for books; films, other materials.

["3684. Limitations.

["3685. Filing of information relating to periodical publications.

["3686. Bonus authority.

##### ["SUBCHAPTER VII—MODERN SERVICE STANDARDS

["3691. Establishment of modern service standards."

#### ["TITLE III—MODERN SERVICE STANDARDS

##### ["SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

["Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

["SUBCHAPTER VII—MODERN SERVICE STANDARDS

["§ 3691. Establishment of modern service standards

["(a) AUTHORITY GENERALLY.—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with the Postal Service's universal service obligation as defined in sections 101 (a) and (b) and 403.

["(b) OBJECTIVES.—Such standards shall be designed to achieve the following objectives:

["(1) To enhance the value of postal services to both senders and recipients.

["(2) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

["(3) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

["(4) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

["(c) FACTORS.—In establishing or revising such standards, the Postal Service shall take into account—

["(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

["(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

["(3) the needs of Postal Service customers, including those with physical impairments;

["(4) mail volume and revenues projected for future years;

["(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

["(6) the current and projected future cost of serving Postal Service customers;

["(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

["(8) the policies of this title and such other factors as the Commission determines appropriate.

["(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto) shall be subject to review upon complaint under sections 3662 and 3663.

["SEC. 302. POSTAL SERVICE PLAN.

["(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

["(b) CONTENTS.—The plan under this section shall—

["(1) establish performance goals;

["(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

["(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

["(4) contain the matters relating to postal facilities provided under subsection (c).

["(c) POSTAL FACILITIES.—

["(1) FINDINGS.—Congress finds that—

["(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

["(B) as noted by the President's Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

["(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

["(D) Congress strongly encourages the Postal Service to—

["(i) expeditiously move forward in its streamlining efforts; and

["(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

["(2) IN GENERAL.—The Postal Service plan shall include a description of—

["(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

["(B) how the Postal Service intends to implement that vision.

["(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

["(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

["(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes; and

["(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan.

["(4) ANNUAL REPORTS.—

["(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

["(B) CONTENTS.—Each report under this paragraph shall include—

["(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

["(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

["(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

["(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

["(v) such additional topics and recommendations as the Postal Service considers appropriate.

["(d) ALTERNATE RETAIL OPTIONS.—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

["(1) vending machines;

["(2) the Internet;

["(3) Postal Service employees on delivery routes;

["(4) retail facilities in which overhead costs are shared with private businesses and other government agencies; or

["(5) any other nonpost office access channel providing market retail access to postal services.

["(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.—The Postal Service plan shall include—

["(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation of any of its functions or the closing and consolidation of any of its facilities; and

["(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

["(f) INSPECTOR GENERAL REPORT.—

["(1) IN GENERAL.—Before submitting the plan under subsection (a) and each annual report under subsection (c) to Congress, the Postal Service shall submit the plan and each annual report to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

["(2) REPORT.—The Inspector General shall prepare a report describing the extent to which the Postal Service plan and each annual report under subsection (c)—

["(A) are consistent with the continuing obligations of the Postal Service under title 39, United States Code;

["(B) provide for the Postal Service to meet the service standards established under section 3691 of title 39, United States Code; and

["(C) allow progress toward improving overall efficiency and effectiveness consistent with the need to maintain universal postal service at affordable rates.

["(g) CONTINUED AUTHORITY.—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

["TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

["SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

["(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

["(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

["§ 2011. Provisions relating to competitive products

["(a)(1) In this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

["(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

["(A) costs attributable to competitive products; and

["(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

["(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

["(1) revenues from competitive products;

["(2) amounts received from obligations issued by Postal Service under subsection (e);

["(3) interest and dividends earned on investments of the Competitive Products Fund; and

["(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

["(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

["(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

["(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

["(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

["(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

["(A) the establishment of reserve, sinking, and other funds;

["(B) application and use of revenues and receipts of the Competitive Products Fund;

["(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

["(D) such other matters as the Postal Service, considers necessary or desirable to enhance the marketability of such obligations.

["(3) Obligations issued by the Postal Service under this subsection—

["(A) shall be in such forms and denominations;

["(B) shall be sold at such times and in such amounts;

["(C) shall mature at such time or times;

["(D) shall be sold at such prices;

["(E) shall bear such rates of interest;

["(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

["(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

["(H) shall be subject to such other terms and conditions,

as the Postal Service determines.

["(4) Obligations issued by the Postal Service under this subsection—

["(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as

specified therein and in any indenture or covenant relating thereto;

["(B) shall contain a recital that such obligations are issued under this subsection, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

["(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

["(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

["(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

["(5)(A) Subject to subparagraph (B), the Postal Service shall make payments of principal, or interest, or both on obligations issued under this subsection from—

["(i) revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)); or

["(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e).

["(B) Based on the audited financial statements for the most recently completed fiscal year, the total assets of the Competitive Products Fund may not be less than the amount determined by multiplying—

["(i) the quotient resulting from the total revenue of the Competitive Products Fund divided by the total revenue of the Postal Service; and

["(ii) the total assets of the Postal Service.

["(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

["(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

["(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

["(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

["(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

["(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

["(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for

any year (within the meaning of section 3634).

["(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

["(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

["(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

["(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

["(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

["(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

["(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission may revise such rules.

["(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

["(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

["(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

["(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

["(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

["(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g)."

["(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

["2011. Provisions relating to competitive products."].

TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

(2) COMPETITIVE PRODUCTS FUND.—The term ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”.

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund.”.

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title,” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”.

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting “or 2011” after “section 2005”;

(B) in subsection (b)—

(i) in the first sentence, by inserting “under section 2005” before “in such amounts”; and

(ii) in the second sentence, by inserting “under section 2005” before “in excess of such amount.”; and

(C) in subsection (c), by inserting “or 2011(e)(4)(E)” after “section 2005(d)(5)”.

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**“§ 3634. Assumed Federal income tax on competitive products income**

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

(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

(1) compute its assumed Federal income tax on competitive products income for such year; and

(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the

January 15th next occurring after the close of such year.”.

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**“§ 404a. Specific limitations**

(a) Except as specifically authorized by law, the Postal Service may not—

(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

**SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

(2) This subsection applies with respect to—

(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

(i) the antitrust laws (as defined in such subsection); and

(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes. To the extent practicable, model building codes should meet the voluntary consensus criteria established for codes and standards as required in the National Technology Transfer and Advancement Act of 1995 as defined in Office of Management and Budget Circular A1190. For purposes of life safety, the Postal Service shall continue to comply with the most current edition of the Life Safety Code of the National Fire Protection Association (NFPA 101).

(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

(i) a copy of such schedule before construction of the building is begun; and

(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding

sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

[(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

[(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

[(6) For purposes of this subsection, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

[(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

[(A) Subsection (d) or (e) of this section.

[(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

[(C) Section 3663 (relating to appellate review).

[The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

[(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

[(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

[(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

[(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g)."

[(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking "Except as provided in section 3628 of this title," and inserting "Except as otherwise provided in this title,".

#### SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

[(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

##### SEC. 407. International postal arrangements

[(a) It is the policy of the United States—

[(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

[(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

[(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services; and

[(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

[(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and shall have the power to conclude postal treaties and conventions, except that the Secretary may not conclude any postal treaty or convention if such treaty or convention would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal services, or any other person.

[(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

[(A) shall coordinate with other agencies as appropriate, and in particular, should consider the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

[(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

[(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

[(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

[(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

[(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary con-

siders appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

[(c) Before concluding any postal treaty or convention that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

[(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services as it deems appropriate, except that—

[(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be binding under international law; and

[(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

[(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

[(2) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

[(3) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Customs Service may determine in writing."

[(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

[(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

[(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### TITLE V—GENERAL PROVISIONS

##### SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

[(a) QUALIFICATIONS.—

[(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking

the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. Experience in the fields of law and accounting shall be considered in making appointments of Governors. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause."

[(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

[(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

["(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.".

[(c) 5-YEAR TERMS.—

[(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended in the first sentence by striking "9 years" and inserting "5 years".

[(2) APPLICABILITY.—

[(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

[(B) VACANCY BY INCUMBENT BEFORE 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 5 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 5-year term.

[(C) VACANCY BY INCUMBENT AFTER 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 5 years or more of that term, that term shall be deemed to have been a 5-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 5-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 5-year term under this subparagraph.

[(d) TERM LIMITATION.—

[(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

[(A) by inserting "(1)" after "(b)"; and

[(B) by adding at the end the following:

["(2) No person may serve more than 3 terms as a Governor.".

[(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

[(c) OBLIGATIONS.—

[(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "title." and inserting "title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.".

[(b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of title 39, United States Code, is amended by striking the third sentence.

[(c) AMOUNTS WHICH MAY BE PLEDGED.—

[(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking "such obligations," and inserting "obligations issued by the Postal Service under this section,".

[(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking "(b)" and inserting "(b)(1)", and by adding at the end the following:

["(2) Notwithstanding any other provision of this section—

["(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

["(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

[(c) PRIVATE CARRIAGE OF LETTERS.—

[(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

["(b) A letter may also be carried out of the mails when—

["(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

["(2) the letter weighs at least 1½ ounces; or

["(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that permit private carriage by suspension of the operation of this section (as then in effect).

["(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.".

[(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

[(c) RULEMAKING AUTHORITY.—

[(Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

["(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with

this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;".

[(d) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—

[(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

["§ 1207. Labor disputes

["(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

["(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

["(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

["(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

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

["(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach the agreement within 90 days after the commencement of collective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless the parties have previously

agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days after the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.”.

**[(b) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—**Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

**[(c) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—**Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**[SEC. 506. BONUS AUTHORITY.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

**["§ 3686. Bonus authority**

**[(a) IN GENERAL.—**The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

**[(b) LIMITATION ON TOTAL COMPENSATION.—**

**[(1) IN GENERAL.—**Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

**[(2) APPROVAL PROCESS.—**If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

**[(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and**

**[(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.**

**[(3) REVOCATION AUTHORITY.—**If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

**[(c) REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.—**Included in its comprehensive statement under section 2401(e) for any period shall be—

**[(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);**

**[(2) the amount of the bonus or other reward; and**

**[(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.”.**

**[TITLE VI—ENHANCED REGULATORY COMMISSION**

**[SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

**[(a) TRANSFER AND REDESIGNATION.—**Title 39, United States Code, is amended—

**[(1) by inserting after chapter 4 the following:**

**["CHAPTER 5—POSTAL REGULATORY COMMISSION**

**["Sec.**

**["501. Establishment.**

**["502. Commissioners.**

**["503. Rules; regulations; procedures.**

**["504. Administration.**

**["505. Officer of the Postal Regulatory Commission representing the general public.**

**["§ 501. Establishment**

**["The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.**

**["§ 502. Commissioners**

**[(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.**

**[(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.**

**[(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).**

**[(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.**

**[(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.**

**[(f) The Commissioners shall serve for terms of 6 years.”;**

**[(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;**

**[(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and**

**[(4) by adding after such section 504 the following:**

**["§ 505. Officer of the Postal Regulatory Commission representing the general public**

**["The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings who shall represent the interests of the general public.”.**

**[(b) APPLICABILITY.—**The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

**[(c) CLERICAL AMENDMENT.—**The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**["5. Postal Regulatory Commission 501”**

**[SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

**[(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.**

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

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

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

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

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

**[(4) For purposes of this subsection, the term ‘covered person’ means an officer, employee, agent, or contractor of the Postal Service.**

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

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

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

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

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

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

**[SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.]**

“(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

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

**“(b) BUDGET PROGRAM.—**

“(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”

“(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.”

**“(c) EFFECTIVE DATE.—**

“(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

“(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

**[SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.]**

“(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”;

“(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

“(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

“(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

“(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

“(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**[SEC. 605. FINANCIAL TRANSPARENCY.]**

“(a) IN GENERAL.—Section 101 of title 39, United States Code, is amended—

“(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

“(2) by inserting after subsection (c) the following:

“(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.”

“(b) FINANCIAL REPORTING REQUIREMENTS AND ENFORCEMENT POWERS APPLICABLE TO POSTAL SERVICE.—Section 503 of title 39, United States Code (as so redesignated by section 601 and 604) is amended by—

“(1) inserting “(a)” before “The Postal Regulatory Commission shall promulgate”; and

“(2) adding at the end the following:

“(b)(1) Beginning with the first full fiscal year following the date of enactment of the Postal Accountability and Enhancement Act, the Postal Service shall file with the Postal Regulatory Commission—

“(A) within 35 days after the end of each fiscal quarter, a quarterly report containing

the information prescribed in Form 10-Q of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information prescribed in Form 10-K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form.

“(2) For purposes of preparing the reports required under paragraph (1), the Postal Service shall be deemed to be the registrant described in the Securities and Exchange Commission forms, and references contained in such forms to Securities and Exchange Commission regulations are applicable.

“(3) For purposes of preparing the reports required under paragraph (1), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262; Public Law 107-204) beginning with fiscal year 2007 and in each fiscal year thereafter.

“(c)(1) The reports required under subsection (b)(1)(B) shall include, with respect to the financial obligations of the Postal Service under chapters 83, 84, and 89 of title 5 for retirees of the Postal Service—

“(A) the funded status of such obligations of the Postal Service;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic cost and the accumulated obligation of the Postal Service under chapter 89 of title 5 for retirees of the Postal Service;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2)(A) Beginning with the fiscal year 2007 and in each fiscal year thereafter, for purposes of the reports required under subsection (b)(1) (A) and (B), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A), after consultation with the Postal Regulatory Commission.

“(d) For purposes of the annual reports required under subsection (b)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed under subsection (c) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(e) The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under subsection (b)(1)(B).

“(f) The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be

conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this section whenever it shall appear that the data—

- ["(1) have become significantly inaccurate;
- ["(2) can be significantly improved; or
- ["(3) are not cost beneficial.”

#### TITLE VII—EVALUATIONS

##### SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

[(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 3 years, submit a report to the President and Congress concerning—

[(1) the operation of the amendments made by this Act; and

[(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

[(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

##### SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.

[(a) REPORT BY THE POSTAL REGULATORY COMMISSION.—

[(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as “universal service and the postal monopoly”), including the monopoly on the delivery of mail and on access to mailboxes.

[(2) CONTENTS.—The report under this subsection shall include—

[(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

[(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

[(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

[(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

[(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

[(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with

estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

[(2) with respect to each recommended change described under paragraph (1)—

[(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

[(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

[(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

##### SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.

[(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

[(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic advantages provided by those laws.

[(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

[(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

##### SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.

[(a) REPORT BY THE INSPECTOR GENERAL.—

[(1) IN GENERAL.—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

[(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

[(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

[(2) CONTENTS.—The report under this subsection shall also—

[(A) discuss any injury reduction goals established by the Postal Service;

[(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

[(C) identify areas where the Postal Service has failed to meet its injury reduction

goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

[(b) REPORT BY THE POSTAL SERVICE.—

[(1) REPORT TO CONGRESS.—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics.

[(2) PROBLEM AREAS.—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

##### SEC. 705. STUDY ON RECYCLED PAPER.

[(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

[(1) the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper;

[(2) a description of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including the amount of annual revenue generated and savings achieved by the Postal Service as a result of its use of recycled paper and other recycled products and its efforts to recycle undeliverable and discarded mail and other materials; and

[(3) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives and the projected costs and revenues of undertaking such opportunities.

[(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

##### SEC. 801. SHORT TITLE.

[This title may be cited as the “Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004”.

##### SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.

[(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

[(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

["(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.”; and

[(2) by amending section 8348(h) to read as follows:

["(h)(1) In this subsection, the term ‘Postal surplus or supplemental liability’ means the estimated difference, as determined by the Office, between—

["(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

["(B) the sum of—

["(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

["(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United

States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2006. If the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

“(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

“(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

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

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

“(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

#### ISEC. 803. HEALTH INSURANCE.

“(a) IN GENERAL.—

“(1) FUNDING.—Chapter 89 of title 5, United States Code, is amended—

“(A) in section 8906(g)(2)(A), by striking “shall be paid by the United States Postal

Service.” and inserting “shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.”; and

“(B) by inserting after section 8909 the following:

#### “§ 8909a. Postal Service Retiree Health Benefit Fund

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

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

“(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

“(d)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

“(2)(A) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

“(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

“(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

“(II) the net present value computed under paragraph (1).

“(B) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by September 30, 2045, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

“(3) Not later than September 30, 2006, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund—

“(A) the net present value computed under paragraph (1); and

“(B) the annual installment computed under paragraph (2)(B).

“(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

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

“(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

“§ 8909a. Postal Service Retiree Health Benefits Fund.”

“(b) TRANSITIONAL ADJUSTMENT FOR FISCAL YEAR 2006.—For fiscal year 2006, the amounts paid by the Postal Service in Government contributions under section 8906(g)(2)(A) of title 5, United States Code, for fiscal year

2006 contributions shall be deducted from the initial payment otherwise due from the Postal Service to the Postal Service Retiree Health Benefits Fund under section 8909a(d)(3) of such title as added by this section.

#### ISEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.

“Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) is repealed.

#### ISEC. 805. EFFECTIVE DATES.

“(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2005.

“(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

#### ITITLE IX—COMPENSATION FOR WORK INJURIES

#### ISEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.

“(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of title 5, United States Code, is amended—

“(1) by striking “An employee” and inserting “(a) An employee other than a Postal Service employee”; and

“(2) by adding at the end the following:

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

“(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

“(1) without a break in time, except as provided under section 8117(b), unless controverted under regulations of the Secretary”.

#### ISEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOYEES.

“(a) TOTAL DISABILITY.—Section 8105 of title 5, United States Code, is amended—

“(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (c).”; and

“(2) by adding at the end the following:

“(c)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

“(b) PARTIAL DISABILITY.—Section 8106 of title 5, United States Code, is amended—

“(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (d).”; and

“(2) by adding at the end the following:

“(d)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”.

#### TITLE X—MISCELLANEOUS

##### SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 404 of title 39, United States Code (as amended by this Act), is further amended by adding at the end the following:

“(d) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen provided under section 1315 of title 40. The Postmaster General, or the designee of the Postmaster General, may take any action that the Secretary of Homeland Security may take under section 1315 of title 40, with respect to that property.

##### SEC. 1002. EXPANDED CONTRACTING AUTHORITY.

“(a) AMENDMENT TO TITLE 39, UNITED STATES CODE.—

“(1) CONTRACTS WITH AIR CARRIERS.—Subsection (e) of section 5402 of title 39, United States Code, is amended—

“(A) by striking the matter preceding paragraph (2) and inserting the following:

“(e)(1) The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate air transportation, including the rates for that transportation, either through negotiations or competitive bidding.”;

“(B) by redesignating paragraph (2) as paragraph (4); and

“(C) by inserting after paragraph (1) the following:

“(2) Notwithstanding subsections (b) through (d), the Postal Service may contract with any air carrier or foreign air carrier for the transportation of mail by aircraft in foreign air transportation, including the rates for that transportation, either through negotiations or competitive bidding, except that—

“(A) any such contract may be awarded only to—

“(i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation;

“(ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation; or

“(iii) a combination of such air carriers or foreign air carriers (or both);

“(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

“(C) during the 5-year period beginning 1 year after the date of enactment of the Postal Accountability and Enhancement Act, the Postal Service may not under this paragraph—

“(i) contract for service between a pair or combination of pairs of points in foreign air transportation with—

“(I) a foreign air carrier; or

“(II) an air carrier to the extent that service provided would be offered through a code sharing arrangement in which the air carrier's designator code is used to identify a flight operated by a foreign air carrier; or

“(ii) tender mail in foreign air transportation under contracts providing for the carriage of mail in foreign air transportation over all (or substantially all, as determined by the Postal Service) of a carrier's routes or all or substantially all of a carrier's routes within a geographic area determined by the Postal Service on the basis of a common unit price per mile and a separate terminal price to—

“(I) a foreign air carrier; or

“(II) an air carrier to the extent that service provided would be offered through a code sharing arrangement in which the air carrier's designator code is used to identify a flight operated by a foreign air carrier, unless—

“(aa) with respect to clause (i) and this clause, fewer than 2 air carriers capable of providing service to the Postal Service adequate for its purposes between the pair or combination of pairs of points in foreign air transportation offer scheduled service between the pair or combination of pairs of points in foreign air transportation which are the subject of the contract or tender;

“(bb) with respect to clause (i), after competitive solicitation, the Postal Service has not received at least 2 offers from eligible air carriers capable of providing service to the Postal Service adequate for its purposes between the pair or combination of pairs of points in foreign air transportation; or

“(cc) with respect to this clause, after competitive solicitation, fewer than 2 air carriers under contract with the Postal Service offer service adequate for the Postal Service's purposes between the pair or combination of pairs of points in foreign air transportation for which tender is being made;

“(D) beginning 6 years after the date of enactment of the Postal Accountability and Enhancement Act, every contract that the Postal Service awards to a foreign air carrier under this paragraph shall be subject to the continuing requirement that air carriers shall be afforded the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier, if different, as the Postal Service has afforded the foreign air carrier; and

“(E) the Postmaster General shall consult with the Secretary of Defense concerning actions that affect the carriage of military mail transported in foreign air transportation.

“(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.”.

“(2) DEFINITIONS.—Section 5402(a) of title 39, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) The terms ‘air carrier’, ‘air transportation’, ‘foreign air carrier’, ‘foreign air transportation’, ‘interstate air transportation’, and ‘mail’ have the meanings given such terms in section 40102(a) of title 49.”.

“(b) AMENDMENTS TO TITLE 49, UNITED STATES CODE.—

“(1) AUTHORITY OF POSTAL SERVICE TO PROVIDE FOR INTERSTATE AIR TRANSPORTATION OF MAIL.—Section 41901(a) of title 49, United States Code, is amended to read as follows:

“(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in air transportation under this chapter and under chapter 54 of title 39.”.

“(2) SCHEDULES FOR CERTAIN TRANSPORTATION OF MAIL.—Section 41902 of title 49, United States Code, is amended—

“(A) by striking subsection (b) and inserting the following:

“(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

“(1) the places between which the carrier is authorized to transport mail in Alaska;

“(2) every schedule of aircraft regularly operated by the carrier between places described under paragraph (1) and every change in each schedule; and

“(3) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.”;

“(B) in subsection (c), by striking “(b)(3)” and inserting “(b)”;

“(C) in subsection (d), in the first sentence, by striking “(b)(3)” and inserting “(b)”.

“(3) PRICES FOR FOREIGN TRANSPORTATION OF MAIL.—Section 41907 of title 49, United States Code, is amended—

“(A) by striking “(a) LIMITATIONS.—”;

“(B) by striking subsection (b).

“(4) TECHNICAL AND CONFORMING AMENDMENTS.—Sections 41107, 41901(b)(1), 41902(a), and 41903 (a) and (b) of title 49, United States Code, are amended by striking “in foreign air transportation or”.

“(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of enactment of this Act.

##### SEC. 1003. REPORT ON THE UNITED STATES POSTAL INSPECTION SERVICE AND THE OFFICE OF THE INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Government Accountability Office shall review the functions, responsibilities, and areas of possible duplication of the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service and submit a report on the review to the Committee on Homeland Security and Governmental Affairs of the Senate.

“(b) CONTENTS.—The report under this section shall include recommendations for legislative actions necessary to clarify the roles of the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service to strengthen oversight of postal operations.

##### SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.

“It is the sense of Congress that the Postal Service should—

“(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

“(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings as recommended in July 2003 by the President's Commission on the United States Postal Service, in a manner that is compatible with the fair and consistent treatment of suppliers and contractors, as befitting an establishment in the United States Government.”

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

(a) SHORT TITLE.—This Act may be cited as the “Postal Accountability and Enhancement Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**  
 Sec. 101. Definitions.  
 Sec. 102. Postal services.

**TITLE II—MODERN RATE REGULATION**  
 Sec. 201. Provisions relating to market-dominant products.  
 Sec. 202. Provisions relating to competitive products.  
 Sec. 203. Provisions relating to experimental and new products.  
 Sec. 204. Reporting requirements and related provisions.  
 Sec. 205. Complaints; appellate review and enforcement.  
 Sec. 206. Clerical amendment.

**TITLE III—MODERN SERVICE STANDARDS**  
 Sec. 301. Establishment of modern service standards.  
 Sec. 302. Postal service plan.

**TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION**

Sec. 401. Postal Service Competitive Products Fund.  
 Sec. 402. Assumed Federal income tax on competitive products income.  
 Sec. 403. Unfair competition prohibited.  
 Sec. 404. Suits by and against the Postal Service.  
 Sec. 405. International postal arrangements.

**TITLE V—GENERAL PROVISIONS**  
 Sec. 501. Qualification and term requirements for Governors.  
 Sec. 502. Obligations.  
 Sec. 503. Private carriage of letters.  
 Sec. 504. Rulemaking authority.  
 Sec. 505. Noninterference with collective bargaining agreements.

Sec. 506. Bonus authority.  
**TITLE VI—ENHANCED REGULATORY COMMISSION**  
 Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.  
 Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.  
 Sec. 603. Authorization of appropriations from the Postal Service Fund.  
 Sec. 604. Redesignation of the Postal Rate Commission.  
 Sec. 605. Financial transparency.

**TITLE VII—EVALUATIONS**  
 Sec. 701. Assessments of ratemaking, classification, and other provisions.  
 Sec. 702. Report on universal postal service and the postal monopoly.  
 Sec. 703. Study on equal application of laws to competitive products.  
 Sec. 704. Report on postal workplace safety and workplace-related injuries.  
 Sec. 705. Study on recycled paper.

**TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING**  
 Sec. 801. Short title.  
 Sec. 802. Civil Service Retirement System.  
 Sec. 803. Health insurance.  
 Sec. 804. Repeal of disposition of savings provision.  
 Sec. 805. Effective dates.

**TITLE IX—COMPENSATION FOR WORK INJURIES**  
 Sec. 901. Temporary disability; continuation of pay.  
 Sec. 902. Disability retirement for postal employees.

**TITLE X—MISCELLANEOUS**  
 Sec. 1001. Employment of postal police officers.  
 Sec. 1002. Obsolete provisions.  
 Sec. 1003. Reduced rates.  
 Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.

**TITLE I—DEFINITIONS; POSTAL SERVICES**  
**SEC. 101. DEFINITIONS.**

Section 102 of title 39, United States Code, is amended by striking “and” at the end of para-

graph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other functions ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate or rates are applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36; and

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36; and

“(10) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”

**SEC. 102. POSTAL SERVICES.**

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:  
 “(c) Except as provided in section 411, nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.”

(b) **CONFORMING AMENDMENTS.**—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.  
 (2) Section 2003(b)(1) of title 39, United States Code, is amended by striking “and nonpostal”.

**TITLE II—MODERN RATE REGULATION**  
**SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.**

(a) **IN GENERAL.**—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

**“§ 3621. Applicability; definitions**

“(a) **APPLICABILITY.**—This subchapter shall apply with respect to—

“(1) first-class mail letters and sealed parcels;  
 “(2) first-class mail cards;  
 “(3) periodicals;  
 “(4) standard mail;  
 “(5) single-piece parcel post;  
 “(6) media mail;  
 “(7) bound printed matter;  
 “(8) library mail;  
 “(9) special services; and  
 “(10) single-piece international mail,

subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) **RULE OF CONSTRUCTION.**—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**“§ 3622. Modern rate regulation**

“(a) **AUTHORITY GENERALLY.**—The Postal Regulatory Commission shall, within 12 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

“(b) **OBJECTIVES.**—Such system shall be designed to achieve the following objectives:

“(1) To reduce the administrative burden and increase the transparency of the ratemaking process while affording reasonable opportunities for interested parties to participate in that process.

“(2) To create predictability and stability in rates.

“(3) To maximize incentives to reduce costs and increase efficiency.

“(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

“(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

“(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

“(7) To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.

“(c) **FACTORS.**—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

“(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

“(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(8) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

“(9) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(10) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(11) the desirability of special classifications from the point of view of both the user and of the Postal Service;

“(12) the educational, cultural, scientific, and informational value to the recipient of mail matter;

“(13) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable, universal postal service; and

“(14) the policies of this title as well as such other factors as the Commission determines appropriate.

“(d) **REQUIREMENTS.**—

“(1) **IN GENERAL.**—The system for regulating rates and classes for market-dominant products shall—

“(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

“(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

“(C) not later than 45 days before the implementation of any adjustment in rates under this section—

“(i) require the Postal Service to provide public notice of the adjustment;

“(ii) provide an opportunity for review by the Postal Regulatory Commission;

“(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any non-compliance of the adjustment with the limitation under subparagraph (A); and

“(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

“(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

“(E) notwithstanding any limitation set under subparagraphs (A) and (C), establish procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.

“(2) LIMITATIONS.—

“(A) CLASSES OF MAIL.—The annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

“(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

“(C) BANKING UNUSED PRICING AUTHORITY.—Notwithstanding paragraph (1), for any class or service that failed to recover its attributable costs in the previous fiscal year, or for all classes and services when the Postal Service has operated at a loss for the last 2 years, rate increases may exceed Consumer Price Index for All Urban Consumers by the amount rate increases in the previous year were less than Consumer Price Index for All Urban Consumers.

“(e) WORKSHARE DISCOUNTS.—

“(1) DEFINITION.—In this subsection, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

“(2) REGULATIONS.—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

“(A) the discount is—

“(i) associated with a new postal service, a change to an existing postal service, or with a new workshare initiative related to an existing postal service; and

“(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

“(B) a reduction in the discount would—

“(i) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

“(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

“(iii) impede the efficient operation of the Postal Service;

“(C) the amount of the discount above costs avoided—

“(i) is necessary to mitigate rate shock; and

“(ii) will be phased out over time; or

“(D) the discount is provided in connection with subclasses of mail consisting exclusively of

mail matter of educational, cultural, scientific, or informational value.

“(3) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

“(A) explains the Postal Service’s reasons for establishing or maintaining the rate;

“(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

“(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

“(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section.”

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“§ 3631. Applicability; definitions and updates

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

- “(1) priority mail;
- “(2) expedited mail;
- “(3) bulk parcel post;
- “(4) bulk international mail; and
- “(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

“(b) DEFINITION.—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

“(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

“(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

“§ 3632. Action of the Governors

“(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) PROCEDURES.—

“(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

“(2) PUBLIC NOTICE; REVIEW; AND COMPLIANCE.—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

“(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

“(B) the Postal Regulatory Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

“(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

“(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

“§ 3633. Provisions applicable to rates for competitive products

“(a) IN GENERAL.—The Postal Regulatory Commission shall, within 180 days after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

“(1) prohibit the subsidization of competitive products by market-dominant products;

“(2) ensure that each competitive product covers its costs attributable; and

“(3) ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.

“(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.”

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“§ 3641. Market tests of experimental products

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category

without regard to whether a similar ancillary product exists for market-dominant products.

“(c) NOTICE.—

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

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

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

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

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

**“§3642. New products and transfers of products between the market-dominant and competitive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are

superseded, and shall be published in the Federal Register.

“(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

“(1) under this subchapter; or

“(2) by or under any other provision of law.”.

**SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”;

and

(2) by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

**“§3651. Annual reports by the Commission**

“(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

“(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**“§3652. Annual reports to the Commission**

“(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) product information, including mail volumes; and

“(B) measures of the service afforded by the Postal Service in connection with such product, including—

“(i) the level of service (described in terms of speed of delivery and reliability) provided; and

“(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

“(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(1) The per-item cost avoided by the Postal Service by virtue of such discount.

“(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(3) The per-item contribution made to institutional costs.

“(c) SERVICE AGREEMENTS AND MARKET TESTS.—In carrying out subsections (a) and (b) with respect to service agreements and experimental products offered through market tests under section 3641 in a year, the Postal Service—

“(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

“(2) shall report such data as the Postal Regulatory Commission requires.

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

“(e) CONTENT AND FORM OF REPORTS.—

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

“(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

“(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) strategic plan under section 2802;

“(3) performance plan under section 2803; and

“(4) program performance reports under section 2804.

#### “§3653. Annual determination of compliance

“(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

“(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).

“(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.”

#### SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

##### “§3662. Rate and service complaints

“(a) IN GENERAL.—Any person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

“(A) begin proceedings on such complaint; or

“(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance including ordering unlawful rates to be adjusted to lawful levels, ordering

the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

“(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

##### “§3663. Appellate review

“A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

##### “§3664. Enforcement of orders

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”

#### SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

#### “CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

##### “SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“[3623. Repealed.]

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

##### “SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

##### “SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

##### “SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

##### “SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

##### “SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

"3682. Size and weight limits.

"3683. Uniform rates for books; films, other materials.

"3684. Limitations.

"3685. Filing of information relating to periodical publications.

"3686. Bonus authority.

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"3691. Establishment of modern service standards."

**TITLE III—MODERN SERVICE STANDARDS**  
**SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.**

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

**"§3691. Establishment of modern service standards**

"(a) **AUTHORITY GENERALLY.**—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with the Postal Service's universal service obligation as defined in sections 101 (a) and (b) and 403.

"(b) **OBJECTIVES.**—Such standards shall be designed to achieve the following objectives:

"(1) To enhance the value of postal services to both senders and recipients.

"(2) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

"(3) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

"(4) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

"(c) **FACTORS.**—In establishing or revising such standards, the Postal Service shall take into account—

"(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

"(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

"(3) the needs of Postal Service customers, including those with physical impairments;

"(4) mail volume and revenues projected for future years;

"(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

"(6) the current and projected future cost of serving Postal Service customers;

"(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

"(8) the policies of this title and such other factors as the Commission determines appropriate.

"(d) **REVIEW.**—The regulations promulgated pursuant to this section (and any revisions thereto) shall be subject to review upon complaint under sections 3662 and 3663.

**SEC. 302. POSTAL SERVICE PLAN.**

(a) **IN GENERAL.**—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) **CONTENTS.**—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service's processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

(4) contain the matters relating to postal facilities provided under subsection (c).

(c) **POSTAL FACILITIES.**—

(1) **FINDINGS.**—Congress finds that—

(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

(B) as noted by the President's Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

(D) Congress strongly encourages the Postal Service to—

(i) expeditiously move forward in its streamlining efforts; and

(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

(2) **IN GENERAL.**—The Postal Service plan shall include a description of—

(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

(B) how the Postal Service intends to implement that vision.

(3) **CONTENT OF FACILITIES PLAN.**—The plan under this subsection shall include—

(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes; and

(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan.

(4) **ANNUAL REPORTS.**—

(A) **IN GENERAL.**—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

(B) **CONTENTS.**—Each report under this paragraph shall include—

(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

(v) such additional topics and recommendations as the Postal Service considers appropriate.

(d) **ALTERNATE RETAIL OPTIONS.**—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

(1) vending machines;

(2) the Internet;

(3) postage meter;

(4) stamps by mail;

(5) Postal Service employees on delivery routes;

(6) retail facilities in which overhead costs are shared with private businesses and other government agencies; or

(7) any other nonpost office access channel providing market retail access to postal services.

(e) **REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.**—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) **INSPECTOR GENERAL REPORT.**—

(1) **IN GENERAL.**—Before submitting the plan under subsection (a) and each annual report under subsection (c) to Congress, the Postal Service shall submit the plan and each annual report to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) **REPORT.**—The Inspector General shall prepare a report describing the extent to which the Postal Service plan and each annual report under subsection (c)—

(A) are consistent with the continuing obligations of the Postal Service under title 39, United States Code;

(B) provide for the Postal Service to meet the service standards established under section 3691 of title 39, United States Code; and

(C) allow progress toward improving overall efficiency and effectiveness consistent with the need to maintain universal postal service at affordable rates.

(g) **CONTINUED AUTHORITY.**—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

**TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION**

**SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.**

(a) **PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.**—

(1) **IN GENERAL.**—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

**"§2011. Provisions relating to competitive products**

"(a)(1) In this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(A) costs attributable to competitive products; and

"(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;“(2) amounts received from obligations issued by Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

“(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

“(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

“(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

“(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service, considers necessary or desirable to enhance the marketability of such obligations.

“(3) Obligations issued by the Postal Service under this subsection—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions,

as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that such obligations are issued under this subsection, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5)(A) Subject to subparagraph (B), the Postal Service shall make payments of principal, or interest, or both on obligations issued under this subsection from—

“(i) revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)); or

“(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e).

“(B) Based on the audited financial statements for the most recently completed fiscal year, the total assets of the Competitive Products Fund may not be less than the amount determined by multiplying—

“(i) the quotient resulting from the total revenue of the Competitive Products Fund divided by the total revenue of the Postal Service; and

“(ii) the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

“(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

“(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

“(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

“(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

“(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year (within the meaning of section 3634).

“(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

“(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

“(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

“(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission may revise such rules.

“(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

“(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

“(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

“(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) COMPETITIVE PRODUCTS FUND.—The term ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”.

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund

and the balance in the Competitive Products Fund.”.

(3) **POSTAL SERVICE FUND.**—

(A) **PURPOSES FOR WHICH AVAILABLE.**—Section 2003(a) of title 39, United States Code, is amended by striking “title.” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”.

(B) **DEPOSITS.**—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) **RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.**—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting “or 2011” after “section 2005”;

(B) in subsection (b)—

(i) in the first sentence, by inserting “under section 2005” before “in such amounts”; and

(ii) in the second sentence, by inserting “under section 2005” before “in excess of such amount.”; and

(C) in subsection (c), by inserting “or 2011(e)(4)(E)” after “section 2005(d)(5)”.

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**“§3634. Assumed Federal income tax on competitive products income**

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) **COMPUTATION AND TRANSFER REQUIREMENTS.**—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) **DEADLINE FOR TRANSFERS.**—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”.

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) **SPECIFIC LIMITATIONS.**—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**“§404a. Specific limitations**

“(a) Except as specifically authorized by law, the Postal Service may not—

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party

(such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **GENERAL POWERS.**—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) **SPECIFIC POWERS.**—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) **CLERICAL AMENDMENT.**—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

**SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) **IN GENERAL.**—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

“(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

“(f) To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

“(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes. To the extent practicable, model building codes should meet the voluntary consensus criteria established for codes and standards as required in the National Technology Transfer and Advancement Act of 1995 as defined in Office of Management and Budget Circular A1190. For purposes of life safety, the Postal Service shall continue to comply with the most current edition of the Life Safety Code of the National Fire Protection Association (NFPA 101).

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title.”

#### SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

##### “§407. International postal arrangements

“(a) It is the policy of the United States—

“(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

“(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

“(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services; and

“(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

“(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and shall have the power to conclude postal treaties and conventions, except that the Secretary may not conclude any postal treaty or convention if such treaty or conven-

tion would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal services, or any other person.

“(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

“(A) shall coordinate with other agencies as appropriate, and in particular, should consider the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

“(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

“(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

“(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

“(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

“(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

“(c) Before concluding any postal treaty or convention that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

“(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services as it deems appropriate, except that—

“(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be binding under international law; and

“(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

“(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

“(2) In exercising the authority under subsection (b) to conclude new postal treaties and

conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

“(3) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Customs Service may determine in writing.”

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### TITLE V—GENERAL PROVISIONS

##### SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. Experience in the fields of law and accounting shall be considered in making appointments of Governors. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”

(c) 5-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended in the first sentence by striking “9 years” and inserting “5 years”.

(2) APPLICABILITY.—

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person

may continue to serve the remainder of the applicable term.

(B) **VACANCY BY INCUMBENT BEFORE 5 YEARS OF SERVICE.**—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 5 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 5-year term.

(C) **VACANCY BY INCUMBENT AFTER 5 YEARS OF SERVICE.**—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 5 years or more of that term, that term shall be deemed to have been a 5-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 5-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 5-year term under this subparagraph.

(d) **TERM LIMITATION.**—

(1) **IN GENERAL.**—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting “(1)” after “(b)”; and

(B) by adding at the end the following:

“(2) No person may serve more than 3 terms as a Governor.”.

(2) **APPLICABILITY.**—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

**SEC. 502. OBLIGATIONS.**

(a) **PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.**—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”.

(b) **INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.**—Section 2005(a)(1) of title 39, United States Code, is amended by striking the third sentence.

(c) **AMOUNTS WHICH MAY BE PLEDGED.**—

(1) **OBLIGATIONS TO WHICH PROVISIONS APPLY.**—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section.”.

(2) **ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.**—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not reve-

nues or receipts of the Competitive Products Fund.”.

**SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

(a) **IN GENERAL.**—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces; or

“(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that permit private carriage by suspension of the operation of this section (as then in effect).”.

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”.

(b) **EFFECTIVE DATE.**—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

**SEC. 504. RULEMAKING AUTHORITY.**

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;”.

**SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**

(a) **LABOR DISPUTES.**—Section 1207 of title 39, United States Code, is amended to read as follows:

**“§ 1207. Labor disputes**

“(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

“(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

“(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall

consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

“(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

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

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

(b) **NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(c) **FREE MAILING PRIVILEGES CONTINUE UNCHANGED.**—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**SEC. 506. BONUS AUTHORITY.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

**“§ 3686. Bonus authority**

“(a) **IN GENERAL.**—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

“(b) **LIMITATION ON TOTAL COMPENSATION.**—

“(1) **IN GENERAL.**—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

“(2) **APPROVAL PROCESS.**—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

“(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

“(B) the Board of Governors shall approve any such request if the Board certifies, for the

annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

“(3) **REVOCAATION AUTHORITY.**—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

“(c) **REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.**—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);

“(2) the amount of the bonus or other reward; and

“(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.”

#### **TITLE VI—ENHANCED REGULATORY COMMISSION**

##### **SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) **TRANSFER AND REDESIGNATION.**—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

#### **“CHAPTER 5—POSTAL REGULATORY COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

“505. Officer of the Postal Regulatory Commission representing the general public.

#### **“§501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

#### **“§502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”;

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and

(4) by adding after such section 504 the following:

#### **“§505. Officer of the Postal Regulatory Commission representing the general public**

“The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings who shall represent the interests of the general public.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) **CLERICAL AMENDMENT.**—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

#### **“5. Postal Regulatory Commission ... 501”**

##### **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

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

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

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

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

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

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

“(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public

disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

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

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

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

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

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

##### **SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

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

(b) **BUDGET PROGRAM.**—

(1) **IN GENERAL.**—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”.

(2) **CONFORMING AMENDMENT.**—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.”.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2002.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

**SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.**

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”;

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**SEC. 605. FINANCIAL TRANSPARENCY.**

(a) IN GENERAL.—Section 101 of title 39, United States Code, is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

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

“(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.”.

(b) FINANCIAL REPORTING REQUIREMENTS AND ENFORCEMENT POWERS APPLICABLE TO POSTAL SERVICE.—Section 503 of title 39, United States Code (as so redesignated by section 601 and 604) is amended by—

(1) inserting “(a)” before “The Postal Regulatory Commission shall promulgate”; and

(2) adding at the end the following:

“(b)(1) Beginning with the first full fiscal year following the date of enactment of the Postal Accountability and Enhancement Act, the Postal Service shall file with the Postal Regulatory Commission—

“(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the information prescribed in Form 10-Q of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information prescribed in Form 10-K of the Securities

and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form.

“(2) For purposes of preparing the reports required under paragraph (1), the Postal Service shall be deemed to be the registrant described in the Securities and Exchange Commission forms, and references contained in such forms to Securities and Exchange Commission regulations are applicable.

“(3) For purposes of preparing the reports required under paragraph (1), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262; Public Law 107-204) beginning with fiscal year 2007 and in each fiscal year thereafter.

“(c)(1) The reports required under subsection (b)(1)(B) shall include, with respect to the financial obligations of the Postal Service under chapters 83, 84, and 89 of title 5 for retirees of the Postal Service—

“(A) the funded status of such obligations of the Postal Service;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic cost and the accumulated obligation of the Postal Service under chapter 89 of title 5 for retirees of the Postal Service;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2)(A) Beginning with the fiscal year 2007 and in each fiscal year thereafter, for purposes of the reports required under subsection (b)(1) (A) and (B), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A), after consultation with the Postal Regulatory Commission.

“(d) For purposes of the annual reports required under subsection (b)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed under subsection (c) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(e) The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under subsection (b)(1)(B).

“(f) The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this section whenever it shall appear that the data—

“(1) have become significantly inaccurate;

“(2) can be significantly improved; or

“(3) are not cost beneficial.”.

**TITLE VII—EVALUATIONS**

**SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.**

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 3 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

**SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.**

(a) REPORT BY THE POSTAL REGULATORY COMMISSION.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as “universal service and the postal monopoly”), including the monopoly on the delivery of mail and on access to mailboxes.

(2) CONTENTS.—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) *IN GENERAL.*—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) *RECOMMENDATIONS.*—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic advantages provided by those laws.

(c) *CONSULTATION.*—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) *COMPETITIVE PRODUCT REGULATION.*—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

**SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.**

(a) *REPORT BY THE INSPECTOR GENERAL.*—

(1) *IN GENERAL.*—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

(2) *CONTENTS.*—The report under this subsection shall also—

(A) discuss any injury reduction goals established by the Postal Service;

(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

(C) identify areas where the Postal Service has failed to meet its injury reduction goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

(b) *REPORT BY THE POSTAL SERVICE.*—

(1) *REPORT TO CONGRESS.*—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics.

(2) *PROBLEM AREAS.*—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

**SEC. 705. STUDY ON RECYCLED PAPER.**

(a) *IN GENERAL.*—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

(1) the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper;

(2) a description of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including the amount of annual revenue generated and savings achieved by the Postal Service as a result of its use of recycled paper and other recycled products and its efforts to recycle undeliverable and discarded mail and other materials; and

(3) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives and the projected costs and revenues of undertaking such opportunities.

(b) *RECOMMENDATIONS.*—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

**TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING**

**SEC. 801. SHORT TITLE.**

This title may be cited as the “Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004”.

**SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

(a) *IN GENERAL.*—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

“(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.”; and

(2) by amending section 8348(h) to read as follows:

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

“(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

“(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2006. If the result is a supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

“(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a sur-

plus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

“(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

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

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

(b) *CREDIT ALLOWED FOR MILITARY SERVICE.*—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(c) *REVIEW.*—

(1) *IN GENERAL.*—

(A) *REQUEST FOR REVIEW.*—Notwithstanding any other provision of this section (including any amendment made by this section), any determination or redetermination made by the Office of Personnel Management under this section (including any amendment made by this section) shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this subsection.

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

(2) *RECONSIDERATION.*—Upon receiving the report from the Commission under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

**SEC. 803. HEALTH INSURANCE.**

(a) *IN GENERAL.*—

(1) FUNDING.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8906(g)(2)(A), by striking “shall be paid by the United States Postal Service.” and inserting “shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.”; and

(B) by inserting after section 8909 the following:

**“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

“(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

“(d)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

“(2)(A) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

“(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

“(ii)(1) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

“(II) the net present value computed under paragraph (1).

“(B) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by September 30, 2045, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

“(3) Not later than September 30, 2006, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund—

“(A) the net present value computed under paragraph (1); and

“(B) the annual installment computed under paragraph (2)(B).

“(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

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

“(ii) Upon receiving a request under clause (i), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of healthcare insurance obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the

results of the review. The Commission, upon determining that the report satisfies the requirements of this subparagraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

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

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

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”

(b) REVIEW.—

(1) IN GENERAL.—

(A) REQUEST FOR REVIEW.—Any regulation established under section 8909a(d)(5) of title 5, United States Code (as added by subsection (a)), shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

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

(2) RECONSIDERATION.—Upon receiving the report under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

(c) TRANSITIONAL ADJUSTMENT FOR FISCAL YEAR 2006.—For fiscal year 2006, the amounts paid by the Postal Service in Government contributions under section 8906(g)(2)(A) of title 5, United States Code, for fiscal year 2006 contributions shall be deducted from the initial payment otherwise due from the Postal Service to the Postal Service Retiree Health Benefits Fund under section 8909a(d)(3) of such title as added by this section.

**SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) is repealed.

**SEC. 805. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2005.

(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

**TITLE IX—COMPENSATION FOR WORK INJURIES**

**SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of title 5, United States Code, is amended—

(1) by striking “An employee” and inserting “(a) An employee other than a Postal Service employee”; and

(2) by adding at the end the following:

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

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

“(1) without a break in time, except as provided under section 8117(b), unless controverted under regulations of the Secretary”.

**SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOYEES.**

(a) TOTAL DISABILITY.—Section 8105 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

(b) PARTIAL DISABILITY.—Section 8106 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (d).”; and

(2) by adding at the end the following:

“(d)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

**TITLE X—MISCELLANEOUS**

**SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

Section 404 of title 39, United States Code (as amended by this Act), is further amended by adding at the end the following:

“(d) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen provided under section 1315 of title 40. The Postmaster General, or the designee of the Postmaster General, may take any action that the Secretary of Homeland

Security may take under section 1315 of title 40, with respect to that property.

**SEC. 1002. OBSOLETE PROVISIONS.**

(a) REPEAL.—

(1) IN GENERAL.—Chapter 52 of title 39, United States Code, is repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(d) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

**SEC. 1003. REDUCED RATES.**

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

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

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

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

(2) in subsection (g), by adding at the end the following:

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

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

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

“(C) This paragraph shall not apply with respect to an issue of a publication unless the

total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.”; and

(3) by adding at the end the following:

“(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).”.

**SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.**

It is the sense of Congress that the Postal Service should—

(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings as recommended in July 2003 by the President’s Commission on the United States Postal Service, in a manner that is compatible with the fair and consistent treatment of suppliers and contractors, as befitting an establishment in the United States Government.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendments at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, and the bill, as amended, be read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2750, 2751, 2752, and 2753) were agreed to, as follows:

AMENDMENT NO. 2750

(Purpose: To modify provisions relating to objectives, unused rate adjustment authority, transition rules, rate and service complaints, and for other purposes)

On page 133, line 25, insert before the colon “, each of which shall be applied in conjunction with the others”.

On page 134, between lines 21 and 22, insert the following:

“(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

On page 135, strike lines 1 through 3.

On page 135, line 4, strike “(2)” and insert “(1)”.

On page 135, line 9, strike “(3)” and insert “(2)”.

On page 135, line 15, strike “(4)” and insert “(3)”.

On page 135, line 19, strike “(5)” and insert “(4)”.

On page 135, line 22, strike “(6)” and insert “(5)”.

On page 136, line 1, strike “(7)” and insert “(6)”.

On page 136, line 5, strike “(8)” and insert “(7)”.

On page 136, line 8, strike “(9)” and insert “(8)”.

On page 136, line 12, strike “(10)” and insert “(9)”.

On page 136, line 16, strike “(11)” and insert “(10)”.

On page 136, line 19, strike “(12)” and insert “(11)”.

On page 136, line 21, strike “(13)” and insert “(12)”.

On page 137, line 1, strike “(14)” and insert “(13)”.

On page 138, line 19, strike “The” and insert “Except as provided under subparagraph (C), the”.

On page 139, strike lines 8 through 17, and insert the following:

“(C) USE OF UNUSED RATE AUTHORITY.—

“(i) DEFINITION.—In this subparagraph, the term ‘unused rate adjustment authority’ means the difference between—

“(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

“(II) the amount of the rate adjustment the Postal Service actually makes in that year.

“(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

“(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

“(I) may use unused rate adjustment authority from more than 1 year;

“(II) may use any part of the unused rate adjustment authority from any year;

“(III) shall use the unused rate adjustment authority first occurred and then each following year; and

“(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

On page 142, strike lines 5 through 10, and insert the following:

“(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.”.

On page 162, line 10, strike all through page 164, line 9, and insert the following:

**“§3662. Rate and service complaints**

“(a) IN GENERAL.—Any interested party (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of chapter 1 (except section 101(c)), sections 401, 403, 404, 404a, 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

“(A) either—

“(i) upon a finding that such complaint raises substantial and material issues of fact or law, begin proceedings on such complaint; or

“(ii) issue an order dismissing the complaint; and

“(B) with respect to any action taken under subparagraph (A) (i) or (ii), issue a written statement setting forth the bases of its determination.

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the

Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds upon clear and convincing evidence the complaint to be justified, it shall order that the Postal Service take such action as is necessary to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance.

“(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

On page 168, line 11, strike “Commission” and insert “Postal Service”.

#### AMENDMENT NO. 2751

(Purpose: To provide for procedures by the Postal Service to give notice on certain actions affecting communities)

On page 171, line 6, strike “and”.

On page 171, line 10, strike the period and insert “; and”.

On page 171, between lines 10 and 11, insert the following:

(D) procedures that the Postal Service will use to—

(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

(ii) make available, upon request, any data, analyses, or other information considered by the Postal Service in making the proposed decision;

(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

(iv) take such comments into account in making a final decision.

On page 172, between lines 22 and 23, insert the following:

(5) EXISTING EFFORTS.—Effective on the date of enactment of this Act, the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D).

#### AMENDMENT NO. 2752

(Purpose: To modify qualifications and terms of Governors of the United States Postal Service)

On page 202, lines 10 through 14, strike “demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. Experience in the fields of law and accounting shall be considered in making appointments of Governors.” and insert “experience in the fields of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size.”

On page 203, line 14, strike “5” and insert “7”.

On page 203, line 17, strike “5” and insert “7”.

On page 205, line 9, strike “3” and insert “2”.

#### AMENDMENT NO. 2753

(Purpose: To modify contracts for the transportation of mail by air, and for other purposes)

On page 256, add after line 3, the following:  
**SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY AIR.**

(a) DEFINITIONS.—Section 5402(a) of title 39, United States Code, is amended—

(1) in paragraph (4), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(2) in paragraph (5), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(3) in paragraph (6), by striking “only”;

(4) in paragraph (8), by striking “rates paid to a bush carrier” and inserting “linehaul rates and a single terminal handling payment at a bush terminal handling rate paid to a bush carrier”;

(5) in paragraph (11), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”;

(6) in paragraph (13)—

(A) in subparagraph (A)—

(i) by striking “clause (i) or (ii) of subsection (g)(1)(D)” and inserting “subclause (I) or (II) of subsection (g)(1)(A)(iv)”;

(ii) by striking “and” after the semicolon;

(B) in subparagraph (B), by adding “and” after the semicolon; and

(C) by adding at the end the following:

“(C) is not comprised of previously qualified existing mainline carriers as a result of merger or sale.”;

(7) in paragraph (18), by striking “bush routes” and inserting “routes”; and

(8) in paragraph (22), by striking “bush routes” and inserting “routes”.

(b) NONPRIORITY BYPASS MAIL.—Section 5402(g) of title 39, United States Code, is amended—

(1) in paragraph (2)(C), by inserting “or a destination city” after “acceptance point and a hub”;

(2) in paragraph (3), by adding at the end the following:

“(C) When a new hub results from a change in a determination under subparagraph (B), mail tender from that hub during the 12-month period beginning on the effective date of that change shall be based on the passenger and freight shares to the destinations of the affected hub or hubs resulting in the new hub.”; and

(3) in paragraph (5)(A)(i), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”.

(c) EQUITABLE TENDER.—Section 5402(h) of title 39, United States Code, is amended—

(1) in paragraph (1), by inserting “bush” after “providing scheduled”;

(2) by striking paragraph (3) and inserting the following:

“(3)(A) Except as provided under subparagraph (C), a new or existing 121 bush passenger carrier qualified under subsection (g)(1) shall be exempt from the requirements under paragraphs (1)(B) and (2)(A) on a city pair route for a period which shall extend for—

“(i) 1 year;

“(ii) 1 year in addition to the extension under clause (i) if, as of the conclusion of the first year, such carrier has been providing not less than 5 percent of the passenger service on that route (as calculated under paragraph (5)); and

“(iii) 1 year in addition to the extension under clause (ii) if, as of the conclusion of the second year, such carrier has been providing not less than 10 percent of the passenger service on that route (as calculated under paragraph (5)).

“(B)(i) The first 3 121 bush passenger carriers entitled to the exemptions under subparagraph (A) on any city pair route shall divide no more than an additional 10 percent of

the mail, apportioned equally, comprised of no more than—

“(I) 5 percent of the share of each qualified passenger carrier servicing that route that is not a 121 bush passenger carrier; and

“(II) 5 percent of the share of each nonpassenger carrier servicing that route that transports 25 percent or more of the total nonmail freight under subsection (i)(1).

“(ii) Additional 121 bush passenger carriers entering service on that city pair route after the first 3 shall not receive any additional mail share.

“(iii) If any 121 bush passenger carrier on a city pair route receiving an additional share of the mail under clause (ii) discontinues service on that route, the 121 bush passenger carrier that has been providing the longest period of service on that route and is otherwise eligible but is not receiving a share by reason of clause (ii), shall receive the share of the carrier discontinuing service.

“(C) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing at least 10 percent of the passenger service on such route.”;

(3) in paragraph (5)(A)—

(A) by striking “(i)” after “(A)”;

(B) by striking clause (ii).

(d) PERCENT OF NONMAIL FREIGHT.—Section 5402(i)(6) of title 39, United States Code, is amended—

(1) by striking “(A)” after “(6)”;

(2) by striking subparagraph (B).

(e) PERCENT OF TENDER RATE.—Section 5402(j)(3)(B) of title 39, United States Code, is amended by striking “bush routes in the State of Alaska” and inserting “routes served exclusively by bush carriers in the State of Alaska”.

(f) DETERMINATION OF RATES.—Section 5402(k) of title 39, United States Code, is amended by striking paragraph (5).

(g) TECHNICAL AND CONFORMING AMENDMENT.—Section 5402(p)(3) of title 39, United States Code, is amended by striking “(g)(1)(D)” and inserting “(g)(1)(A)(iv)”.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the date of enactment of this Act.

(2) EQUITABLE TENDER.—Subsection (c) shall take effect on July 1, 2006.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. FRIST. Mr. President, I further ask unanimous consent that the Senate now proceed to Calendar No. 176, H.R. 22.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 22) to reform the postal laws of the United States.

Mr. FRIST. Mr. President, I now ask consent that all after the enacting clause be stricken, the text of S. 662, as amended, be inserted in lieu thereof, and the bill, as amended, be read a third time and passed, and the Senate insist on its amendment, request a conference with the House, and the Chair

be authorized to appoint conferees with a ratio of 5 to 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 22), as amended, was read the third time and passed, as follows:

H.R. 22

*Resolved*, That the bill from the House of Representatives (H.R. 22) entitled "An Act to reform the postal laws of the United States," do pass with the following amendment:

Strike out all after the enacting clause and insert:

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

(a) *SHORT TITLE*.—This Act may be cited as the "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

Sec. 101. Definitions.

Sec. 102. Postal Services.

**TITLE II—MODERN RATE REGULATION**

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Clerical amendment.

**TITLE III—MODERN SERVICE STANDARDS**

Sec. 301. Establishment of modern service standards.

Sec. 302. Postal service plan.

**TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION**

Sec. 401. Postal Service Competitive Products Fund.

Sec. 402. Assumed Federal income tax on competitive products income.

Sec. 403. Unfair competition prohibited.

Sec. 404. Suits by and against the Postal Service.

Sec. 405. International postal arrangements.

**TITLE V—GENERAL PROVISIONS**

Sec. 501. Qualification and term requirements for Governors.

Sec. 502. Obligations.

Sec. 503. Private carriage of letters.

Sec. 504. Rulemaking authority.

Sec. 505. Noninterference with collective bargaining agreements.

Sec. 506. Bonus authority.

**TITLE VI—ENHANCED REGULATORY COMMISSION**

Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.

Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 603. Authorization of appropriations from the Postal Service Fund.

Sec. 604. Redesignation of the Postal Rate Commission.

Sec. 605. Financial transparency.

**TITLE VII—EVALUATIONS**

Sec. 701. Assessments of ratemaking, classification, and other provisions.

Sec. 702. Report on universal postal service and the postal monopoly.

Sec. 703. Study on equal application of laws to competitive products.

Sec. 704. Report on postal workplace safety and workplace-related injuries.

Sec. 705. Study on recycled paper.

**TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING**

Sec. 801. Short title.

Sec. 802. Civil Service Retirement System.

Sec. 803. Health insurance.

Sec. 804. Repeal of disposition of savings provision.

Sec. 805. Effective dates.

**TITLE IX—COMPENSATION FOR WORK INJURIES**

Sec. 901. Temporary disability; continuation of pay.

Sec. 902. Disability retirement for postal employees.

**TITLE X—MISCELLANEOUS**

Sec. 1001. Employment of postal police officers.

Sec. 1002. Obsolete provisions.

Sec. 1003. Reduced rates.

Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.

Sec. 1005. Contracts for transportation of mail by air.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

**SEC. 101. DEFINITIONS.**

Section 102 of title 39, United States Code, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

"(5) 'postal service' refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other functions ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate or rates are applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36; and

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36; and

"(10) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year."

**SEC. 102. POSTAL SERVICES.**

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

"(c) Except as provided in section 411, nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services."

(b) *CONFORMING AMENDMENTS*.—(1) Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking "404(a)(8)" and inserting "404(a)(7)".

(2) Section 2003(b)(1) of title 39, United States Code, is amended by striking "and nonpostal".

**TITLE II—MODERN RATE REGULATION**

**SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.**

(a) *IN GENERAL*.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

**"§ 3621. Applicability; definitions**

"(a) *APPLICABILITY*.—This subchapter shall apply with respect to—

"(1) first-class mail letters and sealed parcels;

"(2) first-class mail cards;

"(3) periodicals;

"(4) standard mail;

"(5) single-piece parcel post;

"(6) media mail;

"(7) bound printed matter;

"(8) library mail;

"(9) special services; and

"(10) single-piece international mail, subject to any changes the Postal Regulatory Commission may make under section 3642.

"(b) *RULE OF CONSTRUCTION*.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**"§ 3622. Modern rate regulation**

"(a) *AUTHORITY GENERALLY*.—The Postal Regulatory Commission shall, within 12 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

"(b) *OBJECTIVES*.—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

"(1) To reduce the administrative burden and increase the transparency of the ratemaking process while affording reasonable opportunities for interested parties to participate in that process.

"(2) To create predictability and stability in rates.

"(3) To maximize incentives to reduce costs and increase efficiency.

"(4) To enhance mail security and deter terrorism by promoting secure, sender-identified mail.

"(5) To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.

"(6) To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.

"(7) To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.

"(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

"(c) *FACTORS*.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

“(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

“(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable, universal postal service; and

“(13) the policies of this title as well as such other factors as the Commission determines appropriate.

“(d) REQUIREMENTS.—

“(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

“(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

“(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

“(C) not later than 45 days before the implementation of any adjustment in rates under this section—

“(i) require the Postal Service to provide public notice of the adjustment;

“(ii) provide an opportunity for review by the Postal Regulatory Commission;

“(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any non-compliance of the adjustment with the limitation under subparagraph (A); and

“(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

“(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

“(E) notwithstanding any limitation set under subparagraphs (A) and (C), establish procedures whereby rates may be adjusted on an expedited basis due to unexpected and extraordinary circumstances.

“(2) LIMITATIONS.—

“(A) CLASSES OF MAIL.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

“(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

“(C) USE OF UNUSED RATE AUTHORITY.—

“(i) DEFINITION.—In this subparagraph, the term ‘unused rate adjustment authority’ means the difference between—

“(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

“(II) the amount of the rate adjustment the Postal Service actually makes in that year.

“(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

“(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

“(I) may use unused rate adjustment authority from more than 1 year;

“(II) may use any part of the unused rate adjustment authority from any year;

“(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

“(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

“(e) WORKSHARE DISCOUNTS.—

“(1) DEFINITION.—In this subsection, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

“(2) REGULATIONS.—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

“(A) the discount is—

“(i) associated with a new postal service, a change to an existing postal service, or with a new workshare initiative related to an existing postal service; and

“(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

“(B) a reduction in the discount would—

“(i) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

“(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

“(iii) impede the efficient operation of the Postal Service;

“(C) the amount of the discount above costs avoided—

“(i) is necessary to mitigate rate shock; and

“(ii) will be phased out over time; or

“(D) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

“(3) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

“(A) explains the Postal Service’s reasons for establishing or maintaining the rate;

“(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

“(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

“(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.”

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

**SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“§ 3631. Applicability; definitions and updates

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) priority mail;

“(2) expedited mail;

“(3) bulk parcel post;

“(4) bulk international mail; and

“(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

“(b) DEFINITION.—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

“(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

“(d) LIMITATION.—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

“§ 3632. Action of the Governors

“(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) PROCEDURES.—

“(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

“(2) PUBLIC NOTICE; REVIEW; AND COMPLIANCE.—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

“(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

“(B) the Postal Regulatory Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

“(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

“(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

“§ 3633. Provisions applicable to rates for competitive products

“(a) IN GENERAL.—The Postal Regulatory Commission shall, within 180 days after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

“(1) prohibit the subsidization of competitive products by market-dominant products;

“(2) ensure that each competitive product covers its costs attributable; and

“(3) ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service.

“(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.”

**SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.**

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**

**“§3641. Market tests of experimental products**

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3)(relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

“(c) NOTICE.—

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

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

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

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

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

**“§3642. New products and transfers of products between the market-dominant and competitive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of

which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

“(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

“(1) under this subchapter; or

“(2) by or under any other provision of law.”

**SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”; and

(2) by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

(b) **REPORTS AND COMPLIANCE.**—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“§3651. Annual reports by the Commission

“(a) **IN GENERAL.**—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

“(b) **INFORMATION FROM POSTAL SERVICE.**—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

“§3652. Annual reports to the Commission

“(a) **COSTS, REVENUES, RATES, AND SERVICE.**—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) product information, including mail volumes; and

“(B) measures of the service afforded by the Postal Service in connection with such product, including—

“(i) the level of service (described in terms of speed of delivery and reliability) provided; and

“(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

“(b) **INFORMATION RELATING TO WORKSHARE DISCOUNTS.**—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(1) The per-item cost avoided by the Postal Service by virtue of such discount.

“(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(3) The per-item contribution made to institutional costs.

“(c) **SERVICE AGREEMENTS AND MARKET TESTS.**—In carrying out subsections (a) and (b) with respect to service agreements and experimental products offered through market tests under section 3641 in a year, the Postal Service—

“(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

“(2) shall report such data as the Postal Regulatory Commission requires.

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

“(e) **CONTENT AND FORM OF REPORTS.**—

“(1) **IN GENERAL.**—The Postal Regulatory Commission shall, by regulation, prescribe the

content and form of the public reports (and any nonpublic annex and supporting matter relating to the report) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

“(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) **CONFIDENTIAL INFORMATION.**—

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

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

“(g) **OTHER REPORTS.**—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) strategic plan under section 2802;

“(3) performance plan under section 2803; and

“(4) program performance reports under section 2804.

“§3653. Annual determination of compliance

“(a) **OPPORTUNITY FOR PUBLIC COMMENT.**—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) **DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.**—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

“(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) **IF ANY NONCOMPLIANCE IS FOUND.**—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).

“(d) **REBUTTABLE PRESUMPTION.**—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.”.

**SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.**

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

“§3662. Rate and service complaints

“(a) **IN GENERAL.**—Any interested party (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of chapter 1 (except section 101(c)), sections 401, 403, 404, 404a, 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) **PROMPT RESPONSE REQUIRED.**—

“(1) **IN GENERAL.**—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

“(A) either—

“(i) upon a finding that such complaint raises substantial and material issues of fact or law, begin proceedings on such complaint; or

“(ii) issue an order dismissing the complaint; and

“(B) with respect to any action taken under subparagraph (A) (i) or (ii), issue a written statement setting forth the bases of its determination.

“(2) **TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.**—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) **ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.**—If the Postal Regulatory Commission finds upon clear and convincing evidence the complaint to be justified, it shall order that the Postal Service take such action as is necessary to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance.

“(d) **AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.**—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

“§3663. Appellate review

“A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision

becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

**“§3664. Enforcement of orders**

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”.

**SEC. 206. CLERICAL AMENDMENT.**

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

**“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS**

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“[3623. Repealed.]

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

**“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS**

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

**“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS**

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

**“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW**

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

**“SUBCHAPTER VI—GENERAL**

“3681. Reimbursement.

“3682. Size and weight limits.

“3683. Uniform rates for books; films, other materials.

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Bonus authority.

**“SUBCHAPTER VII—MODERN SERVICE STANDARDS**

“3691. Establishment of modern service standards.”.

**TITLE III—MODERN SERVICE STANDARDS**  
**SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.**

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

**“SUBCHAPTER VII—MODERN SERVICE STANDARDS**

**“§3691. Establishment of modern service standards**

“(a) **AUTHORITY GENERALLY.**—Not later than 12 months after the date of enactment of this

section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with the Postal Service’s universal service obligation as defined in sections 101 (a) and (b) and 403.

“(b) **OBJECTIVES.**—Such standards shall be designed to achieve the following objectives:

“(1) To enhance the value of postal services to both senders and recipients.

“(2) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

“(3) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

“(4) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

“(c) **FACTORS.**—In establishing or revising such standards, the Postal Service shall take into account—

“(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

“(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

“(3) the needs of Postal Service customers, including those with physical impairments;

“(4) mail volume and revenues projected for future years;

“(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

“(6) the current and projected future cost of serving Postal Service customers;

“(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

“(8) the policies of this title and such other factors as the Postal Service determines appropriate.

“(d) **REVIEW.**—The regulations promulgated pursuant to this section (and any revisions thereto) shall be subject to review upon complaint under sections 3662 and 3663.”.

**SEC. 302. POSTAL SERVICE PLAN.**

(a) **IN GENERAL.**—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) **CONTENTS.**—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service’s processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

(4) contain the matters relating to postal facilities provided under subsection (c).

(c) **POSTAL FACILITIES.**—

(1) **FINDINGS.**—Congress finds that—

(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

(B) as noted by the President’s Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

(D) Congress strongly encourages the Postal Service to—

(i) expeditiously move forward in its streamlining efforts; and

(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

(2) **IN GENERAL.**—The Postal Service plan shall include a description of—

(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

(B) how the Postal Service intends to implement that vision.

(3) **CONTENT OF FACILITIES PLAN.**—The plan under this subsection shall include—

(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes;

(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan; and

(D) procedures that the Postal Service will use to—

(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

(ii) make available, upon request, any data, analyses, or other information considered by the Postal Service in making the proposed decision;

(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

(iv) take such comments into account in making a final decision.

(4) **ANNUAL REPORTS.**—

(A) **IN GENERAL.**—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

(B) **CONTENTS.**—Each report under this paragraph shall include—

(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

(ii) an account of actions taken to identify any excess capacity within its processing, transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

(v) such additional topics and recommendations as the Postal Service considers appropriate.

(5) **EXISTING EFFORTS.**—Effective on the date of enactment of this Act, the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D).

(d) **ALTERNATE RETAIL OPTIONS.**—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

- (1) vending machines;
- (2) the Internet;
- (3) postage meters;
- (4) Stamps by Mail;
- (5) Postal Service employees on delivery routes;

(6) retail facilities in which overhead costs are shared with private businesses and other government agencies; or

(7) any other nonpost office access channel providing market retail access to postal services.

(e) **REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.**—The Postal Service plan shall include—

(1) a plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation of any of its functions or the closing and consolidation of any of its facilities; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) **INSPECTOR GENERAL REPORT.**—

(1) **IN GENERAL.**Before submitting the plan under subsection (a) and each annual report under subsection (c) to Congress, the Postal Service shall submit the plan and each annual report to the Inspector General of the United States Postal Service in a timely manner to carry out this subsection.

(2) **REPORT.**—The Inspector General shall prepare a report describing the extent to which the Postal Service plan and each annual report under subsection (c)—

(A) are consistent with the continuing obligations of the Postal Service under title 39, United States Code;

(B) provide for the Postal Service to meet the service standards established under section 3691 of title 39, United States Code; and

(C) allow progress toward improving overall efficiency and effectiveness consistent with the need to maintain universal postal service at affordable rates.

(g) **CONTINUED AUTHORITY.**—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

#### **TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION**

##### **SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.**

(a) **PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.**—

(1) **IN GENERAL.**—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

##### **“§2011. Provisions relating to competitive products**

“(a)(1) In this subsection, the term ‘costs attributable’ has the meaning given such term by section 3631.

“(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(A) costs attributable to competitive products; and

“(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;

“(2) amounts received from obligations issued by Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

“(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

“(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

“(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

“(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service, considers necessary or desirable to enhance the marketability of such obligations.

“(3) Obligations issued by the Postal Service under this subsection—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions, as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that such obligations are issued under this subsection, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and

public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5)(A) Subject to subparagraph (B), the Postal Service shall make payments of principal, or interest, or both on obligations issued under this subsection from—

“(i) revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)); or

“(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e).

“(B) Based on the audited financial statements for the most recently completed fiscal year, the total assets of the Competitive Products Fund may not be less than the amount determined by multiplying—

“(i) the quotient resulting from the total revenue of the Competitive Products Fund divided by the total revenue of the Postal Service; and

“(ii) the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

“(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

“(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

“(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

“(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

“(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive products income of the Postal Service for any year (within the meaning of section 3634).

“(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

“(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their

views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

“(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

“(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission may revise such rules.

“(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

“(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

“(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

“(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).”

(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) COMPETITIVE PRODUCTS FUND.—The term ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”.

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund.”.

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title.” and inserting “title (other

than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”.

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting “or 2011” after “section 2005”; and

(B) in subsection (b)—

(i) in the first sentence, by inserting “under section 2005” before “in such amounts”; and

(ii) in the second sentence, by inserting “under section 2005” before “in excess of such amount.”; and

(C) in subsection (c), by inserting “or 2011(e)(4)(E)” after “section 2005(d)(5)”.

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

**“§3634. Assumed Federal income tax on competitive products income**

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”.

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**“§404a. Specific limitations**

“(a) Except as specifically authorized by law, the Postal Service may not—

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information,

without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

**SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

“(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

“(f) To the extent that the Postal Service engages in conduct with respect to the provision of

competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.

“(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes. To the extent practicable, model building codes should meet the voluntary consensus criteria established for codes and standards as required in the National Technology Transfer and Advancement Act of 1995 as defined in Office of Management and Budget Circular A1190. For purposes of life safety, the Postal Service shall continue to comply with the most current edition of the Life Safety Code of the National Fire Protection Association (NFPA 101).

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title.”

#### SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

##### “§407. International postal arrangements

“(a) It is the policy of the United States—

“(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

“(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

“(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services; and

“(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

“(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and shall have the power to conclude postal treaties and conventions, except that the Secretary may not conclude any postal treaty or convention if such treaty or convention would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal services, or any other person.

“(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State

shall exercise primary authority for the conduct of foreign policy with respect to international postal services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

“(A) shall coordinate with other agencies as appropriate, and in particular, should consider the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

“(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

“(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

“(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

“(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

(c) Before concluding any postal treaty or convention that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services as it deems appropriate, except that—

“(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be binding under international law; and

“(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

(2) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs

procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

“(3) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Customs Service may determine in writing.”.

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### TITLE V—GENERAL PROVISIONS

##### SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

(a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their experience in the fields of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”.

(c) 7-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States code, is amended in the first sentence by striking “9 years” and inserting “7 years”.

(2) APPLICABILITY.—

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor

has served less than 5 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 5-year term.

(C) VACANCY BY INCUMBENT AFTER 5 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 5 years or more of that term, that term shall be deemed to have been a 5-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the vacant office shall be for a 5-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 5-year term under this subparagraph.

(d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting “(1)” after “(b)”;

(B) by adding at the end the following:

“(2) No person may serve more than 2 terms as a Governor.”.

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

##### SEC. 502. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”.

(b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of title 39, United States Code, is amended by striking the third sentence.

(c) AMOUNTS WHICH MAY BE PLEDGED.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section.”.

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.”.

##### SEC. 503. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces; or

“(3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that permit private carriage by suspension of the operation of this section (as then in effect).”.

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”.

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

##### SEC. 504. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;”.

##### SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

###### “§ 1207. Labor disputes

“(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

“(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

“(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

“(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their

claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

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

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

(b) **NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(c) **FREE MAILING PRIVILEGES CONTINUE UNCHANGED.**—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**SEC. 506. BONUS AUTHORITY.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

**“§3686. Bonus authority**

“(a) **IN GENERAL.**—The Postal Service may establish 1 or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

“(b) **LIMITATION ON TOTAL COMPENSATION.**—

“(1) **IN GENERAL.**—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

“(2) **APPROVAL PROCESS.**—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

“(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

“(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

“(3) **REVOCATION AUTHORITY.**—If the Board of Governors of the Postal Service finds that a per-

formance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

“(c) **REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.**—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);

“(2) the amount of the bonus or other reward; and

“(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.”

**TITLE VI—ENHANCED REGULATORY COMMISSION**

**SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) **TRANSFER AND REDESIGNATION.**—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

**“CHAPTER 5—POSTAL REGULATORY COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

“505. Officer of the Postal Regulatory Commission representing the general public.

**“§501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

**“§502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”;

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and

(4) by adding after such section 504 the following:

**“§505. Officer of the Postal Regulatory Commission representing the general public**

“The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings who shall represent the interests of the general public.”

(b) **APPLICABILITY.**—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) **CLERICAL AMENDMENT.**—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission ... 501”**

**SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

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

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

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

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

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

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

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

“(2) Except as provided in paragraph (3), no officer or employee of the Commission may, with

respect to any information as to which the Commission has been notified under paragraph (1)—

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

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

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

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

**SEC. 603. AUTHORIZATION OF APPROPRIATIONS FROM THE POSTAL SERVICE FUND.**

(a) **POSTAL REGULATORY COMMISSION.**—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

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

(b) **OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.**—Section 8G(f) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

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

(2) by redesignating the second paragraph (3) (relating to employees and labor organizations) as paragraph (4); and

(3) by adding at the end the following:

“(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.”

(c) **BUDGET PROGRAM.**—

(1) **IN GENERAL.**—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”

(2) **CONFORMING AMENDMENT.**—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under

section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.”

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2005.

(2) **SAVINGS PROVISION.**—The provisions of title 39, United States Code, and the Inspector General Act of 1978 (5 U.S.C. App.) that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

**SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.**

(a) **AMENDMENTS TO TITLE 39, UNITED STATES CODE.**—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”;

(b) **AMENDMENTS TO TITLE 5, UNITED STATES CODE.**—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) **AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.**—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) **AMENDMENT TO THE REHABILITATION ACT OF 1973.**—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) **AMENDMENT TO TITLE 44, UNITED STATES CODE.**—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(f) **OTHER REFERENCES.**—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**SEC. 605. FINANCIAL TRANSPARENCY.**

(a) **IN GENERAL.**—Section 101 of title 39, United States Code, is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

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

“(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.”

(b) **FINANCIAL REPORTING REQUIREMENTS AND ENFORCEMENT POWERS APPLICABLE TO POSTAL SERVICE.**—Section 503 of title 39, United States Code (as so redesignated by section 601 and 604) is amended by—

(1) inserting “(a)” before “The Postal Regulatory Commission shall promulgate”; and

(2) adding at the end the following:

“(b)(1) Beginning with the first full fiscal year following the date of enactment of the Postal Accountability and Enhancement Act, the Postal Service shall file with the Postal Regulatory Commission—

“(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the

information prescribed in Form 10-Q of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information prescribed in Form 10-K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), or any revised or successor form.

“(2) For purposes of preparing the reports required under paragraph (1), the Postal Service shall be deemed to be the registrant described in the Securities and Exchange Commission forms, and references contained in such forms to Securities and Exchange Commission regulations are applicable.

“(3) For purposes of preparing the reports required under paragraph (1), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262; Public Law 107-204) beginning with fiscal year 2007 and in each fiscal year thereafter.

“(c)(1) The reports required under subsection (b)(1)(B) shall include, with respect to the financial obligations of the Postal Service under chapters 83, 84, and 89 of title 5 for retirees of the Postal Service—

“(A) the funded status of such obligations of the Postal Service;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic cost and the accumulated obligation of the Postal Service under chapter 89 of title 5 for retirees of the Postal Service;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2)(A) Beginning with the fiscal year 2007 and in each fiscal year thereafter, for purposes of the reports required under subsection (b)(1)(A) and (B), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A), after consultation with the Postal Regulatory Commission.

“(d) For purposes of the annual reports required under subsection (b)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed under subsection (c) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(e) The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under subsection (b)(1)(B).

“(f) The Postal Regulatory Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in

accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this section whenever it shall appear that the data—

- “(1) have become significantly inaccurate;
- “(2) can be significantly improved; or
- “(3) are not cost beneficial.”.

#### TITLE VII—EVALUATIONS

##### SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) *IN GENERAL.*—The Postal Regulatory Commission shall, at least every 3 years, submit a report to the President and Congress concerning—

- (1) the operation of the amendments made by this Act; and
- (2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) *POSTAL SERVICE VIEWS.*—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

##### SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.

(a) *REPORT BY THE POSTAL REGULATORY COMMISSION.*—

(1) *IN GENERAL.*—Not later than 24 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as “universal service and the postal monopoly”), including the monopoly on the delivery of mail and on access to mailboxes.

(2) *CONTENTS.*—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) *RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.*—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

##### SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.

(a) *IN GENERAL.*—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and similar products provided by private companies.

(b) *RECOMMENDATIONS.*—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal discrimination to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic advantages provided by those laws.

(c) *CONSULTATION.*—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) *COMPETITIVE PRODUCT REGULATION.*—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

##### SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.

(a) *REPORT BY THE INSPECTOR GENERAL.*—

(1) *IN GENERAL.*—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

(2) *CONTENTS.*—The report under this subsection shall also—

(A) discuss any injury reduction goals established by the Postal Service;

(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

(C) identify areas where the Postal Service has failed to meet its injury reduction goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

(b) *REPORT BY THE POSTAL SERVICE.*—

(1) *REPORT TO CONGRESS.*—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-

related injuries nationwide, including goals and metrics.

(2) *PROBLEM AREAS.*—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

##### SEC. 705. STUDY ON RECYCLED PAPER.

(a) *IN GENERAL.*—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

(1) the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper;

(2) a description of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including the amount of annual revenue generated and savings achieved by the Postal Service as a result of its use of recycled paper and other recycled products and its efforts to recycle undeliverable and discarded mail and other materials; and

(3) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives and the projected costs and revenues of undertaking such opportunities.

(b) *RECOMMENDATIONS.*—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

##### SEC. 801. SHORT TITLE.

This title may be cited as the “Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004”.

##### SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.

(a) *IN GENERAL.*—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

“(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.”; and

(2) by amending section 8348(h) to read as follows:

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

“(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

“(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2006. If the result is a

supplemental liability, the Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

“(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

“(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

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

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

(b) **CREDIT ALLOWED FOR MILITARY SERVICE.**—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(c) **REVIEW.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR REVIEW.**—Notwithstanding any other provision of this section (including any amendment made by this section), any determination or redetermination made by the Office of Personnel Management under this section (including any amendment made by this section) shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this subsection.

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

(2) **RECONSIDERATION.**—Upon receiving the report from the Commission under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

**SEC. 803. HEALTH INSURANCE.**

(a) **IN GENERAL.**—

(1) **FUNDING.**—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8906(g)(2)(A), by striking “shall be paid by the United States Postal Service.” and inserting “shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.”; and

(B) by inserting after section 8909 the following:

**“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

“(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

“(d)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

“(2)(A) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

“(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

“(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

“(II) the net present value computed under paragraph (1).

“(B) Not later than June 30, 2006, the Office shall compute, and by June 30 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by September 30, 2045, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

“(3) Not later than September 30, 2006, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund—

“(A) the net present value computed under paragraph (1); and

“(B) the annual installment computed under paragraph (2)(B).

“(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

“(5)(A)(i) Any computation or other determination of the Office under this subsection shall, upon request of the United States Postal

Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

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

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

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

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”

(b) **REVIEW.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR REVIEW.**—Any regulation established under section 8909a(d)(5) of title 5, United States Code (as added by subsection (a)), shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

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

(2) **RECONSIDERATION.**—Upon receiving the report under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

(c) **TRANSITIONAL ADJUSTMENT FOR FISCAL YEAR 2006.**—For fiscal year 2006, the amounts paid by the Postal Service in Government contributions under section 8906(g)(2)(A) of title 5, United States Code, for fiscal year 2006 contributions shall be deducted from the initial payment otherwise due from the Postal Service to the Postal Service Retiree Health Benefits Fund under section 8909a(d)(3) of such title as added by this section.

**SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) is repealed.

**SEC. 805. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as provided under subsection (b), this title shall take effect on October 1, 2005.

(b) **TERMINATION OF EMPLOYER CONTRIBUTION.**—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

##### SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.

(a) **TIME OF ACCRUAL OF RIGHT.**—Section 8117 of title 5, United States Code, is amended—

(1) by striking “An employee” and inserting “(a) An employee other than a Postal Service employee”; and

(2) by adding at the end the following:

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

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

“(1) without a break in time, except as provided under section 8117(b), unless controverted under regulations of the Secretary”.

##### SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOYEES.

(a) **TOTAL DISABILITY.**—Section 8105 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (c).”; and

(2) by adding at the end the following:

“(c)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

(b) **PARTIAL DISABILITY.**—Section 8106 of title 5, United States Code, is amended—

(1) in subsection (a), by adding at the end the following: “This section applies to a Postal Service employee, except as provided under subsection (d).”; and

(2) by adding at the end the following:

“(d)(1) In this subsection, the term ‘retirement age’ has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).

“(2) Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—

“(A) the date on which the injured employee reaches retirement age; or

“(B) 1 year after the employee begins receiving compensation.”

#### TITLE X—MISCELLANEOUS

##### SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 404 of title 39, United States Code (as amended by this Act), is further amended by adding at the end the following:

“(d) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen provided under section 1315 of title 40. The Postmaster General, or the designee of the Postmaster General, may take any action that the Secretary of Homeland Security may take under section 1315 of title 40, with respect to that property.”

##### SEC. 1002. OBSOLETE PROVISIONS.

(a) **REPEAL.**—

(1) **IN GENERAL.**—Chapter 52 of title 39, United States Code, is repealed.

(2) **CONFORMING AMENDMENTS.**—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) **ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.**—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(d) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

##### SEC. 1003. REDUCED RATES.

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

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

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

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

(2) in subsection (g), by adding at the end the following:

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

“(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through

(c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

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

“(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.”; and

(3) by adding at the end the following:

“(m) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).”

##### SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.

It is the sense of Congress that the Postal Service should—

(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings as recommended in July 2003 by the President’s Commission on the United States Postal Service, in a manner that is compatible with the fair and consistent treatment of suppliers and contractors, as befitting an establishment in the United States Government.

##### SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY AIR.

(a) **DEFINITIONS.**—Section 5402(a) of title 39, United States Code, is amended—

(1) in paragraph (4), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(2) in paragraph (5), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(3) in paragraph (6), by striking “only”;

(4) in paragraph (8), by striking “rates paid to a bush carrier” and inserting “linehaul rates and a single terminal handling payment at a bush terminal handling rate paid to a bush carrier”;

(5) in paragraph (11), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”;

(6) in paragraph (13)—

(A) in subparagraph (A)—

(i) by striking “clause (i) or (ii) of subsection (g)(1)(D)” and inserting “subclause (I) or (II) of subsection (g)(1)(A)(iv)”;

(ii) by striking “and” after the semicolon;

(B) in subparagraph (B), by adding “and” after the semicolon; and

(C) by adding at the end the following:

“(C) is not comprised of previously qualified existing mainline carriers as a result of merger or sale.”;

(7) in paragraph (18), by striking “bush routes” and inserting “routes”; and

(8) in paragraph (22), by striking “bush routes” and inserting “routes”.

(b) **NONPRIORITY BYPASS MAIL.**—Section 5402(g) of title 39, United States Code, is amended—

(1) in paragraph (2)(C), by inserting “or a destination city” after “acceptance point and a hub”;

(2) in paragraph (3), by adding at the end the following:

“(C) When a new hub results from a change in a determination under subparagraph (B), mail tender from that hub during the 12-month period beginning on the effective date of that

change shall be based on the passenger and freight shares to the destinations of the affected hub or hubs resulting in the new hub.”; and

(3) in paragraph (5)(A)(i), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”.

(c) **EQUITABLE TENDER.**—Section 5402(h) of title 39, United States Code, is amended—

(1) in paragraph (1), by inserting “bush” after “providing scheduled”;

(2) by striking paragraph (3) and inserting the following:

“(3)(A) Except as provided under subparagraph (C), a new or existing 121 bush passenger carrier qualified under subsection (g)(1) shall be exempt from the requirements under paragraphs (1)(B) and (2)(A) on a city pair route for a period which shall extend for—

“(i) 1 year;

“(ii) 1 year in addition to the extension under clause (i) if, as of the conclusion of the first year, such carrier has been providing not less than 5 percent of the passenger service on that route (as calculated under paragraph (5)); and

“(iii) 1 year in addition to the extension under clause (ii) if, as of the conclusion of the second year, such carrier has been providing not less than 10 percent of the passenger service on that route (as calculated under paragraph (5)).

“(B)(i) The first 3 121 bush passenger carriers entitled to the exemptions under subparagraph (A) on any city pair route shall divide no more than an additional 10 percent of the mail, apportioned equally, comprised of no more than—

“(I) 5 percent of the share of each qualified passenger carrier servicing that route that is not a 121 bush passenger carrier; and

“(II) 5 percent of the share of each nonpassenger carrier servicing that route that transports 25 percent or more of the total nonmail freight under subsection (i)(1).

“(ii) Additional 121 bush passenger carriers entering service on that city pair route after the first 3 shall not receive any additional mail share.

“(iii) If any 121 bush passenger carrier on a city pair route receiving an additional share of the mail under clause (ii) discontinues service on that route, the 121 bush passenger carrier that has been providing the longest period of service on that route and is otherwise eligible but is not receiving a share by reason of clause (ii), shall receive the share of the carrier discontinuing service.

“(C) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing at least 10 percent of the passenger service on such route.”;

(3) in paragraph (5)(A)—

(A) by striking “(i)” after “(A)”;

(B) by striking clause (ii).

(d) **PERCENT OF NONMAIL FREIGHT.**—Section 5402(i)(6) of title 39, United States Code, is amended—

(1) by striking “(A)” after “(6)”;

(2) by striking subparagraph (B).

(e) **PERCENT OF TENDER RATE.**—Section 5402(j)(3)(B) of title 39, United States Code, is amended by striking “bush routes in the State of Alaska” and inserting “routes served exclusively by bush carriers in the State of Alaska”.

(f) **DETERMINATION OF RATES.**—Section 5402(k) of title 39, United States Code, is amended by striking paragraph (5).

(g) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 5402(p)(3) of title 39, United States Code, is amended by striking “(g)(1)(D)” and inserting “(g)(1)(A)(iv)”.

(h) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided under paragraph (2), this section shall take effect on the date of enactment of this Act.

(2) **EQUITABLE TENDER.**—Subsection (c) shall take effect on July 1, 2006.

Mr. FRIST. Mr. President, I further ask unanimous consent that S. 662, as amended, be returned to the calendar and that it not be in order for the Senate to consider any conference report or House amendments to H.R. 22 if it would cause a net increase in on- or off-budget direct spending in excess of \$5 billion in any of the four 10-year periods beginning in 2016 to 2055, as estimated by the Congressional Budget Office.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER appointed Ms. COLLINS, Mr. STEVENS, Mr. VOINOVICH, Mr. COLEMAN, Mr. BENNETT, Mr. LIEBERMAN, Mr. AKAKA, and Mr. CARPER conferees on the part of the Senate.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. President, I would like to take a moment to comment on the passage of the Postal Accountability and Enhancement Act.

Today’s passage of S. 662 is a first step towards meaningful postal reform. The Postal Service forms a crucial part of the backbone of our economy, and I am encouraged by today’s action toward bringing meaningful reform to the Postal Service.

I am optimistic that the process of resolving the differences between the Senate and House bills will result in a product that goes even further to ensure that America’s Postal Service has the resources and flexibility necessary to remain relevant and competitive in the global marketplace.

I want to thank the chairman of the Homeland Security and Governmental Affairs Committee, Senator SUSAN COLLINS of Maine, and Senator TOM CARPER of Delaware, for their leadership. They worked diligently with their colleagues in the Senate, the U.S. Postal Service, the administration, and kept their focus on the thousands of postal workers in communities across America, and the businesses which rely on the mail system to craft the current compromise.

In the past three and a half decades, the needs of the Postal Service have changed dramatically. Indeed, the way we communicate has been transformed by technology through e-mail, faxes, and my personal favorite, Blackberries.

We can now pay our bills on the Internet. And online shopping is more common than catalog sales.

Nevertheless, the Postal Service remains a critical part of America’s economy. Between paper manufacturing, printing, catalog production, direct mailing and financial services, the \$900 billion mailing industry employs 11 million workers in America.

And it is fair to say that we rely on the U.S. Postal Service more than any other governmental service. In Nashville and Knoxville, and towns all across the country, the local post office still represents the heart of the community.

In recent years, the Postal Service has undergone some of its most chal-

lenging and difficult times. In 2001 and 2003, it was hit with deadly anthrax and ricin bioterrorism attacks. It was a frightening time for our country’s postal workers, and shook us all to the core.

The Postal Service has also undergone significant modernization on the business side. These reforms have made the postal service more efficient and productive, and I applaud the leadership of Postal Master Jack Potter who has been a steady, forward-thinking, responsible leader of the U.S. Postal Service.

I have worked with the Postmaster General on a number of occasions. The attacks in 2001 and 2003 brought us together to address the public health risks of mail-born bioterrorism, and to develop better ways of protecting the Postal Service’s employees and America’s mail.

And most recently, Jack and I announced the transfer of the historic post office on the Mississippi River in Memphis, to the University of Memphis for their new law school. He personally worked with me, the city and the university to get this done for the Memphis community.

The Postal Service is in good hands, and under Jack Potter’s leadership has significantly improved its financial performance. But in order for America to have a healthy and stable mail system into the future, the Postal Service needs a less cumbersome rate-setting process and better flexibility to respond to an increasingly competitive and demanding marketplace. S. 662 takes important steps toward that goal.

It grants the Postal Service Board of Governors new authority to set rates for competitive products like express mail and priority mail, and replaces the current rate-setting process for products such as first-class mail, periodicals, and library mail with a more efficient, less litigious rate cap-based structure.

The Postal Accountability and Enhancement Act also transforms the existing Postal Rate Commission into the Postal Regulatory Commission with authority to regulate rates for non-competitive rates and services, ensure financial transparency, and establish limits on the accumulation of retained earnings, among other things.

I look forward to seeing more work done on this issue, but today’s action represents the beginning of real reform to the Postal Service which will benefit the taxpayers, ratepayers, and the thousands of dedicated U.S. Postal Service employees.

Every day, we are working to keep America moving forward.

U.S. POSTAL SERVICE

Mr. HARKIN. Mr. President, I appreciate the work done by Senator COLLINS, Chair of the Homeland Security and Governmental Affairs Committee, by the ranking member Senator LIEBERMAN, and also by Senator CARPER. It has literally taken years to

move this important postal reform legislation.

As my colleagues are aware, the Postal Service faces multiple challenges in our changing economy. One of these challenges is how it should manage its network of processing and logistics facilities. In order to remain competitive and maintain universal service, the Postal Service is currently studying how best to streamline its processing and logistics network and remove excess capacity. The decisions it will make as part of this process will have a long term impact on many of the communities and businesses that it serves.

Sadly, the process that the Postal Service has developed to date to study facility closures and consolidations fails to adequately allow stakeholders, key customers, postal employees or community leaders necessary input. The current process also fails to provide an open and transparent explanation to affected communities for what may be quite compelling reasons underlying the decisions to close or consolidate a facility.

I learned how completely lacking in public participation and transparency this process is from my constituents in Sioux City, IA. Until I convened a meeting with postal officials in my office last week, the Sioux City community had been unable to get any information from the Postal Service about the timing or reasons for the proposed consolidation of a mail processing and distribution center there with a similar facility in another state.

Senators COLLINS, LIEBERMAN, and CARPER have agreed to include language in S. 662 that would ensure that this does not happen. This language does not stop the Postal Service from studying consolidation options for its processing operations. What it does do is require that the Postal Service revise the area mail processing study process by which it analyzes which of its processing facilities should be closed or consolidated.

While the language does not prevent the Postal Service from proceeding with ongoing area mail processing studies on consolidation of specific facilities, it does provide that no facility closing or consolidation may actually be implemented until the Postal Service has met the requirements of public notice, transparency and public input specified in new section 302(c)(3)(D)(i-iv).

The new language requires that the Postal Service's decisionmaking process be transparent, with any analyses made available to the community upon request. It will also require that the businesses and communities affected by proposed consolidations of Postal Service facilities have the opportunity to provide input and guarantees that their concerns and advice are taken fully into account by the Postal Service before the Postal Service issues a decision on a closure or consolidation.

The first section of the amendment provides that the Postal Service notify

an affected community about the potential of a facility being closed or consolidated in their district; such notification will be provided at the beginning stage of the matter or as soon as the Postal Service makes a decision to begin reviewing the matter. The Postal Service should do their best to ensure that this notification reaches all of businesses, residents, employees, government entities, and other organizations that depend on the facility.

The second section will require the Postal Service to make available to the community, upon request, any data, analyses, or other information that is being considered by the Postal Service as part of its decisionmaking process. This will ensure that the Postal Service's decisionmaking analysis on this matter is transparent.

The third section will allow the affected members of the community ample opportunity to provide input on the proposed decision. This will ensure that the community has the chance to provide valuable input into the decisionmaking process.

The fourth section requires the Postal Service to take community input into account prior to making a final decision at the district level. Once the district level decision on consolidation is made, which includes taking the community input into account, the district level recommendation can then be forwarded to the next decisionmaking step at the regional level. It is worth noting that the community served by a postal facility can be a valuable information resource and that it should benefit the Postal Service to listen to the community's suggestions as they seek to arrive at a result that works for them, their customers and those they serve.

Mr. CARPER. While I fully support efforts by the Postal Service to rationalize its processing operations, I also believe that the Postal Service can engage in consolidation decisions that are rational and justified and can withstand public scrutiny. I believe that this language will improve the consolidation process, and I was pleased to work with my colleague from Iowa in drafting it. I believe that the language strikes the appropriate balance by not stopping the Postal Service from studying proposed consolidations of particular facilities, while at the same time requiring the Postal Service to meet some basic obligations to its customer and affected communities before a consolidation can be implemented.

Mr. LIEBERMAN. I am pleased to lend my strong support to adding this provision to S. 622 in order to improve the procedures by which the Postal Service consolidates its mail processing operations. The problems local communities are encountering from the Postal Service's consolidations hit home for me in Waterbury, CT. Connecticut residents affected by the Postal Service's decision to close its Waterbury mail processing center have a right to participate in a process that is

transparent and open. This new provision in S. 622 will help ensure that, when the Postal Service streamlines its mail processing or logistics network, it gives adequate public notice and takes other steps to be sure that those who are potentially affected—including postal customers, postal employees, and other businesses and individuals in the community—have an opportunity to understand and provide input into the Postal Service's decision before facilities are consolidated or closed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. VITTER). Without objection, it is so ordered.

#### OIL DRILLING

Mr. NELSON of Florida. Mr. President, I wanted to call to the attention of the Senate that over the past couple of days the question of drilling for oil off the coast of Florida has been joined. Indeed, the question and the debate has accelerated.

Yesterday, the Department of the Interior offered their proposed new alignment of the Gulf of Mexico and the central planning area where drilling for oil will occur and the eastern planning area where oil drilling will not occur.

As we have speculated for some period of time, when the Department of the Interior published in the Federal Register that State boundaries were going to be redrawn so that the boundaries of the State of Louisiana, indeed, went into the waters off of the State of Florida, we could well speculate, with some justification, that indeed that was going to be the plan. That, in fact, was the plan offered yesterday by the Secretary of the Interior, Gale Norton, for the next 5 years in the Outer Continental Shelf.

The Secretary's plan increases the drilling in the eastern Gulf of Mexico off the State of Florida by 2 million acres. That was simultaneously followed by the filing of a bill by the chairman of the Energy Committee, the Senator from New Mexico, which would encompass almost the entirety of an area not included in the moratorium on the Outer Continental Shelf, known as lease sale 181.

The essence of the proposal by the Senator from New Mexico is to drill for oil and gas in an area of 4 million acres, in a bulge which bulges out from the imaginary Florida-Alabama line into the waters off the State of Florida.

This senior Senator from Florida, joined by my colleague, Senator MARTINEZ, recognizing this was coming, laid out a plan last week—a plan that would allow some drilling in a part of

United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the Tony Hall Federal Building and United States Courthouse.

By Mr. MENENDEZ:

S. 2270. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax to subsidize the cost of COBRA continuation coverage for certain individuals; to the Committee on Finance.

Mr. MENENDEZ. Mr. President, today I am pleased to introduce the Health Care COBRA OffSet Tax Savings (COSTS) Act of 2006. This important legislation is a step forward in helping working families afford quality health care in this country.

Rewarding work is one of the most fundamental core values of our Nation. Our founding fathers built a society on the notion that if you work hard, you will have an opportunity to provide a better future for your children and thus build a stronger, more competitive nation. And, as we've seen throughout our Nation's history, America's workers have not disappointed.

Unfortunately, too many Americans are working hard every day, but are still unable to make ends meet and provide even the most basic needs for their family, such as food, shelter, or health care. The legislation I'm introducing will help address one of these important challenges: affordable, quality health care for working families.

The statistics are undeniable—almost 46 million Americans have no health insurance and more than 1 million of the uninsured are in my home state of New Jersey. But that's just the beginning of the problem. Even families who are fortunate enough to have health insurance, are struggling to pay the premiums, which in New Jersey, have increased at four times the rate of earnings. Since 2000, the employee share of health care premiums in New Jersey increased almost 43 percent or almost \$400 a year. When family earnings increase by only 10 percent over the same period, it becomes clear just how challenging it is for our hard working families to get by.

The Health Care COSTS Act does not address the entire problem, but it will help some workers afford to keep their health insurance when they're between jobs. Currently, many workers who receive health coverage through their employer are entitled to keep that coverage for up to 18 months after they leave their jobs. This coverage is known as COBRA coverage. However, many don't take advantage of COBRA coverage because it's simply too expensive. The employee, who has just lost their job, has to pay the full cost of the coverage, making it prohibitively expensive for most families.

The Health Care COSTS Act helps moderate-income families with the cost of COBRA by providing an "advanceable" tax credit for half the cost of these health care premiums.

The tax credit would go directly to the health plan administrator, thus reducing the workers' monthly premiums by half. This is not a handout, but a helping hand for workers who have contributed to the economic well-being of their community and have earned the opportunity to care for their family while they get back on their feet and find another job.

Clearly, there is much more to do in addressing the health care crisis in this country, but this is an important first step in helping working families afford health care coverage during one of the most difficult and vulnerable times a family might face. I hope this legislation will be a starting point for discussion of the significant challenges families face in affording quality health care in this country.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2745. Mrs. CLINTON (for herself, Mr. KERRY, Mr. LAUTENBERG, and Mr. MENENDEZ) submitted an amendment intended to be proposed by her to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; which was ordered to lie on the table.

SA 2746. Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 852, supra.

SA 2747. Mr. SPECTER proposed an amendment to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, supra.

SA 2748. Mr. CORNYN (for himself, Mr. COBURN, Mr. GRAHAM, Mr. ENSIGN, Mr. CRAPO, Mr. INHOFE, Mr. MARTINEZ, Mr. DEMINT, Mr. THUNE, Mr. BENNETT, Mr. SMITH, Mr. CRAIG, Mr. BUNNING, Mr. THOMAS, Mr. SUNUNU, Mr. CHAMBLISS, Mr. ENZI, and Mr. HAGEL) proposed an amendment to the bill S. 852, supra.

SA 2749. Mr. CORNYN proposed an amendment to amendment SA 2748 proposed by Mr. CORNYN (for himself, Mr. COBURN, Mr. GRAHAM, Mr. ENSIGN, Mr. CRAPO, Mr. INHOFE, Mr. MARTINEZ, Mr. DEMINT, Mr. THUNE, Mr. BENNETT, Mr. SMITH, Mr. CRAIG, Mr. BUNNING, Mr. THOMAS, Mr. SUNUNU, Mr. CHAMBLISS, Mr. ENZI, and Mr. HAGEL) to the bill S. 852, supra.

SA 2750. Mr. FRIST (for Ms. COLLINS (for herself and Mr. BOND)) proposed an amendment to the bill S. 662, to reform the postal laws of the United States.

SA 2751. Mr. FRIST (for Mr. HARKIN) proposed an amendment to the bill S. 662, supra.

SA 2752. Mr. FRIST (for Mr. REID) proposed an amendment to the bill S. 662, supra.

SA 2753. Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill S. 662, supra.

SA 2754. Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

SA 2755. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, supra; which was ordered to lie on the table.

SA 2756. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2746 proposed by Mr. FRIST

(for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, supra; which was ordered to lie on the table.

SA 2757. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, supra; which was ordered to lie on the table.

SA 2758. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 2745. Mrs. CLINTON (for herself, Mr. KERRY, Mr. LAUTENBERG, and Mr. MENENDEZ) submitted an amendment intended to be proposed by her to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, line 23, insert " , or the captive insurance company established and funded under title III of division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7; 117 Stat. 517)" before the period.

On page 125, between lines 22 and 23, insert the following:

(1) ASBESTOS EXPOSURE AS THE RESULT OF A NATURAL OR OTHER DISASTER.—A claimant may file an exceptional medical claim with the Fund if—

(A) such claimant has been exposed to asbestos from any area that is subject to a declaration by the President of a major disaster, as defined under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), as the result of—

(i) a natural or other disaster, occurring before, on, or after the date of enactment of this Act, including—

(I) the attack on the World Trade Center in New York, New York on September 11, 2001; and

(II) Hurricane Katrina of 2005 in the Gulf Region of the United States; or

(ii) the clean up and remediation following such a disaster; or

(B) such claimant has been exposed to asbestos as a result of living with a person who has met the exposure requirements described in subparagraph (A).

On page 365, line 12, insert "(1) IN GENERAL.—" before "Except".

On page 365, between lines 17 and 18, insert the following:

(2) ACTIONS PRESERVED.—Nothing in this Act shall be construed to limit or abrogate any pending or future civil action against the United States Government or any State or local government, or any agency or subdivision thereof, or any former or present officer or employee thereof, in either their official or individual capacities, seeking redress for exposure to asbestos—

(A) from any area that is subject to a declaration by the President of a major disaster, as defined under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), as the result of—

(i) a natural or other disaster, occurring before, on, or after the date of enactment of this Act, including—

(I) the attack on the World Trade Center in New York, New York on September 11, 2001; and

(II) Hurricane Katrina of 2005 in the Gulf Region of the United States; or

of the United States in accordance with chapter 89 of title 28, United States Code.

(B) JURISDICTION OVER REMOVED ACTIONS.—The district courts of the United States shall have jurisdiction of all civil actions removed under this paragraph, without regard to the amount in controversy and without regard to the citizenship or residence of the parties.

(C) REMOVAL BY ANY DEFENDANT.—A civil action may be removed to the district court of the United States under this paragraph by any defendant without the consent of all defendants.

(D) REMAND.—A district court of the United States shall remand any civil action removed solely under this paragraph, unless the court finds that—

(i) the State court failed to comply with procedures prescribed by law; or

(ii) the failure to dismiss by the State court lacked substantial support in the record before the State court.

(E) LIMITATION.—Civil actions in State court subject to this Act may not be removed to any district court of the United States unless such removal is otherwise proper without regard to the provisions of this Act or is removed under this paragraph.

(G) PREEMPTION.—

(1) IN GENERAL.—This Act shall govern all asbestos and silica claims filed in Federal or State courts on or after the effective date of this Act, or which are pending in Federal or State courts on the effective date of this Act and in which the trial, or any new trial or retrial following motion, appeal or otherwise, has not commenced with presentation of evidence to the trier of fact as of the effective date of this Act, except for enforcement of claims for which a final judgment has been duly entered by a court and that is no longer subject to any appeal or judicial review on the effective date of this Act.

(2) GREATER LIMITATIONS BY STATES.—Nothing in this Act shall limit or preempt any State law or precedent having the effect of imposing additional or greater limits or restrictions on the assertion or prosecution of an asbestos or silica claim.

## SEC. 6. STATUTE OF LIMITATIONS; 2-DISEASE RULE.

(A) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—An asbestos or silica claim not barred in a State as of the date of enactment of this Act, a claimant's cause of action shall not accrue, nor shall the running of limitations commence, prior to the earlier of the date—

(A) on which an exposed person received a medical diagnosis of an asbestos-related impairment or silica-related impairment;

(B) on which an exposed person discovered facts that would have led a reasonable person to obtain a medical diagnosis with respect to the existence of an asbestos-related impairment or silica-related impairment; or

(C) of death of the exposed person having an asbestos-related or silica-related impairment.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to revive or extend limitations with respect to any claim for asbestos-related impairment or silica-related impairment that was otherwise time-barred as a matter of applicable State law as of the date of enactment of this Act.

(3) NO EFFECT ON SETTLEMENT AGREEMENTS.—Nothing in this section shall be construed so as to adversely affect, impair, limit, modify, or nullify any settlement agreement with respect to an asbestos or silica claim entered into before the date of enactment of this Act.

(B) 2-DISEASE RULE; DISTINCT CLAIMS.—

(1) IN GENERAL.—An asbestos or silica claim arising out of a non-malignant condition shall be a distinct cause of action, whol-

ly separate from a claim for an asbestos-related or silica-related cancer.

(2) NO DAMAGES FOR FEAR.—No damages shall be awarded for fear or increased risk of future disease in any civil action asserting an asbestos or silica claim.

## SEC. 7. EXPERTS.

(A) IN GENERAL.—A person who holds a valid medical license in good standing in a State, but who is not licensed to practice medicine in that State, and who testifies, whether by deposition, affidavit, live, or otherwise, as a medical expert witness on behalf of any party in an asbestos or silica claim is deemed to have a temporary license to practice medicine in the State in which the claim is pending solely for the purpose of providing such testimony and is subject to that extent to the authority of the medical licensing board or agency of that State.

(B) PENALTY FOR FALSE TESTIMONY.—If a physician renders expert medical testimony that is false, intentionally misleading or deceptive, or that intentionally misstates the relevant applicable standard of care, the medical licensing board or agency of the State in which the claim is pending may take such action as is permitted under the laws and regulations of that State governing the conduct of physicians.

(C) RULE OF CONSTRUCTION.—This section shall not be construed to permit an out of State physician to practice medicine in any other State other than as provided in this section.

## SEC. 8. PROPORTIONATE RESPONSIBILITY.

(A) DEFINITION.—In this section, the term "fault" shall include any and all claims or causes of action for damages caused by—

(1) negligence;

(2) breach of warranty;

(3) defective or unreasonably dangerous products; or

(4) any other act, omission, conduct, or activity that violates an applicable legal standard.

(B) REPORT REQUIREMENTS.—At the time a complaint is filed in a civil action alleging an asbestos or silica claim, the plaintiff shall file a written report with the court that discloses the total amount of any payments which the plaintiff will receive in the future, as a result of settlements or judgments based upon the same claim. The plaintiff shall be required to update the report under this subsection on a regular basis during the course of the proceeding until a final judgment is entered in the case.

(C) LIABILITY.—

(1) SEVERAL NOT JOINT.—The liability of each defendant for damages—

(A) shall be several only; and

(B) shall not be joint.

(2) DIRECT PROPORTION.—Each defendant shall be liable only for the amount of damages allocated to that defendant in direct proportion to the percentage of fault of that defendant, and a separate judgment shall be rendered against the defendant for that amount.

(3) AMOUNT.—The amount of judgment to be entered against each defendant shall be the lower of the amount determined by—

(A) multiplying the total amount of the judgment by the percentage of fault assessed by the trier of fact against each defendant; or

(B) subtracting from the total judgment the total amount of all settlement monies paid or promised to be paid, and allocating the full amount of the difference to those defendants not part of any such settlements in proportion to their relative percentages of fault.

(4) SETTLEMENT EXCEEDS VERDICT.—If the total of all settlement monies paid or promised to be paid to a claimant is greater than

the total amount of a verdict in favor of the claimant, the claimant shall recover nothing from any defendant.

(E) ASSESSING FAULT.—

(1) IN GENERAL.—In assessing percentages of fault at trial, a trier of fact shall consider, and the form of the verdict shall reflect, the fault of all persons and entities who contributed to the alleged asbestos-related injury or silica-related injury, regardless of whether such person or entity was, or could have been, named as a party to the suit, including persons or entities—

(A) subject to any pending or past bankruptcy;

(B) who have settled or agreed to settle the asbestos or silica claim with the claimant; or

(C) subject to immunity or statutory limitation of liability.

(2) FAULT OF NONPARTIES.—Any finding of fault assessed against a nonparty shall not—

(A) subject that nonparty to liability in the pending or any other action; and

(B) be referred to or admitted into evidence in any other action involving that nonparty.

## SEC. 9. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

## SEC. 10. MISCELLANEOUS PROVISIONS.

(A) CONSTRUCTION WITH OTHER LAWS.—This Act shall not be construed to—

(1) affect the scope or operation of any workers' compensation law or veterans' benefit program;

(2) affect the exclusive remedy or subrogation provisions of any such law; or

(3) authorize any lawsuit which is barred by any such provision of law.

(B) CONSTITUTIONAL AUTHORITY.—The constitutional authority for this Act is contained in Article I, section 8, clause 3 and Article III, section 1 of the Constitution of the United States.

## SEC. 11. EFFECTIVE DATE.

(A) IN GENERAL.—This Act applies to all asbestos or silica claims filed on or after the date of enactment of this Act.

(B) PENDING PROCEEDINGS.—This Act also applies to any pending asbestos or silica claims in which a trial has not commenced as of the date of enactment of this Act.

**SA 2750.** Mr. FRIST (for Ms. COLLINS (for herself and Mr. BOND)) proposed an amendment to the bill S. 662, to reform the postal laws of the United States; as follows:

On page 133, line 25, insert before the colon "each of which shall be applied in conjunction with the others".

On page 134, between lines 21 and 22, insert the following:

"(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

On page 135, strike lines 1 through 3.

On page 135, line 4, strike "(2)" and insert "(1)".

On page 135, line 9, strike "(3)" and insert "(2)".

On page 135, line 15, strike "(4)" and insert "(3)".

On page 135, line 19, strike "(5)" and insert "(4)".

On page 135, line 22, strike "(6)" and insert "(5)".

On page 136, line 1, strike "(7)" and insert "(6)".

On page 136, line 5, strike "(8)" and insert "(7)".

On page 136, line 8, strike "(9)" and insert "(8)".

On page 136, line 12, strike "(10)" and insert "(9)".

On page 136, line 16, strike "(11)" and insert "(10)".

On page 136, line 19, strike "(12)" and insert "(11)".

On page 136, line 21, strike "(13)" and insert "(12)".

On page 137, line 1, strike "(14)" and insert "(13)".

On page 138, line 19, strike "The" and insert "Except as provided under subparagraph (C), the".

On page 139, strike lines 8 through 17, and insert the following:

"(C) USE OF UNUSED RATE AUTHORITY.—

"(i) DEFINITION.—In this subparagraph, the term 'unused rate adjustment authority' means the difference between—

"(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

"(II) the amount of the rate adjustment the Postal Service actually makes in that year.

"(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

"(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

"(I) may use unused rate adjustment authority from more than 1 year;

"(II) may use any part of the unused rate adjustment authority from any year;

"(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

"(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

On page 142, strike lines 5 through 10, and insert the following:

"(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section."

On page 162, line 10, strike all through page 164, line 9, and insert the following:

#### § 3662. Rate and service complaints

"(a) IN GENERAL.—Any interested party (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of chapter 1 (except section 101(c)), sections 401, 403, 404, 404a, 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

"(A) either—

"(i) upon a finding that such complaint raises substantial and material issues of fact or law, begin proceedings on such complaint; or

"(ii) issue an order dismissing the complaint; and

"(B) with respect to any action taken under subparagraph (A) (i) or (ii), issue a written statement setting forth the bases of its determination.

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

"(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds upon clear and convincing evidence the complaint to be justified, it shall order that the Postal Service take such action as is necessary to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance.

"(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

On page 168, line 11, strike "Commission" and insert "Postal Service".

**SA 2751.** Mr. FRIST (for Mr. HARKIN) proposed an amendment to the bill S. 662, to reform the postal laws of the United States; as follows:

On page 171, line 6, strike "and".

On page 171, line 10, strike the period and insert "; and".

On page 171, between lines 10 and 11, insert the following:

(D) procedures that the Postal Service will use to—

(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

(ii) make available, upon request, any data, analyses, or other information considered by the Postal Service in making the proposed decision;

(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

(iv) take such comments into account in making a final decision.

On page 172, between lines 22 and 23, insert the following:

(5) EXISTING EFFORTS.—Effective on the date of enactment of this Act, the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D).

**SA 2752.** Mr. FRIST (for Mr. REID) proposed an amendment to the bill S. 662, to reform the postal laws of the United States; as follows:

On page 202, lines 10 through 14, strike "demonstrated ability in managing organi-

zations or corporations (in either the public or private sector) of substantial size. Experience in the fields of law and accounting shall be considered in making appointments of Governors." and insert "experience in the fields of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size."

On page 203, line 14, strike "5" and insert "7".

On page 203, line 17, strike "5" and insert "7".

On page 205, line 9, strike "3" and insert "2".

**SA 2753.** Mr. FRIST (for Mr. STEVENS) proposed an amendment to the bill S. 662, to reform the postal laws of the United States; as follows:

On page 256, add after line 3, the following:  
**SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY AIR.**

(a) DEFINITIONS.—Section 5402(a) of title 39, United States Code, is amended—

(1) in paragraph (4), by striking

"(g)(1)(D)(i)" and inserting "(g)(1)(A)(iv)(D)";

(2) in paragraph (5), by striking

"(g)(1)(D)(i)" and inserting "(g)(1)(A)(iv)(D)";

(3) in paragraph (6), by striking "only";

(4) in paragraph (8), by striking "rates paid to a bush carrier" and inserting "linehaul rates and a single terminal handling payment at a bush terminal handling rate paid to a bush carrier";

(5) in paragraph (11), by striking

"(g)(1)(D)(ii)" and inserting

"(g)(1)(A)(iv)(II)";

(6) in paragraph (13)—

(A) in subparagraph (A)—

(i) by striking "clause (i) or (ii) of subsection (g)(1)(D)" and inserting "subclause (I) or (II) of subsection (g)(1)(A)(iv)"; and

(ii) by striking "and" after the semicolon;

(B) in subparagraph (B), by adding "and" after the semicolon; and

(C) by adding at the end the following:

"(C) is not comprised of previously qualified existing mainline carriers as a result of merger or sale;"

(7) in paragraph (18), by striking "bush routes" and inserting "routes"; and

(8) in paragraph (22), by striking "bush routes" and inserting "routes".

(b) NONPRIORITY BYPASS MAIL.—Section 5402(g) of title 39, United States Code, is amended—

(1) in paragraph (2)(C), by inserting "or a destination city" after "acceptance point and a hub";

(2) in paragraph (3), by adding at the end the following:

"(C) When a new hub results from a change in a determination under subparagraph (B), mail tender from that hub during the 12-month period beginning on the effective date of that change shall be based on the passenger and freight shares to the destinations of the affected hub or hubs resulting in the new hub."; and

(3) in paragraph (5)(A)(i), by striking

"(g)(1)(D)(ii)" and inserting

"(g)(1)(A)(iv)(II)".

(c) EQUITABLE TENDER.—Section 5402(h) of title 39, United States Code, is amended—

(1) in paragraph (1), by inserting "bush" after "providing scheduled";

(2) by striking paragraph (3) and inserting the following:

"(3)(A) Except as provided under subparagraph (C), a new or existing 121 bush passenger carrier qualified under subsection (g)(1) shall be exempt from the requirements under paragraphs (1)(B) and (2)(A) on a city pair route for a period which shall extend for—

"(i) 1 year;

“(ii) 1 year in addition to the extension under clause (i) if, as of the conclusion of the first year, such carrier has been providing not less than 5 percent of the passenger service on that route (as calculated under paragraph (5)); and

“(iii) 1 year in addition to the extension under clause (ii) if, as of the conclusion of the second year, such carrier has been providing not less than 10 percent of the passenger service on that route (as calculated under paragraph (5)).

“(B)(i) The first 3 121 bush passenger carriers entitled to the exemptions under subparagraph (A) on any city pair route shall divide no more than an additional 10 percent of the mail, apportioned equally, comprised of no more than—

“(I) 5 percent of the share of each qualified passenger carrier servicing that route that is not a 121 bush passenger carrier; and

“(II) 5 percent of the share of each nonpassenger carrier servicing that route that transports 25 percent or more of the total nonmail freight under subsection (i)(1).

“(ii) Additional 121 bush passenger carriers entering service on that city pair route after the first 3 shall not receive any additional mail share.

“(iii) If any 121 bush passenger carrier on a city pair route receiving an additional share of the mail under clause (ii) discontinues service on that route, the 121 bush passenger carrier that has been providing the longest period of service on that route and is otherwise eligible but is not receiving a share by reason of clause (ii), shall receive the share of the carrier discontinuing service.

“(C) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing at least 10 percent of the passenger service on such route.”;

(3) in paragraph (5)(A)—

(A) by striking “(i)” after “(A)”;

(B) by striking clause (ii).

(d) PERCENT OF NONMAIL FREIGHT.—Section 5402(i)(6) of title 39, United States Code, is amended—

(1) by striking “(A)” after “(6)”;

(2) by striking subparagraph (B).

(e) PERCENT OF TENDER RATE.—Section 5402(j)(3)(B) of title 39, United States Code, is amended by striking “bush routes in the State of Alaska” and inserting “routes served exclusively by bush carriers in the State of Alaska”.

(f) DETERMINATION OF RATES.—Section 5402(k) of title 39, United States Code, is amended by striking paragraph (5).

(g) TECHNICAL AND CONFORMING AMENDMENT.—Section 5402(p)(3) of title 39, United States Code, is amended by striking “(g)(1)(D)” and inserting “(g)(1)(A)(iv)”.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the date of enactment of this Act.

(2) EQUITABLE TENDER.—Subsection (c) shall take effect on July 1, 2006.

**SA 2754.** Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to amendment SA 2746 proposed by Mr. FRIST (for Mr. SPECTER (for himself and Mr. LEAHY)) to the bill S. 852, to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes; as follows:

#### SEC. 1. PROPORTIONAL PAYMENTS.

(a) At page 171, after line 5, insert new (c) as follows (the subsection references assume that the required renumbering has occurred):

“(c) LIMITATION.—For any affiliated group, the total payment in any year, including any guaranteed payment surcharge under subsection (m) and any bankruptcy trust guarantee surcharge under section 222(c), shall not exceed the lesser of \$16,702,400 or 1.67024 percent of the revenues of the affiliated group for the most recent fiscal year ending on or prior to December 31, 2002, or for the most recent 12-month fiscal year as of the date the limitation is applied, whichever is greater. For purposes of this subsection, the term “affiliated group” shall include any defendant participant that is an ultimate parent. The limitation in this subsection shall not apply to defendant participants in Tier I or to any affiliated group whose revenues for the most recent fiscal year ending on or prior to December 31, 2002, or for the most recent 12-month fiscal year as of the date the limitation applied, whichever is greater, exceeds \$1,000,000,000. The revenues of the affiliated group shall be determined in accordance with section 203(a)(2), except for the applicable date. An affiliated group that claims a reduction in its payment in any year shall file with the Administrator, in accordance with procedures prescribed by the Administrator, sufficient information to allow the Administrator to determine the amount of any such reduction in that year. If as a result of the application of the limitation provided in this subsection an affiliated group is exempt from paying all or part of a guaranteed payment surcharge or bankruptcy trust surcharge, then the reduction in the affiliated group’s payment obligation due to the limitation in this subsection shall be redistributed in accordance with subsection (m). Nothing in this subsection shall be construed as reducing the minimum aggregate annual payment obligation of defendant participants as provided in section 204(i)(1).”

(b) Renumber subsections following new subsection (c).

(c) Subsequent to renumbering the subsections following new subsection 204(c), make the following cross-reference changes:

At page 142, line 7, replace “204(g)” with “204(h)”

At page 151, line 20, replace “204(i)(6)” with “204(j)(6)”

At page 160, line 21, replace “204(l)” with “204(m)”

At page 167, line 24, replace “204(d)” with “204(e)”

At page 170, lines 21 and 22, replace “(d) and (m)” with “(e) and (n)”

At page 171, line 22, replace “(i)(10)” with “(j)(10)”

At page 172, line 3, replace “(j)” with “(k)”

At page 177, line 12, replace “(j) with “(k)”

At page 178, line 25, replace “(j)(3)” with “(k)(3)”

At page 179, line 2, replace “(k)(1)(A)” with “(l)(1)(A)”

At page 182, line 16, replace “(i) with “(j)”

At page 183, line 6, replace “(i)” with “(j)”

At page 186, lines 7 and 8, replace “(d), (f), (g), and (m)” with “(e), (g), (h) and (n)”

At page 186, line 11, replace “(d) and (m)” with “(e) and “(n)”

At page 186, line 20, replace “(d) and (m)” with “(e) and “(n)”

At page 186, line 23, replace “(l)” with “(m)”

At page 187, line 8, replace “(f)” with “(g)”

At page 196, line 20, replace “(d)” with “(e)”

At page 196, line 22, replace “(m)” with “(n)”

At page 197, line 13, replace “(h)” with “(i)”

At page 198, line 11, replace “(d)” with “(e)”

At page 198, line 16, replace “(h)” with “(i)”

At page 198, line 17, replace “(j)” with “(k)”

At page 198, line 23, replace “(d)” with “(e)”

At page 199, line 10, replace “(h)” with “(i)”

At page 199, line 12, replace “(d) and (m)” with “(e) and (n)”

At page 199, line 20, replace “(k)” with “(l)”

At page 199, line 22, replace “(h)” with “(i)”

At page 200, line 3, replace “(h)” with “(i)”

At page 200, line 7, replace “(d), (f), (g), and (m)” with “(e), (g), (h) and (n)”

At page 200, line 22, replace “(d), (f), and (g)” with “(e), (g), and (h)”

At page 201, line 5, replace “(i)(9)” with “(j)(9)”

At page 203, line 6, replace “204(i)” with “204(j)”

At page 204, line 23, replace “204(d)” with “204(e)”

At page 205, line 11, replace “(i)(10)” with “(j)(10)”

At page 205, line 16, replace “204(h)” with “204(i)”

At page 248, line 21, replace “204(f)(3)” with “204(g)(3)”

At page 261, line 14, replace “204(i)(10)” with “204(j)(10)”

At page 266, line 14, replace “204(f)” with “204(g)”

At page 289, line 9, replace “204(i)” with “204(j)”

At page 289, line 11, replace “204(d)” with “204(e)”

At page 289, line 12, replace “204(m)” with “204(n)”

At page 289, line 19, replace “204(i)” with “204(j)”

At page 289, line 20, replace “204(d)” with “204(e)”

At page 289, line 21, replace “204(m)” with “204(n)”

At page 289, line 23, replace “204(i)(10)” with “204(j)(10)”

At page 334, line 8, replace “204(f)” with “204(g)”

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#### SEC. 2. HARDSHIP ADJUSTMENTS.

(a) Strike page 172, line 6, through page 173, line 17, and insert the following:

“(2) FINANCIAL HARDSHIP ADJUSTMENTS.—

(A) IN GENERAL.—Any defendant participant in any tier may apply for an adjustment under this paragraph at any time during the period in which a payment obligation to the Fund remains outstanding and may qualify for such an adjustment by demonstrating to the satisfaction of the Administrator that the amount of its payment obligation would materially and adversely affect the defendant participant’s ability to continue its business and to payor satisfy its debts generally as and when they come due. Such an adjustment shall be in an amount that in the judgment of the Administrator is reasonably necessary to prevent such material and adverse effect on the defendant participant’s ability to continue its business and to payor satisfy its debts generally as and when they come due.

(B) FACTORS TO CONSIDER.—In determining whether to make an adjustment under subparagraph (A) and the amount thereof, the Administrator shall consider—

(1) the financial situation of the defendant participant and its affiliated group as shown in historical audited financial statements, including income statement, balance sheet, and statement of cash flow, for the three fiscal years ending immediately prior to the application and projected financial statements for the three fiscal years following the application;

**Adjournment:** Senate met at 9:30 a.m., and, in accordance with the provisions of H. Con. Res. 503, adjourned sine die at 4:39 a.m. on Saturday, December 9, 2006, until 12 noon, on Thursday, January 4, 2007.

## *Committee Meetings*

No committee meetings were held.

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# House of Representatives

## *Chamber Action*

**Public Bills and Resolutions Introduced:** 17 public bills, H.R. 6420–6436; and 9 resolutions, H. Con. Res. 502–504; and H. Res. 1104, 1106–1110 were introduced. **Pages H9317–18**

**Additional Cosponsors:** **Page H9318**

**Reports Filed:** Reports were filed today as follows:

Report of the Joint Economic Committee on the 2006 Economic Report of the President (H. Rept. 109–726);

H. Res. 1105, providing for consideration of H.J. Res. 102, making further continuing appropriations for the fiscal year 2007 (H. Rept. 109–727);

H.R. 3509, to establish a statute of repose for durable goods used in a trade or business, with an amendment (H. Rept. 109–728, Pt. 1);

H.R. 4941, to reform the science and technology programs and activities of the Department of Homeland Security, with an amendment (H. Rept. 109–729, Pt. 1);

H.R. 2567, to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent so as to render it unpalatable, with an amendment (H. Rept. 109–730, Pt. 1); and

H.R. 5316, to reestablish the Federal Emergency Management Agency as a cabinet-level independent establishment in the executive branch that is responsible for the Nation's preparedness for, response to, recovery from, and mitigation against disasters, with amendments (H. Rept. 109–519, Pt. 1). **Page H9316**

The House agreed to H. Res. 1102, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules and providing for consideration of motions to suspend the rules, by voice vote after ordering the previous question. **Pages H8983–84**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

*Authorizing major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007:* S.

3421, amended, to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007; **Pages H8995–H9019**

Agreed to amend the title so as to read: "To amend title 38, United States Code, to repeal certain limitations on attorney representation of claimants for benefits under laws administered by the Secretary of Veterans Affairs, to expand eligibility for the Survivors' and Dependents' Educational Assistance Program, to otherwise improve veterans' benefits, memorial affairs, and healthcare programs, to enhance information security programs of the Department of Veterans Affairs, and for other purposes." **Page H9019**

*Iraq Reconstruction Accountability Act of 2006:* S. 4046, to extend oversight and accountability related to United States reconstruction funds and efforts in Iraq by extending the termination date of the Office of the Special Inspector General for Iraq Reconstruction—clearing the measure for the President; **Pages H9019–22**

*Reforming the postal laws of the United States:* H.R. 6407, amended, to reform the postal laws of the United States; **Pages H9160–82**

*Designating the facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building":* S. 4050, to designate the facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building"—clearing the measure for the President; **Pages H9182–83**

*Department of State Authorities Act of 2006:* H.R. 6060, amended, to authorize certain activities by the Department of State; **Pages H9188–91**

*Amending the Farm Security and Rural Investment Act of 2002 to extend a suspension of limitation on the period for which certain borrowers are eligible for guaranteed assistance:* S. 4093, to amend the Farm Security and Rural Investment Act of 2002 to extend a suspension of limitation on the

Chandler Israel  
 Chocola Issa  
 Clay Istook  
 Cleaver Jackson (IL)  
 Clyburn Jackson-Lee  
 Coble (TX)  
 Cole (OK) Jenkins  
 Conaway Jindal  
 Cooper Johnson (CT)  
 Costa Johnson, E. B.  
 Cramer Jones (OH)  
 Crenshaw Kanjorski  
 Crowley Keller  
 Cuellar Kelly  
 Culberson Kennedy (MN)  
 Davis (AL) Kennedy (RI)  
 Davis (CA) Kildee  
 Davis (FL) Kind  
 Davis (IL) King (IA)  
 Davis (KY) King (NY)  
 Davis (TN) Kingston  
 Davis, Tom Kirk  
 DeGette Kline  
 Delahunt Knollenberg  
 Dent Kuhl (NY)  
 Diaz-Balart, L. LaHood  
 Diaz-Balart, M. Lantos  
 Dicks Larsen (WA)  
 Doolittle Latham  
 Doyle LaTourette  
 Drake Levin  
 Dreier Lewis (CA)  
 Duncan Lewis (KY)  
 Edwards Linder  
 Ehlers Lipinski  
 Emanuel LoBiondo  
 Emerson Lofgren, Zoe  
 Engel Lowey  
 Eshoo Lucas  
 Etheridge Lungren, Daniel  
 Everett E.  
 Feeney Lynch  
 Ferguson Mack  
 Filner Maloney  
 Fitzpatrick (PA) Manzullo  
 Flake Marchant  
 Forbes Marshall  
 Fortenberry Matheson  
 Fossella McCarthy  
 Foxx McCaul (TX)  
 Frank (MA) McCollum (MN)  
 Franks (AZ) McCotter  
 Frelinghuysen McGovern  
 Garrett (NJ) McHenry  
 Gerlach McHugh  
 Gilchrest McIntyre  
 Gingrey McKeon  
 Gohmert Meehan  
 Gonzalez Meek (FL)  
 Goodlatte Meeks (NY)  
 Gordon Melancon  
 Granger Mica  
 Graves Michaud  
 Green (WI) Millender  
 Green, Al McDonald  
 Green, Gene Miller (FL)  
 Gutierrez Miller (MI)  
 Gutknecht Miller (NC)  
 Hall Mollohan  
 Harris Moore (KS)  
 Hart Moran (KS)  
 Hastert Moran (VA)  
 Hastings (FL) Murphy  
 Hayes Musgrave  
 Hayworth Myrick  
 Hefley Neal (MA)  
 Hensarling Neugebauer  
 Herger Northup  
 Hersheth Nunes  
 Higgins Ortiz  
 Hinojosa Oxley  
 Hobson Pallone  
 Hoekstra Pearce  
 Holden Pelosi  
 Honda Pence  
 Hostettler Peterson (MN)  
 Hoyer Pickering  
 Hulshof Platts  
 Hunter Poe  
 Hyde Pombo  
 Inglis (SC) Pomeroy  
 Inslee Porter

## NAYS—59

Abercrombie Conyers  
 Baldwin Costello  
 Becerra Cummings  
 Burgess DeFazio  
 Capps DeLauro

Price (GA)  
 Price (NC)  
 Pryce (OH)  
 Putnam  
 Radanovich  
 Rahall  
 Ramstad  
 Rangel  
 Regula  
 Rehberg  
 Reichert  
 Renzi  
 Reyes  
 Rogers (AL)  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Ross  
 Roybal-Allard  
 Royce  
 Ruppersberger  
 Rush  
 Ryan (OH)  
 Ryan (WI)  
 Ryun (KS)  
 Sabo  
 Salazar  
 Sánchez, Linda  
 T.  
 Saxton  
 Schakowsky  
 Schiff  
 Schmidt  
 Schwarz (MI)  
 Scott (GA)  
 Scott (VA)  
 Sekula Gibbs  
 Sessions  
 Shadegg  
 Shaw  
 Shays  
 Sherman  
 Sherwood  
 Shimkus  
 Shuster  
 Simmons  
 Sires  
 Skelton  
 Smith (WA)  
 Snyder  
 Sodrel  
 Souder  
 Spratt  
 Stearns  
 Stupak  
 Sullivan  
 Tancredo  
 Tanner  
 Terry  
 Thomas  
 Thompson (MS)  
 Thornberry

Baker  
 Bass  
 Blumenauer  
 Brown (OH)  
 Burton (IN)  
 Case  
 Cubin  
 Davis, Jo Ann  
 Deal (GA)  
 English (PA)  
 Evans  
 Fattah  
 Ford  
 Gallegly  
 Gibbons

McNulty  
 Miller, George  
 Moore (WI)  
 Nadler  
 Napolitano  
 Oberstar  
 Obey  
 Oliver  
 Owens  
 Pascrell  
 Pastor  
 Payne  
 Pitts  
 Rothman  
 Sanders

Harman  
 Hinchey  
 Holt  
 Hooley  
 Kaptur  
 Kilpatrick (MI)  
 Kucinich  
 Langevin  
 Larson (CT)  
 Leach  
 Lee  
 Lewis (GA)  
 Markey  
 Matsui  
 McDermott

McNulty  
 Miller, George  
 Moore (WI)  
 Nadler  
 Napolitano  
 Oberstar  
 Obey  
 Oliver  
 Owens  
 Pascrell  
 Pastor  
 Payne  
 Pitts  
 Rothman  
 Sanders

Swartz (PA)  
 Serrano  
 Slaughter  
 Smith (NJ)  
 Solis  
 Stark  
 Tauscher  
 Taylor (MS)  
 Thompson (CA)  
 Udall (NM)  
 Velázquez  
 Waters  
 Woolsey  
 Wu

## NOT VOTING—44

Gillmor  
 Hastings (WA)  
 Jefferson  
 Johnson (IL)  
 Johnson, Sam  
 Jones (NC)  
 Kolbe  
 McCrery  
 McKinney  
 McMorris  
 Rodgers  
 Miller, Gary  
 Murtha  
 Norwood  
 Nussle

## □ 2205

Mr. TAYLOR of Mississippi changed his vote from “yea” to “nay.”

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### CORRECTING ENROLLMENT OF H.R. 5682, HENRY J. HYDE UNITED STATES-INDIA PEACEFUL ATOMIC ENERGY COOPERATION ACT OF 2006

Mr. ROYCE. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 502) to correct the enrollment of the bill H.R. 5682, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. CAMP of Michigan). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

## H. CON. RES. 502

*Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill, H.R. 5682, the Clerk of the House of Representatives shall make the following correction in section 110(10): Strike “point” and insert “pound”.*

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6407) to reform the postal laws of the United States, as amended.

The Clerk read as follows:

## H.R. 6407

*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 “Postal Accountability and Enhancement Act”.

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

Sec. 1. Short title; table of contents.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal Services.

#### TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Clerical amendment.

#### TITLE III—MODERN SERVICE STANDARDS

Sec. 301. Establishment of modern service standards.

Sec. 302. Postal service plan.

#### TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 401. Postal Service Competitive Products Fund.

Sec. 402. Assumed Federal income tax on competitive products income.

Sec. 403. Unfair competition prohibited.

Sec. 404. Suits by and against the Postal Service.

Sec. 405. International postal arrangements.

#### TITLE V—GENERAL PROVISIONS

Sec. 501. Qualification and term requirements for Governors.

Sec. 502. Obligations.

Sec. 503. Private carriage of letters.

Sec. 504. Rulemaking authority.

Sec. 505. Noninterference with collective bargaining agreements.

Sec. 506. Bonus authority.

#### TITLE VI—ENHANCED REGULATORY COMMISSION

Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.

Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 603. Authorization of appropriations from the Postal Service Fund.

Sec. 604. Resignation of the Postal Rate Commission.

Sec. 605. Inspector General of the Postal Regulatory Commission.

#### TITLE VII—EVALUATIONS

Sec. 701. Assessments of ratemaking, classification, and other provisions.

Sec. 702. Report on universal postal service and the postal monopoly.

Sec. 703. Study on equal application of laws to competitive products.

Sec. 704. Report on postal workplace safety and workplace-related injuries.

Sec. 705. Study on recycled paper.

Sec. 706. Greater diversity in Postal Service executive and administrative schedule management positions.

Sec. 707. Contracts with women, minorities, and small businesses.

Sec. 708. Rates for periodicals.

Sec. 709. Assessment of certain rate deficiencies.

Sec. 710. Assessment of future business model of the Postal Service.

Sec. 711. Provisions relating to cooperative mailings.

Sec. 712. Definition.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Sec. 801. Short title.

Sec. 802. Civil Service Retirement System.

Sec. 803. Health insurance.

Sec. 804. Repeal of disposition of savings provision.

Sec. 805. Effective dates.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

Sec. 901. Temporary disability; continuation of pay.

#### TITLE X—MISCELLANEOUS

Sec. 1001. Employment of postal police officers.

Sec. 1002. Obsolete provisions.

Sec. 1003. Reduced rates.

Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.

Sec. 1005. Contracts for transportation of mail by air.

Sec. 1006. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.

Sec. 1007. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.

Sec. 1008. Hazardous matter.

Sec. 1009. ZIP codes and retail hours.

Sec. 1010. Technical and conforming amendments.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

##### SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ refers to the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36; and

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36; and

“(10) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”.

##### SEC. 102. POSTAL SERVICES.

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

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

“(2) Nothing in this section shall be considered to permit or require that the Postal Service provide any nonpostal service, except that the Postal Service may provide

nonpostal services which were offered as of January 1, 2006, as provided under this subsection.

“(3) Not later than 2 years after the date of enactment of the Postal Accountability and Enhancement Act, the Postal Regulatory Commission shall review each nonpostal service offered by the Postal Service on the date of enactment of that Act and determine whether that nonpostal service shall continue, taking into account—

“(A) the public need for the service; and

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

“(4) Any nonpostal service not determined to be continued by the Postal Regulatory Commission under paragraph (3) shall terminate.

“(5) If the Postal Regulatory Commission authorizes the Postal Service to continue a nonpostal service under this subsection, the Postal Regulatory Commission shall designate whether the service shall be regulated under this title as a market dominant product, a competitive product, or an experimental product.”.

(b) CONFORMING AMENDMENTS.—Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.

#### TITLE II—MODERN RATE REGULATION

##### SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

###### “§ 3621. Applicability; definitions

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) first-class mail letters and sealed parcels;

“(2) first-class mail cards;

“(3) periodicals;

“(4) standard mail;

“(5) single-piece parcel post;

“(6) media mail;

“(7) bound printed matter;

“(8) library mail;

“(9) special services; and

“(10) single-piece international mail, subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

###### “§ 3622. Modern rate regulation

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

“(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives, each of which shall be applied in conjunction with the others:

“(1) To maximize incentives to reduce costs and increase efficiency.

“(2) To create predictability and stability in rates.

“(3) To maintain high quality service standards established under section 3691.

“(4) To allow the Postal Service pricing flexibility.

“(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

“(6) To reduce the administrative burden and increase the transparency of the rate-making process.

“(7) To enhance mail security and deter terrorism.

“(8) To establish and maintain a just and reasonable schedule for rates and classifications, however the objective under this paragraph shall not be construed to prohibit the Postal Service from making changes of unequal magnitude within, between, or among classes of mail.

“(9) To allocate the total institutional costs of the Postal Service appropriately between market-dominant and competitive products.

“(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(2) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

“(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(7) the importance of pricing flexibility to encourage increased mail volume and operational efficiency;

“(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(10) the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similarly situated mailers, that—

“(A) either—

“(i) improve the net financial position of the Postal Service through reducing Postal Service costs or increasing the overall contribution to the institutional costs of the Postal Service; or

“(ii) enhance the performance of mail preparation, processing, transportation, or other functions; and

“(B) do not cause unreasonable harm to the marketplace.

“(11) the educational, cultural, scientific, and informational value to the recipient of mail matter;

“(12) the need for the Postal Service to increase its efficiency and reduce its costs, including infrastructure costs, to help maintain high quality, affordable postal services;

(13) the value to the Postal Service and postal users of promoting intelligent mail and of secure, sender-identified mail; and

“(14) the policies of this title as well as such other factors as the Commission determines appropriate.

## “(d) REQUIREMENTS.—

“(1) IN GENERAL.—The system for regulating rates and classes for market-dominant products shall—

“(A) include an annual limitation on the percentage changes in rates to be set by the Postal Regulatory Commission that will be equal to the change in the Consumer Price Index for All Urban Consumers unadjusted for seasonal variation over the most recent available 12-month period preceding the date the Postal Service files notice of its intention to increase rates;

“(B) establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;

“(C) not later than 45 days before the implementation of any adjustment in rates under this section, including adjustments made under subsection (c)(10)—

“(i) require the Postal Service to provide public notice of the adjustment;

“(ii) provide an opportunity for review by the Postal Regulatory Commission;

“(iii) provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under subparagraph (A); and

“(iv) require the Postal Service to respond to the notice provided under clause (iii) and describe the actions to be taken to comply with the limitation under subparagraph (A);

“(D) establish procedures whereby the Postal Service may adjust rates not in excess of the annual limitations under subparagraph (A); and

“(E) notwithstanding any limitation set under subparagraphs (A) and (C), and provided there is not sufficient unused rate authority under paragraph (2)(C), establish procedures whereby rates may be adjusted on an expedited basis due to either extraordinary or exceptional circumstances, provided that the Commission determines, after notice and opportunity for a public hearing and comment, and within 90 days after any request by the Postal Service, that such adjustment is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

## “(2) LIMITATIONS.—

“(A) CLASSES OF MAIL.—Except as provided under subparagraph (C), the annual limitations under paragraph (1)(A) shall apply to a class of mail, as defined in the Domestic Mail Classification Schedule as in effect on the date of enactment of the Postal Accountability and Enhancement Act.

“(B) ROUNDING OF RATES AND FEES.—Nothing in this subsection shall preclude the Postal Service from rounding rates and fees to the nearest whole integer, if the effect of such rounding does not cause the overall rate increase for any class to exceed the Consumer Price Index for All Urban Consumers.

## “(C) USE OF UNUSED RATE AUTHORITY.—

“(i) DEFINITION.—In this subparagraph, the term ‘unused rate adjustment authority’ means the difference between—

“(I) the maximum amount of a rate adjustment that the Postal Service is authorized to make in any year subject to the annual limitation under paragraph (1); and

“(II) the amount of the rate adjustment the Postal Service actually makes in that year.

“(ii) AUTHORITY.—Subject to clause (iii), the Postal Service may use any unused rate adjustment authority for any of the 5 years following the year such authority occurred.

“(iii) LIMITATIONS.—In exercising the authority under clause (ii) in any year, the Postal Service—

“(I) may use unused rate adjustment authority from more than 1 year;

“(II) may use any part of the unused rate adjustment authority from any year;

“(III) shall use the unused rate adjustment authority from the earliest year such authority first occurred and then each following year; and

“(IV) for any class or service, may not exceed the annual limitation under paragraph (1) by more than 2 percentage points.

“(3) REVIEW.—Ten years after the date of enactment of the Postal Accountability and Enhancement Act and as appropriate thereafter, the Commission shall review the system for regulating rates and classes for market-dominant products established under this section to determine if the system is achieving the objectives in subsection (b), taking into account the factors in subsection (c). If the Commission determines, after notice and opportunity for public comment, that the system is not achieving the objectives in subsection (b), taking into account the factors in subsection (c), the Commission may, by regulation, make such modification or adopt such alternative system for regulating rates and classes for market-dominant products as necessary to achieve the objectives.

## “(e) WORKSHARE DISCOUNTS.—

“(1) DEFINITION.—In this subsection, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

“(2) SCOPE.—The Postal Regulatory Commission shall ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

## “(A) the discount is—

“(i) associated with a new postal service, a change to an existing postal service, or with a new work share initiative related to an existing postal service; and

“(ii) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

“(B) the amount of the discount above costs avoided—

“(i) is necessary to mitigate rate shock; and

“(ii) will be phased out over time;

“(C) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value; or

“(D) reduction or elimination of the discount would impede the efficient operation of the Postal Service.

“(3) LIMITATION.—Nothing in this subsection shall require that a work share discount be reduced or eliminated if the reduction or elimination of the discount would—

“(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced or eliminated; or

“(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount.

“(4) REPORT.—Whenever the Postal Service establishes a workshare discount rate, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—

“(A) explains the Postal Service’s reasons for establishing the rate;

“(B) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and

“(C) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.

“(f) TRANSITION RULE.—For the 1-year period beginning on the date of enactment of this section, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of enactment of this section. Proceedings initiated to consider a request for a recommended decision filed by the Postal Service during that 1-year period shall be completed in accordance with subchapter II of chapter 36 of this title and implementing regulations, as in effect before the date of enactment of this section.”

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

**SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

**“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS**  
**“§ 3631. Applicability; definitions and updates**

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1) priority mail;

“(2) expedited mail;

“(3) bulk parcel post;

“(4) bulk international mail; and

“(5) mailgrams;

subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.

“(b) DEFINITION.—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product through reliably identified causal relationships.

“(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**“§ 3632. Action of the Governors**

“(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors, with the concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) PROCEDURES.—

“(1) IN GENERAL.—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

“(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors’ proceedings in connection with such decision to be published in

the Federal Register at least 30 days before the effective date of any new rates or classes.

“(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

“(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

“(c) TRANSITION RULE.—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of enactment of this section.

**“§3633. Provisions applicable to rates for competitive products**

“(a) IN GENERAL.—The Postal Regulatory Commission shall, within 18 months after the date of enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

“(1) prohibit the subsidization of competitive products by market-dominant products;

“(2) ensure that each competitive product covers its costs attributable; and

“(3) ensure that all competitive products collectively cover what the Commission determines to be an appropriate share of the institutional costs of the Postal Service.

“(b) REVIEW OF MINIMUM CONTRIBUTION.—Five years after the date of enactment of this section, and every 5 years thereafter, the Postal Regulatory Commission shall conduct a review to determine whether the institutional costs contribution requirement under subsection (a)(3) should be retained in its current form, modified, or eliminated. In making its determination, the Commission shall consider all relevant circumstances, including the prevailing competitive conditions in the market, and the degree to which any costs are uniquely or disproportionately associated with any competitive products.”

**SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.**

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**

**“§3641. Market tests of experimental products**

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

“(c) NOTICE.—

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

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

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

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

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined under subsection (b)(2)).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

**“§3642. New products and transfers of products between the market-dominant and competitive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(b)).

“(C) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(D) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

“(e) PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

“(1) under this subchapter; or

“(2) by or under any other provision of law.”

#### SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended—

(1) by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”;

and

(2) by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

##### “§ 3651. Annual reports by the Commission

“(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

“(b) ADDITIONAL INFORMATION.—

“(1) IN GENERAL.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

“(A) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

“(B) free or reduced rates for postal services as required by this title; and

“(C) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

“(2) BASIS FOR ESTIMATES.—The Commission shall detail the basis for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

“(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

##### “§ 3652. Annual reports to the Commission

“(a) COSTS, REVENUES, RATES, AND SERVICE.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, rates, and quality of service, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) product information, including mail volumes; and

“(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

“(i) the level of service (described in terms of speed of delivery and reliability) provided; and

“(ii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

“(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(1) The per-item cost avoided by the Postal Service by virtue of such discount.

“(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(3) The per-item contribution made to institutional costs.

“(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service shall—

“(1) report data on the costs, revenues, and quality of service by market test, which may be reported in summary form; and

“(2) report such data as the Postal Regulatory Commission requires.

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

“(e) CONTENT AND FORM OF REPORTS.—

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

“(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

“(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—

“(1) comprehensive statement under section 2401(e);

“(2) performance plan under section 2803; and

“(3) program performance reports under section 2804.

##### “§ 3653. Annual determination of compliance

“(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide

an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

“(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or

“(2) whether any service standards in effect during such year were not met.

If, with respect to a year, no instance of non-compliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) NONCOMPLIANCE WITH REGARD TO RATES OR SERVICES.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c) and (e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

“(d) REVIEW OF PERFORMANCE GOALS.—The Postal Regulatory Commission shall also evaluate annually whether the Postal Service has met the goals established under sections 2803 and 2804, and may provide recommendations to the Postal Service related to the protection or promotion of public policy objectives set out in this title.

“(e) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described under paragraphs (1) and (2) of subsection (b)) during the year to which such determination relates.

#### “§ 3654. Additional financial reporting

“(a) ADDITIONAL FINANCIAL REPORTING.—

“(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

“(A) within 40 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

“(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the ‘registrant’ described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

“(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall

comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2010.

“(b) FINANCIAL REPORTING.—

“(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service’s pension and post-retirement health obligations—

“(A) the funded status of the Postal Service’s pension and postretirement health obligations;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2) The Office of Personnel Management shall provide the data listed under paragraph (1) to the Postal Service not later than 30 days after the end of each fiscal year.

“(3)(A) Beginning with reports for the fiscal year 2010, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

“(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

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

“(1) the data have become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

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

#### SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

##### “§ 3662. Rate and service complaints

“(a) IN GENERAL.—Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a)—

“(A) either—

“(i) upon a finding that such complaint raises material issues of fact or law, begin proceedings on such complaint; or

“(ii) issue an order dismissing the complaint; and

“(B) with respect to any action taken under subparagraph (A) (i) or (ii), issue a written statement setting forth the bases of its determination.

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

“(d) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid from the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

##### “§ 3663. Appellate review

“A person, including the Postal Service, adversely affected or aggrieved by a final

order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.

#### “§3664. Enforcement of orders

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”

#### SEC. 206. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

#### “CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

##### “SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“[3623. Repealed.]

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

##### “SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

##### “SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant and competitive categories of mail.

##### “SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

“3654. Additional financial reporting.

##### “SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

##### “SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

“3682. Size and weight limits.

“3683. Uniform rates for books; films, other materials.

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Bonus authority.

##### “SUBCHAPTER VII—MODERN SERVICE STANDARDS

“3691. Establishment of modern service standards.”

#### TITLE III—MODERN SERVICE STANDARDS

##### SEC. 301. ESTABLISHMENT OF MODERN SERVICE STANDARDS.

Chapter 36 of title 39, United States Code, as amended by this Act, is further amended by adding at the end the following:

##### “SUBCHAPTER VII—MODERN SERVICE STANDARDS

#### “§3691. Establishment of modern service standards

“(a) AUTHORITY GENERALLY.—Not later than 12 months after the date of enactment of this section, the Postal Service shall, in consultation with the Postal Regulatory Commission, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products.

“(b) OBJECTIVES.—

“(1) IN GENERAL.—Such standards shall be designed to achieve the following objectives:

“(A) To enhance the value of postal services to both senders and recipients.

“(B) To preserve regular and effective access to postal services in all communities, including those in rural areas or where post offices are not self-sustaining.

“(C) To reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.

“(D) To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.

“(2) IMPLEMENTATION OF PERFORMANCE MEASUREMENTS.—With respect to paragraph (1)(D), with the approval of the Postal Regulatory Commission an internal measurement system may be implemented instead of an external measurement system.

“(c) FACTORS.—In establishing or revising such standards, the Postal Service shall take into account—

“(1) the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;

“(2) the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;

“(3) the needs of Postal Service customers, including those with physical impairments;

“(4) mail volume and revenues projected for future years;

“(5) the projected growth in the number of addresses the Postal Service will be required to serve in future years;

“(6) the current and projected future cost of serving Postal Service customers;

“(7) the effect of changes in technology, demographics, and population distribution on the efficient and reliable operation of the postal delivery system; and

“(8) the policies of this title and such other factors as the Postal Service determines appropriate.

“(d) REVIEW.—The regulations promulgated pursuant to this section (and any revisions thereto), and any violations thereof, shall be subject to review upon complaint under sections 3662 and 3663.”

##### SEC. 302. POSTAL SERVICE PLAN.

(a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of title 39, United States Code, as added by this Act, the Postal Service shall, in consultation with the Postal Regulatory Commission, develop and submit to Congress a plan for meeting those standards.

(b) CONTENTS.—The plan under this section shall—

(1) establish performance goals;

(2) describe any changes to the Postal Service’s processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet the performance goals;

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals; and

(4) describe the long-term vision of the Postal Service for rationalizing its infrastructure and workforce, and how the Postal Service intends to implement that vision.

(c) POSTAL FACILITIES.—

(1) FINDINGS.—Congress finds that—

(A) the Postal Service has more than 400 logistics facilities, separate from its post office network;

(B) as noted by the President’s Commission on the United States Postal Service, the Postal Service has more facilities than it needs and the streamlining of this distribution network can pave the way for the potential consolidation of sorting facilities and the elimination of excess costs;

(C) the Postal Service has always revised its distribution network to meet changing conditions and is best suited to address its operational needs; and

(D) Congress strongly encourages the Postal Service to—

(i) expeditiously move forward in its streamlining efforts; and

(ii) keep unions, management associations, and local elected officials informed as an essential part of this effort and abide by any procedural requirements contained in the national bargaining agreements.

(2) IN GENERAL.—The Postal Service plan shall include a description of—

(A) the long-term vision of the Postal Service for rationalizing its infrastructure and workforce; and

(B) how the Postal Service intends to implement that vision.

(3) CONTENT OF FACILITIES PLAN.—The plan under this subsection shall include—

(A) a strategy for how the Postal Service intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria, and processes to be used for making changes to the facilities network, and the process for engaging policy makers and the public in related decisions;

(B) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes;

(C) an identification of anticipated costs, cost savings, and other benefits associated with the infrastructure rationalization alternatives discussed in the plan; and

(D) procedures that the Postal Service will use to—

(i) provide adequate public notice to communities potentially affected by a proposed rationalization decision;

(ii) make available information regarding any service changes in the affected communities, any other effects on customers, any effects on postal employees, and any cost savings;

(iii) afford affected persons ample opportunity to provide input on the proposed decision; and

(iv) take such comments into account in making a final decision.

(4) ANNUAL REPORTS.—

(A) IN GENERAL.—Not later than 90 days after the end of each fiscal year, the Postal Service shall prepare and submit a report to Congress on how postal decisions have impacted or will impact rationalization plans.

(B) CONTENTS.—Each report under this paragraph shall include—

(i) an account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of its processing, transportation, and distribution networks while preserving the timely delivery of postal services, including overall estimated costs and cost savings;

(ii) an account of actions taken to identify any excess capacity within its processing,

transportation, and distribution networks and implement savings through realignment or consolidation of facilities including overall estimated costs and cost savings;

(iii) an estimate of how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems, excess capacity, consolidating and closing facilities, and other areas will impact rationalization plans;

(iv) identification of any statutory or regulatory obstacles that prevented or will prevent or hinder the Postal Service from taking action to realign or consolidate facilities; and

(v) such additional topics and recommendations as the Postal Service considers appropriate.

(5) **EXISTING EFFORTS.**—Effective on the date of enactment of this Act, the Postal Service may not close or consolidate any processing or logistics facilities without using procedures for public notice and input consistent with those described under paragraph (3)(D).

(d) **ALTERNATE RETAIL OPTIONS.**—The Postal Service plan shall include plans to expand and market retail access to postal services, in addition to post offices, including—

(1) vending machines;

(2) the Internet;

(3) postage meters;

(4) Stamps by Mail;

(5) Postal Service employees on delivery routes;

(6) retail facilities in which overhead costs are shared with private businesses and other government agencies;

(7) postal kiosks; or

(8) any other nonpost office access channel providing market retail access to postal services.

(e) **REEMPLOYMENT ASSISTANCE AND RETIREMENT BENEFITS.**—The Postal Service plan shall include—

(1) a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of automation of any of its functions, the closing and consolidation of any of its facilities, or such other reasons as the Postal Service may determine; and

(2) a plan, developed in consultation with the Office of Personnel Management, to offer early retirement benefits.

(f) **CONTINUED AUTHORITY.**—Nothing in this section shall be construed to prohibit the Postal Service from implementing any change to its processing, transportation, delivery, and retail networks under any authority granted to the Postal Service for those purposes.

#### TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

##### SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) **PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.**—

(1) **IN GENERAL.**—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

##### “§ 2011. Provisions relating to competitive products

“(a)(1) In this subsection, the term ‘costs attributable’ has the meaning given such term by section 3631.

“(2) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(A) costs attributable to competitive products; and

“(B) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;

“(2) amounts received from obligations issued by Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

“(e)(1)(A) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

“(B) Subject to paragraph (5), any borrowings by the Postal Service under subparagraph (A) shall be supported and serviced by—

“(i) the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h)); or

“(ii) for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with any trustee under any agreement entered into in connection with the issuance of such obligations with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service, considers necessary or desirable to enhance the marketability of such obligations.

“(3) Obligations issued by the Postal Service under this subsection—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions,

as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that such obligations are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c), shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h)), or for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

“(A) the assets related to the provision of competitive products as calculated under subsection (h); or

“(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment (or settlement of a claim) against the Postal Service or the Government of the United States shall be paid out of the Competitive Products Fund to the extent that the judgment or claim arises out of activities of the Postal Service in the provision of competitive products.

“(h)(1)(A) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

“(i) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

“(I) identifying and valuing the assets and liabilities of the Postal Service associated with providing competitive products, including the capital and operating costs incurred by the Postal Service in providing such competitive products; and

“(II) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

“(ii) the substantive and procedural rules that should be followed in determining the assumed Federal income tax on competitive

products income of the Postal Service for any year (within the meaning of section 3634).

“(B) Not earlier than 6 months after the date of enactment of this section, and not later than 12 months after such date, the Secretary of the Treasury shall submit the recommendations under subparagraph (A) to the Postal Regulatory Commission.

“(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B)(i) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(I) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(II) provide for the establishment and application of the substantive and procedural rules described under paragraph (1)(A)(ii); and

“(III) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

“(ii) Final rules under this subparagraph shall be issued not later than 12 months after the date on which recommendations are submitted under paragraph (1) (or by such later date on which the Commission and the Postal Service may agree). The Commission is authorized to promulgate regulations revising such rules.

“(C)(i) Reports described under subparagraph (B)(i)(III) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires.

“(ii) The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service information under subparagraph (B)(i)(III) whenever it shall appear that—

“(I) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described under subparagraph (B)(i)(III) shall be submitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i)(1) The Postal Service shall submit an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund. The report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses.

“(2) A copy of the most recent report submitted under paragraph (1) shall be included in the annual report submitted by the Postal Regulatory Commission under section 3652(g).”

(2) CLERICAL AMENDMENT.—The table of sections for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) COMPETITIVE PRODUCTS FUND.—The term ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund.”

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title.” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), in the first sentence, by inserting “or 2011” after “section 2005”;

(B) in subsection (b)—

(i) in the first sentence, by inserting “under section 2005” before “in such amounts”; and

(ii) in the second sentence, by inserting “under section 2005” before “in excess of such amount.”; and

(C) in subsection (c), by inserting “or 2011(e)(4)(E)” after “section 2005(d)(5)”.

**SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

“§ 3634. Assumed Federal income tax on competitive products income

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for

a year shall be due on or before the January 15th next occurring after the close of such year.”

**SEC. 403. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

“§ 404a. Specific limitations

“(a) Except as specifically authorized by law, the Postal Service may not—

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”

**SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition. For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

“(3) This subsection shall not apply with respect to conduct occurring before the date of enactment of this subsection.

“(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into ac-

count local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title.”

#### SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

##### “§ 407. International postal arrangements

“(a) It is the policy of the United States—

“(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

“(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where

provision of such services by private companies may be prohibited by law of the United States;

“(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

“(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

“(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services and shall have the power to conclude postal treaties, conventions, and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

“(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

“(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

“(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

“(C) shall maintain continuing liaison with the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;

“(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

“(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

“(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

“(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of

State shall request the Postal Regulatory Commission to submit its views on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

“(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with the views submitted by the Commission pursuant to paragraph (1), except if, or to the extent, the Secretary determines, in writing, that it is not in the foreign policy or national security interest of the United States to ensure consistency with the Commission’s views. Such written determination shall be provided to the Commission together with a full explanation of the reasons thereof, provided that the Secretary may designate which portions of the determination or explanation shall be kept confidential for reasons of foreign policy or national security.

“(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

“(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

“(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

“(e)(1) In this subsection, the term ‘private company’ means a private company substantially owned or controlled by persons who are citizens of the United States.

“(2) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

“(3) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary’s control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

“(4) The provisions of this subsection shall take effect 6 months after the date of enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.”

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### TITLE V—GENERAL PROVISIONS

##### SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR GOVERNORS.

###### (a) QUALIFICATIONS.—

(1) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their experience in the field of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; except that at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) that employ at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”

(2) APPLICABILITY.—The amendment made by paragraph (1) shall not affect the appointment or tenure of any person serving as a Governor of the United States Postal Service under an appointment made before the date of enactment of this Act however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of enactment of this Act.

(b) CONSULTATION REQUIREMENT.—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”

###### (c) 7-YEAR TERMS.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended in the first sentence by striking “9 years” and inserting “7 years”.

###### (2) APPLICABILITY.—

(A) CONTINUATION BY INCUMBENTS.—The amendment made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act and such person may continue to serve the remainder of the applicable term.

(B) VACANCY BY INCUMBENT BEFORE 7 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served less than 7 years of that term, the resulting vacancy in office shall be treated as a vacancy in a 7-year term.

(C) VACANCY BY INCUMBENT AFTER 7 YEARS OF SERVICE.—If a person who is serving as a Governor of the United States Postal Service on the date of enactment of this Act resigns, is removed, or dies before the expiration of the 9-year term of that Governor, and that Governor has served 7 years or more of that term, that term shall be deemed to have been a 7-year term beginning on its commencement date for purposes of determining vacancies in office. Any appointment to the

vacant office shall be for a 7-year term beginning at the end of the original 9-year term determined without regard to the deeming under the preceding sentence. Nothing in this subparagraph shall be construed to affect any action or authority of any Governor or the Board of Governors during any portion of a 9-year term deemed to be 7-year term under this subparagraph.

###### (d) TERM LIMITATION.—

(1) IN GENERAL.—Section 202(b) of title 39, United States Code, is amended—

(A) by inserting “(1)” after “(b)”;

(B) by adding at the end the following:

“(2) No person may serve more than 2 terms as a Governor.”

(2) APPLICABILITY.—The amendments made by paragraph (1) shall not affect the tenure of any person serving as a Governor of the United States Postal Service on the date of enactment of this Act with respect to the term which that person is serving on that date. Such person may continue to serve the remainder of the applicable term, after which the amendments made by paragraph (1) shall apply.

##### SEC. 502. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”

(b) LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: “In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of \$3,000,000,000.”

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

(1) IN GENERAL.—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

“(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.”

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “any such obligations” and inserting “obligations issued by the Postal Service which may be”.

###### (d) AMOUNTS WHICH MAY BE PLEDGED.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section.”

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.”

**SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces;

or

“(3) such carriage is within the scope of services described by regulations of the United States Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2005) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

**SEC. 504. RULEMAKING AUTHORITY.**

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;”

**SEC. 505. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.**

(a) LABOR DISPUTES.—Section 1207 of title 39, United States Code, is amended to read as follows:

**“§ 1207. Labor disputes**

“(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days after such notice, if no agreement has been reached by that time.

“(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall within 10 days appoint a mediator of nationwide reputation

and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.

“(c)(1) If no agreement is reached within 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefore, an arbitration board shall be established consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.

“(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

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

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

(b) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as otherwise provided by the amendment made by subsection (a), nothing in this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(c) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

**SEC. 506. BONUS AUTHORITY.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3685 the following:

**“§ 3686. Bonus authority**

“(a) IN GENERAL.—The Postal Service may establish 1 or more programs to provide bo-

nuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

“(b) LIMITATION ON TOTAL COMPENSATION.—

“(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

“(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

“(A) the Postal Service shall make an appropriate request to the Board of Governors of the Postal Service in such form and manner as the Board requires; and

“(B) the Board of Governors shall approve any such request if the Board certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

“(3) REVOCATION AUTHORITY.—If the Board of Governors of the Postal Service finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

“(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

“(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

“(2) the amount of the bonus or other payment; and

“(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

“(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.”

**TITLE VI—ENHANCED REGULATORY COMMISSION**

**SEC. 601. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended—

(1) by inserting after chapter 4 the following:

**“CHAPTER 5—POSTAL REGULATORY COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

“505. Officer of the Postal Regulatory Commission representing the general public.

**“§ 501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

**“§ 502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

“(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

“(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

“(f) The Commissioners shall serve for terms of 6 years.”;

(2) by striking, in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), the heading for such subchapter I and all that follows through section 3602;

(3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)); and

(4) by adding after such section 504 the following:

**“§ 505. Officer of the Postal Regulatory Commission representing the general public**

“The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.”.

(b) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the ap-

pointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 604) under an appointment made before the date of enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(c) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission .. 501”**  
**SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

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

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

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

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

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

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

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

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

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

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

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

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

**SEC. 603. AUTHORIZATION OF APPROPRIATIONS FROM THE POSTAL SERVICE FUND.**

(a) POSTAL REGULATORY COMMISSION.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 601) is amended to read as follows:

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

(b) OFFICE OF INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE.—Section 8G(f) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

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

(2) by redesignating the second paragraph (3) (relating to employees and labor organizations) as paragraph (4); and

(3) by adding at the end the following:

“(6) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.”.

(c) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”.

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector

General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2008.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, and the Inspector General Act of 1978 (5 U.S.C. App.) that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

**SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMISSION.**

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503 and 504 (as so redesignated by section 601), 1001 and 1002, by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”;

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**SEC. 605. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.**

(a) IN GENERAL.—Section 8G(a)(2) of the Inspector General Act of 1978 is amended by inserting “the Postal Regulatory Commission,” after “the United States International Trade Commission.”.

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 601) is amended by adding after subsection (g) (as added by section 602) the following:

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

“(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and

regulations that govern selections, appointments, and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.”.

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

**TITLE VII—EVALUATIONS**

**SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.**

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and Congress concerning—

(1) the operation of the amendments made by this Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review the report and to submit written comments on the report. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

**SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY.**

(a) REPORT BY THE POSTAL REGULATORY COMMISSION.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Postal Regulatory Commission shall submit a report to the President and Congress on universal postal service and the postal monopoly in the United States (in this section referred to as “universal service and the postal monopoly”), including the monopoly on the delivery of mail and on access to mailboxes.

(2) CONTENTS.—The report under this subsection shall include—

(A) a comprehensive review of the history and development of universal service and the postal monopoly, including how the scope and standards of universal service and the postal monopoly have evolved over time for the Nation and its urban and rural areas;

(B) the scope and standards of universal service and the postal monopoly provided under current law (including sections 101 and 403 of title 39, United States Code), and current rules, regulations, policy statements, and practices of the Postal Service;

(C) a description of any geographic areas, populations, communities (including both urban and rural communities), organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both; and

(D) the scope and standards of universal service and the postal monopoly likely to be required in the future in order to meet the needs and expectations of the United States public, including all types of mail users, based on discussion of such assumptions, alternative sets of assumptions, and analyses as the Postal Service considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE AND THE MONOPOLY.—The Postal Regulatory Commission shall include in the report under subsection (a), and in all reports submitted under section 701 of this Act—

(1) any recommended changes to universal service and the postal monopoly as the Com-

mission considers appropriate, including changes that the Commission may implement under current law and changes that would require changes to current law, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service;

(2) with respect to each recommended change described under paragraph (1)—

(A) an estimate of the costs of the Postal Service attributable to the obligation to provide universal service under current law; and

(B) an analysis of the likely benefit of the current postal monopoly to the ability of the Postal Service to sustain the current scope and standards of universal service, including estimates of the financial benefit of the postal monopoly to the extent practicable, under current law; and

(3) such additional topics and recommendations as the Commission considers appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and the security of mail provided by the Postal Service.

(c) CONSULTATION.—In preparing the report required by this section, the Postal Regulatory Commission—

(1) shall solicit written comments from the Postal Service and consult with the Postal Service and other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of the mail, and the general public; and

(2) shall address in the report any written comments received under this section.

(d) CLARIFYING PROVISION.—Nothing in this section shall be considered to relate to any services that are not postal services within the meaning of section 102 of title 39, United States Code, as amended by section 101 of this Act.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President and Congress, and to the Postal Regulatory Commission, within 1 year after the date of enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and to private companies providing similar products.

(b) RECOMMENDATIONS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end, and in the interim, to account under section 3633 of title 39, United States Code (as added by this Act), for the net economic effects provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required under section 3633 of title 39, United States Code.

**SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES.**

(a) REPORT BY THE INSPECTOR GENERAL.—

(1) IN GENERAL.—Not later than 6 months after the enactment of this Act, the Inspector General of the United States Postal Service shall submit a report to Congress and the Postal Service that—

(A) details and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide; and

(B) identifies opportunities for improvement that remain with respect to such improvements and reductions.

(2) CONTENTS.—The report under this subsection shall also—

(A) discuss any injury reduction goals established by the Postal Service;

(B) describe the actions that the Postal Service has taken to improve workplace safety and reduce workplace-related injuries, and assess how successful the Postal Service has been in meeting its injury reduction goal; and

(C) identify areas where the Postal Service has failed to meet its injury reduction goals, explain the reasons why these goals were not met, and identify opportunities for making further progress in meeting these goals.

(b) REPORT BY THE POSTAL SERVICE.—

(1) REPORT TO CONGRESS.—Not later than 6 months after receiving the report under subsection (a), the Postal Service shall submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries nationwide, including goals and metrics.

(2) PROBLEM AREAS.—The report under this subsection shall also include plans, developed in consultation with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General in the report under subsection (a)(2)(C).

#### SEC. 705. STUDY ON RECYCLED PAPER.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Government Accountability Office shall study and submit to the Congress, the Board of Governors of the Postal Service, and to the Postal Regulatory Commission a report concerning—

(1) a description and analysis of the accomplishments of the Postal Service in each of the preceding 5 years involving recycling activities, including efforts by the Postal Service to recycle undeliverable and discarded mail and other materials and its public affairs efforts to promote the increased recycling of paper products; and

(2) additional opportunities that may be available for the United States Postal Service to engage in recycling initiatives, including consultation with the paper recycling industry and encouraging mailers to increase both the recycling of paper products and the use of recycled paper, and the projected costs and revenues of undertaking such opportunities.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative or legislative actions that may be appropriate.

#### SEC. 706. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.

(a) IN GENERAL.—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon

as is practicable, take such measures as may be necessary to incorporate the affirmative action and equal opportunity criteria contained in 4313(5) of title 5, United States Code, into the performance appraisals of senior supervisory or managerial employees.

#### SEC. 707. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

#### SEC. 708. RATES FOR PERIODICALS.

(a) IN GENERAL.—The United States Postal Service, acting jointly with the Postal Regulatory Commission, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative action or legislation that might be appropriate.

#### SEC. 709. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) SPECIFIC REQUIREMENTS.—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

#### SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.

(a) GOVERNMENT ACCOUNTABILITY OFFICE MANDATE.—The Comptroller General of the United States shall prepare and submit to the President and Congress a report that builds upon the work of the 2002 President's Commission on the United States Postal Service by evaluating in-depth various options and strategies for the long-term structural and operational reforms of the United States Postal Service. The final report required by this section shall be submitted within 5 years of the date of enactment of this Act.

(b) PROTECTION OF UNIVERSAL SERVICE.—The Government Accountability Office may include such recommendations as it considers appropriate with respect to how the Postal Service's business model can be maintained or transformed in an orderly manner that will minimize adverse effects on all interested parties and assure continued availability of affordable, universal postal service throughout the United States. The Government Accountability Office shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States.

(c) ELEMENTS OF REPORT.—

(1) TOPICS TO ADDRESS.—The report shall address at least the following:

(A) Specification of nature and bases of one or more sets of reasonable assumptions about the development of the postal services market, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the Government Accountability Office.

(B) Specification of the nature and bases of one or more sets of reasonable assumptions about the development of the regulatory framework for postal services, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the Government Accountability Office.

(C) Qualitative and, to the extent possible, quantitative effects that each strategy identified by the Government Accountability Office may have on universal service generally, the Postal Service, mailers, postal employees, private companies that provide delivery services, and the general public.

(D) Financial effects that each strategy identified by the Government Accountability Office may have on the Postal Service, postal employees, the Treasury of the United States, and other affected parties, including the American mailing consumer.

(E) Feasible and appropriate procedural steps and timetables for implementing each strategy identified by the Government Accountability Office.

(F) Such additional topics as the Comptroller General shall consider necessary and appropriate.

(2) MATTERS TO CONSIDER.—For each strategy identified, the Government Accountability Office shall assess how each business model might—

(A) address the human-capital challenges facing the Postal Service, including how employee-management relations within the Postal Service may be improved;

(B) optimize the postal infrastructure, including the best methods for providing retail services that ensure convenience and access to customers;

(C) ensure the safety and security of the mail and of postal employees;

(D) minimize areas of inefficiency or waste and improve operations involved in the collection, processing, or delivery of mail; and

(E) impact other matters that the Comptroller General determines are relevant to evaluating a viable long-term business model for the Postal Service.

(3) EXPERIENCES OF OTHER COUNTRIES.—In preparing the report required by subsection (a), the Government Accountability Office shall comprehensively and quantitatively investigate the experiences of other industrialized countries that have transformed the national post office. The Government Accountability Office shall undertake such original research as it deems necessary. In each case, the Government Accountability Office shall describe as fully as possible the costs and benefits of transformation of the national post office on all affected parties and shall identify any lessons that foreign experience may imply for each strategy identified by the research organization.

(d) OUTSIDE EXPERTS.—In preparing its study, the Government Accountability Office may retain the services of additional experts and consultants.

(e) CONSULTATION.—In preparing its report, the Government Accountability Office shall consult fully with the Postal Service, the Postal Regulatory Commission, other Federal agencies, postal employee unions and management associations, mailers, private companies that provide delivery services, and the general public. The Government Accountability Office shall include with its

final report a copy of all formal written comments received under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Postal Service Fund such sums as may be necessary to carry out this section.

**SEC. 711. PROVISIONS RELATING TO COOPERATIVE MAILINGS.**

(a) STUDY.—

(1) IN GENERAL.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against—

- (A) abuses of rates for nonprofit mail; and
- (B) deception of consumers.

(2) REPORT.—The Commission shall report the results of its examination to the Postal Service, along with any recommendations that the Commission determines appropriate.

(b) FAILURE TO ACT.—If the Postal Service fails to act on the recommendations of the Commission, the Commission may take such action as it determines necessary to prevent abuse of rates or deception of consumers.

**SEC. 712. DEFINITION.**

For purposes of this title, the term “Board of Governors” has the meaning given such term by section 102 of title 39, United States Code.

**TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING**

**SEC. 801. SHORT TITLE.**

This title may be cited as the “Postal Civil Service Retirement and Health Benefits Funding Amendments of 2006”.

**SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

(a) IN GENERAL.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8334(a)(1)(B), by striking clause (ii) and inserting the following:

“(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.”; and

(2) by amending section 8348(h) to read as follows:

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

“(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

“(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A) Not later than June 15, 2007, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2006. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a by June 30, 2007.

“(B) The Office shall redetermine the Postal surplus or supplemental liability as of the

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

“(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.

“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.

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

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

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United States Code, for the fiscal year 2007, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for the fiscal years 2003 through 2006 with respect to credit for military service of former employees of the United States Postal Service as though the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) had not been enacted, and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(c) REVIEW.—

(1) IN GENERAL.—

(A) REQUEST FOR REVIEW.—Notwithstanding any other provision of this section (including any amendment made by this section), any determination or redetermination made by the Office of Personnel Management under this section (including any amendment made by this section) shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this subsection.

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

(2) RECONSIDERATION.—Upon receiving the report from the Commission under paragraph (1), the Office of Personnel Management

shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

**SEC. 803. HEALTH INSURANCE.**

(a) IN GENERAL.—

(1) FUNDING.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8906(g)(2)(A), by striking “shall be paid by the United States Postal Service.” and inserting “shall through September 30, 2016, be paid by the United States Postal Service, and thereafter shall be paid first from the Postal Service Retiree Health Benefits Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.”; and

(B) by inserting after section 8909 the following:

**“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

“(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

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

“(2)(A) Not later than June 30, 2007, the Office shall compute, and by June 30 of each succeeding year, the Office shall recompute the difference between—

“(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and

“(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and

“(II) the net present value computed under paragraph (1).

“(B) Not later than June 30, 2017, the Office shall compute, and by June 30 of each succeeding year shall recompute, a schedule including a series of annual installments which provide for the liquidation of any liability or surplus by September 30, 2056, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

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

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

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

“(iii) \$5,400,000,000, not later than September 30, 2009;

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

“(v) \$5,500,000,000, not later than September 30, 2011;

“(vi) \$5,600,000,000, not later than September 30, 2012;

“(vii) \$5,600,000,000, not later than September 30, 2013;

“(viii) \$5,700,000,000, not later than September 30, 2014;

“(ix) \$5,700,000,000, not later than September 30, 2015; and

“(x) \$5,800,000,000, not later than September 30, 2016.

“(B) Not later than September 30, 2017, and by September 30 of each succeeding year, the United States Postal Service shall pay into such Fund the sum of—

“(i) the net present value computed under paragraph (1); and

“(ii) any annual installment computed under paragraph (2)(B).

“(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.

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

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

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

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

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”

(b) **REVIEW.**—

(1) **IN GENERAL.**—

(A) **REQUEST FOR REVIEW.**—Any regulation established under section 8909a(d)(5) of title 5, United States Code (as added by subsection (a)), shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

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

(2) **RECONSIDERATION.**—Upon receiving the report under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.

**SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

(a) **IN GENERAL.**—Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108-18) is repealed.

(b) **SAVINGS.**—Savings accrued to the Postal Service as a result of enactment of Public Law 108-18 and attributable to fiscal year 2006 shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a of title 5, United States Code, as added by section 803 of this Act.

**SEC. 805. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as provided under subsection (b), this title shall take effect on October 1, 2006.

(b) **TERMINATION OF EMPLOYER CONTRIBUTION.**—The amendment made by paragraph (1) of section 802(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2006.

**TITLE IX—COMPENSATION FOR WORK INJURIES**

**SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

(a) **TIME OF ACCRUAL OF RIGHT.**—Section 8117 of title 5, United States Code, is amended—

(1) by striking “An employee” and inserting “(a) An employee other than a Postal Service employee”; and

(2) by adding at the end the following:

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

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—Section 8118(b)(1) of title 5, United States Code, is amended to read as follows:

“(1) without a break in time, except as provided under section 8117(b), unless contravened under regulations of the Secretary;”

**TITLE X—MISCELLANEOUS**

**SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

“(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on that property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) With respect to such property, such officers shall have the power to—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms; and

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the

United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

“(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

“(A) serve warrants and subpoenas issued under the authority of the United States; and

“(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

“(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

“(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.”

**SEC. 1002. OBSOLETE PROVISIONS.**

(a) **REPEAL.**—

(1) **IN GENERAL.**—Chapter 52 of title 39, United States Code, is repealed.

(2) **CONFORMING AMENDMENTS.**—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) **ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.**—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(d) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

**SEC. 1003. REDUCED RATES.**

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

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

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

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

(2) in subsection (g), by adding at the end the following:

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

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

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

“(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.”; and

(3) by adding at the end the following:

“(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).”

**SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERVICE PURCHASING REFORM.**

It is the sense of Congress that the Postal Service should—

(1) ensure the fair and consistent treatment of suppliers and contractors in its current purchasing policies and any revision or replacement of such policies, such as through the use of competitive contract award procedures, effective dispute resolution mechanisms, and socioeconomic programs; and

(2) implement commercial best practices in Postal Service purchasing policies to achieve greater efficiency and cost savings by taking full advantage of private-sector partnerships as recommended in July 2003 by the President's Commission on the United States Postal Service.

**SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY AIR.**

(a) DEFINITIONS.—Section 5402(a) of title 39, United States Code, is amended—

(1) in paragraph (4), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(2) in paragraph (5), by striking “(g)(1)(D)(i)” and inserting “(g)(1)(A)(iv)(I)”;

(3) in paragraph (8), by striking “rates paid to a bush carrier” and inserting “linehaul rates and a single terminal handling payment at a bush terminal handling rate paid to a bush carrier”;

(4) in paragraph (11), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”;

(5) in paragraph (13)—

(A) in subparagraph (A)—

(i) by striking “clause (i) or (ii) of subsection (g)(1)(D)” and inserting “subclause (I) or (II) of subsection (g)(1)(A)(iv)”;

(ii) by striking “and” after the semicolon;

(B) in subparagraph (B), by adding “and” after the semicolon; and

(C) by adding at the end the following:

“(C) is not comprised of previously qualified existing mainline carriers as a result of merger or sale.”;

(b) NONPRIORITY BYPASS MAIL.—Section 5402(g) of title 39, United States Code, is amended—

(1) in paragraph (3), by adding at the end the following:

“(C) When a new hub results from a change in a determination under subparagraph (B), mail tender from that hub during the 12-month period beginning on the effective date of that change shall be based on the passenger and freight shares to the destinations of the affected hub or hubs resulting in the new hub.”; and

(2) in paragraph (5)(A)(i), by striking “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”.

(c) EQUITABLE TENDER.—Section 5402(h) of title 39, United States Code, is amended—

(1) in paragraph (1), by inserting “bush” after “providing scheduled”;

(2) by striking paragraph (3) and inserting the following:

“(3)(A) Except as provided under subparagraph (C), a new or existing 121 bush passenger carrier qualified under subsection (g)(1) shall be exempt from the requirements under paragraphs (1)(B) and (2)(A) on a city pair route for a period which shall extend for—

“(i) 1 year;

“(ii) 1 year in addition to the extension under clause (i) if, as of the conclusion of the first year, such carrier has been providing not less than 5 percent of the passenger service on that route (as calculated under paragraph (5)); and

“(iii) 1 year in addition to the extension under clause (ii) if, as of the conclusion of the second year, such carrier has been providing not less than 10 percent of the passenger service on that route (as calculated under paragraph (5)).

“(B)(i) The first 3 121 bush passenger carriers entitled to the exemptions under subparagraph (A) on any city pair route shall divide no more than an additional 10 percent of the mail, apportioned equally, comprised of no more than—

“(I) 5 percent of the share of each qualified passenger carrier servicing that route that is not a 121 bush passenger carrier; and

“(II) 5 percent of the share of each nonpassenger carrier servicing that route that transports 25 percent or more of the total nonmail freight under subsection (i)(1).

“(i) Additional 121 bush passenger carriers entering service on that city pair route after the first 3 shall not receive any additional mail share.

“(iii) If any 121 bush passenger carrier on a city pair route receiving an additional share of the mail under clause (ii) discontinues service on that route, the 121 bush passenger carrier that has been providing the longest period of service on that route and is otherwise eligible but is not receiving a share by reason of clause (ii), shall receive the share of the carrier discontinuing service.

“(C) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing at least 10 percent of the passenger service on such route.”;

(3) in paragraph (5)(A)—

(A) by striking “(i)” after “(A)”;

(B) by striking clause (ii).

(d) PERCENT OF NONMAIL FREIGHT.—Section 5402(i)(6) of title 39, United States Code, is amended—

(1) by striking “(A)” after “(6)”;

(2) by striking subparagraph (B).

(e) PERCENT OF TENDER RATE.—Section 5402(j)(3)(B) of title 39, United States Code, is amended by striking “bush routes in the State of Alaska” and inserting “routes served exclusively by bush carriers in the State of Alaska”.

(f) DETERMINATION OF RATES.—Section 5402(k) of title 39, United States Code, is amended by striking paragraph (5).

(g) TECHNICAL AND CONFORMING AMENDMENT.—Section 5402(p)(3) of title 39, United States Code, is amended by striking “(g)(1)(D)” and inserting “(g)(1)(A)(iv)”.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided under paragraph (2), this section shall take effect on the date of enactment of this Act.

(2) EQUITABLE TENDER.—Subsection (c) shall take effect on December 1, 2006.

**SEC. 1006. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.**

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

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

“(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

“(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).”.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

**SEC. 1007. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.**

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting “(a)” after “8.” and by adding at the end the following:

“(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.”.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

**SEC. 1008. HAZARDOUS MATTER.**

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

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

“(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

“(2) In this subsection, the term ‘hazardous material’ means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.”

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

**“§ 3018. Hazardous material**

“(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

“(b) PROHIBITIONS.—No person may—

“(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be non-mailable;

“(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

“(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

“(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

“(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

“(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

“(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

“(A) a civil penalty of at least \$250, but not more than \$100,000, for each violation;

“(B) the costs of any clean-up associated with each violation; and

“(C) damages.

“(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

“(A) the person has actual knowledge of the facts giving rise to the violation; or

“(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

“(3) SEPARATE VIOLATIONS.—

“(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

“(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

“(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

“(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

“(1) the nature, circumstances, extent, and gravity of the violation;

“(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

“(3) the impact on Postal Service operations; and

“(4) any other matters that justice requires.

“(f) CIVIL ACTIONS TO COLLECT.—

“(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United

States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

“(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

“(g) CIVIL JUDICIAL PENALTIES.—

“(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

“(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

“(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

“(h) DEPOSIT OF AMOUNTS COLLECTED.—

“(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

“(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.”

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking “and” after the semicolon;

(B) in paragraph (8), by striking “purposes.” and inserting “purposes; and”; and

(C) by adding at the end the following:

“(9) any amounts collected under section 3018.”

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

“3018. Hazardous material.”

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after “explosives,” the following: “hazardous materials.”

**SEC. 1009. ZIP CODES AND RETAIL HOURS.**

(a) ZIP CODES.—Not later than September 30, 2007, the United States Postal Service shall assign a single, unified ZIP code to serve, as nearly as practicable, each of the following communities:

- (1) Auburn Township, Ohio.
- (2) Hanahan, South Carolina.
- (3) Bradbury, California.
- (4) Discovery Bay, California.

(b) RETAIL HOURS.—Not later than 60 days after the date of the enactment of this Act, the United States Postal Service shall provide the same window service hours for the Fairport Harbor Branch of the United States Post Office in Painesville, Ohio, as were in effect as of December 1, 2005.

**SEC. 1010. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking “section 3628” and inserting “sections 3662 through 3664”.

(b) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

**“§ 3682. Size and weight limits**

“The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail con-

sistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.”

(c) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

(1) in section 503 (as so redesignated by section 601), by striking “this chapter.” and inserting “this title.”; and

(2) in section 2401(d), by inserting “(as last in effect before enactment of the Postal Accountability and Enhancement Act)” after “3626(a)” and after “3626(a)(3)(B)(ii)”.

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking “Committee on Post Office and Civil Service” each place it appears and inserting “Committee on Government Reform”; and

(B) by striking “Not later than March 15 of each year,” and inserting “Each year.”

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking “2401(g)” and inserting “2401(e)”.

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

“(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows “any provision” and inserting “of this title.”

(g) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 1005(d)(2)—

(A) by striking “subsection (g) of section 5532.”; and

(B) by striking “8344,” and inserting “8344”;

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

**“28. Strategic Planning and Performance Management ..... 2801”;**

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows “nonmailable” and

precedes “(h),” and inserting “under section 3001(d),”; and

(B) in the sentence following paragraph (3), by striking all that follows “nonmailable” and precedes “(h),” and inserting “under such section 3001(d),”;

(4) in section 3210(a)(6)(C), by striking the matter after “if such mass mailing” and before “than 60 days” and inserting “is post-marked fewer”; and

(5) by striking the heading for section 3627 and inserting the following:

“§ 3627. Adjusting free rates”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 6407, the Postal Accountability and Enhancement Act. This is the first major overhaul of the Postal Service since 1970. The House passed its version of postal reform in July of 2005 by a vote of 410-20. The Senate passed its version in February by unanimous consent.

This bill is the product of months of negotiations between the House and the Senate and the administration. It is also the culmination of more than a decade of hard work and study, not to mention a great deal of bipartisan negotiation and cooperation.

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Mr. Speaker, this bill is the product of months of negotiations between the House, the Senate and the administration. It is also the culmination of more than a decade of hard work and study, not to mention a great deal of bipartisan negotiation and cooperation. The landmark legislation solves the structural, legal and financial constraints that have brought the postal service to the brink of utter breakdown.

The postal service is the center of a \$900 billion industry, employing 9 million workers nationwide. Each year, the U.S.P.S. processes and delivers over 200 million pieces of mail to more than 130 million households and businesses in the United States, but the last major overhaul of the statutes governing the postal service occurred in 1970 before the Internet and e-mails and faxes, before letters became snail mail, before the deregulation of the airline industry, before competitors like FedEx even existed.

Today, this critical component of our Nation's economy is being challenged

by a variety of factors, including increasing volume, insufficient revenue, mounting debts and new technologies such as the Internet advertising, electronic bill payments, e-mails and faxes.

As a result, the GAO has included the postal service on its high-risk series since 2001. This compromise will reverse the death spiral at the postal service and bring the postal service into the 21st century.

I want to take this opportunity to thank Congressman JOHN MCHUGH of New York who recognized the need for comprehensive postal reform legislation when he became chairman of this subcommittee at the beginning of the 104th Congress and has championed reform tirelessly. I also want to thank HENRY WAXMAN and DANNY DAVIS for their dedication to this subject and their willingness to cooperate in a bipartisan manner.

I want to thank the principal sponsors in the Senate, SUSAN COLLINS of Maine and TOM CARPER of Delaware. Without their leadership and dedication, this compromise would not have been possible.

Finally, I want to thank the many members of our staff who have worked on this important issue: Jack Callender, Ellen Brown, and Mason Alinger of my committee staff; also Robert Taub of Congressman MCHUGH's staff who has dedicated years of his life to this cause; and also Phil Barnett, Denise Wilson, and Naomi Seiler of Congressman WAXMAN's staff; Jill Hunter-Williams of Congressman DANNY DAVIS' staff; and Ann Fisher of Senator COLLINS' and John Kilvington of Senator CARPER's staff.

I also want to thank all those individuals in the administration that have actively and tirelessly participated in the negotiations to help us reach this point today, especially Michael Bopp, Jeff Sharpe and Chris Frech.

Mr. Speaker, all the stakeholders in this legislation, postal employees, financial services companies, major marketers, have been rigorous in urging Congress and the administration to complete this bill. No one thinks it is perfect. This is the nature of compromise, but everyone, especially all Americans who use stamps, will be significantly better off with this legislation than they would be without this long overdue package of reforms.

I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in strong support of this landmark postal reform bill. Members of the House have worked for over a decade to reform this important part of our national communications system and our economy. I am indeed pleased to serve in the Congress that is making this reform a reality.

I want to commend and congratulate Chairman TOM DAVIS and Ranking

Member HENRY WAXMAN for their tremendous commitment and dedication to making this truly a bipartisan effort and for the tenacious way in which they have worked to bring us to this point this evening.

I also want to commend Representative MCHUGH who has been the point person for the Republican side of the aisle on this matter for more than 10 years, who has stayed with it, stuck with it, and one of the reasons that we are here today is because of his tenacious work.

I also want to thank all of the stakeholders, the unions, the mailers and others, who are greatly affected.

I want to thank the Board of Governors and the Postmaster General, Mr. Potter, for their willingness to work with us.

And I want to think the other body, the Members of the Senate who were willing to negotiate, to engage in the give-and-take that is so necessary to make bipartisan, bicameral legislation a reality.

This bill is a prime example of bipartisan negotiation and collaboration. It is a compromise that will modernize the postal system and help it remain healthy and affordable well into the 21st century.

I represent much of the city of Chicago, one of the primary postal hubs in the Midwest with over 12,000 postal employees who deliver mail daily to 1.2 million homes and businesses in the Chicago area. I also represent numerous printing and mailing companies that rely upon the movement of mail. Therefore, ensuring a healthy postal service is a key issue of great concern to me.

This bill has many highlights. It provides for ratemaking flexibility, rate stability, universal service, high quality standards, and collective bargaining.

In addition, I am pleased that the bill advances fair business practices related to employees who are women and/or racial minorities. For example, I am pleased that it includes a study on the representation of women and minority members in supervisory and management positions within the postal service. It is important to understand how well the postal service is doing in opening up its senior positions to groups who historically have not had that kind of access.

The bill goes even further by requiring measures to incorporate the affirmative action and equal opportunity criteria into the performance appraisals of senior supervisory or managerial employees. This change helps ensure that management will be held accountable for adhering to the organization's goals of equal opportunity. And I want to sincerely thank Mr. WAXMAN for his vigorous support for this diversity provision.

I am also pleased that the bill includes a study of the number of contracts with women, minorities and small businesses to ensure that all

groups have access to the postal service contracts.

Mr. Speaker, these are just some of the provisions that will go a long way towards helping the postal service to better serve its customers, compete fairly with the mailing industry, and contribute to our Nation.

I especially want to thank the committee staff, Phil Barnett, Denise Wilson, Naomi Seiler, and all of the staff persons who worked to make this a reality.

I want to thank Ellen Brown, Jack Callender, Robert Taub and my staff, Richard Boykin and Jill Hunter-Williams.

Mr. Speaker, it is obviously time for postal reform. We have gone through this now for several years, and all of us who have worked on it are indeed pleased with the fact that we were able to compromise, to come together, to massage egos, to make real the idea that we can have a solid piece of legislation. I am proud to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Speaker, I thank the chairman.

I had a friend of mine say the other day, gee, 11½ years dedicated to one issue, that is a long time. My observation was, there are people in certain jurisdictions in this country that have spent less time for committing murder than I have spent on this bill. I am not sure what the parallel there is, but if there is any truth in the old adage that anything worth having is worth waiting for, this is a very, very good night.

This is an excellent bill. It is not a perfect bill, but the fact that you can take the mix of interests that is represented in this piece of legislation, unions, mailers, postal dependents and postal competitive industries, the postal service itself, and have them virtually uniformly and universally support it suggests that it is a remarkable achievement.

In that regard, I want to thank so many people: former Chairman Bill Clinger who first presented me the challenge and the opportunity of advancing this initiative; then, of course, DAN BURTON, the follow-on chairman, the gentleman from Indiana, who kept it alive; and most recently, most importantly, the gentleman from Virginia (Mr. TOM DAVIS) who really pushed it over the goal line. We are all deeply in his debt.

The minority as well: HENRY WAXMAN; DANNY DAVIS, the gentleman who tonight is managing this bill very appropriately, as he has managed the affairs from the minority side on this issue so very, very ably; CHAKA FATTAH, who was the ranking member when we really got into the meat of this issue; BARBARA ROSE COLLINS, the first ranking member, and on and on and on.

But most of all, those who had the greatest stake in this initiative, the

unions, the postal service, Jack Potter, the mailers, the mailing dependent industry, those in the competitive industry, those who understood that for whatever their differences might be, their need for a common cause, their need for reform should override all of it. And at the end of the day, as we see here tonight, they put that aside.

Special thanks to the staff. They are the folks who, whatever the endeavor in this House, are really the ones who do the lion's share of the work. Of course, Dan Blair who is the chief of staff and the person who headed up the Postal Subcommittee for the Government Reform Committee when we first began this initiative, and foremost, most importantly, Robert Taub, a man who as I have said on this House floor so many times before brings such compassion, such passion, such patience, really embodied in any individual that I have ever had the pleasure of meeting. I am proud to call him a colleague. I am proud to call him my friend, and today, it is perhaps the finest hour of his work because of the effort he has put together.

This bill represents 80 percent, probably more than 80 percent, of the first bill we introduced some 11½ years ago. That is a pretty remarkable achievement. The postal service is the kind of endeavor that touches the lives of virtually each and every American each and every day, and while it may not garner the kind of attention and passion and interest that some other issues do, at the end of the day, it is one of the most important activities.

Most of all, this is for the postal workers, those 800,000-plus strong who go out every day and do their job so effectively, so efficiently that for the vast majority of our constituents, the last thing they think of when they walk to their mailbox or go to their post office is will the mail be there. It will. And through this legislation, through this advancement, hopefully it will continue in that regard.

Mr. Speaker, it is a great night, a great day for all Americans, and I thank all of those who have endeavored so hard for more than a decade to make it a reality.

It has been more than 36 years since President Nixon signed into law the most comprehensive postal legislation since the founding of the Republic, the Postal Reorganization Act of 1970. The Post Office Department was transformed into the United States Postal Service, an independent establishment of the executive branch of the Government of the United States.

The universal service mission of the Postal Service remained the same, as stated in Title 39 of the U.S. Code: "The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities."

The new Postal Service officially began operations on July 1, 1971. In the intervening 35

years, the commercial environment in which the Postal Service operates has changed. In 1971, UPS had a much smaller percentage of the parcel market, FedEx didn't exist, and the Internet had not been created. As we know, these developments have drastically altered the postal and delivery sector of our economy. Yet, in the last three and a half decades our Nation's postal laws have changed very little. I do not know of any entity in the United States today, public or private, that is still operating with such an outdated structure.

A report by the President's Commission on the Postal Service concluded that without a new approach, the future of universal mail service is in peril. According to the Secretary of the Treasury, "We really need to get it done now . . . the business model of the Postal Service just doesn't work anymore. It's not sustainable in light of all the technological changes and changes in the marketplace."

Today we have a choice . . . whether to vote to preserve universal postal service at uniform rates to every stretch of this Nation, or whether to instead vote "no" and assign the Postal Service to an almost certain future of ever escalating increases in postal prices and devastating post office closures. The bill we have before us is the product of extensive bipartisan/bicameral efforts with the Government Reform Committee Chairman, the Committee's Ranking Member, the Committee Member from Illinois (i.e., Mr. DANNY DAVIS), and me, together with our colleagues in the other body, particularly Senators COLLINS, CARPER, and LIEBERMAN. I want to take a moment to underscore my appreciation for the hard work that each of them took to bring about a proposed solution, in close collaboration with the Administration. This bill is truly a consensus document, having built upon H.R. 22 as it passed the House in the last session 413-20, and then the Senate by unanimous consent in February of this year.

I have heard it said, time and time again, and it is absolutely true, this is not a perfect bill. I cannot imagine any person, short of someone suffering from multiple personality disorder, who would sit down and, by themselves, craft this particular piece of legislation. But I think that is true of any product that comes about after 12 years of negotiations; of any product in this legislative body that attempts, as this bill does, to effect sector reform or reform of a system that while touching every American's life, 6 days a week, at a minimum, has not been changed in any meaningful way, in more than 35 years.

So what we have tried to do, with the enormous, enormous support and patience and input of: the Government Reform Chairman; of the gentleman from Illinois, Mr. DANNY DAVIS, who started on the Postal Subcommittee, who served so honorably and so diligently with me; and over the past years, the Ranking Member of the Government Reform Committee—all of whom I hold in great esteem, and to whom I express great appreciation. I would be remiss if I also didn't note the work and commitment of the two previous Government Reform Chairmen, DAN BURTON and Bill Clinger, to this task. We have come up with a bill that embodies the input of literally hundreds of organizations that either compete against or rely upon this system we call the post office in America today. It does, as well, advance what, at least for me, was always the primary directive, and that is, that the interests of the Postal

Service, under this legislation, would be better served than the status quo.

That is an opinion, by the way, that is held by corporate and non-profit mailers, competitors, postal unions and management groups, and the Administration. All of these groups, I think it is fair to say, are particularly interested in seeing this House, and ultimately the Congress, advance the issue; an issue that I hope all of my colleagues understand is one of great urgency, and one that we continue to ignore at our extreme peril. So it is a positive moment.

The patient work on postal modernization has proceeded steadily even though, in all this time, "postal reform" has not once been featured on the Sunday talk shows. Balanced, nonpartisan postal reform may not be the stuff of political glory, but it is the sort of legislative work that will earn the long-term gratitude of the American mailing consumer—for I can think of no other government agency that touches the lives of all us, nearly every day, at home and at work. We've said it before and we'll say it again—that the Postal Service is the center of a nearly \$900 billion industry, employing 9 million workers nationwide, and representing nearly 9 percent of our nation's gross domestic product.

The "Postal Accountability and Enhancement Act" affirmatively responds to all of the Administration's 5 principles for postal reform, and incorporates most of the 17 legislative recommendations made by the President's Commission on the U.S. Postal Service. The bill mandates transparency in the Service's finances, costs, and operations. The legislation creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Service's universal service obligation and the scope of the mail monopoly, and institutes improvements to the collective bargaining process. While the bill provides some of the pricing flexibility recommended for the Postal Service by the President's Commission, the bill also imposes controls to protect the public interest from unfair competition.

This is well-refined legislation that reflects the input and feedback from the more than three dozen hearings and nearly 125 witnesses that the Government Reform Committee and its former Postal Service Subcommittee held over the course of the last 12 years.

Make no mistake that today is indeed a day to choose. The Comptroller General of the United States has reported that the Postal Service's current business model, formulated as it was in 1970, is no longer sustainable in the 21st century. Our Postal Service is in trouble and requires reform to preserve universal service and prevent a worsening crisis.

To understand the challenges at hand, one needs simply to read the testimony the Committee received regarding the: Serious declines in first-class volume, changes in the mail mix, increased competition from private delivery companies, sub par revenue growth, rising costs, significant financial liabilities and obligations (including roughly \$60 billion in unfunded retiree health benefits alone), insufficient increases in postal productivity, and uncertainties regarding how well the Service can streamline its outdated network of facilities under existing law.

Take declining first-class mail volume as one example of a fundamental challenge to

the Service's long-term viability. First-class mail volume has declined annually for the last 5 years—not since the Great Depression has the Postal Service seen declines in first-class mail. The Service's core business of first-class mail has historically been the "bread and butter" that makes the system operate: first-class mail generates about half of the Service's mail volume, more than half of its revenues, and covers more than two-thirds of the Service's overhead costs. About half of overhead costs are comprised of universal service costs of maintaining postal delivery and retail networks. Declining first class mail volume is causing a loss of first-class mail revenues to cover overhead costs, which will be difficult to recover from other classes of mail.

While the problems are dire, I believe the strong bipartisan bill we are presenting today—based as it is on the President's principles for legislative change—identify a path to some solutions. The Postal Service is simply too important an institution—too important to the people of this nation; too important to our economy—to await the full brunt of a crisis that is clearly upon the doorstep. Indeed, there is good reason why this is the first Administration since President Nixon's to call on Congress to modernize our Nation's postal laws. I remain hopeful that as Congress did in 1970, we too today will answer the President's charge and challenge. The Postal Service, its 750,000 dedicated employees, and the nearly 300 million American citizens who depend on universal service at affordable rates are counting on us.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to yield such time as she might consume to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding, and I rise in strong support of H.R. 6407, the Postal Accountability and Enhancement Act.

I want to congratulate the Government Reform Chairman, TOM DAVIS, Ranking Member WAXMAN, Representative JOHN MCHUGH from New York who has dedicated well over 11 years working on this, and DANNY DAVIS who led the effort in the minority, and their counterparts in the Senate for their hard work in getting this compromise bill to the floor prior to the adjournment.

The legislation before us will bring long overdue reforms to the operations of the postal service after almost 11½ years of negotiations between the House, the Senate and the administration.

We reached an agreement on negotiated service agreements, work sharing, the rate cap and the authority of the Postal Regulatory Commission to design a new postal system. The \$9 billion mailing industry is tremendously important to our economy. Had Congress failed to reach this compromise, the public and postal reliant businesses surely would have faced more frequent increases in postal rates in the near future.

This bill will help to keep rates more stable by releasing the funds from an escrow account to pay retiree health benefits.

□ 2230

Additionally, this relieves the Postal Service and postal customers of the \$27 billion burden in military service payments by returning that responsibility to the Treasury. The legislation creates a new Postal Regulatory Commission with the authority to establish a modern system for postal rate regulation. The new PRC will improve the rate-setting process by reducing administrative burdens. As a result, consumers and postal-reliant businesses can expect a greater rate stability.

I represent a large portion of the magazine industry which is enormously important both for the economy of New York and the country. High costs have forced many magazines out of business, including *Mademoiselle*, *Mode*, *Brill's Content*, and *Industry Standard*, leaving many workers without jobs. I also represent many postal workers, some of the 700,000 postal workers who rely on a healthy Postal Service for their livelihoods.

We are hopeful that the legislation we passed today will satisfy many of the concerns of the postal employees, the postal-reliant businesses, and the U.S. Postal Service and consumers. With the passage of this legislation we can ensure the long-term viability of the Postal Service and the continuation of services on which this Nation relies.

Once again, I commend my colleagues and the staff of the Government Reform and Oversight Committee, particularly Denise Wilson, for their hard work and dedication, and Jen Keaton from my own staff for their efforts in completing this task and I urge my colleagues to support it.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, let me just again commend and congratulate Chairman TOM DAVIS, Ranking Member HENRY WAXMAN, and Mr. MCHUGH. And just say that TOM DAVIS and HENRY WAXMAN demonstrated the very best of leadership as they worked through this process. TOM was a great chairman; Mr. WAXMAN is going to become a great chairman in the next session, and he is what I call a Member's chairman. It has been a pleasure working with all of them. I urge passage.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, let me just say again, this legislation mandates transparency in the Service's finances, costs, and operations, creates a modern system of rate regulation, establishes fair competition rules, and a powerful new regulator to oversee operations. It addresses the Postal Service's universal service operation in the scope of the mail monopoly; it institutes improvements to the collective bargaining process; it also puts a reasonable rate cap on it for the mailers, the first-class mailers and across the board for Americans who use the postal system. I urge my colleagues to adopt it and support this.

Mr. Speaker, I want to thank the Chairman of the Ways and Means Committee for agreeing to work with me on H.R. 6407 and I ask that our letters of exchange be inserted into the RECORD.

DECEMBER 8, 2006.

Hon. WILLIAM M. THOMAS,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your December 8, letter regarding the Committee on Ways and Means jurisdictional interest in H.R. 6407, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 6407 by your committee.

I agree that the Committee on Ways and Means has a valid jurisdictional interest in H.R. 6407 and that the committee's jurisdiction will not be adversely affected by your decision to forego consideration at this time. In addition, I will support your request for the appointment of outside conferees from the Committee on Ways and Means to a House-Senate Conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Congressional Record during consideration of H.R. 6407 on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 6407.

Sincerely,

TOM DAVIS,  
*Chairman.*

DECEMBER 8, 2006.

Hon. TOM DAVIS,  
*Chairman, Committee on Government Reform  
Rayburn House Office Building, Washington,  
DC.*

DEAR CHAIRMAN DAVIS: I am writing concerning H.R. 6407, the "Postal Accountability and Enhancement Act," which was introduced on December 7, 2006, and is scheduled for floor action.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning trade and customs revenue functions and the bill contains provisions impacting these issues. For example, contained in the bill is a provision that directs the Bureau of Customs and Border Protection to apply United States customs laws to certain mail, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation for floor consideration, the committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to this bill, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,  
*Chairman.*

Mrs. MILLER of Michigan. Mr. Speaker, I rise today in strong support of H.R. 6407, The Postal Accountability and Enhancement Act.

This measure is the accumulation of 10 years of hard work and I would like to thank Chairman DAVIS and Congressman MCHUGH for their unwavering commitment to this bill, and their steadfast commitment to modernizing and reforming all aspects of the federal government.

The United States Postal Service is currently operating under a system built in 1970.

In 1970, Richard Nixon was President, gasoline cost \$0.36 per gallon, and very few people had even heard of computers, much less owned one.

Much has changed since then. The primary mode of written communication now is via email or fax, not first class mail. Consumers have a whole range of options to send mail and packages urgently. Most households either have or have access to a computer. But the Postal Service still operates at the same frequency as it did in 1970.

The simple fact is that this generation-old structure is unable to support the functioning of the 21st Century economy. With ever-accelerating declines in First Class Mail volumes, it's becoming more and more difficult for the Postal Service to collect revenue. This in turn leads to the need for frequent rate hikes, which is nothing more than an indirect tax increase on average Americans and a significant cost increase for businesses that heavily utilize the mail.

Mr. Speaker, this bill strikes the correct balance between the need for Postal reform and the obligations that the Postal Service has to the American people. If enacted, this bill will guarantee universal service, streamline back office operations, provide for workforce stability and implement a logical, reasoned process for increases in postal rates, which will generally be in line with the rate of inflation. Such stability and predictability will allow the Postal Service to grow along with the needs of its customers.

Mr. Speaker, America relies on the United States Postal Service to deliver our mail. Every Member of this body relies on the Postal Service to deliver important communications to our constituents. It's time we give the Postal Service the tools they need to remain an efficient, effective organization in the years to come.

I urge a "yes" vote on the bill.

Mr. SHAYS. Mr. Speaker, I rise in support of H.R. 6407, the Postal Accountability and Enhancement Act.

The Government Reform Committee, of which I am vice-chairman, has held hearings and briefings on postal reform for several years now, and I am glad to see our efforts come to fruition today.

The United States Postal Service has been forced to cut back on its service due to serious financial challenges. H.R. 6407 is an effort to modernize our nation's postal laws for the first time in 36 years. It is intended to help ensure the United States Postal Service can survive in an increasingly competitive marketplace.

Due to the increasing use of electronic forms of communication, such as email, first-class mail volume is declining, but postal addresses are increasing. In lieu of simply increasing rates, an entire reform of the postal service is necessary.

H.R. 6407 would require the Postal Service to operate in a more businesslike manner by creating a modern system of rate regulation, establishing fair competition rules and a more powerful regulatory commission.

H.R. 6407 will also promote both price stability and pricing flexibility. Giving the Postal Service pricing flexibility will allow USPS to price its core mail products in a way that keeps them competitive and, quite literally, in the mail. By limiting the amount of future postage rate increases, however, the bill also

takes an important step towards encouraging the Postal Service to increase mail volume and keep the mailbags full while giving mailers predictability and stability.

Universal postal service should be the first and foremost goal of reform. This can only be accomplished if the financial and operational crisis facing the United States Postal Service is met with innovative and bold action. H.R. 6407 takes such action.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 6407, as amended.

The question was taken.

The SPEAKER pro tempore (Mr. LAHOOD). In the opinion of the Chair, two-thirds of those voting have responded in the affirmative.

Mr. PENCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So (two-thirds of those voting having responded in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SERGEANT FIRST CLASS ROBERT LEE "BOBBY" HOLLAR, JR. POST OFFICE BUILDING

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 4050) to designate the facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr., Post Office Building".

The Clerk read as follows:

S. 4050

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

**SECTION 1. SERGEANT FIRST CLASS ROBERT LEE "BOBBY" HOLLAR, JR. POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 103 East Thompson Street in Thomaston, Georgia, shall be known and designated as the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Sergeant First Class Robert Lee 'Bobby' Hollar, Jr. Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days

***Lifespan Respite Care Act:*** Senate passed H.R. 3248, to amend the Public Health Service Act to establish a program to assist family caregivers in accessing affordable and high-quality respite care, clearing the measure for the President.

**Pages S11573–78**

***Office of National Drug Control Policy Reauthorization Act:*** Senate passed H.R. 6344, to reauthorize the Office of National Drug Control Policy Act, clearing the measure for the President.

**Pages S11592–93**

***Federal Deposit Insurance Act:*** Senate passed H.R. 6345, to make a conforming amendment to the Federal Deposit Insurance Act with respect to examinations of certain insured depository institutions, clearing the measure for the President.

**Page S11593**

***Controlled Substances Act Amendment:*** Senate passed S. 4115, to amend the Controlled Substances Act to increase the effectiveness of physician assistance for drug treatment.

**Page S11606**

***Geneva Distinctive Emblems Protection Act:*** Senate passed H.R. 6338, to amend title 18, United States Code, to prevent and repress the misuse of the Red Crescent distinctive emblem and the Third Protocol (Red Crystal) distinctive emblem, and the bill was then passed, clearing the measure for the President.

**Pages S11606–07**

***Telephone Records and Privacy Protection Act:*** Committee on the Judiciary was discharged from further consideration of H.R. 4709, to amend title 18, United States Code, to strengthen protections for law enforcement officers and the public by providing criminal penalties for the fraudulent acquisition or unauthorized disclosure of phone records, and the bill was then passed, clearing the measure for the President.

**Page S11640**

***Multiple Employer Pension Plans:*** Senate passed S. 4121, to provide optional funding rules for employers in applicable multiple employer pension plans.

**Pages S11643–44**

***Continuing Appropriations:*** Senate passed H.J. Res. 102, making further continuing appropriations for the fiscal year 2007, clearing the measure for the President.

**Page S11645**

***National Institutes of Health Reform Act:*** Committee on Health, Education, Labor, and Pensions was discharged from further consideration of H.R. 6164, to amend title IV of the Public Health Service Act to revise and extend the authorities of the National Institutes of Health, and the bill was then passed, after agreeing to the following amendment proposed thereto:

**Pages S11647–58**

Frist (for Enzi) Amendment No. 5238, in the nature of a substitute.

**Page S11651**

***Methamphetamine Remediation Research Act:*** Committee on Environment and Public Works was discharged from further consideration of H.R. 798, to provide for a research program for remediation of closed methamphetamine production laboratories, and the bill was then passed, after agreeing to the following amendment proposed thereto:

**Pages S11802–03**

Frist (for Smith) Amendment No. 5239, in the nature of a substitute.

**Pages S11802–03**

***Postal Law Reform:*** Senate passed H.R. 6407, to reform the postal laws of the United States, clearing the measure for the President.

**Pages S11821–22**

***Sine Die Adjournment:*** Senate agreed to H. Con. Res. 503, providing for the sine die adjournment of the second session of the One Hundred Ninth Congress.

**Page S11825**

***Peacekeeping in Darfur:*** Senate agreed to S. Res. 631, urging the Government of Sudan and the international community to implement the agreement for a peacekeeping force under the command and control of the United Nations in Darfur.

**Pages S11825–27**

***Transatlantic Market:*** Senate agreed to S. Res. 632, urging the United States and the European Union to work together to strengthen the transatlantic market.

**Page S11827**

***Holocaust:*** Senate agreed to S. Res. 633, condemning the conference denying that the Holocaust occurred to be held by the Government of Iran and its President, Mahmoud Ahmadinejad.

**Page S11827–28**

***Honoring Tom Carr:*** Senate agreed to S. Res. 634, honoring the life and achievements of Tom Carr, Congressional Research Service Analyst, and extending the condolences of the Senate on the occasion of his death.

**Page S11828**

***Printing Authority:*** Senate agreed to H. Con. Res. 495, authorizing the printing as a House document of “United States House of Representatives, The Committee on Ways and Means: A History, 1789–2006”.

**Page S11830**

***Department of State Authorities Act:*** Senate passed H.R. 6060, to authorize certain activities by the Department of State, clearing the measure for the President.

**Page S11830**

***Physicians for Underserved Areas Act:*** Senate passed H.R. 4997, to extend for 2 years the authority to grant waivers of the foreign country residence requirement with respect to certain international medical graduates, clearing the measure for the President.

**Page S11830**

Jonathan was proudly serving in Afghanistan—a family proudly serving this country.

Ramona is the glue of the Senate Frist staff family, and she is an extension of my own family. When we first moved to Washington, she reached out, she helped Karyn and me and our three boys, Bryan, Jonathan, and Harrison settle into a new city, a new city we had spent no time in at all. She has watched my three sons grow from three young boys to three young men.

Ramona, you have kept my life organized for 12 years. You have faithfully served your country in the Senate for 27 years—27½ years. And you have done a tremendous, tremendous job.

Thank you, Ramona, for sticking with us all these years. Thank you, and we love you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

#### THANKING STAFF WHO WORKED ON THE GULF OF MEXICO SECURITY LEGISLATION

Ms. LANDRIEU. Mr. President, I wanted to just take a minute. I spoke before the vote and thanked many of my colleagues for their extraordinary work on passing the Gulf of Mexico security bill, which Senator DOMENICI led and so many of us helped. But I did not have an opportunity at that time to thank so many staff people who put their heart and mind and spirit into this action, which is really a historic accomplishment for the State of Louisiana and the gulf coast.

This effort goes back 9 years, and there are many staff people who contributed. I want to read into the RECORD and mention some of the Energy staffers who worked with me over the years, and legislative directors and chiefs of staff who have helped make this possible: Dionne Thompson, Ben Cannon, Jason Schendle, Tom Michels, Elizabeth Craddock, Kathleen Strottman, Jason Matthews, Janet Woodka, Adam Sharp, Rich Masters, Norma Jane Sabiston, and my current chief of staff, Ron Fauchaux.

There were many other staffers on the committees, from both sides of the aisle, who helped to make this bill possible. But in the Landrieu office, none of this would have gotten done without the people who just worked tireless hours, year after year, through victory and defeat, through disappointments and setbacks, to keep their eye on the ball to make this historic bill that is going to do so much to help the southern part of our State, the entire State, and the whole southern part of the United States, to gain its footing, to rebuild, to restore these wetlands, and protect some great infrastructure for America.

So I want to thank my colleagues, particularly Senator FRIST and Senator REID, for their work in guiding us to victory tonight. Thank you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

#### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

Ms. COLLINS. Mr. President, shortly, the Senate will consider H.R. 6407, the Postal Accountability and Enhancement Act. As the Presiding Officer is very well aware, since he has been a key player in molding this important legislation, this postal reform legislation has been a long time coming. And it is great news for the U.S. economy.

This legislation represents the culmination of a process that began back in 2002 when a group of constituents came to me, sat down with me in Maine, and taught me the importance of the Postal Service to the viability of their businesses and to the employees they had.

This coalition of groups included a Maine catalog company, a paper manufacturer, a printer, a local financial services company, and a publisher. They all came together and it was from them that I learned just how vital the Postal Service is to our economy.

So shortly after that meeting in the summer of 2002, I introduced a bill to establish a Presidential commission charged with examining the problems of the Postal Service and charged with developing specific recommendations and legislative proposals that the Congress and the Postal Service could implement.

The President appointed the members of the commission. They worked very hard. They came up with an excellent report which provided, in many ways, the basis for the landmark legislation that I believe we will finally clear tonight.

During the next 4 years, the Homeland Security and Governmental Affairs Committee, which I had been privileged to chair, worked very hard to craft the most sweeping changes in the U.S. Postal Service in more than 30 years.

Senate passage of this legislation will help the 225-year-old Postal Service meet the challenges of the 21st century.

As a Senator representing a large rural State, I want to ensure that my constituents, whether they live in the northern woods or on our islands or in our many small rural communities, have the same access to Postal Services as the people of our cities. If the Postal Service were no longer to provide universal service and deliver mail to every customer, the affordable communications link upon which many Americans rely would be jeopardized. Most commercial enterprises would find it uneconomical, if not impossible, to deliver mail and packages to rural Americans at the affordable rates charged by the Postal Service.

But for several years now, the Postal Service has clung to the edge of an abyss. Under the business model in

which it has been forced to operate, the Postal Service has been at great financial risk. In fact, the Government Accountability Office aptly describes it as a potential death spiral in which escalating rates lead to lower volume, which in turn leads to even higher rates, which in turn causes the Postal Service to lose more business.

The Postal Service faces the challenge of the electronic age. It also has been saddled with more than \$90 billion in unfunded liabilities and obligations, which has included debt to the Treasury, nearly \$7 billion to workers' comp claims, \$5 billion for retirement costs, and as much as \$45 billion to cover retiree health care costs. The Comptroller General of the United States, David Walker, has cited these figures to point to the urgent need for "fundamental reforms to minimize the risk of a significant taxpayer bailout for a dramatic postal rate increase." And it is telling, indeed, that the Postal Service has been on GAO's high-risk list since April of 2001.

With this landmark reform legislation, we will put the Postal Service on a firm financial footing. We endorse the principle of universal service, of affordable, predictable postal rates. This legislation will modernize the Postal Service's rate-setting process and provide much-needed rate predictability for postal customers. Without this reform, postal ratepayers would have faced billions of dollars in higher—much higher—rates over the next several years.

The 750,000 career employees of the Postal Service often labor without anyone really knowing who they are, but their efforts play an absolutely essential role in the American economy. The Postal Service is the linchpin of a \$900 billion mailing industry that employs 9 million people in fields as diverse as direct mailing, printing, catalog companies, paper manufacturing, publishing, and financial services. The health of the Postal Service, therefore, is essential to the vitality of thousands of companies and the millions of employees they serve.

This bill represents years of hard work. As chairman of the committee with jurisdiction, I held a series of eight hearings, including a joint hearing with our House colleagues, during which we reviewed the recommendations of the President's commission and we heard from a wide range of experts and stakeholders, including representatives of the postal employees unions, the Postal Service itself, administration officials, mailers, the postmasters, postal supervisors, publishers—a wide variety of groups. In fact, there is a broad coalition supporting this bill, including many non-profit mailers, which rely on affordable postal rates.

There are many people who have worked very hard to craft the very delicate compromise that is before us tonight. I particularly thank Senators CARPER, COLEMAN, and LIEBERMAN for

their assistance but also our House colleagues. I will have more to say about them later.

The compromise legislation before the Senate replaces the current lengthy and litigious rate-setting process with a rate cap-based structure for products such as first class mail, periodicals, and library mail. For 10 years, the price changes for market-dominant products like these will be subject to a 45-day prior review period by the Postal Regulatory Commission. The Postal Service will have much more flexibility, but the rates will be capped at the CPI. That is an important element of providing 10 years of predictable, affordable rates, which will help every customer of the Postal Service plan.

After 10 years, the Postal Regulatory Commission will review the rate cap and, if necessary, and following a notice and comment period, the Commission will be authorized to modify or adopt an alternative system.

While this bill provides for a decade of rate stability, I continue to believe that the preferable approach was the permanent flexible rate cap that was included in the Senate-passed version of this legislation. But, on balance, this bill is simply too important, and that is why we have reached this compromise to allow it to pass. We at least will see a decade of rate stability, and I believe the Postal Rate Commission, at the end of that decade, may well decide that it is best to continue with a CPI rate cap in place. It is also, obviously, possible for Congress to act to reimpose the rate cap after it expires. But this legislation is simply too vital to our economy to pass on a decade of stability. The consequences of no legislation would be disastrous for the Postal Service, its employees, and its customers.

Among other highlights of the compromise, the bill will reform the Postal Service workers' compensation system to require a 3-day waiting period. This is consistent with every State workers' compensation program. The bill introduces new safeguards against unfair competition by the Postal Service in competitive markets, prohibits subsidization of competitive products by market-dominant products, and requires an allocation of institutional costs to competitive products.

I note that we looked at competitive issues with UPS and FedEx, and I think we have come up with the right balance here. The bill transforms the existing Postal Rate Commission into the Postal Regulatory Commission with enhanced authority to ensure that there is greater oversight of the Postal Service as its management assumes greater responsibility.

The bill reaffirms postal employees' rights to collectively bargain. It changes the bargaining process only in small ways and only in ways that have been agreed to by both the Postal Service and the four major unions.

Another significant provision amends the current law to essentially free up

\$78 billion over 6 years. This is a complicated issue. It has to do with the responsibility for paying for the military retirement credits of postal employees and also money that was put into an escrow account to compensate for an overpayment into the civil service retirement system. These savings will be used to pay off debt to the U.S. Treasury, to fund health care liabilities, and to mitigate future rate increases.

This compromise is not perfect and, indeed, earlier tonight, there were issues raised by the appropriators—legitimate issues—that threatened at one point to derail the bill again. It has been a delicate compromise to satisfy all of the competing concerns. Everyone has had to compromise, but I think we have come up with a good bill. This compromise will help ensure a strong financial future for the U.S. Postal Service and the many sectors of our economy that rely on its services, and it reaffirms our commitment to the principle of universal service that I believe is absolutely vital to this institution.

Finally, there are so many people both within Congress, within the administration, and among the stakeholders who have worked very hard to bring this legislation to a successful conclusion. I cannot name them all, but I want to name some of them.

Senator CARPER and his staffer, John Kilvington, have been here every step of the way. Senator CARPER was the original cosponsor of the bill and has worked very hard to bring the compromise about.

Senators LIEBERMAN, COLEMAN, AKAKA, and VOINOVICH also have played very important roles.

Our leaders, Senator FRIST and Senator REID, have been vitally interested and have helped us get this job done.

In the House, Chairman TOM DAVIS and the ranking Democrat HENRY WAXMAN of the Government Reform Committee, also worked hard to produce a bill and to work with us to bring about the compromise.

A true hero of this effort, a person who worked on postal issues for a decade, is Congressman JOHN MCHUGH.

The administration has played an absolutely critical role in bringing us to where we are today. The administration often doesn't get credit for that, and they deserve credit. They have worked with us to come up with solutions on the financial issues in this bill, and without the strong support of the administration, we would not be here tonight.

I want to particularly salute OMB Director Rob Portman; Michael Bopp, my former staff director, who is now working at OMB and brought his expertise to bear on this issue; Jess Sharp and Candi Wolff of the White House staff; and of course the staff of the Postal Service itself, which was always there with expertise, particularly Kim Weaver.

But most of all, I thank Ann Fisher of my staff, who has worked for years

on this bill. This has been an issue which has meant a great deal to her, and she has been working on postal issues for a long time. She is a recognized expert, and without her expertise, we would not be here tonight.

I finally also want to thank the committee's new staff director, Brandon Milhorn, for bringing his judgment to bear on this issue.

There are so many people who have worked so hard, but the collective effort of everyone has produced a bill of which we can be proud.

It is not a perfect bill, but I am convinced it will put the U.S. Postal Service on a sound financial footing for years to come.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I concur with many of the remarks the Senator from Maine has made. She has listed a host of people who played critical roles in the adoption of the legislation, hammering out a difficult compromise over the last 4 years. I salute her for her leadership and thank her for her leadership.

I especially say thank you to Ann Fisher, who has served for Senator COLLINS and really for us, for the great work she has done in the course of this effort.

I have been blessed with my own staff and a young man named John Kilvington from New Castle, DE, who came here with me 6 years ago and became an expert of his own with respect to postal reform, and has worked long and hard, even into this night, to bridge our differences and to get us over one last hurdle.

There is a reason why we only do postal reform once every 36 years, and the reason is that it is tough to do. There are so many competing interests—mailers large and small in areas rural and urban, the labor unions involved trying to do their best to represent hundreds of thousands of postal employees; there are competitors, UPS and FedEx, that didn't exist a number of years ago.

In fact, if you go back in time to 1970 when the current business model for the Postal Service was created by then junior Senator TED STEVENS, who today is our President pro tempore and one of the most senior Senators in the Senate, he provided the leadership in 1970 to create the U.S. Postal Service.

At the time and for many years thereafter, it was the right business model for providing postal service to the people of this country. But a lot has changed since 1970. In 1970, I was a lieutenant JG on the other side of the world in Southeast Asia the year the Postal Service, as we know it, was born.

One of the things different—I think of the current war that many of our soldiers, sailors, airmen, and marines are waging—in the Vietnam war, we didn't have any e-mails. We had mail call. It was one of the highlights of our day every day. We had no cell phones

with which to communicate with our loved ones. We had no bank by phone. We had no electronic banking. Direct deposits were new. There was no such thing as a FedEx or UPS to provide the kind of competition the Postal Service faces today, and no threat of anthrax in the mail.

The world has changed dramatically, and also the way that we exchange information, the way we communicate with one another has changed dramatically, too. The Postal Service needs to change as well. With the adoption of this legislation, it will.

I extend my heartfelt thanks to our colleagues in the House of Representatives with whom we have served and worked on this challenge, particularly Congressman McHUGH who led the fight for a decade or more, Congressman DAVIS who chairs the relevant committee in the House, and also Congressman HENRY WAXMAN, with whom I served years ago in the House, entered the fray and helped, along with Congressman DAVIS and others, to get us to the finish line.

I don't want to belabor what this bill does or does not do, but it acknowledges this is not 1970 anymore; this is 2006. We will still have universal delivery for the mail. We will still receive that mail 6 days a week. The Postal Service will still be expected, when somebody builds a new house or starts a new business, to deliver mail to those places.

I am told during the course of the year at least a million new customers come online for the Postal Service, and the Postal Service will be there through rain, sleet, and snow to deliver the mail to all those customers.

The Postal Service under the legislation we have is going to act more like a business. They will have an opportunity to price their products more competitively and overall can put together a whole slew of postal products. Overall, the price of those products cannot go up in a given year by more than the rate of inflation, but individual products can. Product A can go up more than product B and product C more than product D. Over the next 10 years, the overall increase in the cost of postal products can rise above the cost of living. That will provide a measure of stability to the huge industry that relies on the post office and a good postal service.

For those who compete with the Postal Service—and there are very strong and good competitors; UPS and FedEx are among those—they will have the opportunity to continue to compete, but I think they will be on a playing field that is a bit more level where the first-class mail the Postal Service will continue to enjoy a monopoly on will not be able to underwrite the cost of their competitive products with companies such as UPS and FedEx.

One of the things I am happiest about—and I give Senator COLLINS the credit on this for convincing the administration to agree on two points:

One, folks who served in the military to come to work in the Postal Service and eventually earn a postal pension. The mailers, people who buy stamps, mailers large and small shouldn't have to pay for the military service that later accrues to those same individuals when they retire from the Postal Service. It is not fair to the mailers. It is not fair to the public. Those costs should be borne by the Treasury, and under this bill they will be.

And secondly, for many years folks thought the Postal Service was underpaying its pension costs for its employees. A couple years ago the Office of Personnel Management did a study and found that rather than underpaying pension obligations, they are overpaying, and if they continue at the rate they are going, they will be making a big overpayment in the years to come.

This legislation corrects that situation. It says that in the future, the Postal Service, 10 years out, will have access to a fair amount of money that would have gone into overpayments. In the meantime, a lot of money is going to be used to pay down the unamortized cost of health care. Tens of billions of costs will be paid off, and that will put the Postal Service in stronger financial shape going forward.

Lastly, I want to mention the administration. I know Senator COLLINS has as well. In the negotiations that lasted for years on this legislation, the administration, particularly in the last weeks, especially played a constructive role. I single out among those Michael Bopp, who previously served on the staff for Senator COLLINS, and his help was critical, as was that of Rob Portman and a number of others in the administration.

Our people said this is perfect legislation. I am not aware of any perfect legislation I have been associated with. This was a hard one to put together. My dad used to say that the hardest things to do are the things that are worth doing. If that is any indication, this is something worth doing. I am grateful to all who played a part.

The hour is late, about 2:20 in the morning. I am ready to call it a day, and I know we will have other business to do.

Again I thank my colleagues, those within the mailing public, the Postal Service, Jack Porter, our Postmaster General, and all who worked to get us to this point in time, and particularly to PATTY MURRAY who worked with us tonight to get past a real tough spot.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, while the chairman of the Governmental Affairs

Committee is on the floor, I want to say congratulations, through the Chair, to her for a tremendous success on the Postal Accountability and Enforcement Act which will be passed shortly. It was a tremendous accomplishment and one she and I have been in touch with a lot by e-mails in the middle of the night, as it came to my mind how important this particular bill is. I will say a few remarks about that.

I did want to congratulate her for a tremendous success on a bill people said was impossible to pass, and 6 months ago people said it was impossible to pass, and a month ago people said it was going to be a challenge, and even 3 days ago saying it was a challenge. But in a bipartisan way coming together, bicameral—the House and Senate—it is a tremendous accomplishment.

For more than 225 years, America's postal system has kept Americans connected. We depend on the Postal Service to keep in touch with family and friends, to send birthday greetings, ship care packages—and a little taste of home—to our students, pay the bills, and even to learn we might win a million dollars if we act right now.

The U.S. Postal Service operates on a single, deep-rooted principle: Every person in the United States—no matter who, no matter where—has the right to equal access to secure, efficient, and affordable mail service.

Today, that translates into serving 7.5 million customers daily in over 37,000 post offices, providing stamps at more than 27,800 vending machines, nearly 25,500 commercial retail outlets, nearly 15,300 banking and credit union ATMs, and 2,500 automated postal centers, and delivering 212 billion pieces of mail annually to over 144 million homes, businesses, and post office boxes in virtually every city and town in the country.

But the Postal Service we know today is vastly different than our ancestors knew 225 years ago or even 75 years ago or 50 years ago. Before there were ZIP codes and mail carriers with home delivery routes—before Priority Mail and Express Mail, before air mail—the Postal Service was an informal network that kept settlers and colonists in touch with each other and their homelands.

The U.S. Postal Service's history is a story of transformation from the steamboats and the pony express in the 19th century, to delivery confirmation and online package tracking of the 21st century.

But in order for the Postal Service to take the next step, in order for the Postal Service to continue delivering on the promise of its fundamental operating principle, Congress must act, and tonight we will do just that.

The Postal Accountability and Enhancement Act enables the Postal Service to maintain its competitive edge. It streamlines the rate-setting process for market-dominant products,

such as first-class mail, periodicals, and library mail.

It removes the redtape and increases the efficiency of the rate-setting process by granting new authorities to the Postal Regulatory Commission and the Postal Service Board of Governors.

It introduces new safeguards against unfair competition by the Postal Service in competitive markets. It transforms the Postal Rate Commission into the Postal Regulatory Commission and grants the new body enhanced authorities to ensure appropriate oversight of postal management.

It ensures increased financial transparency by requiring the Postal Service to file certain financial disclosure forms in detailed annual reports.

It reaffirms USPS employees' right to collectively bargain by instituting changes already agreed upon by the Postal Service and the four major unions.

It brings continuation of payrolls into lines already established by every State's workers compensation program, and it increases the fairness of USPS employees' pension benefits.

This bill is comprehensive in the scope and depth of the reforms it institutes. But these changes are necessary and essential to helping the U.S. Postal Service continue its more than 225 years of reliable and efficient mail service. I once again congratulate Chairman SUSAN COLLINS, and I do thank my colleagues for joining me in supporting this very important measure.

#### GULF OF MEXICO ENERGY SECURITY ACT OF 2006

Mr. FRIST. Mr. President, on another issue, one of the most significant components of the legislation we passed about 30 minutes ago is the Gulf of Mexico Energy Security Act of 2006. This measure will open more than 8 million acres in the Gulf of Mexico to domestic energy production. In doing so, it will help to make America more energy independent. It will lower oil and natural gas prices for American consumers, and it will help to preserve jobs right here in America—jobs that have been migrating overseas due to high natural gas prices. According to the National Association of Manufacturers, since the year 2006, more than 3 million highways and manufacturing jobs have been lost due to high energy prices.

The area opened up under this bill is estimated to contain a remarkable 1.26 billion barrels of oil and over 5.8 trillion cubic feet of natural gas. That is roughly the same amount of oil as the proven reserves of Wyoming and Oklahoma combined and more than six times our current imports of liquefied natural gas each year.

These estimates could be the tip of the iceberg. This fall, the Chevron discovery in a nearby area found an estimated 3 to 15 billion barrels of oil, the largest discovery in a generation. This

find alone could boost U.S. domestic oil reserves by 50 percent.

Efforts have been underway to try to open this area in the Gulf of Mexico for more than a decade. In November 1996, the Clinton administration Interior Secretary Bruce Babbitt proposed opening the so-called Lease Area 181 to oil and gas production. Yet, for various reasons, the area has not been leased and America has not been benefiting from the energy resources we know it contains—until now.

In a post-9/11 world, energy security is a matter of national security. We must take steps, real steps, meaningful steps to reduce our dependence on foreign sources of energy, particularly from countries hostile to the United States. Now, more than ever, America needs America's energy. That is what this provision does: It brings more American energy to American consumers.

This has been a bipartisan effort all along the way. The Senate passed the Gulf of Mexico Energy Security Act on August 1 by a vote of 71 to 25. Chairman DOMENICI led the way on the issue in partnership with Senator LANDRIEU, Senator VITTER, and the entire gulf coast delegation. I do want to salute their efforts and also to thank the assistant majority leader, Senator MCCONNELL, for spearheading this issue on behalf of leadership.

I also thank the tremendous staff, bipartisan staff who helped shepherd this issue through both the House and the Senate. In particular, I thank on my own staff Libby Jarvis, who represented leadership at the table throughout these negotiations.

I truly believe this is one of the most significant accomplishments of the 109th Congress which will have a lasting impact on American consumers and on our economy. I am very pleased we were able to get it over the finish line as part of this important package.

Ms. LANDRIEU. Mr. President, as a member of the Senate Committee on Energy and Natural Resources, and as an original cosponsor and a principle architect of S. 3711, the Gulf of Mexico Energy Security Act, I wanted to rise today to offer my perspective on the bill. This bill is now part of a broader package that was considered today in the House H.R. 6111. The package passed by a vote of 367-45. I sincerely hope and believe that the Senate will pass this historic legislation later tonight or sometime this weekend and that if it is tonight or tomorrow, it will be a historic occasion.

The legislation will open 8.3 million acres of the U.S. Outer Continental Shelf in the central Gulf of Mexico to leasing for oil and natural gas exploration and production. This area is located more than 125 miles from the closest point in Florida on the Florida Panhandle and more than 300 miles from the southern gulf coast of Florida. The area is closest to Louisiana, Alabama, and Mississippi and most of the exploration and production activi-

ties are likely to be staged from ports along the gulf coast, and from the ports in my state located in southeast Louisiana.

The U.S. Department of the Interior estimates that the area contains at least 1.3 billion barrels of oil and 5.8 trillion cubic feet of natural gas. To put this in perspective, that is enough natural gas to heat and cool nearly 6 million homes for 15 years.

In addition to opening up 8.3 million acres in the Gulf of Mexico to new oil and natural gas leasing, this legislation will prohibit leasing within 125 miles of the State of Florida in the new eastern Gulf of Mexico planning area until June 30, 2022. Additionally, it prohibits leasing within 100 miles of the State of Florida in the new central Gulf of Mexico planning area, and east of the western boundary of the 181 area until June 30, 2022. Similarly, under the provisions of S. 3711, no oil and natural gas leasing, preleasing and other activities east of the military mission line may occur until June 30, 2022. This was done to accommodate the military training missions that occur from military installations located in Florida. After 2022, the Department of Defense may veto leasing plans if such would interfere with these exercises.

Under the Gulf of Mexico Energy Security Act, 50 percent of the receipts resulting from the collection of bonuses, rents, and royalties from leases in the new areas will be deposited in the general fund of the U.S. Treasury. The other 50 percent will be spent, without further appropriation action, for payments to States and to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965—16 U.S.C. 4601-8. Of this amount, 25 percent will provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965—16 U.S.C. 4601-8—the “state-side” of the Land and Water Conservation Fund. The other 75 percent of this amount will be disbursed by the Secretary of the Interior, without the need for appropriation, to the four Gulf producing states of Texas, Louisiana, Alabama, and Mississippi. These amounts are not subject to appropriation or further authorization.

It is the intent of this legislation that the State of Louisiana and all of the recipient States shall have the immediate capacity to bond anticipated future revenues they expect to receive from that portion of the Outer Continental Shelf Federal revenues to which they will be entitled to under this act and to allow the States, if they so decide, to get immediately underway hurricane and coastal protection projects within the scope of this act pursuant to such financing. There is nothing in this act that is intended to prohibit or impede the right of the four recipient States to bond anticipated future revenues they shall receive from this act.

The receipts that derive from the leasing in areas newly opened by the

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking “\$641” and inserting “\$662”.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Subsection (a) of section 1311 is amended—

(A) in paragraph (1), by striking “\$1,033” and inserting “\$1,067”; and

(B) in paragraph (2), by striking “\$221” and inserting “\$228”.

(2) OLD LAW DIC.—The table in paragraph (3) of such subsection is amended to read as follows:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$1,067	W-4	\$1,276
E-2	\$1,067	0-1	\$1,128
E-3	\$1,067	0-2	\$1,165
E-4	\$1,067	0-3	\$1,246
E-5	\$1,067	0-4	\$1,319
E-6	\$1,067	0-5	\$1,452
E-7	\$1,104	0-6	\$1,637
E-8	\$1,165	0-7	\$1,768
E-9	\$1,215 <sup>1</sup>	0-8	\$1,941
W-1	\$1,128	0-9	\$2,076
W-2	\$1,172	0-10	\$2,276 <sup>2</sup>
W-3	\$1,207		

<sup>1</sup> If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,312.

<sup>2</sup> If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$2,443.

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Such section is further amended—

(A) in subsection (b), by striking “\$257” and inserting “\$265”;

(B) in subsection (c), by striking “\$257” and inserting “\$265”; and

(C) in subsection (d), by striking “\$122” and inserting “\$126”.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) is amended—

(A) in paragraph (1), by striking “\$438” and inserting “\$452”;

(B) in paragraph (2), by striking “\$629” and inserting “\$649”;

(C) in paragraph (3), by striking “\$819” and inserting “\$846”; and

(D) in paragraph (4), by striking “\$819” and “\$157” and inserting “\$846” and “\$162”, respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 is amended—

(A) in subsection (a), by striking “\$257” and inserting “\$265”;

(B) in subsection (b), by striking “\$438” and inserting “\$452”; and

(C) in subsection (c), by striking “\$218” and inserting “\$225”.

**SEC. 1006. COORDINATION OF PROVISIONS WITH VETERANS PROGRAMS EXTENSION ACT OF 2006.**

(a) EARLIER ENACTMENT OF THIS ACT.—If this Act is enacted before the Veterans Programs Extension Act of 2006 is enacted into law, the Veterans Programs Extension Act of 2006, and the amendments made by that Act, shall not take effect.

(b) EARLIER ENACTMENT OF VETERANS PROGRAMS EXTENSION ACT OF 2006.—If this Act is enacted after the enactment of the Veterans Programs Extension Act of 2006 and the amendments made by that Act shall be deemed for all purposes not to have taken effect and the Veterans Programs Extension Act of 2006 and the amendments made by that Act shall cease to be in effect.

Amend the title so as to read “An Act to amend title 38, United States Code, to repeal certain limitations on attorney representation of claimants for benefits under laws administered by the Secretary of Veterans Affairs, to expand eligibility for the Survivors’ and Dependents’ Educational Assistance Program, to otherwise improve veterans’ benefits, memorial affairs, and health-care programs, to enhance information security programs of the Department of Veterans Affairs, and for other purposes.”.

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendments, the motion to reconsider be laid on the table, and any statements be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

**REFORMING THE POSTAL LAWS OF THE UNITED STATES**

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 6407 which was received from the House.

The PRESIDING OFFICER. The clerk will report bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6407) to reform the postal laws of the United States.

There being no objection, the Senate proceeded to consider the bill.

**DISCRETIONARY BUDGET TRANSFER**

Mrs. MURRAY. Mr. President, I rise, first and foremost, to congratulate Chairman COLLINS and Senator CARPER for getting their postal reform bill to the finish line. This bill has been a gargantuan task for both Senators. It has been a long time coming. Some have observed that it has taken over 30 years for the Congress to pass legislation that fundamentally reforms the Postal Service. This bill is critically important to the long-term fiscal health of our Postal Service. It is equally important to the well-being of all our postal workers as well as the needs of all citizens and businesses, large and small, which use our Postal Service.

As both of the managers are aware, there was an important issue that threatened to derail this legislation at the last minute. Specifically, there is a provision in this final bill that has been interpreted as having the effect of transferring some \$200 million in annual costs from the Postal Service to the discretionary budget. More specifically, those costs that previously were covered through mandatory spending would have to be covered within the tight discretionary budget ceiling of the Appropriations Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies.

I currently serve as the ranking member of that subcommittee, and I expect to serve as its chairman when the 110th Congress convenes. Over the

course of the 109th Congress, I have spent a great deal of time working with Chairman KIT BOND to put together an appropriations bill that meets all of the disparate needs addressed in our bill. I can tell my colleagues, we do not have an extra \$200 million available within our allocation to cover the costs of the Postal Service. When the 110th Congress convenes, we are likely to have to mark up an appropriations bill for the current fiscal year that will be even tighter than the bill our committee reported back in July. As such, I can assure my colleagues that we will not be in a position to take on these costs this year, next year, or in any other year.

It is important to point out that these costs that are proposed to be transferred to the Committee on Appropriations are not new costs to the Postal Service. We are accustomed to the practice of authorizing committees enacting authorizations for new or expanded activities in the hope that the Appropriations Committee will be in a position to fund them. But this situation is something very different. Under the provisions originally included in this bill, the burden of financing the ongoing costs of the Postal Rate Commission, renamed the Postal Regulatory Commission, and the USPS inspector general would have suddenly been shifted to the Appropriations Committee.

My understanding is that the original intent of this provision was to provide both the Commission and the IG’s office with an added degree of budget autonomy and independence. However, the original provision had a much more dramatic effect. I make no apology for insisting on changes to this bill to keep it from happening.

I am pleased to say that, through a series of discussions today with my good friend and colleagues, Senators COLLINS and CARPER, we have been able to negotiate some important changes to the original bill. Specifically, the provision that seeks to transfer the funding burden of these activities to the Appropriations Committee will now be delayed until fiscal year 2009. Given the shortness of time and the critical need to pass this important legislation today, before this Congress

adjourns, I agreed to this change rather than insisting that the entire funding transfer be stricken. I wish to make clear that my position on this bill tonight should not be viewed as signaling any intent on my part to fund these activities in 2009 and beyond. To the contrary, I do not anticipate that the Appropriations Committee will be in a position to fund these activities in 2009, 2010, or in any other year. I agreed to this date change to give the Committee on Homeland Security and Governmental Affairs a full 22 months—almost 2 years—to revisit this legislation and bring the costs of these activities back into the mandatory budget. If not, these activities will go unfunded. And it will not be the fault of the Appropriations Committee if they do go unfunded. My colleagues on the Homeland Security and Governmental Affairs Committee are on notice and the Postmaster General is on notice. The funding transfer included in this bill for 2009 and beyond will need to be fixed. My subcommittee has no intention of absorbing these costs. It will be the responsibility of the Homeland Security and Governmental Affairs Committee to bring them back within the revenues available to the Postal Service.

Mr. CARPER. I thank my friend for her statement and for her help in moving this critical bill through the Senate tonight. I agree with her that the Appropriations Committee should not bear the burden of funding the Postal Regulatory Commission and the USPS inspector general. While it is important that the Commission and the inspector general enjoy the new independence from postal management that we seek to extend them in this bill, it is unfair to do so by taking scarce resources away from the critical programs overseen by the Appropriations subcommittee. Senator MURRAY will soon lead. Our imprecision in drafting the section of our bill that Senator MURRAY refers to should not make her already difficult job even harder.

In the coming weeks and months, I pledge to work closely with Senator MURRAY, her colleagues on the Appropriations Committee, and my colleagues on the Homeland Security Committee in seeking a permanent solution to the problematic language that Senator MURRAY has brought to our attention.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6407) was ordered to a third reading, was read the third time, and passed.

HENRY J. HYDE UNITED STATES AND INDIA NUCLEAR COOPERATION PROMOTION ACT OF 2006—CONFERENCE REPORT

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of the conference report to accompany H.R. 5682, the United States-India nuclear agreement, that the conference report be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I wish to make an important note regarding a provision in the conference agreement on H.R. 5682, the Henry J. Hyde United States-India Peaceful Atomic Energy Cooperation Act of 2006.

The conferees on this legislation believe that one of the most important aspects of renewed nuclear cooperation with India will be the new safeguards agreement it enters into with the International Atomic Energy Agency, IAEA, that would apply to its expanded list of declared civilian nuclear sites, facilities, and locations.

The administration's original legislation concerning India, which I introduced as S. 2429 on March 16, 2006, stated with regard to this matter that the President had to determine that "an agreement has entered into force between India and the IAEA requiring the application of safeguards in accordance with IAEA practices to India's civil nuclear facilities."

As a part of the committee's consideration of the administration's proposal, I asked a number of questions for the record regarding this new safeguards agreement. Secretary Rice stated in response to a question asked in April of this year regarding India's new safeguards agreement that:

This Initiative will only allow for nuclear cooperation to proceed with civil facilities and programs that are safeguarded by the IAEA. The Government of India has agreed that these safeguards will be in place in perpetuity. Under the Initiative, India has committed to place all its current and future civil nuclear facilities under IAEA safeguards, including monitoring and inspections. These procedures are designed to detect—and thereby prevent—the diversion to military use of any nuclear materials, technologies, or equipment provided to India's civil nuclear facilities. India has also committed to sign and adhere to an Additional Protocol, which provides for even broader IAEA access to facilities and information regarding nuclear related activities.

In March of this year, Senator BIDEN asked Under Secretaries Robert Joseph and Nicholas Burns how they interpreted certain Indian statements regarding their new safeguards agreement, specifically India's contention that it will be "India-specific." They stated:

"It will be incumbent on India to clarify what it means by 'India-specific' safeguards in the context of its negotiations with the IAEA. In our view, the safeguards agreement for India will be unique to India because India presents a unique set of circumstances. India has agreed to place all its civil nuclear

facilities under safeguards in a phased manner, along with future civil facilities, but India is not an NPT party and will have non-civil facilities and material outside of safeguards. However, there is an accepted IAEA framework for safeguards (INFCIRC/66) that pre-dates the NPT and is suited to safeguarding material in a non-NPT party without full-scope safeguards. In its separation plan, India has committed to safeguards in perpetuity."

In November 2005, I asked Under Secretary Joseph what kinds of safeguards will be applied to India's declared civil sites, facilities, and locations. He responded that:

"Safeguards agreements are modeled after INFCIRC/153 (the NPT safeguards agreement) or INFCIRC/66 (the Agency's safeguards system predating the NPT). India will not likely sign a safeguards agreement based strictly on INFCIRC/153, as this would require safeguards on India's nuclear weapons program. NPT-acknowledged nuclear weapon states have so-called 'voluntary' safeguards agreements that draw on INFCIRC/153 language, but do not obligate the IAEA to actually apply safeguards and do allow for the removal of facilities or material from safeguards. We heard from other states at the recent NSG meeting that they would not support a "voluntary offer" arrangement as, in their view, it would be tantamount to granting de facto nuclear weapon state status to India. We have similarly indicated to India that we would not view such an arrangement as defensible from a nonproliferation standpoint. We therefore believe that the logical approach to formulating a safeguards agreement for India is to use INFCIRC/66, which is currently used at India's four safeguarded reactors. For the most part, INFCIRC/66 and INFCIRC/153 agreements result in very similar technical measures actually applied at nuclear facilities."

In view of these responses, and since S. 2429 contained similar language, the Senate's India bill, S. 3709, specified with regard to India's safeguards agreement, and the determination the President had to make regarding it, that "an agreement between India and the IAEA requiring the application of safeguards in perpetuity in accordance with IAEA standards, principles, and practices to civil nuclear facilities, programs, and materials . . . has entered into force and the text of such agreement has been made available to the appropriate congressional committees."

The conference agreement before us today does not include the language from the S. 3709 regarding this element of the Presidential determination required to use the waiver authority we grant. Rather, the conference agreement provides in section 104(b)(2) that "India and the IAEA have concluded all legal steps required prior to signature by the parties of an agreement requiring the application of IAEA safeguards in perpetuity in accordance with IAEA standards, principles, and practices, (including IAEA Board of Governors Document GOV/1621 (1973)) to India's civil nuclear facilities, materials, and programs . . . including materials used in or produced through the use of India's civil nuclear facilities."

By reauthorizing the Magnuson-Stevens Act in the 109th Congress, we will have more time in the 110th Congress to devote to other ocean issues, including considering the recommendations of the Joint Oceans Commission Initiative.

It is a rare day that I agree with our President, but several months ago he said, "Overfishing is harmful. It's harmful to our country and it's harmful to the world." I agree wholeheartedly and understand that this legislation takes corrective action to curtail overfishing, especially in our most depleted fisheries.

I support the bill, encourage my colleagues to do so as well.

POSTAL ACCOUNTABILITY AND  
ENHANCEMENT ACT

SPEECH OF

**HON. JOHN M. MCHUGH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, December 8, 2006*

Mr. MCHUGH. Mr. Speaker, as I noted during the December 8, 2006, debate on H.R. 6407, the Postal Accountability and Enhancement Act, this legislation reflects the final version of H.R. 22, the Postal Accountability and Enhancement Act as passed by the House and Senate.

H.R. 22 passed the House on July 26, 2005 by a vote of 410–20, and the Senate then passed H.R. 22 with an amendment by Unanimous Consent on February 9, 2006. Given that H.R. 6407 is the blended result of the two Chamber's versions of H.R. 22, I believe it is important to make note of the Committee on Government Reform's report on H.R. 22, 109–66, part I, as reported on April 28, 2005.

This committee report is relevant to understanding the provisions of H.R. 6407, particularly because many of the provisions of H.R. 6407 are unchanged from H.R. 22 as reported by the Government Reform Committee. For those looking for additional legislative history on H.R. 6407, the Government Reform Committee report accompanying H.R. 22, 109–66, part I, will provide useful explanations and information.

HONORING MS. GERMAINE  
BROUSSARD

**HON. FRANK R. WOLF**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 27, 2006*

Mr. WOLF. Mr. Speaker, it is an honor on behalf of Rep. TOM DAVIS and myself to recognize Ms. Germaine Broussard of McLean, Virginia, for her dedication to sending many cookies and other packages to U.S. troops overseas.

Ms. Broussard is known as the Cookie Lady to those who have benefitted from her kindness. She has already baked and shipped over 51,000 cookies to servicemembers. She has dedicated many hours of her free time and her own resources toward baking cookies to thank U.S. troops.

I am proud to call attention to the dedication of Ms. Broussard. I would also like to share a recent article from *The Stars and Stripes* which describes Ms. Broussard's hard work.

[From the Stars and Stripes, Nov. 21, 2006]

VA. WOMAN COOKING UP EATS GALORE FOR TROOPS

(By Kirsten Brown)

Washington.—When Lt. j.g. Gregory Trach, 34, received an e-mail from Germaine Broussard two years ago asking permission to send cookies to his ship, he thought little of it.

"Thank you for your support of the U.S. military," he responded, then dismissed the request as a thoughtful but meaningless gesture.

A few weeks later, the USS Shreveport received 12 boxes packed with more than 1,800 chocolate chip, peanut butter, oatmeal and sugar cookies. Shocked, Trach sent Broussard a second e-mail: "We thought you were kidding!"

That was Trach's first brush with "the Cookie Lady."

So far, Broussard, 39, has baked and shipped more than 51,000 cookies to servicemembers. The McLean, Va., resident calls her mostly one-woman program "Troop Treats."

It felt like Christmas to Lt. Col. Skip Goodwillie, 45, each time he and his unit opened a box from Broussard. Goodwillie, who is in the Army Reserves, was stationed northeast of Baghdad at Kir Kush military base when he started getting cookies.

"It was just wonderful to have mail call and hear, 'Hey Skip, the Cookie Lady sent us another box,'" Goodwillie said. "It was wonderful for our morale."

The Cookie Lady does get donations, but she pays for most of it out of her own pocket. After her job as a Smith Barney business development associate, Broussard comes home to start mixing batter about 7 p.m. She pulls the last cookies from the oven between 1 and 3 a.m.

"Some people can be a little hesitant about why am I doing this," Broussard said. "I had wanted to do something, but with the Red Cross, you donate money, and they send the box. But our family has always used home-baked cookies, bread, whatever, to be able to say thank you."

Broussard also sends necessities such as travel-sized shampoo, soap, toothpaste, mouthwash and other treats, including DVDs, Cocoa Rice Krispies and cheesecake mix. "It's a small piece of home," she said.

Embedded teddy bears are also part of her effort. Broussard's six "Battle Buddies" bears are dressed in camouflage and she could fill an album with pictures of beaming soldiers posing with their brown battle buddy.

Broussard will soon launch her second holiday project, "Operation Santa's Little Helpers," which enlists children to write cheery cards to the troops. These notes are tucked in red or blue stockings along with presents such as Slinky toys, Silly Putty, playing cards and, of course, candy.

In junior high school, Broussard earned only a "B" in her home economics class. "I don't use a standard one-cup measuring method," she said. "It's just a little of this, little of that. The home ec teacher went crazy. I'd love to go back to that teacher and say, hmm! Wonder who's right now?"

POSTAL ACCOUNTABILITY AND  
ENHANCEMENT ACT

SPEECH OF

**HON. DANNY K. DAVIS**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, December 8, 2006*

Mr. DAVIS of Illinois. Mr. Speaker, as was noted during the December 8, 2006, debate

on H.R. 6407, the Postal Accountability and Enhancement Act, this landmark postal reform legislation reflects the final version of H.R. 22, the Postal Accountability and Enhancement Act as passed by the House and Senate.

H.R. 22 passed the House on July 26, 2005 by a vote of 410–20, and the Senate then passed H.R. 22 with an amendment by unanimous consent on February 9, 2006. H.R. 6407 represents the combination of the Senate and House versions of H.R. 22. As such, the Committee on Government Reform's Report on H.R. 22, 109–66, Part I, as reported on April 28, 2005 is relevant and necessary to understanding the provisions of H.R. 6407, particularly because many of the provisions of H.R. 6407 are unchanged from H.R. 22 as reported by the Government Reform Committee. For those looking for additional legislative history on H.R. 6407, the Government Reform Committee Report accompanying H.R. 22, 109–66, Part I, will provide useful explanations and information.

TAX RELIEF AND HEALTH CARE  
ACT OF 2006

SPEECH OF

**HON. WILLIAM M. THOMAS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, December 8, 2006*

Mr. THOMAS. Mr. Speaker, allow me to recite from explanatory material prepared for H.R. 6111, the Tax Relief and Health Care Act of 2006.

DIVISION B—MEDICARE AND OTHER  
HEALTH PROVISIONS

Section 1. Short title of division

*Current law*

No provision.

*Explanation of provision*

This division may be cited as the "Medicare Improvements and Expansion Act of 2006".

TITLE I—MEDICARE IMPROVED QUALITY AND  
PROVIDER PAYMENTS

Section 101. Physician payment and quality improvement

*Current law*

Medicare payments for services of physicians and certain nonphysician practitioners are made on the basis of a fee schedule. The fee schedule assigns relative values to services that reflect physician work (i.e., the time, skill, and intensity it takes to provide the service), practice expenses, and malpractice costs. The relative values are adjusted for geographic variations in costs. The adjusted relative values are then converted into a dollar payment amount by a conversion factor. The conversion factor for 2006 is \$37.8975.

The conversion factor is the same for all services. It is updated each year according to a formula specified in law. The intent of the formula is to place a restraint on overall spending for physicians' services. Several factors enter into the calculation of the formula. These include: (1) the sustainable growth rate (SGR) which is essentially a cumulative target for Medicare spending growth over time (with 1996 serving as the base period); (2) the Medicare economic index (MEI) which measures inflation in the inputs needed to produce physicians services; and (3) the update adjustment factor which modifies the update, which would otherwise be allowed by the MEI, to bring spending in line

From the 2006 Record Index Online via GPO Access [wais.access.gpo.gov]

**POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT**

Amendments

Enact (S. 662), S252 [27JA], S898, S926, S927, S1033, S1034  
[9FE]

Appointments

Conferees: H.R. 22, provisions, S942 [9FE]

Letters

Provisions: Representative Thomas, Committee on Ways and Means  
(House), H9182 [8DE]  
-----Representative Tom Davis, Committee on Government Reform  
(House), H9182 [8DE]

Remarks in House

Enact (H.R. 6407), H9160-H9182 [8DE], E2244 [27DE]

Remarks in Senate

Enact (H.R. 22): insert S. 662 language in lieu, S927 [9FE]  
Enact (H.R. 6407), S11674-S11677, S11821, S11822 [8DE]  
Enact (S. 662), S767 [7FE], S898-S943 [9FE]

Texts of

H.R. 22, provisions, S928-S941 [9FE]  
H.R. 6407, provisions, H9160-H9179 [8DE]  
S. 662, provisions, S898-S926 [9FE]

III. H.R. 22, 109th Cong., 2d Sess.  
as approved by the Senate  
(Feb. 9, 2006)

[This page blank on purpose]

***In the Senate of the United States,***

*February 9, 2006.*

*Resolved,* That the bill from the House of Representatives (H.R. 22) entitled “An Act to reform the postal laws of the United States.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

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

2       (a) *SHORT TITLE.*—*This Act may be cited as the*

3 *“Postal Accountability and Enhancement Act”.*

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

*Sec. 1. Short title; table of contents.*

*TITLE I—DEFINITIONS; POSTAL SERVICES*

*Sec. 101. Definitions.*

*Sec. 102. Postal Services.*

*TITLE II—MODERN RATE REGULATION*

*Sec. 201. Provisions relating to market-dominant products.*

*Sec. 202. Provisions relating to competitive products.*

*Sec. 203. Provisions relating to experimental and new products.*

*Sec. 204. Reporting requirements and related provisions.*

*Sec. 205. Complaints; appellate review and enforcement.*

*Sec. 206. Clerical amendment.*

*TITLE III—MODERN SERVICE STANDARDS*

*Sec. 301. Establishment of modern service standards.*

*Sec. 302. Postal service plan.*

*TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION*

*Sec. 401. Postal Service Competitive Products Fund.*

*Sec. 402. Assumed Federal income tax on competitive products income.*

*Sec. 403. Unfair competition prohibited.*

*Sec. 404. Suits by and against the Postal Service.*

*Sec. 405. International postal arrangements.*

*TITLE V—GENERAL PROVISIONS*

*Sec. 501. Qualification and term requirements for Governors.*

*Sec. 502. Obligations.*

*Sec. 503. Private carriage of letters.*

*Sec. 504. Rulemaking authority.*

*Sec. 505. Noninterference with collective bargaining agreements.*

*Sec. 506. Bonus authority.*

*TITLE VI—ENHANCED REGULATORY COMMISSION*

*Sec. 601. Reorganization and modification of certain provisions relating to the  
 Postal Regulatory Commission.*

*Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.*

*Sec. 603. Authorization of appropriations from the Postal Service Fund.*

*Sec. 604. Redesignation of the Postal Rate Commission.*

*Sec. 605. Financial transparency.*

*TITLE VII—EVALUATIONS*

*Sec. 701. Assessments of ratemaking, classification, and other provisions.*

*Sec. 702. Report on universal postal service and the postal monopoly.*

*Sec. 703. Study on equal application of laws to competitive products.*

*Sec. 704. Report on postal workplace safety and workplace-related injuries.*

*Sec. 705. Study on recycled paper.*



1           “(7) ‘rates’, as used with respect to products, in-  
2           cludes fees for postal services;

3           “(8) ‘market-dominant product’ or ‘product in  
4           the market-dominant category of mail’ means a prod-  
5           uct subject to subchapter I of chapter 36; and

6           “(9) ‘competitive product’ or ‘product in the  
7           competitive category of mail’ means a product subject  
8           to subchapter II of chapter 36; and

9           “(10) ‘year’, as used in chapter 36 (other than  
10          subchapters I and VI thereof), means a fiscal year.”.

11 **SEC. 102. POSTAL SERVICES.**

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

14                 (1) in subsection (a), by striking paragraph (6)  
15                 and by redesignating paragraphs (7) through (9) as  
16                 paragraphs (6) through (8), respectively; and

17                 (2) by adding at the end the following:

18                 “(c) Except as provided in section 411, nothing in this  
19                 title shall be considered to permit or require that the Postal  
20                 Service provide any special nonpostal or similar services.”.

21          (b) *CONFORMING AMENDMENTS.*—(1) Section  
22          1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98  
23          Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by  
24          striking “404(a)(8)” and inserting “404(a)(7)”.

1           (2) *Section 2003(b)(1) of title 39, United States Code,*  
2 *is amended by striking “and nonpostal”.*

3                           **TITLE II—MODERN RATE**  
4                           **REGULATION**

5 **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT**  
6                           **PRODUCTS.**

7           (a) *IN GENERAL.*—Chapter 36 of title 39, United  
8 *States Code, is amended by striking sections 3621 and 3622*  
9 *and inserting the following:*

10 **“§ 3621. Applicability; definitions**

11           “(a) *APPLICABILITY.*—This subchapter shall apply  
12 *with respect to—*

13                       “(1) *first-class mail letters and sealed parcels;*

14                       “(2) *first-class mail cards;*

15                       “(3) *periodicals;*

16                       “(4) *standard mail;*

17                       “(5) *single-piece parcel post;*

18                       “(6) *media mail;*

19                       “(7) *bound printed matter;*

20                       “(8) *library mail;*

21                       “(9) *special services; and*

22                       “(10) *single-piece international mail,*

23 *subject to any changes the Postal Regulatory Commission*  
24 *may make under section 3642.*

1       “(b) *RULE OF CONSTRUCTION.*—Mail matter referred  
2 to in subsection (a) shall, for purposes of this subchapter,  
3 be considered to have the meaning given to such mail matter  
4 under the mail classification schedule.

5       “§ 3622. *Modern rate regulation*

6       “(a) *AUTHORITY GENERALLY.*—The Postal Regulatory  
7 Commission shall, within 12 months after the date of enact-  
8 ment of this section, by regulation establish (and may from  
9 time to time thereafter by regulation revise) a modern sys-  
10 tem for regulating rates and classes for market-dominant  
11 products.

12       “(b) *OBJECTIVES.*—Such system shall be designed to  
13 achieve the following objectives, each of which shall be ap-  
14 plied in conjunction with the others:

15               “(1) *To reduce the administrative burden and*  
16               *increase the transparency of the ratemaking process*  
17               *while affording reasonable opportunities for interested*  
18               *parties to participate in that process.*

19               “(2) *To create predictability and stability in*  
20               *rates.*

21               “(3) *To maximize incentives to reduce costs and*  
22               *increase efficiency.*

23               “(4) *To enhance mail security and deter ter-*  
24               *rorism by promoting secure, sender-identified mail.*

1           “(5) *To allow the Postal Service pricing flexi-*  
2           *bility, including the ability to use pricing to promote*  
3           *intelligent mail and encourage increased mail volume*  
4           *during nonpeak periods.*

5           “(6) *To assure adequate revenues, including re-*  
6           *tained earnings, to maintain financial stability and*  
7           *meet the service standards established under section*  
8           *3691.*

9           “(7) *To allocate the total institutional costs of*  
10          *the Postal Service equitably between market-dominant*  
11          *and competitive products.*

12          “(8) *To establish and maintain a just and rea-*  
13          *sonable schedule for rates and classifications, however*  
14          *the objective under this paragraph shall not be con-*  
15          *strued to prohibit the Postal Service from making*  
16          *changes of unequal magnitude within, between, or*  
17          *among classes of mail.*

18          “(c) *FACTORS.—In establishing or revising such sys-*  
19          *tem, the Postal Regulatory Commission shall take into*  
20          *account—*

21                 “(1) *the value of the mail service actually pro-*  
22                 *vided each class or type of mail service to both the*  
23                 *sender and the recipient, including but not limited to*  
24                 *the collection, mode of transportation, and priority of*  
25                 *delivery;*

1           “(2) the requirement that each class of mail or  
2           type of mail service bear the direct and indirect post-  
3           al costs attributable to each class or type of mail serv-  
4           ice through reliably identified causal relationships  
5           plus that portion of all other costs of the Postal Serv-  
6           ice reasonably assignable to such class or type;

7           “(3) the effect of rate increases upon the general  
8           public, business mail users, and enterprises in the  
9           private sector of the economy engaged in the delivery  
10          of mail matter other than letters;

11          “(4) the available alternative means of sending  
12          and receiving letters and other mail matter at reason-  
13          able costs;

14          “(5) the degree of preparation of mail for deliv-  
15          ery into the postal system performed by the mailer  
16          and its effect upon reducing costs to the Postal Serv-  
17          ice;

18          “(6) simplicity of structure for the entire sched-  
19          ule and simple, identifiable relationships between the  
20          rates or fees charged the various classes of mail for  
21          postal services;

22          “(7) the importance of pricing flexibility to en-  
23          courage increased mail volume and operational effi-  
24          ciency;

1           “(8) *the relative value to the people of the kinds*  
2 *of mail matter entered into the postal system and the*  
3 *desirability and justification for special classifica-*  
4 *tions and services of mail;*

5           “(9) *the importance of providing classifications*  
6 *with extremely high degrees of reliability and speed of*  
7 *delivery and of providing those that do not require*  
8 *high degrees of reliability and speed of delivery;*

9           “(10) *the desirability of special classifications*  
10 *from the point of view of both the user and of the*  
11 *Postal Service;*

12           “(11) *the educational, cultural, scientific, and*  
13 *informational value to the recipient of mail matter;*

14           “(12) *the need for the Postal Service to increase*  
15 *its efficiency and reduce its costs, including infra-*  
16 *structure costs, to help maintain high quality, afford-*  
17 *able, universal postal service; and*

18           “(13) *the policies of this title as well as such*  
19 *other factors as the Commission determines appro-*  
20 *priate.*

21           “(d) *REQUIREMENTS.—*

22           “(1) *IN GENERAL.—The system for regulating*  
23 *rates and classes for market-dominant products*  
24 *shall—*

1           “(A) include an annual limitation on the  
2           percentage changes in rates to be set by the Post-  
3           al Regulatory Commission that will be equal to  
4           the change in the Consumer Price Index for All  
5           Urban Consumers unadjusted for seasonal vari-  
6           ation over the most recent available 12-month  
7           period preceding the date the Postal Service files  
8           notice of its intention to increase rates;

9           “(B) establish a schedule whereby rates,  
10          when necessary and appropriate, would change  
11          at regular intervals by predictable amounts;

12          “(C) not later than 45 days before the im-  
13          plementation of any adjustment in rates under  
14          this section—

15                 “(i) require the Postal Service to pro-  
16                 vide public notice of the adjustment;

17                 “(ii) provide an opportunity for review  
18                 by the Postal Regulatory Commission;

19                 “(iii) provide for the Postal Regulatory  
20                 Commission to notify the Postal Service of  
21                 any noncompliance of the adjustment with  
22                 the limitation under subparagraph (A); and

23                 “(iv) require the Postal Service to re-  
24                 spond to the notice provided under clause  
25                 (iii) and describe the actions to be taken to

1           *comply with the limitation under subpara-*  
2           *graph (A);*

3           *“(D) establish procedures whereby the Post-*  
4           *al Service may adjust rates not in excess of the*  
5           *annual limitations under subparagraph (A); and*

6           *“(E) notwithstanding any limitation set*  
7           *under subparagraphs (A) and (C), establish pro-*  
8           *cedures whereby rates may be adjusted on an ex-*  
9           *pedited basis due to unexpected and extraor-*  
10          *dinary circumstances.*

11          *“(2) LIMITATIONS.—*

12           *“(A) CLASSES OF MAIL.—Except as pro-*  
13           *vided under subparagraph (C), the annual limi-*  
14           *tations under paragraph (1)(A) shall apply to a*  
15           *class of mail, as defined in the Domestic Mail*  
16           *Classification Schedule as in effect on the date of*  
17           *enactment of the Postal Accountability and En-*  
18           *hancement Act.*

19           *“(B) ROUNDING OF RATES AND FEES.—*  
20           *Nothing in this subsection shall preclude the*  
21           *Postal Service from rounding rates and fees to*  
22           *the nearest whole integer, if the effect of such*  
23           *rounding does not cause the overall rate increase*  
24           *for any class to exceed the Consumer Price Index*  
25           *for All Urban Consumers.*

1                   “(C) *USE OF UNUSED RATE AUTHORITY.*—

2                   “(i) *DEFINITION.*—*In this subpara-*  
3 *graph, the term ‘unused rate adjustment au-*  
4 *thority’ means the difference between—*

5                   “(I) *the maximum amount of a*  
6 *rate adjustment that the Postal Service*  
7 *is authorized to make in any year sub-*  
8 *ject to the annual limitation under*  
9 *paragraph (1); and*

10                   “(II) *the amount of the rate ad-*  
11 *justment the Postal Service actually*  
12 *makes in that year.*

13                   “(ii) *AUTHORITY.*—*Subject to clause*  
14 *(iii), the Postal Service may use any un-*  
15 *used rate adjustment authority for any of*  
16 *the 5 years following the year such author-*  
17 *ity occurred.*

18                   “(iii) *LIMITATIONS.*—*In exercising the*  
19 *authority under clause (ii) in any year, the*  
20 *Postal Service—*

21                   “(I) *may use unused rate adjust-*  
22 *ment authority from more than 1 year;*

23                   “(II) *may use any part of the un-*  
24 *used rate adjustment authority from*  
25 *any year;*

1                   “(III) shall use the unused rate  
2                   adjustment authority from the earliest  
3                   year such authority first occurred and  
4                   then each following year; and

5                   “(IV) for any class or service,  
6                   may not exceed the annual limitation  
7                   under paragraph (1) by more than 2  
8                   percentage points.

9                   “(e) *WORKSHARE DISCOUNTS.*—

10                   “(1) *DEFINITION.*—In this subsection, the term  
11                   ‘workshare discount’ refers to rate discounts provided  
12                   to mailers for the presorting, prebarcoding, handling,  
13                   or transportation of mail, as further defined by the  
14                   Postal Regulatory Commission under subsection (a).

15                   “(2) *REGULATIONS.*—As part of the regulations  
16                   established under subsection (a), the Postal Regu-  
17                   latory Commission shall establish rules for workshare  
18                   discounts that ensure that such discounts do not ex-  
19                   ceed the cost that the Postal Service avoids as a result  
20                   of workshare activity, unless—

21                   “(A) the discount is—

22                   “(i) associated with a new postal serv-  
23                   ice, a change to an existing postal service,  
24                   or with a new workshare initiative related  
25                   to an existing postal service; and

1           “(ii) necessary to induce mailer behav-  
2           ior that furthers the economically efficient  
3           operation of the Postal Service and the por-  
4           tion of the discount in excess of the cost that  
5           the Postal Service avoids as a result of the  
6           workshare activity will be phased out over  
7           a limited period of time;

8           “(B) a reduction in the discount would—

9           “(i) lead to a loss of volume in the af-  
10          fected category or subclass of mail and re-  
11          duce the aggregate contribution to the insti-  
12          tutional costs of the Postal Service from the  
13          category or subclass subject to the discount  
14          below what it otherwise would have been if  
15          the discount had not been reduced to costs  
16          avoided;

17          “(ii) result in a further increase in the  
18          rates paid by mailers not able to take ad-  
19          vantage of the discount; or

20          “(iii) impede the efficient operation of  
21          the Postal Service;

22          “(C) the amount of the discount above costs  
23          avoided—

24          “(i) is necessary to mitigate rate shock;  
25          and

1                   “(ii) will be phased out over time; or

2                   “(D) the discount is provided in connection  
3                   with subclasses of mail consisting exclusively of  
4                   mail matter of educational, cultural, scientific,  
5                   or informational value.

6                   “(3) *REPORT.*—Whenever the Postal Service es-  
7                   tablishes or maintains a workshare discount, the Post-  
8                   al Service shall, at the time it publishes the workshare  
9                   discount rate, submit to the Postal Regulatory Com-  
10                  mission a detailed report that—

11                  “(A) explains the Postal Service’s reasons  
12                  for establishing or maintaining the rate;

13                  “(B) sets forth the data, economic analyses,  
14                  and other information relied on by the Postal  
15                  Service to justify the rate; and

16                  “(C) certifies that the discount will not ad-  
17                  versely affect rates or services provided to users  
18                  of postal services who do not take advantage of  
19                  the discount rate.

20                  “(f) *TRANSITION RULE.*—For the 1-year period begin-  
21                  ning on the date of enactment of this section, rates and  
22                  classes for market-dominant products shall remain subject  
23                  to modification in accordance with the provisions of this  
24                  chapter and section 407, as such provisions were last in  
25                  effect before the date of enactment of this section. Pro-

1 *ceedings initiated to consider a request for a recommended*  
 2 *decision filed by the Postal Service during that 1-year pe-*  
 3 *riod shall be completed in accordance with subchapter II*  
 4 *of chapter 36 of this title and implementing regulations,*  
 5 *as in effect before the date of enactment of this section.”.*

6 (b) *REPEALED SECTIONS.*—*Sections 3623, 3624, 3625,*  
 7 *and 3628 of title 39, United States Code, are repealed.*

8 (c) *REDESIGNATION.*—*Chapter 36 of title 39, United*  
 9 *States Code (as in effect after the amendment made by sec-*  
 10 *tion 601, but before the amendment made by section 202)*  
 11 *is amended by striking the heading for subchapter II and*  
 12 *inserting the following:*

13 “*SUBCHAPTER I—PROVISIONS RELATING TO*  
 14 *MARKET-DOMINANT PRODUCTS”.*

15 ***SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-***  
 16 ***UCTS.***

17 *Chapter 36 of title 39, United States Code, is amended*  
 18 *by inserting after section 3629 the following:*

19 “*SUBCHAPTER II—PROVISIONS RELATING TO*  
 20 *COMPETITIVE PRODUCTS*

21 ***“§ 3631. Applicability; definitions and updates***

22 “(a) *APPLICABILITY.*—*This subchapter shall apply*  
 23 *with respect to—*

24 “(1) *priority mail;*

25 “(2) *expedited mail;*

1           “(3) bulk parcel post;

2           “(4) bulk international mail; and

3           “(5) mailgrams;

4 *subject to subsection (d) and any changes the Postal Regu-*  
5 *latory Commission may make under section 3642.*

6           “(b) *DEFINITION.*—*For purposes of this subchapter,*  
7 *the term ‘costs attributable’, as used with respect to a prod-*  
8 *uct, means the direct and indirect postal costs attributable*  
9 *to such product through reliably identified causal relation-*  
10 *ships.*

11          “(c) *RULE OF CONSTRUCTION.*—*Mail matter referred*  
12 *to in subsection (a) shall, for purposes of this subchapter,*  
13 *be considered to have the meaning given to such mail matter*  
14 *under the mail classification schedule.*

15          “(d) *LIMITATION.*—*Notwithstanding any other provi-*  
16 *sion of this section, nothing in this subchapter shall be con-*  
17 *sidered to apply with respect to any product then currently*  
18 *in the market-dominant category of mail.*

19   **“§ 3632. Action of the Governors**

20          “(a) *AUTHORITY TO ESTABLISH RATES AND CLASS-*  
21 *ES.*—*The Governors, with the written concurrence of a ma-*  
22 *jority of all of the Governors then holding office, shall estab-*  
23 *lish rates and classes for products in the competitive cat-*  
24 *egory of mail in accordance with the requirements of this*

1 *subchapter and regulations promulgated under section*  
2 *3633.*

3 “(b) *PROCEDURES.*—

4 “(1) *IN GENERAL.*—*Rates and classes shall be es-*  
5 *tablished in writing, complete with a statement of ex-*  
6 *planation and justification, and the date as of which*  
7 *each such rate or class takes effect.*

8 “(2) *PUBLIC NOTICE; REVIEW; AND COMPLI-*  
9 *ANCE.*—*Not later than 30 days before the date of im-*  
10 *plementation of any adjustment in rates under this*  
11 *section—*

12 “(A) *the Governors shall provide public no-*  
13 *tice of the adjustment and an opportunity for re-*  
14 *view by the Postal Regulatory Commission;*

15 “(B) *the Postal Regulatory Commission*  
16 *shall notify the Governors of any noncompliance*  
17 *of the adjustment with section 3633; and*

18 “(C) *the Governors shall respond to the no-*  
19 *tice provided under subparagraph (B) and de-*  
20 *scribe the actions to be taken to comply with sec-*  
21 *tion 3633.*

22 “(c) *TRANSITION RULE.*—*Until regulations under sec-*  
23 *tion 3633 first take effect, rates and classes for competitive*  
24 *products shall remain subject to modification in accordance*  
25 *with the provisions of this chapter and section 407, as such*

1 *provisions were as last in effect before the date of enactment*  
2 *of this section.*

3 **“§ 3633. Provisions applicable to rates for competitive**  
4 ***products***

5 *“(a) IN GENERAL.—The Postal Regulatory Commis-*  
6 *sion shall, within 180 days after the date of enactment of*  
7 *this section, promulgate (and may from time to time there-*  
8 *after revise) regulations to—*

9 *“(1) prohibit the subsidization of competitive*  
10 *products by market-dominant products;*

11 *“(2) ensure that each competitive product covers*  
12 *its costs attributable; and*

13 *“(3) ensure that all competitive products collec-*  
14 *tively cover their share of the institutional costs of the*  
15 *Postal Service.*

16 *“(b) REVIEW OF MINIMUM CONTRIBUTION.—Five*  
17 *years after the date of enactment of this section, and every*  
18 *5 years thereafter, the Postal Regulatory Commission shall*  
19 *conduct a review to determine whether the institutional*  
20 *costs contribution requirement under subsection (a)(3)*  
21 *should be retained in its current form, modified, or elimi-*  
22 *nated. In making its determination, the Commission shall*  
23 *consider all relevant circumstances, including the pre-*  
24 *vailing competitive conditions in the market, and the degree*

1 *to which any costs are uniquely or disproportionately asso-*  
 2 *ciated with any competitive products.”.*

3 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**  
 4 **NEW PRODUCTS.**

5 *Subchapter III of chapter 36 of title 39, United States*  
 6 *Code, is amended to read as follows:*

7 “**SUBCHAPTER III—PROVISIONS RELATING TO**  
 8 **EXPERIMENTAL AND NEW PRODUCTS**

9 “**§ 3641. Market tests of experimental products**

10 “(a) **AUTHORITY.**—

11 “(1) **IN GENERAL.**—*The Postal Service may con-*  
 12 *duct market tests of experimental products in accord-*  
 13 *ance with this section.*

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

18 “(b) **CONDITIONS.**—*A product may not be tested under*  
 19 *this section unless it satisfies each of the following:*

20 “(1) **SIGNIFICANTLY DIFFERENT PRODUCT.**—*The*  
 21 *product is, from the viewpoint of the mail users, sig-*  
 22 *nificantly different from all products offered by the*  
 23 *Postal Service within the 2-year period preceding the*  
 24 *start of the test.*

1           “(2) *MARKET DISRUPTION.*—*The introduction or*  
2           *continued offering of the product will not create an*  
3           *unfair or otherwise inappropriate competitive advan-*  
4           *tage for the Postal Service or any mailer, particularly*  
5           *in regard to small business concerns (as defined under*  
6           *subsection (h)).*

7           “(3) *CORRECT CATEGORIZATION.*—*The Postal*  
8           *Service identifies the product, for the purpose of a test*  
9           *under this section, as either market-dominant or com-*  
10           *petitive, consistent with the criteria under section*  
11           *3642(b)(1). Costs and revenues attributable to a prod-*  
12           *uct identified as competitive shall be included in any*  
13           *determination under section 3633(3)(relating to pro-*  
14           *visions applicable to competitive products collec-*  
15           *tively). Any test that solely affects products currently*  
16           *classified as competitive, or which provides services*  
17           *ancillary to only competitive products, shall be pre-*  
18           *sumed to be in the competitive product category with-*  
19           *out regard to whether a similar ancillary product ex-*  
20           *ists for market-dominant products.*

21           “(c) *NOTICE.*—

22           “(1) *IN GENERAL.*—*At least 30 days before initi-*  
23           *ating a market test under this section, the Postal*  
24           *Service shall file with the Postal Regulatory Commis-*  
25           *sion and publish in the Federal Register a notice—*

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

4           “(B) *describing the nature and scope of the*  
5           *market test.*

6           “(2) *SAFEGUARDS.—For a competitive experi-*  
7           *mental product, the provisions of section 504(g) shall*  
8           *be available with respect to any information required*  
9           *to be filed under paragraph (1) to the same extent*  
10           *and in the same manner as in the case of any matter*  
11           *described in section 504(g)(1). Nothing in paragraph*  
12           *(1) shall be considered to permit or require the publi-*  
13           *cation of any information as to which confidential*  
14           *treatment is accorded under the preceding sentence*  
15           *(subject to the same exception as set forth in section*  
16           *504(g)(3)).*

17           “(d) *DURATION.—*

18           “(1) *IN GENERAL.—A market test of a product*  
19           *under this section may be conducted over a period of*  
20           *not to exceed 24 months.*

21           “(2) *EXTENSION AUTHORITY.—If necessary in*  
22           *order to determine the feasibility or desirability of a*  
23           *product being tested under this section, the Postal*  
24           *Regulatory Commission may, upon written applica-*  
25           *tion of the Postal Service (filed not later than 60 days*

1       *before the date as of which the testing of such product*  
2       *would otherwise be scheduled to terminate under*  
3       *paragraph (1)), extend the testing of such product for*  
4       *not to exceed an additional 12 months.*

5       “(e) *DOLLAR-AMOUNT LIMITATION.*—

6               “(1) *IN GENERAL.*—*A product may only be test-*  
7       *ed under this section if the total revenues that are an-*  
8       *ticipated, or in fact received, by the Postal Service*  
9       *from such product do not exceed \$10,000,000 in any*  
10       *year, subject to paragraph (2) and subsection (g).*

11              “(2) *EXEMPTION AUTHORITY.*—*The Postal Regu-*  
12       *latory Commission may, upon written application of*  
13       *the Postal Service, exempt the market test from the*  
14       *limit in paragraph (1) if the total revenues that are*  
15       *anticipated, or in fact received, by the Postal Service*  
16       *from such product do not exceed \$50,000,000 in any*  
17       *year, subject to subsection (g). In reviewing an appli-*  
18       *cation under this paragraph, the Postal Regulatory*  
19       *Commission shall approve such application if it de-*  
20       *termines that—*

21                   “(A) *the product is likely to benefit the pub-*  
22                   *lic and meet an expected demand;*

23                   “(B) *the product is likely to contribute to*  
24                   *the financial stability of the Postal Service; and*

1           “(C) *the product is not likely to result in*  
2           *unfair or otherwise inappropriate competition.*

3           “(f) *CANCELLATION.—If the Postal Regulatory Com-*  
4           *mission at any time determines that a market test under*  
5           *this section fails to meet 1 or more of the requirements of*  
6           *this section, it may order the cancellation of the test in-*  
7           *volved or take such other action as it considers appropriate.*  
8           *A determination under this subsection shall be made in ac-*  
9           *cordance with such procedures as the Commission shall by*  
10          *regulation prescribe.*

11          “(g) *ADJUSTMENT FOR INFLATION.—For purposes of*  
12          *each year following the year in which occurs the deadline*  
13          *for the Postal Service’s first report to the Postal Regulatory*  
14          *Commission under section 3652(a), each dollar amount con-*  
15          *tained in this section shall be adjusted by the change in*  
16          *the Consumer Price Index for such year (as determined*  
17          *under regulations of the Commission).*

18          “(h) *DEFINITION OF A SMALL BUSINESS CONCERN.—*  
19          *The criteria used in defining small business concerns or oth-*  
20          *erwise categorizing business concerns as small business con-*  
21          *cerns shall, for purposes of this section, be established by*  
22          *the Postal Regulatory Commission in conformance with the*  
23          *requirements of section 3 of the Small Business Act.*

24          “(i) *EFFECTIVE DATE.—Market tests under this sub-*  
25          *chapter may be conducted in any year beginning with the*

1 *first year in which occurs the deadline for the Postal Serv-*  
2 *ice’s first report to the Postal Regulatory Commission under*  
3 *section 3652(a).*

4 **“§ 3642. New products and transfers of products be-**  
5 **tween the market-dominant and competi-**  
6 **tive categories of mail**

7 “(a) *IN GENERAL.*—Upon request of the Postal Service  
8 or users of the mails, or upon its own initiative, the Postal  
9 Regulatory Commission may change the list of market-dom-  
10 inant products under section 3621 and the list of competi-  
11 tive products under section 3631 by adding new products  
12 to the lists, removing products from the lists, or transferring  
13 products between the lists.

14 “(b) *CRITERIA.*—All determinations by the Postal Reg-  
15 ulatory Commission under subsection (a) shall be made in  
16 accordance with the following criteria:

17 “(1) *The market-dominant category of products*  
18 *shall consist of each product in the sale of which the*  
19 *Postal Service exercises sufficient market power that*  
20 *it can effectively set the price of such product substan-*  
21 *tially above costs, raise prices significantly, decrease*  
22 *quality, or decrease output, without risk of losing sub-*  
23 *stantial business to other firms offering similar prod-*  
24 *ucts. The competitive category of products shall con-*  
25 *sist of all other products.*

1           “(2) *EXCLUSION OF PRODUCTS COVERED BY*  
2 *POSTAL MONOPOLY.*—A product covered by the postal  
3 *monopoly shall not be subject to transfer under this*  
4 *section from the market-dominant category of mail.*  
5 *For purposes of the preceding sentence, the term*  
6 *‘product covered by the postal monopoly’ means any*  
7 *product the conveyance or transmission of which is*  
8 *reserved to the United States under section 1696 of*  
9 *title 18, subject to the same exception as set forth in*  
10 *the last sentence of section 409(e)(1).*

11           “(3) *ADDITIONAL CONSIDERATIONS.*—In making  
12 *any decision under this section, due regard shall be*  
13 *given to—*

14                   “(A) *the availability and nature of enter-*  
15 *prises in the private sector engaged in the deliv-*  
16 *ery of the product involved;*

17                   “(B) *the views of those who use the product*  
18 *involved on the appropriateness of the proposed*  
19 *action; and*

20                   “(C) *the likely impact of the proposed ac-*  
21 *tion on small business concerns (within the*  
22 *meaning of section 3641(h)).*

23           “(c) *TRANSFERS OF SUBCLASSES AND OTHER SUBOR-*  
24 *DINATE UNITS ALLOWABLE.*—Nothing in this title shall be  
25 *considered to prevent transfers under this section from being*

1 *made by reason of the fact that they would involve only*  
2 *some (but not all) of the subclasses or other subordinate*  
3 *units of the class of mail or type of postal service involved*  
4 *(without regard to satisfaction of minimum quantity re-*  
5 *quirements standing alone).*

6       “(d) *NOTIFICATION AND PUBLICATION REQUIRE-*  
7 *MENTS.—*

8               “(1) *NOTIFICATION REQUIREMENT.—The Postal*  
9 *Service shall, whenever it requests to add a product*  
10 *or transfer a product to a different category, file with*  
11 *the Postal Regulatory Commission and publish in the*  
12 *Federal Register a notice setting out the basis for its*  
13 *determination that the product satisfies the criteria*  
14 *under subsection (b) and, in the case of a request to*  
15 *add a product or transfer a product to the competi-*  
16 *tive category of mail, that the product meets the regu-*  
17 *lations promulgated by the Postal Regulatory Com-*  
18 *mission under section 3633. The provisions of section*  
19 *504(g) shall be available with respect to any informa-*  
20 *tion required to be filed.*

21               “(2) *PUBLICATION REQUIREMENT.—The Postal*  
22 *Regulatory Commission shall, whenever it changes the*  
23 *list of products in the market-dominant or competi-*  
24 *tive category of mail, prescribe new lists of products.*  
25 *The revised lists shall indicate how and when any*

1        *previous lists (including the lists under sections 3621*  
 2        *and 3631) are superseded, and shall be published in*  
 3        *the Federal Register.*

4        “(e) *PROHIBITION.—Except as provided in section*  
 5        *3641, no product that involves the physical delivery of let-*  
 6        *ters, printed matter, or packages may be offered by the Post-*  
 7        *al Service unless it has been assigned to the market-domi-*  
 8        *nant or competitive category of mail (as appropriate)*  
 9        *either—*

10                *“(1) under this subchapter; or*

11                *“(2) by or under any other provision of law.”.*

12        **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**  
 13                        **VISIONS.**

14        (a) *REDESIGNATION.—Chapter 36 of title 39, United*  
 15        *States Code (as in effect before the amendment made by sub-*  
 16        *section (b)) is amended—*

17                (1) *by striking the heading for subchapter IV*  
 18        *and inserting the following:*

19                        *“SUBCHAPTER V—POSTAL SERVICES,*  
 20        *COMPLAINTS, AND JUDICIAL REVIEW”;* *and*

21                (2) *by striking the heading for subchapter V and*  
 22        *inserting the following:*

## 1                   “SUBCHAPTER VI—GENERAL”.

2           (b) *REPORTS AND COMPLIANCE.*—Chapter 36 of title  
3 39, United States Code, is amended by inserting after sub-  
4 chapter III the following:

5           “SUBCHAPTER IV—REPORTING REQUIREMENTS  
6                                   AND RELATED PROVISIONS

7           “§ 3651. *Annual reports by the Commission*

8           “(a) *IN GENERAL.*—The Postal Regulatory Commis-  
9 sion shall submit an annual report to the President and  
10 the Congress concerning the operations of the Commission  
11 under this title, including the extent to which regulations  
12 are achieving the objectives under sections 3622, 3633, and  
13 3691.

14           “(b) *INFORMATION FROM POSTAL SERVICE.*—The  
15 Postal Service shall provide the Postal Regulatory Commis-  
16 sion with such information as may, in the judgment of the  
17 Commission, be necessary in order for the Commission to  
18 prepare its reports under this section.

19           “§ 3652. *Annual reports to the Commission*

20           “(a) *COSTS, REVENUES, RATES, AND SERVICE.*—*Ex-*  
21 *cept as provided in subsection (c), the Postal Service shall,*  
22 *no later than 90 days after the end of each year, prepare*  
23 *and submit to the Postal Regulatory Commission a report*  
24 *(together with such nonpublic annex to the report as the*  
25 *Commission may require under subsection (e))—*

1           “(1) which shall analyze costs, revenues, rates,  
2           and quality of service in sufficient detail to dem-  
3           onstrate that all products during such year complied  
4           with all applicable requirements of this title; and

5           “(2) which shall, for each market-dominant  
6           product provided in such year, provide—

7                   “(A) product information, including mail  
8                   volumes; and

9                   “(B) measures of the service afforded by the  
10                  Postal Service in connection with such product,  
11                  including—

12                           “(i) the level of service (described in  
13                           terms of speed of delivery and reliability)  
14                           provided; and

15                           “(ii) the degree of customer satisfaction  
16                           with the service provided.

17           *Before submitting a report under this subsection (in-*  
18           *cluding any annex to the report and the information*  
19           *required under subsection (b)), the Postal Service*  
20           *shall have the information contained in such report*  
21           *(and annex) audited by the Inspector General. The re-*  
22           *sults of any such audit shall be submitted along with*  
23           *the report to which it pertains.*

24           “(b) *INFORMATION RELATING TO WORKSHARE DIS-*  
25           *COUNTS.—The Postal Service shall include, in each report*

1 *under subsection (a), the following information with respect*  
2 *to each market-dominant product for which a workshare*  
3 *discount was in effect during the period covered by such*  
4 *report:*

5           “(1) *The per-item cost avoided by the Postal*  
6           *Service by virtue of such discount.*

7           “(2) *The percentage of such per-item cost avoided*  
8           *that the per-item workshare discount represents.*

9           “(3) *The per-item contribution made to institu-*  
10          *tional costs.*

11          “(c) *SERVICE AGREEMENTS AND MARKET TESTS.—In*  
12 *carrying out subsections (a) and (b) with respect to service*  
13 *agreements and experimental products offered through mar-*  
14 *ket tests under section 3641 in a year, the Postal Service—*

15           “(1) *may report summary data on the costs, rev-*  
16           *enues, and quality of service by service agreement and*  
17           *market test; and*

18           “(2) *shall report such data as the Postal Regu-*  
19           *latory Commission requires.*

20          “(d) *SUPPORTING MATTER.—The Postal Regulatory*  
21 *Commission shall have access, in accordance with such reg-*  
22 *ulations as the Commission shall prescribe, to the working*  
23 *papers and any other supporting matter of the Postal Serv-*  
24 *ice and the Inspector General in connection with any infor-*  
25 *mation submitted under this section.*

1       “(e) *CONTENT AND FORM OF REPORTS.*—

2               “(1) *IN GENERAL.*—*The Postal Regulatory Com-*  
3       *mission shall, by regulation, prescribe the content and*  
4       *form of the public reports (and any nonpublic annex*  
5       *and supporting matter relating to the report) to be*  
6       *provided by the Postal Service under this section. In*  
7       *carrying out this subsection, the Commission shall*  
8       *give due consideration to—*

9               “(A) *providing the public with timely, ade-*  
10       *quate information to assess the lawfulness of*  
11       *rates charged;*

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

15               “(C) *protecting the confidentiality of com-*  
16       *mercially sensitive information.*

17               “(2) *REVISED REQUIREMENTS.*—*The Commis-*  
18       *sion may, on its own motion or on request of an in-*  
19       *terested party, initiate proceedings (to be conducted*  
20       *in accordance with regulations that the Commission*  
21       *shall prescribe) to improve the quality, accuracy, or*  
22       *completeness of Postal Service data required by the*  
23       *Commission under this subsection whenever it shall*  
24       *appear that—*

1           “(A) *the attribution of costs or revenues to*  
2           *products has become significantly inaccurate or*  
3           *can be significantly improved;*

4           “(B) *the quality of service data has become*  
5           *significantly inaccurate or can be significantly*  
6           *improved; or*

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

10          “(f) *CONFIDENTIAL INFORMATION.—*

11           “(1) *IN GENERAL.—If the Postal Service deter-*  
12           *mines that any document or portion of a document,*  
13           *or other matter, which it provides to the Postal Regu-*  
14           *latory Commission in a nonpublic annex under this*  
15           *section or under subsection (d) contains information*  
16           *which is described in section 410(c) of this title, or ex-*  
17           *empt from public disclosure under section 552(b) of*  
18           *title 5, the Postal Service shall, at the time of pro-*  
19           *viding such matter to the Commission, notify the*  
20           *Commission of its determination, in writing, and de-*  
21           *scribe with particularity the documents (or portions*  
22           *of documents) or other matter for which confiden-*  
23           *tiality is sought and the reasons therefor.*

24           “(2) *TREATMENT.—Any information or other*  
25           *matter described in paragraph (1) to which the Com-*

1       mission gains access under this section shall be sub-  
2       ject to paragraphs (2) and (3) of section 504(g) in the  
3       same way as if the Commission had received notifica-  
4       tion with respect to such matter under section  
5       504(g)(1).

6       “(g) *OTHER REPORTS.*—The Postal Service shall sub-  
7       mit to the Postal Regulatory Commission, together with any  
8       other submission that the Postal Service is required to make  
9       under this section in a year, copies of its then most recent—

10               “(1) comprehensive statement under section  
11               2401(e);

12               “(2) strategic plan under section 2802;

13               “(3) performance plan under section 2803; and

14               “(4) program performance reports under section  
15               2804.

16       **“§ 3653. Annual determination of compliance**

17       “(a) *OPPORTUNITY FOR PUBLIC COMMENT.*—After re-  
18       ceiving the reports required under section 3652 for any  
19       year, the Postal Regulatory Commission shall promptly  
20       provide an opportunity for comment on such reports by  
21       users of the mails, affected parties, and an officer of the  
22       Commission who shall be required to represent the interests  
23       of the general public.

24       “(b) *DETERMINATION OF COMPLIANCE OR NONCOMPLI-*  
25       *ANCE.*—Not later than 90 days after receiving the submis-

1 sions required under section 3652 with respect to a year,  
2 the Postal Regulatory Commission shall make a written de-  
3 termination as to—

4           “(1) whether any rates or fees in effect during  
5 such year (for products individually or collectively)  
6 were not in compliance with applicable provisions of  
7 this chapter (or regulations promulgated thereunder);  
8 or

9           “(2) whether any service standards in effect dur-  
10 ing such year were not met.

11 If, with respect to a year, no instance of noncompliance  
12 is found under this subsection to have occurred in such year,  
13 the written determination shall be to that effect.

14           “(c) *IF ANY NONCOMPLIANCE IS FOUND.*—If, for a  
15 year, a timely written determination of noncompliance is  
16 made under subsection (b), the Postal Regulatory Commis-  
17 sion shall take any appropriate remedial action authorized  
18 by section 3662(c).

19           “(d) *REBUTTABLE PRESUMPTION.*—A timely written  
20 determination described in the last sentence of subsection  
21 (b) shall, for purposes of any proceeding under section 3662,  
22 create a rebuttable presumption of compliance by the Postal  
23 Service (with regard to the matters described under para-  
24 graphs (1) and (2) of subsection (b)) during the year to  
25 which such determination relates.”.

1 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCE-**  
2 **MENT.**

3 Chapter 36 of title 39, United States Code, is amended  
4 by striking sections 3662 and 3663 and inserting the fol-  
5 lowing:

6 **“§ 3662. Rate and service complaints**

7 “(a) *IN GENERAL.*—Any interested party (including  
8 an officer of the Postal Regulatory Commission representing  
9 the interests of the general public) who believes the Postal  
10 Service is not operating in conformance with the require-  
11 ments of the provisions of chapter 1 (except section 101(c)),  
12 sections 401, 403, 404, 404a, 601, or this chapter (or regula-  
13 tions promulgated under any of those provisions) may lodge  
14 a complaint with the Postal Regulatory Commission in  
15 such form and manner as the Commission may prescribe.

16 “(b) *PROMPT RESPONSE REQUIRED.*—

17 “(1) *IN GENERAL.*—The Postal Regulatory Com-  
18 mission shall, within 90 days after receiving a com-  
19 plaint under subsection (a)—

20 “(A) either—

21 “(i) upon a finding that such com-  
22 plaint raises substantial and material  
23 issues of fact or law, begin proceedings on  
24 such complaint; or

25 “(ii) issue an order dismissing the  
26 complaint; and

1           “(B) with respect to any action taken under  
2           subparagraph (A) (i) or (ii), issue a written  
3           statement setting forth the bases of its determina-  
4           tion.

5           “(2) *TREATMENT OF COMPLAINTS NOT TIMELY*  
6           *ACTED ON.*—For purposes of section 3663, any com-  
7           plaint under subsection (a) on which the Commission  
8           fails to act in the time and manner required by para-  
9           graph (1) shall be treated in the same way as if it  
10          had been dismissed under an order issued by the  
11          Commission on the last day allowable for the issuance  
12          of such order under paragraph (1).

13          “(c) *ACTION REQUIRED IF COMPLAINT FOUND TO BE*  
14          *JUSTIFIED.*—If the Postal Regulatory Commission finds  
15          upon clear and convincing evidence the complaint to be jus-  
16          tified, it shall order that the Postal Service take such action  
17          as is necessary to achieve compliance with the applicable  
18          requirements and to remedy the effects of any noncompli-  
19          ance.

20          “(d) *AUTHORITY TO ORDER FINES IN CASES OF DE-*  
21          *LIBERATE NONCOMPLIANCE.*—In addition, in cases of delib-  
22          erate noncompliance by the Postal Service with the require-  
23          ments of this title, the Postal Regulatory Commission may  
24          order, based on the nature, circumstances, extent, and seri-  
25          ousness of the noncompliance, a fine (in the amount speci-

1 *fined by the Commission in its order) for each incidence of*  
2 *noncompliance. Fines resulting from the provision of com-*  
3 *petitive products shall be paid from the Competitive Prod-*  
4 *ucts Fund established in section 2011. All receipts from*  
5 *fin es imposed under this subsection shall be deposited in*  
6 *the general fund of the Treasury of the United States.*

7 **“§ 3663. Appellate review**

8       *“A person, including the Postal Service, adversely af-*  
9 *ected or aggrieved by a final order or decision of the Postal*  
10 *Regulatory Commission may, within 30 days after such*  
11 *order or decision becomes final, institute proceedings for re-*  
12 *view thereof by filing a petition in the United States Court*  
13 *of Appeals for the District of Columbia. The court shall re-*  
14 *view the order or decision in accordance with section 706*  
15 *of title 5, and chapter 158 and section 2112 of title 28,*  
16 *on the basis of the record before the Commission.*

17 **“§ 3664. Enforcement of orders**

18       *“The several district courts have jurisdiction specifi-*  
19 *cally to enforce, and to enjoin and restrain the Postal Serv-*  
20 *ice from violating, any order issued by the Postal Regu-*  
21 *latory Commission.”.*

22 **SEC. 206. CLERICAL AMENDMENT.**

23       *Chapter 36 of title 39, United States Code, is amended*  
24 *by striking the heading and analysis for such chapter and*  
25 *inserting the following:*

**“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES***“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS**“Sec.**“3621. Applicability; definitions.**“3622. Modern rate regulation.**“[3623. Repealed.]**“[3624. Repealed.]**“[3625. Repealed.]**“3626. Reduced Rates.**“3627. Adjusting free rates.**“[3628. Repealed.]**“3629. Reduced rates for voter registration purposes.**“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS**“3631. Applicability; definitions and updates.**“3632. Action of the Governors.**“3633. Provisions applicable to rates for competitive products.**“3634. Assumed Federal income tax on competitive products.**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS**“3641. Market tests of experimental products.**“3642. New products and transfers of products between the market-dominant and competitive categories of mail.**“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS**“3651. Annual reports by the Commission.**“3652. Annual reports to the Commission.**“3653. Annual determination of compliance.**“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW**“3661. Postal Services.**“3662. Rate and service complaints.**“3663. Appellate review.**“3664. Enforcement of orders.**“SUBCHAPTER VI—GENERAL**“3681. Reimbursement.**“3682. Size and weight limits.**“3683. Uniform rates for books; films, other materials.**“3684. Limitations.**“3685. Filing of information relating to periodical publications.**“3686. Bonus authority.**“SUBCHAPTER VII—MODERN SERVICE STANDARDS**“3691. Establishment of modern service standards.”.*

1           **TITLE III—MODERN SERVICE**  
2                           **STANDARDS**

3   **SEC. 301. ESTABLISHMENT OF MODERN SERVICE STAND-**  
4                           **ARDS.**

5           *Chapter 36 of title 39, United States Code, as amended*  
6   *by this Act, is further amended by adding at the end the*  
7   *following:*

8                   “**SUBCHAPTER VII—MODERN SERVICE**  
9   **STANDARDS**

10   “**§ 3691. Establishment of modern service standards**

11           “(a) *AUTHORITY GENERALLY.*—*Not later than 12*  
12   *months after the date of enactment of this section, the Postal*  
13   *Service shall, in consultation with the Postal Regulatory*  
14   *Commission, by regulation establish (and may from time*  
15   *to time thereafter by regulation revise) a set of service*  
16   *standards for market-dominant products consistent with the*  
17   *Postal Service’s universal service obligation as defined in*  
18   *sections 101 (a) and (b) and 403.*

19           “(b) *OBJECTIVES.*—*Such standards shall be designed*  
20   *to achieve the following objectives:*

21                   “(1) *To enhance the value of postal services to*  
22    *both senders and recipients.*

23                   “(2) *To preserve regular and effective access to*  
24    *postal services in all communities, including those in*

1        *rural areas or where post offices are not self-sus-*  
2        *taining.*

3            *“(3) To reasonably assure Postal Service cus-*  
4        *tomers delivery reliability, speed and frequency con-*  
5        *sistent with reasonable rates and best business prac-*  
6        *tices.*

7            *“(4) To provide a system of objective external*  
8        *performance measurements for each market-dominant*  
9        *product as a basis for measurement of Postal Service*  
10       *performance.*

11        *“(c) FACTORS.—In establishing or revising such stand-*  
12       *ards, the Postal Service shall take into account—*

13            *“(1) the actual level of service that Postal Service*  
14        *customers receive under any service guidelines pre-*  
15        *viously established by the Postal Service or service*  
16        *standards established under this section;*

17            *“(2) the degree of customer satisfaction with*  
18        *Postal Service performance in the acceptance, proc-*  
19        *essing and delivery of mail;*

20            *“(3) the needs of Postal Service customers, in-*  
21        *cluding those with physical impairments;*

22            *“(4) mail volume and revenues projected for fu-*  
23        *ture years;*

1           “(5) the projected growth in the number of ad-  
2           dresses the Postal Service will be required to serve in  
3           future years;

4           “(6) the current and projected future cost of serv-  
5           ing Postal Service customers;

6           “(7) the effect of changes in technology, demo-  
7           graphics, and population distribution on the efficient  
8           and reliable operation of the postal delivery system;  
9           and

10           “(8) the policies of this title and such other fac-  
11           tors as the Postal Service determines appropriate.

12           “(d) *REVIEW.*—The regulations promulgated pursuant  
13           to this section (and any revisions thereto) shall be subject  
14           to review upon complaint under sections 3662 and 3663.”.

15           **SEC. 302. POSTAL SERVICE PLAN.**

16           (a) *IN GENERAL.*—Within 6 months after the estab-  
17           lishment of the service standards under section 3691 of title  
18           39, United States Code, as added by this Act, the Postal  
19           Service shall, in consultation with the Postal Regulatory  
20           Commission, develop and submit to Congress a plan for  
21           meeting those standards.

22           (b) *CONTENTS.*—The plan under this section shall—

23                   (1) establish performance goals;

24                   (2) describe any changes to the Postal Service’s  
25           processing, transportation, delivery, and retail net-

1        *works necessary to allow the Postal Service to meet*  
2        *the performance goals;*

3            *(3) describe any changes to planning and per-*  
4        *formance management documents previously sub-*  
5        *mitted to Congress to reflect new performance goals;*  
6        *and*

7            *(4) contain the matters relating to postal facili-*  
8        *ties provided under subsection (c).*

9        *(c) POSTAL FACILITIES.—*

10            *(1) FINDINGS.—Congress finds that—*

11            *(A) the Postal Service has more than 400*  
12        *logistics facilities, separate from its post office*  
13        *network;*

14            *(B) as noted by the President’s Commission*  
15        *on the United States Postal Service, the Postal*  
16        *Service has more facilities than it needs and the*  
17        *streamlining of this distribution network can*  
18        *pave the way for the potential consolidation of*  
19        *sorting facilities and the elimination of excess*  
20        *costs;*

21            *(C) the Postal Service has always revised its*  
22        *distribution network to meet changing conditions*  
23        *and is best suited to address its operational*  
24        *needs; and*

1                   (D) Congress strongly encourages the Postal  
2           Service to—

3                   (i) expeditiously move forward in its  
4           streamlining efforts; and

5                   (ii) keep unions, management associa-  
6           tions, and local elected officials informed as  
7           an essential part of this effort and abide by  
8           any procedural requirements contained in  
9           the national bargaining agreements.

10           (2) *IN GENERAL.*—The Postal Service plan shall  
11   include a description of—

12                   (A) the long-term vision of the Postal Serv-  
13           ice for rationalizing its infrastructure and work-  
14           force; and

15                   (B) how the Postal Service intends to im-  
16           plement that vision.

17           (3) *CONTENT OF FACILITIES PLAN.*—The plan  
18   under this subsection shall include—

19                   (A) a strategy for how the Postal Service  
20           intends to rationalize the postal facilities net-  
21           work and remove excess processing capacity and  
22           space from the network, including estimated  
23           timeframes, criteria, and processes to be used for  
24           making changes to the facilities network, and the

1           *process for engaging policy makers and the pub-*  
2           *lic in related decisions;*

3                     *(B) a discussion of what impact any facil-*  
4                     *ity changes may have on the postal workforce*  
5                     *and whether the Postal Service has sufficient*  
6                     *flexibility to make needed workforce changes;*

7                     *(C) an identification of anticipated costs,*  
8                     *cost savings, and other benefits associated with*  
9                     *the infrastructure rationalization alternatives*  
10                    *discussed in the plan; and*

11                    *(D) procedures that the Postal Service will*  
12                    *use to—*

13                             *(i) provide adequate public notice to*  
14                             *communities potentially affected by a pro-*  
15                             *posed rationalization decision;*

16                             *(ii) make available, upon request, any*  
17                             *data, analyses, or other information consid-*  
18                             *ered by the Postal Service in making the*  
19                             *proposed decision;*

20                             *(iii) afford affected persons ample op-*  
21                             *portunity to provide input on the proposed*  
22                             *decision; and*

23                             *(iv) take such comments into account*  
24                             *in making a final decision.*

25                    (4) *ANNUAL REPORTS.—*

1           (A) *IN GENERAL.*—Not later than 90 days  
2 after the end of each fiscal year, the Postal Serv-  
3 ice shall prepare and submit a report to Con-  
4 gress on how postal decisions have impacted or  
5 will impact rationalization plans.

6           (B) *CONTENTS.*—Each report under this  
7 paragraph shall include—

8                   (i) an account of actions taken during  
9 the preceding fiscal year to improve the effi-  
10 ciency and effectiveness of its processing,  
11 transportation, and distribution networks  
12 while preserving the timely delivery of post-  
13 al services, including overall estimated costs  
14 and cost savings;

15                   (ii) an account of actions taken to  
16 identify any excess capacity within its  
17 processing, transportation, and distribution  
18 networks and implement savings through  
19 realignment or consolidation of facilities in-  
20 cluding overall estimated costs and cost sav-  
21 ings;

22                   (iii) an estimate of how postal deci-  
23 sions related to mail changes, security, au-  
24 tomation initiatives, worksharing, informa-  
25 tion technology systems, excess capacity,

1           *consolidating and closing facilities, and*  
2           *other areas will impact rationalization*  
3           *plans;*

4                     *(iv) identification of any statutory or*  
5                     *regulatory obstacles that prevented or will*  
6                     *prevent or hinder the Postal Service from*  
7                     *taking action to realign or consolidate fa-*  
8                     *cilities; and*

9                     *(v) such additional topics and rec-*  
10                    *ommendations as the Postal Service con-*  
11                    *siders appropriate.*

12                    (5) *EXISTING EFFORTS.*—*Effective on the date of*  
13                    *enactment of this Act, the Postal Service may not*  
14                    *close or consolidate any processing or logistics facili-*  
15                    *ties without using procedures for public notice and*  
16                    *input consistent with those described under para-*  
17                    *graph (3)(D).*

18                    (d) *ALTERNATE RETAIL OPTIONS.*—*The Postal Service*  
19                    *plan shall include plans to expand and market retail access*  
20                    *to postal services, in addition to post offices, including—*

21                             (1) *vending machines;*

22                             (2) *the Internet;*

23                             (3) *postage meters;*

24                             (4) *Stamps by Mail;*

25                             (5) *Postal Service employees on delivery routes;*

1           (6) *retail facilities in which overhead costs are*  
 2 *shared with private businesses and other government*  
 3 *agencies; or*

4           (7) *any other nonpost office access channel pro-*  
 5 *viding market retail access to postal services.*

6           (e) *REEMPLOYMENT ASSISTANCE AND RETIREMENT*  
 7 *BENEFITS.—The Postal Service plan shall include—*

8           (1) *a plan under which reemployment assistance*  
 9 *shall be afforded to employees displaced as a result of*  
 10 *the automation of any of its functions or the closing*  
 11 *and consolidation of any of its facilities; and*

12           (2) *a plan, developed in consultation with the*  
 13 *Office of Personnel Management, to offer early retire-*  
 14 *ment benefits.*

15           (f) *INSPECTOR GENERAL REPORT.—*

16           (1) *IN GENERAL*Before submitting the plan under  
 17 *subsection (a) and each annual report under sub-*  
 18 *section (c) to Congress, the Postal Service shall submit*  
 19 *the plan and each annual report to the Inspector*  
 20 *General of the United States Postal Service in a time-*  
 21 *ly manner to carry out this subsection.*

22           (2) *REPORT.—The Inspector General shall pre-*  
 23 *pare a report describing the extent to which the Postal*  
 24 *Service plan and each annual report under subsection*  
 25 *(c)—*

1           (A) are consistent with the continuing obli-  
 2           gations of the Postal Service under title 39,  
 3           United States Code;

4           (B) provide for the Postal Service to meet  
 5           the service standards established under section  
 6           3691 of title 39, United States Code; and

7           (C) allow progress toward improving overall  
 8           efficiency and effectiveness consistent with the  
 9           need to maintain universal postal service at af-  
 10          fordable rates.

11          (g) *CONTINUED AUTHORITY.*—Nothing in this section  
 12          shall be construed to prohibit the Postal Service from imple-  
 13          menting any change to its processing, transportation, deliv-  
 14          ery, and retail networks under any authority granted to  
 15          the Postal Service for those purposes.

16          **TITLE IV—PROVISIONS RELAT-**  
 17          **ING TO FAIR COMPETITION**

18          **SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.**

19          (a) *PROVISIONS RELATING TO POSTAL SERVICE COM-*  
 20          *PETITIVE PRODUCTS FUND AND RELATED MATTERS.*—

21               (1) *IN GENERAL.*—Chapter 20 of title 39, United  
 22          States Code, is amended by adding at the end the fol-  
 23          lowing:

1 **“§2011. Provisions relating to competitive products**

2 “(a)(1) *In this subsection, the term ‘costs attributable’*  
3 *has the meaning given such term by section 3631.*

4 “(2) *There is established in the Treasury of the United*  
5 *States a revolving fund, to be called the Postal Service Com-*  
6 *petitive Products Fund, which shall be available to the Post-*  
7 *al Service without fiscal year limitation for the payment*  
8 *of—*

9 “(A) *costs attributable to competitive products;*  
10 *and*

11 “(B) *all other costs incurred by the Postal Serv-*  
12 *ice, to the extent allocable to competitive products.*

13 “(b) *There shall be deposited in the Competitive Prod-*  
14 *ucts Fund, subject to withdrawal by the Postal Service—*

15 “(1) *revenues from competitive products;*

16 “(2) *amounts received from obligations issued by*  
17 *Postal Service under subsection (e);*

18 “(3) *interest and dividends earned on invest-*  
19 *ments of the Competitive Products Fund; and*

20 “(4) *any other receipts of the Postal Service (in-*  
21 *cluding from the sale of assets), to the extent allocable*  
22 *to competitive products.*

23 “(c) *If the Postal Service determines that the moneys*  
24 *of the Competitive Products Fund are in excess of current*  
25 *needs, the Postal Service may request the investment of such*  
26 *amounts as the Postal Service determines advisable by the*

1 *Secretary of the Treasury in obligations of, or obligations*  
2 *guaranteed by, the Government of the United States, and,*  
3 *with the approval of the Secretary, in such other obligations*  
4 *or securities as the Postal Service determines appropriate.*

5       “(d) *With the approval of the Secretary of the Treas-*  
6 *ury, the Postal Service may deposit moneys of the Competi-*  
7 *tive Products Fund in any Federal Reserve bank, any de-*  
8 *pository for public funds, or in such other places and in*  
9 *such manner as the Postal Service and the Secretary may*  
10 *mutually agree.*

11       “(e)(1)(A) *Subject to the limitations specified in sec-*  
12 *tion 2005(a), the Postal Service is authorized to borrow*  
13 *money and to issue and sell such obligations as the Postal*  
14 *Service determines necessary to provide for competitive*  
15 *products and deposit such amounts in the Competitive*  
16 *Products Fund.*

17       “(B) *Subject to paragraph (5), any borrowings by the*  
18 *Postal Service under subparagraph (A) shall be supported*  
19 *and serviced by—*

20               “(i) *the revenues and receipts from competitive*  
21 *products and the assets related to the provision of*  
22 *competitive products (as determined under subsection*  
23 *(h)); or*

24               “(ii) *for purposes of any period before account-*  
25 *ing practices and principles under subsection (h) have*

1       *been established and applied, the best information*  
2       *available from the Postal Service, including the au-*  
3       *dated statements required by section 2008(e).*

4       “(2) *The Postal Service may enter into binding cov-*  
5       *enants with the holders of such obligations, and with any*  
6       *trustee under any agreement entered into in connection*  
7       *with the issuance of such obligations with respect to—*

8               “(A) *the establishment of reserve, sinking, and*  
9       *other funds;*

10              “(B) *application and use of revenues and re-*  
11       *ceipts of the Competitive Products Fund;*

12              “(C) *stipulations concerning the subsequent*  
13       *issuance of obligations or the execution of leases or*  
14       *lease purchases relating to properties of the Postal*  
15       *Service; and*

16              “(D) *such other matters as the Postal Service,*  
17       *considers necessary or desirable to enhance the mar-*  
18       *ketability of such obligations.*

19       “(3) *Obligations issued by the Postal Service under*  
20       *this subsection—*

21              “(A) *shall be in such forms and denominations;*

22              “(B) *shall be sold at such times and in such*  
23       *amounts;*

24              “(C) *shall mature at such time or times;*

25              “(D) *shall be sold at such prices;*

1           “(E) shall bear such rates of interest;

2           “(F) may be redeemable before maturity in such  
3 manner, at such times, and at such redemption pre-  
4 miums;

5           “(G) may be entitled to such relative priorities  
6 of claim on the assets of the Postal Service with re-  
7 spect to principal and interest payments; and

8           “(H) shall be subject to such other terms and  
9 conditions,

10 as the Postal Service determines.

11           “(4) Obligations issued by the Postal Service under  
12 this subsection—

13           “(A) shall be negotiable or nonnegotiable and  
14 bearer or registered instruments, as specified therein  
15 and in any indenture or covenant relating thereto;

16           “(B) shall contain a recital that such obligations  
17 are issued under this subsection, and such recital  
18 shall be conclusive evidence of the regularity of the  
19 issuance and sale of such obligations and of their va-  
20 lidity;

21           “(C) shall be lawful investments and may be ac-  
22 cepted as security for all fiduciary, trust, and public  
23 funds, the investment or deposit of which shall be  
24 under the authority or control of any officer or agen-  
25 cy of the Government of the United States, and the

1     *Secretary of the Treasury or any other officer or*  
2     *agency having authority over or control of any such*  
3     *fiduciary, trust, or public funds, may at any time sell*  
4     *any of the obligations of the Postal Service acquired*  
5     *under this section;*

6             *“(D) shall not be exempt either as to principal*  
7     *or interest from any taxation now or hereafter im-*  
8     *posed by any State or local taxing authority; and*

9             *“(E) except as provided in section 2006(c), shall*  
10    *not be obligations of, nor shall payment of the prin-*  
11    *cipal thereof or interest thereon be guaranteed by, the*  
12    *Government of the United States, and the obligations*  
13    *shall so plainly state.*

14            *“(5)(A) Subject to subparagraph (B), the Postal Serv-*  
15    *ice shall make payments of principal, or interest, or both*  
16    *on obligations issued under this subsection from—*

17                *“(i) revenues and receipts from competitive prod-*  
18    *ucts and assets related to the provision of competitive*  
19    *products (as determined under subsection (h)); or*

20                *“(ii) for purposes of any period before account-*  
21    *ing practices and principles under subsection (h) have*  
22    *been established and applied, the best information*  
23    *available, including the audited statements required*  
24    *by section 2008(e).*

1           “(B) *Based on the audited financial statements for the*  
2 *most recently completed fiscal year, the total assets of the*  
3 *Competitive Products Fund may not be less than the*  
4 *amount determined by multiplying—*

5                   “(i) *the quotient resulting from the total revenue*  
6 *of the Competitive Products Fund divided by the total*  
7 *revenue of the Postal Service; and*

8                   “(ii) *the total assets of the Postal Service.*

9           “(f) *The receipts and disbursements of the Competitive*  
10 *Products Fund shall be accorded the same budgetary treat-*  
11 *ment as is accorded to receipts and disbursements of the*  
12 *Postal Service Fund under section 2009a.*

13           “(g) *A judgment (or settlement of a claim) against the*  
14 *Postal Service or the Government of the United States shall*  
15 *be paid out of the Competitive Products Fund to the extent*  
16 *that the judgment or claim arises out of activities of the*  
17 *Postal Service in the provision of competitive products.*

18           “(h)(1)(A) *The Secretary of the Treasury, in consulta-*  
19 *tion with the Postal Service and an independent, certified*  
20 *public accounting firm and other advisors as the Secretary*  
21 *considers appropriate, shall develop recommendations*  
22 *regarding—*

23                   “(i) *the accounting practices and principles that*  
24 *should be followed by the Postal Service with the ob-*  
25 *jectives of—*

1           “(I) identifying and valuing the assets and  
2           liabilities of the Postal Service associated with  
3           providing competitive products, including the  
4           capital and operating costs incurred by the Post-  
5           al Service in providing such competitive prod-  
6           ucts; and

7           “(II) subject to subsection (e)(5), preventing  
8           the subsidization of such products by market-  
9           dominant products; and

10          “(ii) the substantive and procedural rules that  
11          should be followed in determining the assumed Fed-  
12          eral income tax on competitive products income of the  
13          Postal Service for any year (within the meaning of  
14          section 3634).

15          “(B) Not earlier than 6 months after the date of enact-  
16          ment of this section, and not later than 12 months after  
17          such date, the Secretary of the Treasury shall submit the  
18          recommendations under subparagraph (A) to the Postal  
19          Regulatory Commission.

20          “(2)(A) Upon receiving the recommendations of the  
21          Secretary of the Treasury under paragraph (1), the Com-  
22          mission shall give interested parties, including the Postal  
23          Service, users of the mails, and an officer of the Commission  
24          who shall be required to represent the interests of the general  
25          public, an opportunity to present their views on those rec-

1 *ommendations through submission of written data, views,*  
2 *or arguments with or without opportunity for oral presen-*  
3 *tation, or in such other manner as the Commission con-*  
4 *siders appropriate.*

5       “(B)(i) *After due consideration of the views and other*  
6 *information received under subparagraph (A), the Commis-*  
7 *sion shall by rule—*

8               “(I) *provide for the establishment and applica-*  
9 *tion of the accounting practices and principles which*  
10 *shall be followed by the Postal Service;*

11               “(II) *provide for the establishment and applica-*  
12 *tion of the substantive and procedural rules described*  
13 *under paragraph (1)(A)(ii); and*

14               “(III) *provide for the submission by the Postal*  
15 *Service to the Postal Regulatory Commission of an-*  
16 *ual and other periodic reports setting forth such in-*  
17 *formation as the Commission may require.*

18       “(ii) *Final rules under this subparagraph shall be*  
19 *issued not later than 12 months after the date on which*  
20 *recommendations are submitted under paragraph (1) (or*  
21 *by such later date on which the Commission and the Postal*  
22 *Service may agree). The Commission may revise such rules.*

23       “(C)(i) *Reports described under subparagraph*  
24 *(B)(i)(III) shall be submitted at such time and in such*

1 *form, and shall include such information, as the Commis-*  
2 *sion by rule requires.*

3       “(ii) *The Commission may, on its own motion or on*  
4 *request of an interested party, initiate proceedings (to be*  
5 *conducted in accordance with such rules as the Commission*  
6 *shall prescribe) to improve the quality, accuracy, or com-*  
7 *pleteness of Postal Service information under subparagraph*  
8 *(B)(i)(III) whenever it shall appear that—*

9               “(I) *the quality of the information furnished in*  
10 *those reports has become significantly inaccurate or*  
11 *can be significantly improved; or*

12               “(II) *such revisions are, in the judgment of the*  
13 *Commission, otherwise necessitated by the public in-*  
14 *terest.*

15       “(D) *A copy of each report described under subpara-*  
16 *graph (B)(i)(III) shall be submitted by the Postal Service*  
17 *to the Secretary of the Treasury and the Inspector General*  
18 *of the United States Postal Service.*

19       “(i)(1) *The Postal Service shall submit an annual re-*  
20 *port to the Secretary of the Treasury concerning the oper-*  
21 *ation of the Competitive Products Fund. The report shall*  
22 *address such matters as risk limitations, reserve balances,*  
23 *allocation or distribution of moneys, liquidity require-*  
24 *ments, and measures to safeguard against losses.*

1       “(2) *A copy of the most recent report submitted under*  
 2 *paragraph (1) shall be included in the annual report sub-*  
 3 *mitted by the Postal Regulatory Commission under section*  
 4 *3652(g).”.*

5           (2) *CLERICAL AMENDMENT.—The table of sec-*  
 6 *tions for chapter 20 of title 39, United States Code,*  
 7 *is amended by adding after the item relating to sec-*  
 8 *tion 2010 the following:*

*“2011. Provisions relating to competitive products.”.*

9           (b) *TECHNICAL AND CONFORMING AMENDMENTS.—*

10           (1) *DEFINITION.—Section 2001 of title 39,*  
 11 *United States Code, is amended by striking “and” at*  
 12 *the end of paragraph (1), by redesignating paragraph*  
 13 *(2) as paragraph (3), and by inserting after para-*  
 14 *graph (1) the following:*

15           “(2) *COMPETITIVE PRODUCTS FUND.—The term*  
 16 *‘Competitive Products Fund’ means the Postal Service*  
 17 *Competitive Products Fund established by section*  
 18 *2011; and”.*

19           (2) *CAPITAL OF THE POSTAL SERVICE.—Section*  
 20 *2002(b) of title 39, United States Code, is amended*  
 21 *by striking “Fund,” and inserting “Fund and the*  
 22 *balance in the Competitive Products Fund,”.*

23           (3) *POSTAL SERVICE FUND.—*

24           (A) *PURPOSES FOR WHICH AVAILABLE.—*  
 25           *Section 2003(a) of title 39, United States Code,*

1           is amended by striking “title.” and inserting  
2           “title (other than any of the purposes, functions,  
3           or powers for which the Competitive Products  
4           Fund is available).”.

5                   (B) *DEPOSITS*.—Section 2003(b) of title 39,  
6           United States Code, is amended by striking  
7           “*There*” and inserting “*Except as otherwise pro-*  
8           *vided in section 2011, there*”.

9                   (4) *RELATIONSHIP BETWEEN THE TREASURY*  
10          *AND THE POSTAL SERVICE*.—Section 2006 of title 39,  
11          United States Code, is amended—

12                   (A) in subsection (a), in the first sentence,  
13                  by inserting “or 2011” after “section 2005”;

14                   (B) in subsection (b)—

15                           (i) in the first sentence, by inserting  
16                           “under section 2005” before “in such  
17                           amounts”; and

18                           (ii) in the second sentence, by inserting  
19                           “under section 2005” before “in excess of  
20                           such amount.”; and

21                   (C) in subsection (c), by inserting “or  
22                  2011(e)(4)(E)” after “section 2005(d)(5)”.

1 **SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**  
2

3 *Subchapter II of chapter 36 of title 39, United States*  
4 *Code, as amended by section 202, is amended by adding*  
5 *at the end the following:*

6 **“§3634. Assumed Federal income tax on competitive**  
7 **products income**

8 *“(a) DEFINITIONS.—For purposes of this section—*

9 *“(1) the term ‘assumed Federal income tax on*  
10 *competitive products income’ means the net income*  
11 *tax that would be imposed by chapter 1 of the Inter-*  
12 *nal Revenue Code of 1986 on the Postal Service’s as-*  
13 *sumed taxable income from competitive products for*  
14 *the year; and*

15 *“(2) the term ‘assumed taxable income from com-*  
16 *petitive products’, with respect to a year, refers to the*  
17 *amount representing what would be the taxable in-*  
18 *come of a corporation under the Internal Revenue*  
19 *Code of 1986 for the year, if—*

20 *“(A) the only activities of such corporation*  
21 *were the activities of the Postal Service allocable*  
22 *under section 2011(h) to competitive products;*  
23 *and*

24 *“(B) the only assets held by such corpora-*  
25 *tion were the assets of the Postal Service allo-*  
26 *cable under section 2011(h) to such activities.*

1           “(b) *COMPUTATION AND TRANSFER REQUIREMENTS.*—  
 2 *The Postal Service shall, for each year beginning with the*  
 3 *year in which occurs the deadline for the Postal Service’s*  
 4 *first report to the Postal Regulatory Commission under sec-*  
 5 *tion 3652(a)—*

6                   “(1) *compute its assumed Federal income tax on*  
 7 *competitive products income for such year; and*

8                   “(2) *transfer from the Competitive Products*  
 9 *Fund to the Postal Service Fund the amount of that*  
 10 *assumed tax.*

11           “(c) *DEADLINE FOR TRANSFERS.*—*Any transfer re-*  
 12 *quired to be made under this section for a year shall be*  
 13 *due on or before the January 15th next occurring after the*  
 14 *close of such year.”.*

15 **SEC. 403. UNFAIR COMPETITION PROHIBITED.**

16           (a) *SPECIFIC LIMITATIONS.*—*Chapter 4 of title 39,*  
 17 *United States Code, is amended by adding after section 404*  
 18 *the following:*

19 **“§ 404a. Specific limitations**

20                   “(a) *Except as specifically authorized by law, the Post-*  
 21 *al Service may not—*

22                   “(1) *establish any rule or regulation (including*  
 23 *any standard) the effect of which is to preclude com-*  
 24 *petition or establish the terms of competition unless*  
 25 *the Postal Service demonstrates that the regulation*

1        *does not create an unfair competitive advantage for*  
2        *itself or any entity funded (in whole or in part) by*  
3        *the Postal Service;*

4            *“(2) compel the disclosure, transfer, or licensing*  
5        *of intellectual property to any third party (such as*  
6        *patents, copyrights, trademarks, trade secrets, and*  
7        *proprietary information); or*

8            *“(3) obtain information from a person that pro-*  
9        *vides (or seeks to provide) any product, and then offer*  
10       *any postal service that uses or is based in whole or*  
11       *in part on such information, without the consent of*  
12       *the person providing that information, unless sub-*  
13       *stantially the same information is obtained (or ob-*  
14       *tainable) from an independent source or is otherwise*  
15       *obtained (or obtainable).*

16        *“(b) The Postal Regulatory Commission shall prescribe*  
17       *regulations to carry out this section.*

18        *“(c) Any party (including an officer of the Commis-*  
19       *sion representing the interests of the general public) who*  
20       *believes that the Postal Service has violated this section may*  
21       *bring a complaint in accordance with section 3662.”.*

22        *(b) CONFORMING AMENDMENTS.—*

23            *(1) GENERAL POWERS.—Section 401 of title 39,*  
24        *United States Code, is amended by striking “The”*

1       and inserting “Subject to the provisions of section  
2       404a, the”.

3               (2) *SPECIFIC POWERS.*—Section 404(a) of title  
4       39, *United States Code*, is amended by striking  
5       “Without” and inserting “Subject to the provisions of  
6       section 404a, but otherwise without”.

7               (c) *CLERICAL AMENDMENT.*—The analysis for chapter  
8       4 of title 39, *United States Code*, is amended by inserting  
9       after the item relating to section 404 the following:

      “404a. *Specific limitations.*”.

10   **SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

11       (a) *IN GENERAL.*—Section 409 of title 39, *United*  
12       *States Code*, is amended by striking subsections (d) and (e)  
13       and inserting the following:

14               “(d)(1) For purposes of the provisions of law cited in  
15       paragraphs (2)(A) and (2)(B), respectively, the *Postal*  
16       *Service*—

17                       “(A) shall be considered to be a ‘person’, as used  
18       in the provisions of law involved; and

19                       “(B) shall not be immune under any other doc-  
20       trine of sovereign immunity from suit in *Federal*  
21       court by any person for any violation of any of those  
22       provisions of law by any officer or employee of the  
23       *Postal Service*.

24               “(2) This subsection applies with respect to—

1           “(A) the Act of July 5, 1946 (commonly referred  
2           to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051  
3           and following)); and

4           “(B) the provisions of section 5 of the Federal  
5           Trade Commission Act to the extent that such section  
6           5 applies to unfair or deceptive acts or practices.

7           “(e)(1) To the extent that the Postal Service, or other  
8           Federal agency acting on behalf of or in concert with the  
9           Postal Service, engages in conduct with respect to any prod-  
10          uct which is not reserved to the United States under section  
11          1696 of title 18, the Postal Service or other Federal agency  
12          (as the case may be)—

13           “(A) shall not be immune under any doctrine of  
14           sovereign immunity from suit in Federal court by  
15           any person for any violation of Federal law by such  
16           agency or any officer or employee thereof; and

17           “(B) shall be considered to be a person (as de-  
18           fined in subsection (a) of the first section of the Clay-  
19           ton Act) for purposes of—

20           “(i) the antitrust laws (as defined in such  
21           subsection); and

22           “(ii) section 5 of the Federal Trade Com-  
23           mission Act to the extent that such section 5 ap-  
24           plies to unfair methods of competition.

1 *For purposes of the preceding sentence, any private carriage*  
2 *of mail allowable by virtue of section 601 shall not be con-*  
3 *sidered a service reserved to the United States under section*  
4 *1696 of title 18.*

5       “(2) *No damages, interest on damages, costs or attor-*  
6 *ney’s fees may be recovered, and no criminal liability may*  
7 *be imposed, under the antitrust laws (as so defined) from*  
8 *any officer or employee of the Postal Service, or other Fed-*  
9 *eral agency acting on behalf of or in concert with the Postal*  
10 *Service, acting in an official capacity.*

11       “(3) *This subsection shall not apply with respect to*  
12 *conduct occurring before the date of enactment of this sub-*  
13 *section.*

14       “(f) *To the extent that the Postal Service engages in*  
15 *conduct with respect to the provision of competitive prod-*  
16 *ucts, it shall be considered a person for the purposes of the*  
17 *Federal bankruptcy laws.*

18       “(g)(1) *Each building constructed or altered by the*  
19 *Postal Service shall be constructed or altered, to the max-*  
20 *imum extent feasible as determined by the Postal Service,*  
21 *in compliance with 1 of the nationally recognized model*  
22 *building codes and with other applicable nationally recog-*  
23 *nized codes. To the extent practicable, model building codes*  
24 *should meet the voluntary consensus criteria established for*  
25 *codes and standards as required in the National Technology*

1 *Transfer and Advancement Act of 1995 as defined in Office*  
2 *of Management and Budget Circular A1190. For purposes*  
3 *of life safety, the Postal Service shall continue to comply*  
4 *with the most current edition of the Life Safety Code of*  
5 *the National Fire Protection Association (NFPA 101).*

6       “(2) *Each building constructed or altered by the Postal*  
7 *Service shall be constructed or altered only after consider-*  
8 *ation of all requirements (other than procedural require-*  
9 *ments) of zoning laws, land use laws, and applicable envi-*  
10 *ronmental laws of a State or subdivision of a State which*  
11 *would apply to the building if it were not a building con-*  
12 *structed or altered by an establishment of the Government*  
13 *of the United States.*

14       “(3) *For purposes of meeting the requirements of para-*  
15 *graphs (1) and (2) with respect to a building, the Postal*  
16 *Service shall—*

17               “(A) *in preparing plans for the building, consult*  
18 *with appropriate officials of the State or political*  
19 *subdivision, or both, in which the building will be lo-*  
20 *cated;*

21               “(B) *upon request, submit such plans in a time-*  
22 *ly manner to such officials for review by such officials*  
23 *for a reasonable period of time not exceeding 30 days;*  
24 *and*

1           “(C) permit inspection by such officials during  
2           construction or alteration of the building, in accord-  
3           ance with the customary schedule of inspections for  
4           construction or alteration of buildings in the locality,  
5           if such officials provide to the Postal Service—

6                   “(i) a copy of such schedule before construc-  
7                   tion of the building is begun; and

8                   “(ii) reasonable notice of their intention to  
9                   conduct any inspection before conducting such  
10                  inspection.

11          *Nothing in this subsection shall impose an obligation*  
12          *on any State or political subdivision to take any ac-*  
13          *tion under the preceding sentence, nor shall anything*  
14          *in this subsection require the Postal Service or any*  
15          *of its contractors to pay for any action taken by a*  
16          *State or political subdivision to carry out this sub-*  
17          *section (including reviewing plans, carrying out on-*  
18          *site inspections, issuing building permits, and mak-*  
19          *ing recommendations).*

20          “(4) Appropriate officials of a State or a political sub-  
21          division of a State may make recommendations to the Post-  
22          al Service concerning measures necessary to meet the re-  
23          quirements of paragraphs (1) and (2). Such officials may  
24          also make recommendations to the Postal Service con-  
25          cerning measures which should be taken in the construction

1 *or alteration of the building to take into account local con-*  
2 *ditions. The Postal Service shall give due consideration to*  
3 *any such recommendations.*

4       “(5) *In addition to consulting with local and State*  
5 *officials under paragraph (3), the Postal Service shall estab-*  
6 *lish procedures for soliciting, assessing, and incorporating*  
7 *local community input on real property and land use deci-*  
8 *sions.*

9       “(6) *For purposes of this subsection, the term ‘State’*  
10 *includes the District of Columbia, the Commonwealth of*  
11 *Puerto Rico, and a territory or possession of the United*  
12 *States.*

13       “(h)(1) *Notwithstanding any other provision of law,*  
14 *legal representation may not be furnished by the Depart-*  
15 *ment of Justice to the Postal Service in any action, suit,*  
16 *or proceeding arising, in whole or in part, under any of*  
17 *the following:*

18               “(A) *Subsection (d) or (e) of this section.*

19               “(B) *Subsection (f) or (g) of section 504 (relating*  
20 *to administrative subpoenas by the Postal Regulatory*  
21 *Commission).*

22               “(C) *Section 3663 (relating to appellate review).*  
23 *The Postal Service may, by contract or otherwise, employ*  
24 *attorneys to obtain any legal representation that it is pre-*

1 *cluded from obtaining from the Department of Justice*  
2 *under this paragraph.*

3       “(2) *In any circumstance not covered by paragraph*  
4 *(1), the Department of Justice shall, under section 411, fur-*  
5 *nish the Postal Service such legal representation as it may*  
6 *require, except that, with the prior consent of the Attorney*  
7 *General, the Postal Service may, in any such circumstance,*  
8 *employ attorneys by contract or otherwise to conduct litiga-*  
9 *tion brought by or against the Postal Service or its officers*  
10 *or employees in matters affecting the Postal Service.*

11       “(3)(A) *In any action, suit, or proceeding in a court*  
12 *of the United States arising in whole or in part under any*  
13 *of the provisions of law referred to in subparagraph (B)*  
14 *or (C) of paragraph (1), and to which the Commission is*  
15 *not otherwise a party, the Commission shall be permitted*  
16 *to appear as a party on its own motion and as of right.*

17       “(B) *The Department of Justice shall, under such*  
18 *terms and conditions as the Commission and the Attorney*  
19 *General shall consider appropriate, furnish the Commission*  
20 *such legal representation as it may require in connection*  
21 *with any such action, suit, or proceeding, except that, with*  
22 *the prior consent of the Attorney General, the Commission*  
23 *may employ attorneys by contract or otherwise for that pur-*  
24 *pose.*

1       “(i) A judgment against the Government of the United  
2 States arising out of activities of the Postal Service shall  
3 be paid by the Postal Service out of any funds available  
4 to the Postal Service, subject to the restriction specified in  
5 section 2011(g).”.

6       (b) *TECHNICAL AMENDMENT.*—Section 409(a) of title  
7 39, United States Code, is amended by striking “Except as  
8 provided in section 3628 of this title,” and inserting “Ex-  
9 cept as otherwise provided in this title,”.

10 **SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.**

11       (a) *IN GENERAL.*—Section 407 of title 39, United  
12 States Code, is amended to read as follows:

13 **“§ 407. International postal arrangements**

14       “(a) It is the policy of the United States—

15               “(1) to promote and encourage communications  
16 between peoples by efficient operation of international  
17 postal services and other international delivery serv-  
18 ices for cultural, social, and economic purposes;

19               “(2) to promote and encourage unrestricted and  
20 undistorted competition in the provision of inter-  
21 national postal services and other international deliv-  
22 ery services, except where provision of such services by  
23 private companies may be prohibited by law of the  
24 United States;

1           “(3) to promote and encourage a clear distinc-  
2           tion between governmental and operational respon-  
3           sibilities with respect to the provision of international  
4           postal services; and

5           “(4) to participate in multilateral and bilateral  
6           agreements with other countries to accomplish these  
7           objectives.

8           “(b)(1) The Secretary of State shall be responsible for  
9           formulation, coordination, and oversight of foreign policy  
10          related to international postal services and shall have the  
11          power to conclude postal treaties and conventions, except  
12          that the Secretary may not conclude any postal treaty or  
13          convention if such treaty or convention would, with respect  
14          to any competitive product, grant an undue or unreason-  
15          able preference to the Postal Service, a private provider of  
16          international postal services, or any other person.

17          “(2) In carrying out the responsibilities specified in  
18          paragraph (1), the Secretary of State shall exercise primary  
19          authority for the conduct of foreign policy with respect to  
20          international postal services, including the determination  
21          of United States positions and the conduct of United States  
22          participation in negotiations with foreign governments and  
23          international bodies. In exercising this authority, the  
24          Secretary—

1           “(A) shall coordinate with other agencies as ap-  
2           propriate, and in particular, should consider the au-  
3           thority vested by law or Executive order in the Postal  
4           Regulatory Commission, the Department of Com-  
5           merce, the Department of Transportation, and the Of-  
6           fice of the United States Trade Representative in this  
7           area;

8           “(B) shall maintain continuing liaison with  
9           other executive branch agencies concerned with postal  
10          and delivery services;

11          “(C) shall maintain continuing liaison with the  
12          Committee on Homeland Security and Governmental  
13          Affairs of the Senate and the Committee on Govern-  
14          ment Reform of the House of Representatives;

15          “(D) shall maintain appropriate liaison with  
16          both representatives of the Postal Service and rep-  
17          resentatives of users and private providers of inter-  
18          national postal services and other international deliv-  
19          ery services to keep informed of their interests and  
20          problems, and to provide such assistance as may be  
21          needed to ensure that matters of concern are promptly  
22          considered by the Department of State or (if applica-  
23          ble, and to the extent practicable) other executive  
24          branch agencies; and

1           “(E) shall assist in arranging meetings of such  
2           public sector advisory groups as may be established to  
3           advise the Department of State and other executive  
4           branch agencies in connection with international  
5           postal services and international delivery services.

6           “(3) The Secretary of State shall establish an advisory  
7           committee (within the meaning of the Federal Advisory  
8           Committee Act) to perform such functions as the Secretary  
9           considers appropriate in connection with carrying out sub-  
10          paragraphs (A) through (D) of paragraph (2).

11          “(c) Before concluding any postal treaty or convention  
12          that establishes a rate or classification for a product subject  
13          to subchapter I of chapter 36, the Secretary of State shall  
14          request the Postal Regulatory Commission to submit its  
15          views on whether such rate or classification is consistent  
16          with the standards and criteria established by the Commis-  
17          sion under section 3622.

18          “(d) Nothing in this section shall be considered to pre-  
19          vent the Postal Service from entering into such commercial  
20          or operational contracts related to providing international  
21          postal services as it deems appropriate, except that—

22                  “(1) any such contract made with an agency of  
23                  a foreign government (whether under authority of this  
24                  subsection or otherwise) shall be solely contractual in

1       *nature and may not purport to be binding under*  
2       *international law; and*

3               “(2) a copy of each such contract between the  
4       *Postal Service and an agency of a foreign government*  
5       *shall be transmitted to the Secretary of State and the*  
6       *Postal Regulatory Commission not later than the ef-*  
7       *fective date of such contract.*

8               “(e)(1) *With respect to shipments of international mail*  
9       *that are competitive products within the meaning of section*  
10       *3631 that are exported or imported by the Postal Service,*  
11       *the Customs Service and other appropriate Federal agencies*  
12       *shall apply the customs laws of the United States and all*  
13       *other laws relating to the importation or exportation of such*  
14       *shipments in the same manner to both shipments by the*  
15       *Postal Service and similar shipments by private companies.*

16               “(2) *In exercising the authority under subsection (b)*  
17       *to conclude new postal treaties and conventions related to*  
18       *international postal services and to renegotiate such treaties*  
19       *and conventions, the Secretary of State shall, to the max-*  
20       *imum extent practicable, take such measures as are within*  
21       *the Secretary’s control to encourage the governments of*  
22       *other countries to make available to the Postal Service and*  
23       *private companies a range of nondiscriminatory customs*  
24       *procedures that will fully meet the needs of all types of*  
25       *American shippers. The Secretary of State shall consult*

1 *with the United States Trade Representative and the Com-*  
 2 *missioner of Customs in carrying out this paragraph.*

3 “(3) *The provisions of this subsection shall take effect*  
 4 *6 months after the date of enactment of this subsection or*  
 5 *such earlier date as the Customs Service may determine in*  
 6 *writing.*”.

7 (b) *EFFECTIVE DATE.*—*Notwithstanding any provi-*  
 8 *sion of the amendment made by subsection (a), the author-*  
 9 *ity of the United States Postal Service to establish the rates*  
 10 *of postage or other charges on mail matter conveyed between*  
 11 *the United States and other countries shall remain avail-*  
 12 *able to the Postal Service until—*

13 (1) *with respect to market-dominant products,*  
 14 *the date as of which the regulations promulgated*  
 15 *under section 3622 of title 39, United States Code (as*  
 16 *amended by section 201(a)) take effect; and*

17 (2) *with respect to competitive products, the date*  
 18 *as of which the regulations promulgated under section*  
 19 *3633 of title 39, United States Code (as amended by*  
 20 *section 202) take effect.*

## 21 **TITLE V—GENERAL PROVISIONS**

### 22 **SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR** 23 **GOVERNORS.**

24 (a) *QUALIFICATIONS.*—

1           (1) *IN GENERAL.*—Section 202(a) of title 39,  
2           *United States Code, is amended by striking “(a)” and*  
3           *inserting “(a)(1)” and by striking the fourth sentence*  
4           *and inserting the following: “The Governors shall rep-*  
5           *resent the public interest generally, and shall be cho-*  
6           *sen solely on the basis of their experience in the fields*  
7           *of public service, law or accounting or on their dem-*  
8           *onstrated ability in managing organizations or cor-*  
9           *porations (in either the public or private sector) of*  
10           *substantial size. The Governors shall not be represent-*  
11           *atives of specific interests using the Postal Service,*  
12           *and may be removed only for cause.”.*

13           (2) *APPLICABILITY.*—The amendment made by  
14           *paragraph (1) shall not affect the appointment or ten-*  
15           *ure of any person serving as a Governor of the United*  
16           *States Postal Service under an appointment made be-*  
17           *fore the date of enactment of this Act however, when*  
18           *any such office becomes vacant, the appointment of*  
19           *any person to fill that office shall be made in accord-*  
20           *ance with such amendment. The requirement set forth*  
21           *in the fourth sentence of section 202(a)(1) of title 39,*  
22           *United States Code (as amended by subsection (a))*  
23           *shall be met beginning not later than 9 years after the*  
24           *date of enactment of this Act.*

1           **(b) CONSULTATION REQUIREMENT.**—Section 202(a) of  
 2 *title 39, United States Code, is amended by adding at the*  
 3 *end the following:*

4           “(2) *In selecting the individuals described in para-*  
 5 *graph (1) for nomination for appointment to the position*  
 6 *of Governor, the President should consult with the Speaker*  
 7 *of the House of Representatives, the minority leader of the*  
 8 *House of Representatives, the majority leader of the Senate,*  
 9 *and the minority leader of the Senate.”.*

10           **(c) 7-YEAR TERMS.**—

11           **(1) IN GENERAL.**—Section 202(b) of title 39,  
 12 *United States code, is amended in the first sentence*  
 13 *by striking “9 years” and inserting “7 years”.*

14           **(2) APPLICABILITY.**—

15           **(A) CONTINUATION BY INCUMBENTS.**—*The*  
 16 *amendment made by paragraph (1) shall not af-*  
 17 *fect the tenure of any person serving as a Gov-*  
 18 *ernor of the United States Postal Service on the*  
 19 *date of enactment of this Act and such person*  
 20 *may continue to serve the remainder of the ap-*  
 21 *plicable term.*

22           **(B) VACANCY BY INCUMBENT BEFORE 5**  
 23 **YEARS OF SERVICE.**—*If a person who is serving*  
 24 *as a Governor of the United States Postal Serv-*  
 25 *ice on the date of enactment of this Act resigns,*

1           *is removed, or dies before the expiration of the 9-*  
2           *year term of that Governor, and that Governor*  
3           *has served less than 5 years of that term, the re-*  
4           *sulting vacancy in office shall be treated as a va-*  
5           *cancy in a 5-year term.*

6           (C) *VACANCY BY INCUMBENT AFTER 5*  
7           *YEARS OF SERVICE.—If a person who is serving*  
8           *as a Governor of the United States Postal Serv-*  
9           *ice on the date of enactment of this Act resigns,*  
10           *is removed, or dies before the expiration of the 9-*  
11           *year term of that Governor, and that Governor*  
12           *has served 5 years or more of that term, that*  
13           *term shall be deemed to have been a 5-year term*  
14           *beginning on its commencement date for pur-*  
15           *poses of determining vacancies in office. Any ap-*  
16           *pointment to the vacant office shall be for a 5-*  
17           *year term beginning at the end of the original 9-*  
18           *year term determined without regard to the*  
19           *deeming under the preceding sentence. Nothing*  
20           *in this subparagraph shall be construed to affect*  
21           *any action or authority of any Governor or the*  
22           *Board of Governors during any portion of a 9-*  
23           *year term deemed to be 5-year term under this*  
24           *subparagraph.*

25           (d) *TERM LIMITATION.—*

1           (1) *IN GENERAL.*—Section 202(b) of title 39,  
2           *United States Code, is amended—*

3                     (A) *by inserting “(1)” after “(b)”;* and

4                     (B) *by adding at the end the following:*

5                     “(2) *No person may serve more than 2 terms as*  
6                     *a Governor.”.*

7           (2) *APPLICABILITY.*—*The amendments made by*  
8           *paragraph (1) shall not affect the tenure of any per-*  
9           *son serving as a Governor of the United States Postal*  
10           *Service on the date of enactment of this Act with re-*  
11           *spect to the term which that person is serving on that*  
12           *date. Such person may continue to serve the remain-*  
13           *der of the applicable term, after which the amend-*  
14           *ments made by paragraph (1) shall apply.*

15 **SEC. 502. OBLIGATIONS.**

16           (a) *PURPOSES FOR WHICH OBLIGATIONS MAY BE*  
17           *ISSUED.*—*The first sentence of section 2005(a)(1) of title*  
18           *39, United States Code, is amended by striking “title.” and*  
19           *inserting “title, other than any of the purposes for which*  
20           *the corresponding authority is available to the Postal Serv-*  
21           *ice under section 2011.”.*

22           (b) *INCREASE RELATING TO OBLIGATIONS ISSUED FOR*  
23           *CAPITAL IMPROVEMENTS.*—*Section 2005(a)(1) of title 39,*  
24           *United States Code, is amended by striking the third sen-*  
25           *tence.*

1       (c) *AMOUNTS WHICH MAY BE PLEDGED.*—

2           (1) *OBLIGATIONS TO WHICH PROVISIONS*  
3 *APPLY.*—*The first sentence of section 2005(b) of title*  
4 *39, United States Code, is amended by striking “such*  
5 *obligations,” and inserting “obligations issued by the*  
6 *Postal Service under this section,”.*

7           (2) *ASSETS, REVENUES, AND RECEIPTS TO*  
8 *WHICH PROVISIONS APPLY.*—*Subsection (b) of section*  
9 *2005 of title 39, United States Code, is amended by*  
10 *striking “(b)” and inserting “(b)(1)”, and by adding*  
11 *at the end the following:*

12       “(2) *Notwithstanding any other provision of this*  
13 *section—*

14           “(A) *the authority to pledge assets of the Postal*  
15 *Service under this subsection shall be available only*  
16 *to the extent that such assets are not related to the*  
17 *provision of competitive products (as determined*  
18 *under section 2011(h) or, for purposes of any period*  
19 *before accounting practices and principles under sec-*  
20 *tion 2011(h) have been established and applied, the*  
21 *best information available from the Postal Service,*  
22 *including the audited statements required by section*  
23 *2008(e)); and*

24           “(B) *any authority under this subsection relat-*  
25 *ing to the pledging or other use of revenues or receipts*

1       of the Postal Service shall be available only to the ex-  
2       tent that they are not revenues or receipts of the Com-  
3       petitive Products Fund.”.

4   **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

5       (a) *IN GENERAL.*—Section 601 of title 39, United  
6       States Code, is amended by striking subsection (b) and in-  
7       serting the following:

8       “(b) A letter may also be carried out of the mails  
9       when—

10           “(1) the amount paid for the private carriage of  
11           the letter is at least the amount equal to 6 times the  
12           rate then currently charged for the 1st ounce of a sin-  
13           gle-piece first class letter;

14           “(2) the letter weighs at least 12½ ounces; or

15           “(3) such carriage is within the scope of services  
16           described by regulations of the United States Postal  
17           Service (as in effect on July 1, 2001) that permit pri-  
18           vate carriage by suspension of the operation of this  
19           section (as then in effect).

20       “(c) Any regulations necessary to carry out this section  
21       shall be promulgated by the Postal Regulatory Commis-  
22       sion.”.

23       (b) *EFFECTIVE DATE.*—This section shall take effect  
24       on the date as of which the regulations promulgated under

1 *section 3633 of title 39, United States Code (as amended*  
2 *by section 202) take effect.*

3 **SEC. 504. RULEMAKING AUTHORITY.**

4 *Paragraph (2) of section 401 of title 39, United States*  
5 *Code, is amended to read as follows:*

6 *“(2) to adopt, amend, and repeal such rules and*  
7 *regulations, not inconsistent with this title, as may be*  
8 *necessary in the execution of its functions under this*  
9 *title and such other functions as may be assigned to*  
10 *the Postal Service under any provisions of law out-*  
11 *side of this title;”.*

12 **SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-**  
13 **GAINING AGREEMENTS.**

14 *(a) LABOR DISPUTES.—Section 1207 of title 39,*  
15 *United States Code, is amended to read as follows:*

16 **“§ 1207. Labor disputes**

17 *“(a) If there is a collective-bargaining agreement in*  
18 *effect, no party to such agreement shall terminate or modify*  
19 *such agreement unless the party desiring such termination*  
20 *or modification serves written notice upon the other party*  
21 *to the agreement of the proposed termination or modifica-*  
22 *tion not less than 90 days prior to the expiration date there-*  
23 *of, or not less than 90 days prior to the time it is proposed*  
24 *to make such termination or modification. The party serv-*  
25 *ing such notice shall notify the Federal Mediation and Con-*

1 *ciliation Service of the existence of a dispute within 45 days*  
2 *after such notice, if no agreement has been reached by that*  
3 *time.*

4       “(b) *If the parties fail to reach agreement or to adopt*  
5 *a procedure providing for a binding resolution of a dispute*  
6 *by the expiration date of the agreement in effect, or the date*  
7 *of the proposed termination or modification, the Director*  
8 *of the Federal Mediation and Conciliation Service shall*  
9 *within 10 days appoint a mediator of nationwide reputa-*  
10 *tion and professional stature, and who is also a member*  
11 *of the National Academy of Arbitrators. The parties shall*  
12 *cooperate with the mediator in an effort to reach an agree-*  
13 *ment and shall meet and negotiate in good faith at such*  
14 *times and places that the mediator, in consultation with*  
15 *the parties, shall direct.*

16       “(c)(1) *If no agreement is reached within 60 days after*  
17 *the expiration or termination of the agreement or the date*  
18 *on which the agreement became subject to modification*  
19 *under subsection (a) of this section, or if the parties decide*  
20 *upon arbitration but do not agree upon the procedures*  
21 *therefore, an arbitration board shall be established con-*  
22 *sisting of 3 members, 1 of whom shall be selected by the*  
23 *Postal Service, 1 by the bargaining representative of the*  
24 *employees, and the third by the 2 thus selected. If either*  
25 *of the parties fails to select a member, or if the members*

1 *chosen by the parties fail to agree on the third person with-*  
2 *in 5 days after their first meeting, the selection shall be*  
3 *made from a list of names provided by the Director. This*  
4 *list shall consist of not less than 9 names of arbitrators of*  
5 *nationwide reputation and professional nature, who are*  
6 *also members of the National Academy of Arbitrators, and*  
7 *whom the Director has determined are available and will-*  
8 *ing to serve.*

9       “(2) *The arbitration board shall give the parties a full*  
10 *and fair hearing, including an opportunity to present evi-*  
11 *dence in support of their claims, and an opportunity to*  
12 *present their case in person, by counsel or by other rep-*  
13 *resentative as they may elect. Decisions of the arbitration*  
14 *board shall be conclusive and binding upon the parties. The*  
15 *arbitration board shall render its decision within 45 days*  
16 *after its appointment.*

17       “(3) *Costs of the arbitration board and mediation shall*  
18 *be shared equally by the Postal Service and the bargaining*  
19 *representative.*

20       “(d) *In the case of a bargaining unit whose recognized*  
21 *collective-bargaining representative does not have an agree-*  
22 *ment with the Postal Service, if the parties fail to reach*  
23 *the agreement within 90 days after the commencement of*  
24 *collective bargaining, a mediator shall be appointed in ac-*  
25 *cordance with the terms in subsection (b) of this section,*

1 *unless the parties have previously agreed to another proce-*  
2 *cedure for a binding resolution of their differences. If the par-*  
3 *ties fail to reach agreement within 180 days after the com-*  
4 *mencement of collective bargaining, and if they have not*  
5 *agreed to another procedure for binding resolution, an arbi-*  
6 *tration board shall be established to provide conclusive and*  
7 *binding arbitration in accordance with the terms of sub-*  
8 *section (c) of this section.”.*

9       (b) *NONINTERFERENCE WITH COLLECTIVE BAR-*  
10 *GAINING AGREEMENTS.—Except as otherwise provided by*  
11 *the amendment made by subsection (a), nothing in this Act*  
12 *shall restrict, expand, or otherwise affect any of the rights,*  
13 *privileges, or benefits of either employees of or labor organi-*  
14 *zations representing employees of the United States Postal*  
15 *Service under chapter 12 of title 39, United States Code,*  
16 *the National Labor Relations Act, any handbook or manual*  
17 *affecting employee labor relations within the United States*  
18 *Postal Service, or any collective bargaining agreement.*

19       (c) *FREE MAILING PRIVILEGES CONTINUE UN-*  
20 *CHANGED.—Nothing in this Act or any amendment made*  
21 *by this Act shall affect any free mailing privileges accorded*  
22 *under section 3217 or sections 3403 through 3406 of title*  
23 *39, United States Code.*

1 **SEC. 506. BONUS AUTHORITY.**

2 Chapter 36 of title 39, United States Code, is amended  
3 by inserting after section 3685 the following:

4 **“§ 3686. Bonus authority**

5 “(a) *IN GENERAL.*—*The Postal Service may establish*  
6 *1 or more programs to provide bonuses or other rewards*  
7 *to officers and employees of the Postal Service in senior ex-*  
8 *ecutive or equivalent positions to achieve the objectives of*  
9 *this chapter.*

10 “(b) *LIMITATION ON TOTAL COMPENSATION.*—

11 “(1) *IN GENERAL.*—*Under any such program,*  
12 *the Postal Service may award a bonus or other re-*  
13 *ward in excess of the limitation set forth in the last*  
14 *sentence of section 1003(a), if such program has been*  
15 *approved under paragraph (2). Any such award or*  
16 *bonus may not cause the total compensation of such*  
17 *officer or employee to exceed the total annual com-*  
18 *penetration payable to the Vice President under section*  
19 *104 of title 3 as of the end of the calendar year in*  
20 *which the bonus or award is paid.*

21 “(2) *APPROVAL PROCESS.*—*If the Postal Service*  
22 *wishes to have the authority, under any program de-*  
23 *scribed in subsection (a), to award bonuses or other*  
24 *rewards in excess of the limitation set forth in the last*  
25 *sentence of section 1003(a)—*

1           “(A) *the Postal Service shall make an ap-*  
2           *propriate request to the Board of Governors of*  
3           *the Postal Service in such form and manner as*  
4           *the Board requires; and*

5           “(B) *the Board of Governors shall approve*  
6           *any such request if the Board certifies, for the*  
7           *annual appraisal period involved, that the per-*  
8           *formance appraisal system for affected officers*  
9           *and employees of the Postal Service (as designed*  
10          *and applied) makes meaningful distinctions*  
11          *based on relative performance.*

12          “(3) *REVOCATION AUTHORITY.—If the Board of*  
13          *Governors of the Postal Service finds that a perform-*  
14          *ance appraisal system previously approved under*  
15          *paragraph (2)(B) does not (as designed and applied)*  
16          *make meaningful distinctions based on relative per-*  
17          *formance, the Board may revoke or suspend the au-*  
18          *thority of the Postal Service to continue a program*  
19          *approved under paragraph (2) until such time as ap-*  
20          *propriate corrective measures have, in the judgment of*  
21          *the Board, been taken.*

22          “(c) *REPORTING REQUIREMENT RELATING TO BO-*  
23          *NUSES OR OTHER REWARDS.—Included in its comprehen-*  
24          *sive statement under section 2401(e) for any period shall*  
25          *be—*

1           “(1) the name of each person receiving a bonus  
2           or other reward during such period which would not  
3           have been allowable but for the provisions of sub-  
4           section (b);

5           “(2) the amount of the bonus or other reward;  
6           and

7           “(3) the amount by which the limitation referred  
8           to in subsection (b)(1) was exceeded as a result of  
9           such bonus or other reward.”.

10                           **TITLE VI—ENHANCED**  
11                           **REGULATORY COMMISSION**

12   **SEC. 601. REORGANIZATION AND MODIFICATION OF CER-**  
13                           **TAIN PROVISIONS RELATING TO THE POSTAL**  
14                           **REGULATORY COMMISSION.**

15           (a) *TRANSFER AND REDESIGNATION.*—Title 39,  
16 *United States Code, is amended—*

17                           (1) *by inserting after chapter 4 the following:*

18                           **“CHAPTER 5—POSTAL REGULATORY**  
19                           **COMMISSION**

“Sec.

“501. *Establishment.*

“502. *Commissioners.*

“503. *Rules; regulations; procedures.*

“504. *Administration.*

“505. *Officer of the Postal Regulatory Commission representing the general public.*

1 **“§ 501. Establishment**

2       *“The Postal Regulatory Commission is an independent*  
3 *establishment of the executive branch of the Government of*  
4 *the United States.*

5 **“§ 502. Commissioners**

6       *“(a) The Postal Regulatory Commission is composed*  
7 *of 5 Commissioners, appointed by the President, by and*  
8 *with the advice and consent of the Senate. The Commis-*  
9 *sioners shall be chosen solely on the basis of their technical*  
10 *qualifications, professional standing, and demonstrated ex-*  
11 *pertise in economics, accounting, law, or public adminis-*  
12 *tration, and may be removed by the President only for*  
13 *cause. Each individual appointed to the Commission shall*  
14 *have the qualifications and expertise necessary to carry out*  
15 *the enhanced responsibilities accorded Commissioners under*  
16 *the Postal Accountability and Enhancement Act. Not more*  
17 *than 3 of the Commissioners may be adherents of the same*  
18 *political party.*

19       *“(b) No Commissioner shall be financially interested*  
20 *in any enterprise in the private sector of the economy en-*  
21 *gaged in the delivery of mail matter.*

22       *“(c) A Commissioner may continue to serve after the*  
23 *expiration of his term until his successor has qualified, ex-*  
24 *cept that a Commissioner may not so continue to serve for*  
25 *more than 1 year after the date upon which his term other-*  
26 *wise would expire under subsection (f).*

1       “(d) One of the Commissioners shall be designated as  
2 Chairman by, and shall serve in the position of Chairman  
3 at the pleasure of, the President.

4       “(e) The Commissioners shall by majority vote des-  
5 ignate a Vice Chairman of the Commission. The Vice Chair-  
6 man shall act as Chairman of the Commission in the ab-  
7 sence of the Chairman.

8       “(f) The Commissioners shall serve for terms of 6  
9 years.”;

10           (2) by striking, in subchapter I of chapter 36 (as  
11 in effect before the amendment made by section  
12 201(c)), the heading for such subchapter I and all  
13 that follows through section 3602;

14           (3) by redesignating sections 3603 and 3604 as  
15 sections 503 and 504, respectively, and transferring  
16 such sections to the end of chapter 5 (as inserted by  
17 paragraph (1)); and

18           (4) by adding after such section 504 the fol-  
19 lowing:

20 **“§ 505. Officer of the Postal Regulatory Commission**  
21 **representing the general public**

22       “The Postal Regulatory Commission shall designate an  
23 officer of the Postal Regulatory Commission in all public  
24 proceedings who shall represent the interests of the general  
25 public.”.

1       (b) *APPLICABILITY.*—*The amendment made by sub-*  
 2 *section (a)(1) shall not affect the appointment or tenure of*  
 3 *any person serving as a Commissioner on the Postal Regu-*  
 4 *latory Commission (as so redesignated by section 604)*  
 5 *under an appointment made before the date of enactment*  
 6 *of this Act or any nomination made before that date, but,*  
 7 *when any such office becomes vacant, the appointment of*  
 8 *any person to fill that office shall be made in accordance*  
 9 *with such amendment.*

10       (c) *CLERICAL AMENDMENT.*—*The analysis for part I*  
 11 *of title 39, United States Code, is amended by inserting*  
 12 *after the item relating to chapter 4 the following:*

**“5. Postal Regulatory Commission ..... 501”**

13 **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-**  
 14 **SION TO ISSUE SUBPOENAS.**

15       *Section 504 of title 39, United States Code (as so redес-*  
 16 *ignated by section 601) is amended by adding at the end*  
 17 *the following:*

18       “(f)(1) *Any Commissioner of the Postal Regulatory*  
 19 *Commission, any administrative law judge appointed by*  
 20 *the Commission under section 3105 of title 5, and any em-*  
 21 *ployee of the Commission designated by the Commission*  
 22 *may administer oaths, examine witnesses, take depositions,*  
 23 *and receive evidence.*

24       “(2) *The Chairman of the Commission, any Commis-*  
 25 *sioner designated by the Chairman, and any administrative*

1 *law judge appointed by the Commission under section 3105*  
2 *of title 5 may, with respect to any proceeding conducted*  
3 *by the Commission under this title or to obtain information*  
4 *to be used to prepare a report under this title—*

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

9           “(B) *order the taking of depositions and re-*  
10          *sponses to written interrogatories by a covered person.*

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

15          “(3) *In the case of contumacy or failure to obey a sub-*  
16 *poena issued under this subsection, upon application by the*  
17 *Commission, the district court of the United States for the*  
18 *district in which the person to whom the subpoena is ad-*  
19 *dressed resides or is served may issue an order requiring*  
20 *such person to appear at any designated place to testify*  
21 *or produce documentary or other evidence. Any failure to*  
22 *obey the order of the court may be punished by the court*  
23 *as a contempt thereof.*

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

4       “(g)(1) If the Postal Service determines that any docu-  
5 ment or other matter it provides to the Postal Regulatory  
6 Commission under a subpoena issued under subsection (f),  
7 or otherwise at the request of the Commission in connection  
8 with any proceeding or other purpose under this title, con-  
9 tains information which is described in section 410(c) of  
10 this title, or exempt from public disclosure under section  
11 552(b) of title 5, the Postal Service shall, at the time of  
12 providing such matter to the Commission, notify the Com-  
13 mission, in writing, of its determination (and the reasons  
14 therefor).

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

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

21               “(B) permit anyone who is not an officer or em-  
22 ployee of the Commission to have access to any such  
23 information.

24       “(3)(A) Paragraph (2) shall not prohibit the  
25 Commission from publicly disclosing relevant infor-

1        *mation in furtherance of its duties under this title,*  
2        *provided that the Commission has adopted regula-*  
3        *tions under section 553 of title 5, that establish a pro-*  
4        *cedure for according appropriate confidentiality to*  
5        *information identified by the Postal Service under*  
6        *paragraph (1). In determining the appropriate degree*  
7        *of confidentiality to be accorded information identi-*  
8        *fied by the Postal Service under paragraph (1), the*  
9        *Commission shall balance the nature and extent of the*  
10       *likely commercial injury to the Postal Service against*  
11       *the public interest in maintaining the financial*  
12       *transparency of a government establishment com-*  
13       *peting in commercial markets.*

14                *“(B) Paragraph (2) shall not prevent the Com-*  
15        *mission from requiring production of information in*  
16        *the course of any discovery procedure established in*  
17        *connection with a proceeding under this title. The*  
18        *Commission shall, by regulations based on rule 26(c)*  
19        *of the Federal Rules of Civil Procedure, establish pro-*  
20        *cedures for ensuring appropriate confidentiality for*  
21        *information furnished to any party.”.*

1 **SEC. 603. AUTHORIZATION OF APPROPRIATIONS FROM THE**  
2 **POSTAL SERVICE FUND.**

3 (a) *POSTAL REGULATORY COMMISSION.*—Subsection  
4 (d) of section 504 of title 39, United States Code (as so  
5 redesignated by section 601) is amended to read as follows:

6 “(d) There are authorized to be appropriated, out of  
7 the Postal Service Fund, such sums as may be necessary  
8 for the Postal Regulatory Commission. In requesting an ap-  
9 propriation under this subsection for a fiscal year, the Com-  
10 mission shall prepare and submit to the Congress under sec-  
11 tion 2009 a budget of the Commission’s expenses, including  
12 expenses for facilities, supplies, compensation, and em-  
13 ployee benefits.”.

14 (b) *OFFICE OF INSPECTOR GENERAL OF THE UNITED*  
15 *STATES POSTAL SERVICE.*—Section 8G(f) of the Inspector  
16 General Act of 1978 (5 U.S.C. App.) is amended—

17 (1) by redesignating paragraph (4) as para-  
18 graph (5);

19 (2) by redesignating the second paragraph (3)  
20 (relating to employees and labor organizations) as  
21 paragraph (4); and

22 (3) by adding at the end the following:

23 “(6) There are authorized to be appropriated,  
24 out of the Postal Service Fund, such sums as may be  
25 necessary for the Office of Inspector General of the  
26 United States Postal Service.”.

1       (c) *BUDGET PROGRAM.*—

2           (1) *IN GENERAL.*—*The next to last sentence of*  
3 *section 2009 of title 39, United States Code, is*  
4 *amended to read as follows: “The budget program*  
5 *shall also include separate statements of the amounts*  
6 *which (1) the Postal Service requests to be appro-*  
7 *priated under subsections (b) and (c) of section 2401,*  
8 *(2) the Office of Inspector General of the United*  
9 *States Postal Service requests to be appropriated, out*  
10 *of the Postal Service Fund, under section 8G(f) of the*  
11 *Inspector General Act of 1978, and (3) the Postal*  
12 *Regulatory Commission requests to be appropriated,*  
13 *out of the Postal Service Fund, under section 504(d)*  
14 *of this title.”.*

15           (2)       *CONFORMING        AMENDMENT.*—*Section*  
16 *2003(e)(1) of title 39, United States Code, is amended*  
17 *by striking the first sentence and inserting the fol-*  
18 *lowing: “The Fund shall be available for the payment*  
19 *of (A) all expenses incurred by the Postal Service in*  
20 *carrying out its functions as provided by law, subject*  
21 *to the same limitation as set forth in the parenthet-*  
22 *ical matter under subsection (a); (B) all expenses of*  
23 *the Postal Regulatory Commission, subject to the*  
24 *availability of amounts appropriated under section*  
25 *504(d); and (C) all expenses of the Office of Inspector*



1 to Chairman, Postal Rate Commission), 5315 (in the item  
2 relating to Members, Postal Rate Commission),  
3 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),  
4 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking  
5 “Postal Rate Commission” and inserting “Postal Regu-  
6 latory Commission”.

7 (c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT  
8 OF 1978.—Section 101(f)(6) of the Ethics in Government  
9 Act of 1978 (5 U.S.C. App.) is amended by striking “Postal  
10 Rate Commission” and inserting “Postal Regulatory Com-  
11 mission”.

12 (d) AMENDMENT TO THE REHABILITATION ACT OF  
13 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29  
14 U.S.C. 791(b)) is amended by striking “Postal Rate Office”  
15 and inserting “Postal Regulatory Commission”.

16 (e) AMENDMENT TO TITLE 44, UNITED STATES  
17 CODE.—Section 3502(5) of title 44, United States Code, is  
18 amended by striking “Postal Rate Commission” and insert-  
19 ing “Postal Regulatory Commission”.

20 (f) OTHER REFERENCES.—Whenever a reference is  
21 made in any provision of law (other than this Act or a  
22 provision of law amended by this Act), regulation, rule, doc-  
23 ument, or other record of the United States to the Postal  
24 Rate Commission, such reference shall be considered a ref-  
25 erence to the Postal Regulatory Commission.

1 **SEC. 605. FINANCIAL TRANSPARENCY.**

2 (a) *IN GENERAL.*—Section 101 of title 39, United  
3 States Code, is amended—

4 (1) by redesignating subsections (d) through (g)  
5 as subsections (e) through (h), respectively; and

6 (2) by inserting after subsection (c) the fol-  
7 lowing:

8 “(d) *As an independent establishment of the executive*  
9 *branch of the Government of the United States, the Postal*  
10 *Service shall be subject to a high degree of transparency*  
11 *to ensure fair treatment of customers of the Postal Service’s*  
12 *market-dominant products and companies competing with*  
13 *the Postal Service’s competitive products.”.*

14 (b) *FINANCIAL REPORTING REQUIREMENTS AND EN-*  
15 *FORCEMENT POWERS APPLICABLE TO POSTAL SERVICE.*—  
16 Section 503 of title 39, United States Code (as so redesign-  
17 ated by section 601 and 604) is amended by—

18 (1) inserting “(a)” before “The Postal Regu-  
19 latory Commission shall promulgate”; and

20 (2) adding at the end the following:

21 “(b)(1) *Beginning with the first full fiscal year fol-*  
22 *lowing the date of enactment of the Postal Accountability*  
23 *and Enhancement Act, the Postal Service shall file with the*  
24 *Postal Regulatory Commission —*

25 “(A) *within 35 days after the end of each fiscal*  
26 *quarter, a quarterly report containing the informa-*

1        *tion prescribed in Form 10–Q of the Securities and*  
2        *Exchange Commission under section 13 of the Securi-*  
3        *ties Exchange Act of 1934 (15 U.S.C. 78m), or any*  
4        *revised or successor form;*

5            *“(B) within 60 days after the end of each fiscal*  
6        *year, an annual report containing the information*  
7        *prescribed in Form 10–K of the Securities and Ex-*  
8        *change Commission under section 13 of the Securities*  
9        *Exchange Act of 1934 (15 U.S.C. 78m), or any re-*  
10       *vised or successor form; and*

11           *“(C) periodic reports within the time frame and*  
12       *containing the information prescribed in Form 8–K*  
13       *of the Securities and Exchange Commission under*  
14       *section 13 of the Securities Exchange Act of 1934 (15*  
15       *U.S.C. 78m), or any revised or successor form.*

16           *“(2) For purposes of preparing the reports required*  
17       *under paragraph (1), the Postal Service shall be deemed to*  
18       *be the registrant described in the Securities and Exchange*  
19       *Commission forms, and references contained in such forms*  
20       *to Securities and Exchange Commission regulations are ap-*  
21       *plicable.*

22           *“(3) For purposes of preparing the reports required*  
23       *under paragraph (1), the Postal Service shall comply with*  
24       *the rules prescribed by the Securities and Exchange Com-*  
25       *mission implementing section 404 of the Sarbanes-Oxley*

1 *Act of 2002 (15 U.S.C. 7262; Public Law 107–204) begin-*  
2 *ning with fiscal year 2007 and in each fiscal year there-*  
3 *after.*

4       “(c)(1) *The reports required under subsection (b)(1)(B)*  
5 *shall include, with respect to the financial obligations of*  
6 *the Postal Service under chapters 83, 84, and 89 of title*  
7 *5 for retirees of the Postal Service—*

8               “(A) *the funded status of such obligations of the*  
9 *Postal Service;*

10              “(B) *components of the net change in the fund*  
11 *balances and obligations and the nature and cause of*  
12 *any significant changes;*

13              “(C) *components of net periodic costs;*

14              “(D) *cost methods and assumptions underlying*  
15 *the relevant actuarial valuations;*

16              “(E) *the effect of a one-percentage point increase*  
17 *in the assumed health care cost trend rate for each fu-*  
18 *ture year on the service and interest costs components*  
19 *of net periodic cost and the accumulated obligation of*  
20 *the Postal Service under chapter 89 of title 5 for re-*  
21 *tirees of the Postal Service;*

22              “(F) *actual contributions to and payments from*  
23 *the funds for the years presented and the estimated*  
24 *future contributions and payments for each of the fol-*  
25 *lowing 5 years;*

1           “(G) the composition of plan assets reflected in  
2           the fund balances; and

3           “(H) the assumed rate of return on fund bal-  
4           ances and the actual rates of return for the years pre-  
5           sented.

6           “(2)(A) Beginning with the fiscal year 2007 and in  
7           each fiscal year thereafter, for purposes of the reports re-  
8           quired under subsection (b)(1) (A) and (B), the Postal Serv-  
9           ice shall include segment reporting.

10          “(B) The Postal Service shall determine the appro-  
11          priate segment reporting under subparagraph (A), after  
12          consultation with the Postal Regulatory Commission.

13          “(d) For purposes of the annual reports required under  
14          subsection (b)(1)(B), the Postal Service shall obtain an  
15          opinion from an independent auditor on whether the infor-  
16          mation listed under subsection (c) is fairly stated in all  
17          material respects, either in relation to the basic financial  
18          statements as a whole or on a stand-alone basis.

19          “(e) The Postal Regulatory Commission shall have ac-  
20          cess to the audit documentation and any other supporting  
21          matter of the Postal Service and its independent auditor  
22          in connection with any information submitted under sub-  
23          section (b)(1)(B).

24          “(f) The Postal Regulatory Commission may, on its  
25          own motion or on request of an interested party, initiate

1 *proceedings (to be conducted in accordance with regulations*  
 2 *that the Commission shall prescribe) to improve the quality,*  
 3 *accuracy, or completeness of Postal Service data required*  
 4 *by the Commission under this section whenever it shall ap-*  
 5 *pear that the data—*

6           “(1) *have become significantly inaccurate;*

7           “(2) *can be significantly improved; or*

8           “(3) *are not cost beneficial.”.*

## 9           **TITLE VII—EVALUATIONS**

### 10 **SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION,** 11 **AND OTHER PROVISIONS.**

12           (a) *IN GENERAL.—The Postal Regulatory Commission*  
 13 *shall, at least every 3 years, submit a report to the President*  
 14 *and Congress concerning—*

15           (1) *the operation of the amendments made by*  
 16 *this Act; and*

17           (2) *recommendations for any legislation or other*  
 18 *measures necessary to improve the effectiveness or effi-*  
 19 *ciency of the postal laws of the United States.*

20           (b) *POSTAL SERVICE VIEWS.—A report under this sec-*  
 21 *tion shall be submitted only after reasonable opportunity*  
 22 *has been afforded to the Postal Service to review the report*  
 23 *and to submit written comments on the report. Any com-*  
 24 *ments timely received from the Postal Service under the pre-*

1 *ceding sentence shall be attached to the report submitted*  
2 *under subsection (a).*

3 **SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND**  
4 **THE POSTAL MONOPOLY.**

5 *(a) REPORT BY THE POSTAL REGULATORY COMMIS-*  
6 *SION.—*

7 *(1) IN GENERAL.—Not later than 24 months*  
8 *after the date of enactment of this Act, the Postal Reg-*  
9 *ulatory Commission shall submit a report to the*  
10 *President and Congress on universal postal service*  
11 *and the postal monopoly in the United States (in this*  
12 *section referred to as “universal service and the postal*  
13 *monopoly”), including the monopoly on the delivery*  
14 *of mail and on access to mailboxes.*

15 *(2) CONTENTS.—The report under this subsection*  
16 *shall include—*

17 *(A) a comprehensive review of the history*  
18 *and development of universal service and the*  
19 *postal monopoly, including how the scope and*  
20 *standards of universal service and the postal mo-*  
21 *nopoly have evolved over time for the Nation and*  
22 *its urban and rural areas;*

23 *(B) the scope and standards of universal*  
24 *service and the postal monopoly provided under*  
25 *current law (including sections 101 and 403 of*

1           *title 39, United States Code), and current rules,*  
2           *regulations, policy statements, and practices of*  
3           *the Postal Service;*

4           *(C) a description of any geographic areas,*  
5           *populations, communities (including both urban*  
6           *and rural communities), organizations, or other*  
7           *groups or entities not currently covered by uni-*  
8           *versal service or that are covered but that are re-*  
9           *ceiving services deficient in scope or quality or*  
10          *both; and*

11          *(D) the scope and standards of universal*  
12          *service and the postal monopoly likely to be re-*  
13          *quired in the future in order to meet the needs*  
14          *and expectations of the United States public, in-*  
15          *cluding all types of mail users, based on discus-*  
16          *sion of such assumptions, alternative sets of as-*  
17          *sumptions, and analyses as the Postal Service*  
18          *considers plausible.*

19          ***(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE***  
20          ***AND THE MONOPOLY.—The Postal Regulatory Commission***  
21          ***shall include in the report under subsection (a), and in all***  
22          ***reports submitted under section 701 of this Act—***

23                 *(1) any recommended changes to universal serv-*  
24                 *ice and the postal monopoly as the Commission con-*  
25                 *siders appropriate, including changes that the Com-*

1 *mission may implement under current law and*  
2 *changes that would require changes to current law,*  
3 *with estimated effects of the recommendations on the*  
4 *service, financial condition, rates, and security of*  
5 *mail provided by the Postal Service;*

6 (2) *with respect to each recommended change de-*  
7 *scribed under paragraph (1)—*

8 (A) *an estimate of the costs of the Postal*  
9 *Service attributable to the obligation to provide*  
10 *universal service under current law; and*

11 (B) *an analysis of the likely benefit of the*  
12 *current postal monopoly to the ability of the*  
13 *Postal Service to sustain the current scope and*  
14 *standards of universal service, including esti-*  
15 *mates of the financial benefit of the postal mo-*  
16 *nopoly to the extent practicable, under current*  
17 *law; and*

18 (3) *such additional topics and recommendations*  
19 *as the Commission considers appropriate, with esti-*  
20 *mated effects of the recommendations on the service,*  
21 *financial condition, rates, and the security of mail*  
22 *provided by the Postal Service.*

1 **SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COM-**  
2 **PETITIVE PRODUCTS.**

3 (a) *IN GENERAL.*—*The Federal Trade Commission*  
4 *shall prepare and submit to the President and Congress,*  
5 *and to the Postal Regulatory Commission, within 1 year*  
6 *after the date of enactment of this Act, a comprehensive re-*  
7 *port identifying Federal and State laws that apply dif-*  
8 *ferently to the United States Postal Service with respect to*  
9 *the competitive category of mail (within the meaning of sec-*  
10 *tion 102 of title 39, United States Code, as amended by*  
11 *section 101) and similar products provided by private com-*  
12 *panies.*

13 (b) *RECOMMENDATIONS.*—*The Federal Trade Commis-*  
14 *sion shall include such recommendations as it considers ap-*  
15 *propriate for bringing such legal discrimination to an end,*  
16 *and in the interim, to account under section 3633 of title*  
17 *39, United States Code (as added by this Act), for the net*  
18 *economic advantages provided by those laws.*

19 (c) *CONSULTATION.*—*In preparing its report, the Fed-*  
20 *eral Trade Commission shall consult with the United States*  
21 *Postal Service, the Postal Regulatory Commission, other*  
22 *Federal agencies, mailers, private companies that provide*  
23 *delivery services, and the general public, and shall append*  
24 *to such report any written comments received under this*  
25 *subsection.*

1       (d) *COMPETITIVE PRODUCT REGULATION.*—*The Postal*  
2 *Regulatory Commission shall take into account the rec-*  
3 *ommendations of the Federal Trade Commission in promul-*  
4 *gating or revising the regulations required under section*  
5 *3633 of title 39, United States Code.*

6 **SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND**  
7 **WORKPLACE-RELATED INJURIES.**

8       (a) *REPORT BY THE INSPECTOR GENERAL.*—

9           (1) *IN GENERAL.*—*Not later than 6 months after*  
10 *the enactment of this Act, the Inspector General of the*  
11 *United States Postal Service shall submit a report to*  
12 *Congress and the Postal Service that—*

13           (A) *details and assesses any progress the*  
14 *Postal Service has made in improving workplace*  
15 *safety and reducing workplace-related injuries*  
16 *nationwide; and*

17           (B) *identifies opportunities for improve-*  
18 *ment that remain with respect to such improve-*  
19 *ments and reductions.*

20       (2) *CONTENTS.*—*The report under this subsection*  
21 *shall also—*

22           (A) *discuss any injury reduction goals es-*  
23 *tablished by the Postal Service;*

24           (B) *describe the actions that the Postal*  
25 *Service has taken to improve workplace safety*

1           *and reduce workplace-related injuries, and assess*  
2           *how successful the Postal Service has been in*  
3           *meeting its injury reduction goal; and*

4                   *(C) identify areas where the Postal Service*  
5           *has failed to meet its injury reduction goals, ex-*  
6           *plain the reasons why these goals were not met,*  
7           *and identify opportunities for making further*  
8           *progress in meeting these goals.*

9           ***(b) REPORT BY THE POSTAL SERVICE.—***

10                   ***(1) REPORT TO CONGRESS.—****Not later than 6*  
11           *months after receiving the report under subsection (a),*  
12           *the Postal Service shall submit a report to Congress*  
13           *detailing how it plans to improve workplace safety*  
14           *and reduce workplace-related injuries nationwide, in-*  
15           *cluding goals and metrics.*

16                   ***(2) PROBLEM AREAS.—****The report under this*  
17           *subsection shall also include plans, developed in con-*  
18           *sultation with the Inspector General and employee*  
19           *representatives, including representatives of each post-*  
20           *al labor union and management association, for ad-*  
21           *ressing the problem areas identified by the Inspector*  
22           *General in the report under subsection (a)(2)(C).*

23           **SEC. 705. STUDY ON RECYCLED PAPER.**

24                   ***(a) IN GENERAL.—****Within 12 months after the date*  
25           *of enactment of this Act, the Government Accountability Of-*

1 *vice shall study and submit to the Congress, the Board of*  
2 *Governors of the Postal Service, and to the Postal Regu-*  
3 *latory Commission a report concerning—*

4           (1) *the economic and environmental efficacy of*  
5 *establishing rate incentives for mailers linked to the*  
6 *use of recycled paper;*

7           (2) *a description of the accomplishments of the*  
8 *Postal Service in each of the preceding 5 years involv-*  
9 *ing recycling activities, including the amount of an-*  
10 *ual revenue generated and savings achieved by the*  
11 *Postal Service as a result of its use of recycled paper*  
12 *and other recycled products and its efforts to recycle*  
13 *undeliverable and discarded mail and other mate-*  
14 *rials; and*

15           (3) *additional opportunities that may be avail-*  
16 *able for the United States Postal Service to engage in*  
17 *recycling initiatives and the projected costs and reve-*  
18 *nuues of undertaking such opportunities.*

19           (b) *RECOMMENDATIONS.—The report shall include rec-*  
20 *ommendations for any administrative or legislative actions*  
21 *that may be appropriate.*

1 **TITLE VIII—POSTAL SERVICE RE-**  
2 **TIREMENT AND HEALTH BEN-**  
3 **EFITS FUNDING**

4 **SEC. 801. SHORT TITLE.**

5 *This title may be cited as the “Postal Civil Service*  
6 *Retirement and Health Benefits Funding Amendments of*  
7 *2004”.*

8 **SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

9 *(a) IN GENERAL.—Chapter 83 of title 5, United States*  
10 *Code, is amended—*

11 *(1) in section 8334(a)(1)(B), by striking clause*  
12 *(ii) and inserting the following:*

13 *“(ii) In the case of an employee of the United States*  
14 *Postal Service, no amount shall be contributed under this*  
15 *subparagraph.”; and*

16 *(2) by amending section 8348(h) to read as fol-*  
17 *lows:*

18 *“(h)(1) In this subsection, the term ‘Postal surplus or*  
19 *supplemental liability’ means the estimated difference, as*  
20 *determined by the Office, between—*

21 *“(A) the actuarial present value of all future*  
22 *benefits payable from the Fund under this subchapter*  
23 *to current or former employees of the United States*  
24 *Postal Service and attributable to civilian employ-*  
25 *ment with the United States Postal Service; and*

1           “(B) the sum of—

2                   “(i) the actuarial present value of deduc-  
3                   tions to be withheld from the future basic pay of  
4                   employees of the United States Postal Service  
5                   currently subject to this subchapter under section  
6                   8334;

7                   “(ii) that portion of the Fund balance, as of  
8                   the date the Postal surplus or supplemental li-  
9                   ability is determined, attributable to payments  
10                  to the Fund by the United States Postal Service  
11                  and its employees, minus benefit payments at-  
12                  tributable to civilian employment with the  
13                  United States Postal Service, plus the earnings  
14                  on such amounts while in the Fund; and

15                  “(iii) any other appropriate amount, as de-  
16                  termined by the Office in accordance with gen-  
17                  erally accepted actuarial practices and prin-  
18                  ciples.

19           “(2)(A) Not later than June 15, 2006, the Office shall  
20           determine the Postal surplus or supplemental liability, as  
21           of September 30, 2005. If that result is a surplus, the  
22           amount of the surplus shall be transferred to the Postal  
23           Service Retiree Health Benefits Fund established under sec-  
24           tion 8909a by June 30, 2006. If the result is a supplemental  
25           liability, the Office shall establish an amortization schedule,

1 *including a series of annual installments commencing Sep-*  
2 *tember 30, 2006, which provides for the liquidation of such*  
3 *liability by September 30, 2043.*

4       “(B) *The Office shall redetermine the Postal surplus*  
5 *or supplemental liability as of the close of the fiscal year,*  
6 *for each fiscal year beginning after September 30, 2006,*  
7 *through the fiscal year ending September 30, 2038. If the*  
8 *result is a surplus, that amount shall remain in the Fund*  
9 *until distribution is authorized under subparagraph (C),*  
10 *and any prior amortization schedule for payments shall be*  
11 *terminated. If the result is a supplemental liability, the Of-*  
12 *fice shall establish a new amortization schedule, including*  
13 *a series of annual installments commencing on September*  
14 *30 of the subsequent fiscal year, which provides for the liq-*  
15 *uidation of such liability by September 30, 2043.*

16       “(C) *As of the close of the fiscal years ending Sep-*  
17 *tember 30, 2015, 2025, 2035, and 2039, if the result is a*  
18 *surplus, that amount shall be transferred to the Postal Serv-*  
19 *ice Retiree Health Benefits Fund, and any prior amortiza-*  
20 *tion schedule for payments shall be terminated.*

21       “(D) *Amortization schedules established under this*  
22 *paragraph shall be set in accordance with generally accept-*  
23 *ed actuarial practices and principles, with interest com-*  
24 *puted at the rate used in the most recent valuation of the*  
25 *Civil Service Retirement System.*

1       “(E) *The United States Postal Service shall pay the*  
2 *amounts so determined to the Office, with payments due*  
3 *not later than the date scheduled by the Office.*

4       “(3) *Notwithstanding any other provision of law, in*  
5 *computing the amount of any payment under any other*  
6 *subsection of this section that is based upon the amount*  
7 *of the unfunded liability, such payment shall be computed*  
8 *disregarding that portion of the unfunded liability that the*  
9 *Office determines will be liquidated by payments under this*  
10 *subsection.”.*

11       (b) *CREDIT ALLOWED FOR MILITARY SERVICE.—In*  
12 *the application of section 8348(g)(2) of title 5, United*  
13 *States Code, for the fiscal year 2006, the Office of Personnel*  
14 *Management shall include, in addition to the amount other-*  
15 *wise computed under that paragraph, the amounts that*  
16 *would have been included for the fiscal years 2003 through*  
17 *2005 with respect to credit for military service of former*  
18 *employees of the United States Postal Service as though the*  
19 *Postal Civil Service Retirement System Funding Reform*  
20 *Act of 2003 (Public Law 108–18) had not been enacted,*  
21 *and the Secretary of the Treasury shall make the required*  
22 *transfer to the Civil Service Retirement and Disability*  
23 *Fund based on that amount.*

24       (c) *REVIEW.—*

25               (1) *IN GENERAL.—*

1           (A) *REQUEST FOR REVIEW.*—*Notwith-*  
2 *standing any other provision of this section (in-*  
3 *cluding any amendment made by this section),*  
4 *any determination or redetermination made by*  
5 *the Office of Personnel Management under this*  
6 *section (including any amendment made by this*  
7 *section) shall, upon request of the United States*  
8 *Postal Service, be subject to a review by the Post-*  
9 *al Regulatory Commission under this subsection.*

10           (B) *REPORT.*—*Upon receiving a request*  
11 *under subparagraph (A), the Commission shall*  
12 *promptly procure the services of an actuary, who*  
13 *shall hold membership in the American Academy*  
14 *of Actuaries and shall be qualified in the evalua-*  
15 *tion of pension obligations, to conduct a review*  
16 *in accordance with generally accepted actuarial*  
17 *practices and principles and to provide a report*  
18 *to the Commission containing the results of the*  
19 *review. The Commission, upon determining that*  
20 *the report satisfies the requirements of this para-*  
21 *graph, shall approve the report, with any com-*  
22 *ments it may choose to make, and submit it with*  
23 *any such comments to the Postal Service, the Of-*  
24 *fice of Personnel Management, and Congress.*

1           (2) *RECONSIDERATION.*—Upon receiving the re-  
 2           port from the Commission under paragraph (1), the  
 3           Office of Personnel Management shall reconsider its  
 4           determination or redetermination in light of such re-  
 5           port, and shall make any appropriate adjustments.  
 6           The Office shall submit a report containing the results  
 7           of its reconsideration to the Commission, the Postal  
 8           Service, and Congress.

9 **SEC. 803. HEALTH INSURANCE.**

10           (a) *IN GENERAL.*—

11           (1) *FUNDING.*—Chapter 89 of title 5, United  
 12           States Code, is amended—

13           (A) in section 8906(g)(2)(A), by striking  
 14           “shall be paid by the United States Postal Serv-  
 15           ice.” and inserting “shall be paid first from the  
 16           Postal Service Retiree Health Benefits Fund up  
 17           to the amount contained in the Fund, with any  
 18           remaining amount paid by the United States  
 19           Postal Service.”; and

20           (B) by inserting after section 8909 the fol-  
 21           lowing:

22 **“§ 8909a. Postal Service Retiree Health Benefit Fund**

23           “(a) There is in the Treasury of the United States a  
 24           Postal Service Retiree Health Benefits Fund which is ad-  
 25           ministered by the Office of Personnel Management.

1       “(b) *The Fund is available without fiscal year limita-*  
2 *tion for payments required under section 8906(g)(2)(A).*

3       “(c) *The Secretary of the Treasury shall immediately*  
4 *invest, in interest-bearing securities of the United States*  
5 *such currently available portions of the Fund as are not*  
6 *immediately required for payments from the Fund. Such*  
7 *investments shall be made in the same manner as invest-*  
8 *ments for the Civil Service Retirement and Disability Fund*  
9 *under section 8348.*

10       “(d)(1) *Not later than June 30, 2006, and by June*  
11 *30 of each succeeding year, the Office shall compute the net*  
12 *present value of the future payments required under section*  
13 *8906(g)(2)(A) and attributable to the service of Postal Serv-*  
14 *ice employees during the most recently ended fiscal year.*

15       “(2)(A) *Not later than June 30, 2006, the Office shall*  
16 *compute, and by June 30 of each succeeding year, the Office*  
17 *shall recompute the difference between—*

18               “(i) *the net present value of the excess of future*  
19 *payments required under section 8906(g)(2)(A) for*  
20 *current and future United States Postal Service an-*  
21 *nuitants as of the end of the fiscal year ending on*  
22 *September 30 of that year; and*

23               “(ii)(I) *the value of the assets of the Postal Re-*  
24 *tiree Health Benefits Fund as of the end of the fiscal*  
25 *year ending on September 30 of that year; and*

1           “(II) the net present value computed under para-  
2           graph (1).

3           “(B) Not later than June 30, 2006, the Office shall  
4 compute, and by June 30 of each succeeding year shall re-  
5 compute, an amortization schedule including a series of an-  
6 nual installments which provide for the liquidation by Sep-  
7 tember 30, 2045, or within 15 years, whichever is later, of  
8 the net present value determined under subparagraph (A),  
9 including interest at the rate used in that computation.

10          “(3) Not later than September 30, 2006, and by Sep-  
11 tember 30 of each succeeding year, the United States Postal  
12 Service shall pay into such Fund—

13           “(A) the net present value computed under para-  
14           graph (1); and

15           “(B) the annual installment computed under  
16           paragraph (2)(B).

17          “(4) Computations under this subsection shall be made  
18 consistent with the assumptions and methodology used by  
19 the Office for financial reporting under subchapter II of  
20 chapter 35 of title 31.

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

1       “(ii) Upon receiving a request under clause (i), the  
2 Commission shall promptly procure the services of an actu-  
3 ary, who shall hold membership in the American Academy  
4 of Actuaries and shall be qualified in the evaluation of  
5 healthcare insurance obligations, to conduct a review in ac-  
6 cordance with generally accepted actuarial practices and  
7 principles and to provide a report to the Commission con-  
8 taining the results of the review. The Commission, upon de-  
9 termining that the report satisfies the requirements of this  
10 subparagraph, shall approve the report, with any comments  
11 it may choose to make, and submit it with any such com-  
12 ments to the Postal Service, the Office of Personnel Manage-  
13 ment, and Congress.

14       “(B) Upon receiving the report under subparagraph  
15 (A), the Office of Personnel Management shall reconsider  
16 its determination or redetermination in light of such report,  
17 and shall make any appropriate adjustments. The Office  
18 shall submit a report containing the results of its reconsid-  
19 eration to the Commission, the Postal Service, and Con-  
20 gress.

21       “(6) After consultation with the United States Postal  
22 Service, the Office shall promulgate any regulations the Of-  
23 fice determines necessary under this subsection.”.

24               (2) *TECHNICAL AND CONFORMING AMEND-*  
25       *MENT.—The table of sections for chapter 89 of title 5,*

1 *United States Code, is amended by inserting after the*  
2 *item relating to section 8909 the following:*

*“8909a. Postal Service Retiree Health Benefits Fund.”.*

3 *(b) REVIEW.—*

4 *(1) IN GENERAL.—*

5 *(A) REQUEST FOR REVIEW.—Any regula-*  
6 *tion established under section 8909a(d)(5) of title*  
7 *5, United States Code (as added by subsection*  
8 *(a)), shall, upon request of the United States*  
9 *Postal Service, be subject to a review by the Post-*  
10 *al Regulatory Commission under this para-*  
11 *graph.*

12 *(B) REPORT.—Upon receiving a request*  
13 *under subparagraph (A), the Commission shall*  
14 *promptly procure the services of an actuary, who*  
15 *shall hold membership in the American Academy*  
16 *of Actuaries and shall be qualified in the evalua-*  
17 *tion of healthcare insurance obligations, to con-*  
18 *duct a review in accordance with generally ac-*  
19 *cepted actuarial practices and principles and to*  
20 *provide a report to the Commission containing*  
21 *the results of the review. The Commission, upon*  
22 *determining that the report satisfies the require-*  
23 *ments of this paragraph, shall approve the re-*  
24 *port, with any comments it may choose to make,*  
25 *and submit it with any such comments to the*

1           *Postal Service, the Office of Personnel Manage-*  
2           *ment, and Congress.*

3           (2) *RECONSIDERATION.*—*Upon receiving the re-*  
4           *port under paragraph (1), the Office of Personnel*  
5           *Management shall reconsider its determination or re-*  
6           *determination in light of such report, and shall make*  
7           *any appropriate adjustments. The Office shall submit*  
8           *a report containing the results of its reconsideration*  
9           *to the Commission, the Postal Service, and Congress.*

10          (c) *TRANSITIONAL ADJUSTMENT FOR FISCAL YEAR*  
11          *2006.*—*For fiscal year 2006, the amounts paid by the Post-*  
12          *al Service in Government contributions under section*  
13          *8906(g)(2)(A) of title 5, United States Code, for fiscal year*  
14          *2006 contributions shall be deducted from the initial pay-*  
15          *ment otherwise due from the Postal Service to the Postal*  
16          *Service Retiree Health Benefits Fund under section*  
17          *8909a(d)(3) of such title as added by this section.*

18          **SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

19           *Section 3 of the Postal Civil Service Retirement Sys-*  
20           *tem Funding Reform Act of 2003 (Public Law 108–18) is*  
21           *repealed.*

22          **SEC. 805. EFFECTIVE DATES.**

23           (a) *IN GENERAL.*—*Except as provided under sub-*  
24           *section (b), this title shall take effect on October 1, 2005.*

1       (b) *TERMINATION OF EMPLOYER CONTRIBUTION.*—The  
 2 amendment made by paragraph (1) of section 802(a) shall  
 3 take effect on the first day of the first pay period beginning  
 4 on or after October 1, 2005.

5       **TITLE IX—COMPENSATION FOR**  
 6                                   **WORK INJURIES**

7       **SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

8       (a) *TIME OF ACCRUAL OF RIGHT.*—Section 8117 of  
 9 title 5, United States Code, is amended—

10               (1) by striking “An employee” and inserting  
 11               “(a) An employee other than a Postal Service em-  
 12               ployee”; and

13               (2) by adding at the end the following:

14               “(b) A Postal Service employee is not entitled to com-  
 15               pensation or continuation of pay for the first 3 days of tem-  
 16               porary disability, except as provided under paragraph (3)  
 17               of subsection (a). A Postal Service employee may use an-  
 18               nual leave, sick leave, or leave without pay during that 3-  
 19               day period, except that if the disability exceeds 14 days or  
 20               is followed by permanent disability, the employee may have  
 21               their sick leave or annual leave reinstated or receive pay  
 22               for the time spent on leave without pay under this section.”.

23       (b) *TECHNICAL AND CONFORMING AMENDMENT.*—Sec-  
 24 tion 8118(b)(1) of title 5, United States Code, is amended  
 25 to read as follows:

1           “(1) without a break in time, except as provided  
2           under section 8117(b), unless controverted under regu-  
3           lations of the Secretary”.

4 **SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-**  
5           **EES.**

6           (a) *TOTAL DISABILITY*.—Section 8105 of title 5,  
7 *United States Code*, is amended—

8           (1) in subsection (a), by adding at the end the  
9           following: “This section applies to a Postal Service  
10          employee, except as provided under subsection (c).”;  
11          and

12          (2) by adding at the end the following:

13          “(c)(1) In this subsection, the term ‘retirement age’ has  
14          the meaning given under section 216(l)(1) of the Social Se-  
15          curity Act (42 U.S.C. 416(l)(1)).

16          “(2) Notwithstanding any other provision of law, for  
17          any injury occurring on or after the date of enactment of  
18          the *Postal Accountability and Enhancement Act*, and for  
19          any new claim for a period of disability commencing on  
20          or after that date, the compensation entitlement for total  
21          disability is converted to 50 percent of the monthly pay of  
22          the employee on the later of—

23                  “(A) the date on which the injured employee  
24                  reaches retirement age; or

1           “(B) 1 year after the employee begins receiving  
2           *compensation.*”.

3           (b) *PARTIAL DISABILITY.*—Section 8106 of title 5,  
4           *United States Code, is amended—*

5           (1) *in subsection (a), by adding at the end the*  
6           *following: “This section applies to a Postal Service*  
7           *employee, except as provided under subsection (d).”;*  
8           *and*

9           (2) *by adding at the end the following:*

10          “(d)(1) *In this subsection, the term ‘retirement age’ has*  
11          *the meaning given under section 216(l)(1) of the Social Se-*  
12          *curity Act (42 U.S.C. 416(l)(1)).*

13          “(2) *Notwithstanding any other provision of law,*  
14          *for any injury occurring on or after the date of enact-*  
15          *ment of this subsection, and for any new claim for a*  
16          *period of disability commencing on or after that date,*  
17          *the compensation entitlement for partial disability is*  
18          *converted to 50 percent of the difference between the*  
19          *monthly pay of an employee and the monthly wage*  
20          *earning capacity of the employee after the beginning*  
21          *of partial disability on the later of—*

22                  “(A) *the date on which the injured employee*  
23                  *reaches retirement age; or*

24                  “(B) *1 year after the employee begins re-*  
25                  *ceiving compensation.*”.

1           **TITLE X—MISCELLANEOUS**

2   **SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

3           *Section 404 of title 39, United States Code (as amend-*  
 4 *ed by this Act), is further amended by adding at the end*  
 5 *the following:*

6           “(d) *The Postal Service may employ guards for all*  
 7 *buildings and areas owned or occupied by the Postal Service*  
 8 *or under the charge and control of the Postal Service, and*  
 9 *may give such guards, with respect to such property, any*  
 10 *of the powers of special policemen provided under section*  
 11 *1315 of title 40. The Postmaster General, or the designee*  
 12 *of the Postmaster General, may take any action that the*  
 13 *Secretary of Homeland Security may take under section*  
 14 *1315 of title 40, with respect to that property.*

15   **SEC. 1002. OBSOLETE PROVISIONS.**

16           (a) *REPEAL.—*

17                   (1) *IN GENERAL.—Chapter 52 of title 39, United*  
 18 *States Code, is repealed.*

19                   (2) *CONFORMING AMENDMENTS.—(A) Section*  
 20 *5005(a) of title 39, United States Code, is amended—*

21                           (i) *by striking paragraph (1), and by redes-*  
 22 *ignating paragraphs (2) through (4) as para-*  
 23 *graphs (1) through (3), respectively; and*

1           (ii) in paragraph (3) (as so designated by  
2           clause (i)), by striking “(as defined in section  
3           5201(6) of this title)”.

4           (B) Section 5005(b) of such title 39 is amended  
5           by striking “(a)(4)” each place it appears and insert-  
6           ing “(a)(3)”.

7           (C) Section 5005(c) of such title 39 is amended  
8           by striking “by carrier or person under subsection  
9           (a)(1) of this section, by contract under subsection  
10          (a)(4) of this section, or” and inserting “by contract  
11          under subsection (a)(3) of this section or”.

12          (b) *ELIMINATING RESTRICTION ON LENGTH OF CON-*  
13 *TRACTS.—*(1) Section 5005(b)(1) of title 39, United States  
14 *Code, is amended by striking “(or where the Postal Service*  
15 *determines that special conditions or the use of special*  
16 *equipment warrants, not in excess of 6 years)” and insert-*  
17 *ing “(or such longer period of time as may be determined*  
18 *by the Postal Service to be advisable or appropriate)”.*

19          (2) Section 5402(d) of such title 39 is amended by  
20          striking “for a period of not more than 4 years”.

21          (3) Section 5605 of such title 39 is amended by strik-  
22          ing “for periods of not in excess of 4 years”.

23          (c) *TECHNICAL AND CONFORMING AMENDMENT.—*The  
24 *table of chapters for part V of title 39, United States Code,*  
25 *is amended by repealing the item relating to chapter 52.*

1 **SEC. 1003. REDUCED RATES.**

2 *Section 3626 of title 39, United States Code, is*  
3 *amended—*

4 *(1) in subsection (a), by striking all before para-*  
5 *graph (4) and inserting the following:*

6 *“(a)(1) Except as otherwise provided in this section,*  
7 *rates of postage for a class of mail or kind of mailer under*  
8 *former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c)*  
9 *of this title shall be established in accordance with section*  
10 *3622.*

11 *“(2) For the purpose of this subsection, the term ‘reg-*  
12 *ular-rate category’ means any class of mail or kind of mail-*  
13 *er, other than a class or kind referred to in section 2401(c).*

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

20 *(2) in subsection (g), by adding at the end the*  
21 *following:*

22 *“(3) For purposes of this section and former section*  
23 *4358(a) through (c) of this title, those copies of an issue*  
24 *of a publication entered within the county in which it is*  
25 *published, but distributed outside such county on postal*  
26 *carrier routes originating in the county of publication, shall*

1 *be treated as if they were distributed within the county of*  
2 *publication.*

3       “(4)(A) *In the case of an issue of a publication, any*  
4 *number of copies of which are mailed at the rates of postage*  
5 *for a class of mail or kind of mailer under former section*  
6 *4358(a) through (c) of this title, any copies of such issue*  
7 *which are distributed outside the county of publication (ex-*  
8 *cluding any copies subject to paragraph (3)) shall be subject*  
9 *to rates of postage provided for under this paragraph.*

10       “(B) *The rates of postage applicable to mail under this*  
11 *paragraph shall be established in accordance with section*  
12 *3622.*

13       “(C) *This paragraph shall not apply with respect to*  
14 *an issue of a publication unless the total paid circulation*  
15 *of such issue outside the county of publication (not counting*  
16 *recipients of copies subject to paragraph (3)) is less than*  
17 *5,000.”; and*

18               (3) *by adding at the end the following:*

19       “(n) *In the administration of this section, matter that*  
20 *satisfies the circulation standards for requester publications*  
21 *shall not be excluded from being mailed at the rates for mail*  
22 *under former section 4358 solely because such matter is de-*  
23 *signed primarily for free circulation or for circulation at*  
24 *nominal rates, or fails to meet the requirements of former*  
25 *section 4354(a)(5).”.*

1 **SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERV-**  
2 **ICE PURCHASING REFORM.**

3 *It is the sense of Congress that the Postal Service*  
4 *should—*

5 *(1) ensure the fair and consistent treatment of*  
6 *suppliers and contractors in its current purchasing*  
7 *policies and any revision or replacement of such poli-*  
8 *cies, such as through the use of competitive contract*  
9 *award procedures, effective dispute resolution mecha-*  
10 *nisms, and socioeconomic programs; and*

11 *(2) implement commercial best practices in Post-*  
12 *al Service purchasing policies to achieve greater effi-*  
13 *ciency and cost savings as recommended in July 2003*  
14 *by the President's Commission on the United States*  
15 *Postal Service, in a manner that is compatible with*  
16 *the fair and consistent treatment of suppliers and*  
17 *contractors, as befitting an establishment in the*  
18 *United States Government.*

19 **SEC. 1005. CONTRACTS FOR TRANSPORTATION OF MAIL BY**  
20 **AIR.**

21 *(a) DEFINITIONS.—Section 5402(a) of title 39, United*  
22 *States Code, is amended—*

23 *(1) in paragraph (4), by striking “(g)(1)(D)(i)”*  
24 *and inserting “(g)(1)(A)(iv)(I)”;*

25 *(2) in paragraph (5), by striking “(g)(1)(D)(i)”*  
26 *and inserting “(g)(1)(A)(iv)(I)”;*

1           (3) in paragraph (6), by striking “only”;

2           (4) in paragraph (8), by striking “rates paid to  
3 a bush carrier” and inserting “linehaul rates and a  
4 single terminal handling payment at a bush terminal  
5 handling rate paid to a bush carrier”;

6           (5) in paragraph (11), by striking  
7 “(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”;

8           (6) in paragraph (13)—

9           (A) in subparagraph (A)—

10           (i) by striking “clause (i) or (ii) of  
11 subsection (g)(1)(D)” and inserting “sub-  
12 clause (I) or (II) of subsection  
13 (g)(1)(A)(iv)”;

14           (ii) by striking “and” after the semi-  
15 colon;

16           (B) in subparagraph (B), by adding “and”  
17 after the semicolon; and

18           (C) by adding at the end the following:

19           “(C) is not comprised of previously quali-  
20 fied existing mainline carriers as a result of  
21 merger or sale;”;

22           (7) in paragraph (18), by striking “bush routes”  
23 and inserting “routes”; and

24           (8) in paragraph (22), by striking “bush routes”  
25 and inserting “routes”.

1       (b) *NONPRIORITY BYPASS MAIL*.—Section 5402(g) of  
2 *title 39, United States Code, is amended—*

3           (1) *in paragraph (2)(C), by inserting “or a des-*  
4 *tination city” after “acceptance point and a hub”;*

5           (2) *in paragraph (3), by adding at the end the*  
6 *following:*

7                   “(C) *When a new hub results from a change*  
8 *in a determination under subparagraph (B),*  
9 *mail tender from that hub during the 12-month*  
10 *period beginning on the effective date of that*  
11 *change shall be based on the passenger and*  
12 *freight shares to the destinations of the affected*  
13 *hub or hubs resulting in the new hub.”; and*

14           (3) *in paragraph (5)(A)(i), by striking*  
15 *“(g)(1)(D)(ii)” and inserting “(g)(1)(A)(iv)(II)”.*

16       (c) *EQUITABLE TENDER*.—Section 5402(h) of *title 39,*  
17 *United States Code, is amended—*

18           (1) *in paragraph (1), by inserting “bush” after*  
19 *“providing scheduled”;*

20           (2) *by striking paragraph (3) and inserting the*  
21 *following:*

22                   “(3)(A) *Except as provided under subparagraph*  
23 *(C), a new or existing 121 bush passenger carrier*  
24 *qualified under subsection (g)(1) shall be exempt from*  
25 *the requirements under paragraphs (1)(B) and (2)(A)*

1       *on a city pair route for a period which shall extend*  
2       *for—*

3               “(i) 1 year;

4               “(ii) 1 year in addition to the extension  
5               *under clause (i) if, as of the conclusion of the*  
6               *first year, such carrier has been providing not*  
7               *less than 5 percent of the passenger service on*  
8               *that route (as calculated under paragraph (5));*  
9               *and*

10              “(iii) 1 year in addition to the extension  
11              *under clause (ii) if, as of the conclusion of the*  
12              *second year, such carrier has been providing not*  
13              *less than 10 percent of the passenger service on*  
14              *that route (as calculated under paragraph (5)).*

15              “(B)(i) *The first 3 121 bush passenger carriers*  
16              *entitled to the exemptions under subparagraph (A) on*  
17              *any city pair route shall divide no more than an ad-*  
18              *ditional 10 percent of the mail, apportioned equally,*  
19              *comprised of no more than—*

20                      “(I) 5 percent of the share of each qualified  
21                      *passenger carrier servicing that route that is not*  
22                      *a 121 bush passenger carrier; and*

23                      “(II) 5 percent of the share of each nonpas-  
24                      *senger carrier servicing that route that trans-*

1           ports 25 percent or more of the total nonmail  
2           freight under subsection (i)(1).

3           “(ii) Additional 121 bush passenger carriers en-  
4           tering service on that city pair route after the first  
5           3 shall not receive any additional mail share.

6           “(iii) If any 121 bush passenger carrier on a  
7           city pair route receiving an additional share of the  
8           mail under clause (ii) discontinues service on that  
9           route, the 121 bush passenger carrier that has been  
10          providing the longest period of service on that route  
11          and is otherwise eligible but is not receiving a share  
12          by reason of clause (ii), shall receive the share of the  
13          carrier discontinuing service.

14          “(C) Notwithstanding the requirements of this  
15          subsection, if only 1 passenger carrier or aircraft is  
16          qualified to be tendered nonpriority bypass mail as a  
17          passenger carrier or aircraft on a city pair route in  
18          the State of Alaska, the Postal Service shall tender 20  
19          percent of the nonpriority bypass mail described  
20          under paragraph (1) to the passenger carrier or air-  
21          craft providing at least 10 percent of the passenger  
22          service on such route.”;

23                 (3) in paragraph (5)(A)—

24                         (A) by striking “(i)” after “(A)”; and

25                         (B) by striking clause (ii).

1       (d) *PERCENT OF NONMAIL FREIGHT.*—Section  
2 5402(i)(6) of title 39, United States Code, is amended—

3           (1) by striking “(A)” after “(6)”; and

4           (2) by striking subparagraph (B).

5       (e) *PERCENT OF TENDER RATE.*—Section  
6 5402(j)(3)(B) of title 39, United States Code, is amended

7 by striking “bush routes in the State of Alaska” and insert-  
8 ing “routes served exclusively by bush carriers in the State  
9 of Alaska”.

10       (f) *DETERMINATION OF RATES.*—Section 5402(k) of  
11 title 39, United States Code, is amended by striking para-  
12 graph (5).

13       (g) *TECHNICAL AND CONFORMING AMENDMENT.*—Sec-  
14 tion 5402(p)(3) of title 39, United States Code, is amended  
15 by striking “(g)(1)(D)” and inserting “(g)(1)(A)(iv)”.

16       (h) *EFFECTIVE DATE.*—

17           (1) *IN GENERAL.*—Except as provided under  
18 paragraph (2), this section shall take effect on the  
19 date of enactment of this Act.

20           (2) *EQUITABLE TENDER.*—Subsection (c) shall  
21 take effect on July 1, 2006.

Attest:

Secretary.

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 22**

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**AMENDMENT**

IV. H.R. 22, 109th Cong., 1st Sess.  
as approved by the House  
(Jul. 26, 2005)

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109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 22

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## AN ACT

To reform the postal laws of the United States.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Postal Accountability and Enhancement Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

Sec. 101. Definitions.  
 Sec. 102. Postal services.  
 Sec. 103. Financial transparency.

**TITLE II—MODERN RATE REGULATION**

Sec. 201. Provisions relating to market-dominant products.  
 Sec. 202. Provisions relating to competitive products.  
 Sec. 203. Provisions relating to experimental and new products.  
 Sec. 204. Reporting requirements and related provisions.  
 Sec. 205. Complaints; appellate review and enforcement.  
 Sec. 206. Workshare discounts.  
 Sec. 207. Clerical amendment.

**TITLE III—PROVISIONS RELATING TO FAIR COMPETITION**

Sec. 301. Postal Service Competitive Products Fund.  
 Sec. 302. Assumed Federal income tax on competitive products income.  
 Sec. 303. Unfair competition prohibited.  
 Sec. 304. Suits by and against the Postal Service.  
 Sec. 305. International postal arrangements.  
 Sec. 306. Redesignation.

**TITLE IV—GENERAL PROVISIONS**

Sec. 401. Qualification requirements for Governors.  
 Sec. 402. Obligations.  
 Sec. 403. Private carriage of letters.  
 Sec. 404. Rulemaking authority.  
 Sec. 405. Noninterference with collective bargaining agreements, etc.  
 Sec. 406. Bonus and compensation authority.  
 Sec. 407. Mediation in collective-bargaining disputes.

**TITLE V—ENHANCED REGULATORY COMMISSION**

Sec. 501. Reorganization and modification of certain provisions relating to the  
 Postal Regulatory Commission.  
 Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.  
 Sec. 503. Appropriations for the Postal Regulatory Commission.  
 Sec. 504. Redesignation of the Postal Rate Commission.  
 Sec. 505. Officer of the Postal Regulatory Commission representing the general  
 public.

## TITLE VI—INSPECTORS GENERAL

- Sec. 601. Inspector General of the Postal Regulatory Commission.  
 Sec. 602. Inspector General of the United States Postal Service to be appointed by the President.

## TITLE VII—EVALUATIONS

- Sec. 701. Universal postal service study.  
 Sec. 702. Assessments of ratemaking, classification, and other provisions.  
 Sec. 703. Study on equal application of laws to competitive products.  
 Sec. 704. Greater diversity in Postal Service Executive and administrative schedule management positions.  
 Sec. 705. Plan for assisting displaced workers.  
 Sec. 706. Contracts with women, minorities, and small businesses.  
 Sec. 707. Rates for periodicals.  
 Sec. 708. Assessment of certain rate deficiencies.  
 Sec. 709. Network optimization.  
 Sec. 710. Assessment of future business model of the postal service.  
 Sec. 711. Study on certain proposed amendments.  
 Sec. 712. Definition.

## TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

- Sec. 801. Employment of postal police officers.  
 Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.  
 Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.  
 Sec. 804. Obsolete provisions.  
 Sec. 805. Investments.  
 Sec. 806. Reduced rates.  
 Sec. 807. Hazardous matter.  
 Sec. 808. Provisions relating to cooperative mailings.  
 Sec. 809. Technical and conforming amendments.

## TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

- Sec. 901. Civil Service Retirement System.  
 Sec. 902. Health insurance.  
 Sec. 903. Repealer.  
 Sec. 904. Ensuring appropriate use of escrow and military savings.  
 Sec. 905. Effective dates.

1 **TITLE I—DEFINITIONS; POSTAL**  
 2 **SERVICES**

3 **SEC. 101. DEFINITIONS.**

4 Section 102 of title 39, United States Code, is  
 5 amended by striking “and” at the end of paragraph (3),

1 by striking the period at the end of paragraph (4) and  
2 inserting a semicolon, and by adding at the end the fol-  
3 lowing:

4           “(5) ‘postal service’ means the carriage of let-  
5           ters, printed matter, or mailable packages, including  
6           acceptance, collection, processing, delivery, or other  
7           functions supportive or ancillary thereto;

8           “(6) ‘product’ means a postal service with a  
9           distinct cost or market characteristic for which a  
10          rate or rates are, or may reasonably be, applied;

11          “(7) ‘rates’, as used with respect to products,  
12          includes fees for postal services;

13          “(8) ‘market-dominant product’ or ‘product in  
14          the market-dominant category of mail’ means a  
15          product subject to subchapter I of chapter 36;

16          “(9) ‘competitive product’ or ‘product in the  
17          competitive category of mail’ means a product sub-  
18          ject to subchapter II of chapter 36;

19          “(10) ‘Consumer Price Index’ means the Con-  
20          sumer Price Index for All Urban Consumers pub-  
21          lished monthly by the Bureau of Labor Statistics of  
22          the Department of Labor; and

23          “(11) ‘year’, as used in chapter 36 (other than  
24          subchapters I and VI thereof), means a fiscal year.”.

1 **SEC. 102. POSTAL SERVICES.**

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

4 (1) in subsection (a), by striking paragraph (6)  
5 and by redesignating paragraphs (7) through (9) as  
6 paragraphs (6) through (8), respectively; and

7 (2) by adding at the end the following:

8 “(c) Nothing in this title shall be considered to permit  
9 or require that the Postal Service provide any special non-  
10 postal or similar services, except that nothing in this sub-  
11 section shall prevent the Postal Service from providing any  
12 special nonpostal or similar services provided by the Postal  
13 Service as of January 4, 2005.”.

14 (b) CONFORMING AMENDMENT.—Section  
15 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98  
16 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by  
17 striking “404(a)(8)” and inserting “404(a)(7)”.

18 **SEC. 103. FINANCIAL TRANSPARENCY.**

19 (a) IN GENERAL.—Section 101 of title 39, United  
20 States Code, is amended by redesignating subsections (d)  
21 through (g) as subsections (e) through (h), respectively,  
22 and by inserting after subsection (c) the following:

23 “(d) As an establishment that provides both market-  
24 dominant and competitive products, the Postal Service  
25 shall be subject to a high degree of transparency, including  
26 in its finances and operations, to ensure fair treatment

1 of customers of the Postal Service’s market-dominant  
2 products and companies competing with the Postal Serv-  
3 ice’s competitive products.”.

4 (b) CONFORMING AMENDMENT.—Section 5001 of  
5 title 39, United States Code, is amended by striking  
6 “101(e) and (f)” and inserting “101(f) and (g)”.

## 7 **TITLE II—MODERN RATE** 8 **REGULATION**

### 9 **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT** 10 **PRODUCTS.**

11 (a) IN GENERAL.—Chapter 36 of title 39, United  
12 States Code, is amended by striking sections 3621 and  
13 3622 and inserting the following:

#### 14 **“§ 3621. Applicability; definitions**

15 “(a) APPLICABILITY.—This subchapter shall apply  
16 with respect to—

17 “(1)(A) single piece first-class letters (both do-  
18 mestic and international);

19 “(B) single piece first-class cards (both domes-  
20 tic and international); and

21 “(C) special services;

22 “(2) all first-class mail not included under  
23 paragraph (1);

24 “(3) periodicals;

25 “(4) standard mail;

1           “(5) media mail;  
2           “(6) library mail; and  
3           “(7) bound printed matter,  
4 subject to any changes the Postal Regulatory Commission  
5 may make under section 3642.

6           “(b) RULE OF CONSTRUCTION.—Mail matter re-  
7 ferred to in subsection (a) shall, for purposes of this sub-  
8 chapter, be considered to have the meaning given to such  
9 mail matter under the mail classification schedule.

10 **“§ 3622. Modern rate regulation**

11           “(a) AUTHORITY GENERALLY.—The Postal Regu-  
12 latory Commission shall, within 24 months after the date  
13 of the enactment of this section, by regulation establish  
14 (and may from time to time thereafter by regulation re-  
15 vise) a modern system for regulating rates and classes for  
16 market-dominant products.

17           “(b) OBJECTIVES.—Such system shall be designed to  
18 achieve the following objectives:

19                   “(1) To establish and maintain a fair and equi-  
20 table schedule for rates and classification.

21                   “(2) To maximize incentives to reduce costs  
22 and increase efficiency.

23                   “(3) To create predictability and stability in  
24 rates.

1           “(4) To maintain high quality service stand-  
2           ards.

3           “(5) To allow the Postal Service pricing flexi-  
4           bility.

5           “(6) To assure adequate revenues, including re-  
6           tained earnings, to maintain financial stability.

7           “(7) To reduce the administrative burden of the  
8           ratemaking process.

9           “(c) FACTORS.—In establishing or revising such sys-  
10          tem, the Postal Regulatory Commission shall take into ac-  
11          count—

12           “(1) the value of the mail service actually pro-  
13          vided each class or type of mail service to both the  
14          sender and the recipient, including but not limited to  
15          the collection, mode of transportation, and priority  
16          of delivery;

17           “(2) the direct and indirect postal costs attrib-  
18          utable to each class or type of mail service plus that  
19          portion of all other costs of the Postal Service rea-  
20          sonably assignable to such class or type;

21           “(3) the effect of rate increases upon the gen-  
22          eral public, business mail users, and enterprises in  
23          the private sector of the economy engaged in the de-  
24          livery of mail matter other than letters;

1           “(4) the available alternative means of sending  
2           and receiving letters and other mail matter at rea-  
3           sonable costs;

4           “(5) the degree of preparation of mail for deliv-  
5           ery into the postal system performed by the mailer  
6           and its effect upon reducing costs to the Postal  
7           Service;

8           “(6) simplicity of structure for the entire sched-  
9           ule and simple, identifiable relationships between the  
10          rates or fees charged the various classes of mail for  
11          postal services;

12          “(7) the relative value to the people of the  
13          kinds of mail matter entered into the postal system  
14          and the desirability and justification for special clas-  
15          sifications and services of mail;

16          “(8) the importance of providing classifications  
17          with extremely high degrees of reliability and speed  
18          of delivery and of providing those that do not re-  
19          quire high degrees of reliability and speed of deliv-  
20          ery;

21          “(9) the desirability of special classifications  
22          from the point of view of both the user and of the  
23          Postal Service;

1           “(10) the educational, cultural, scientific, and  
2           informational value to the recipient of mail matter;  
3           and

4           “(11) the policies of this title as well as such  
5           other factors as the Commission deems appropriate.

6           “(d) ALLOWABLE PROVISIONS.—The system for reg-  
7           ulating rates and classes for market-dominant products  
8           may include one or more of the following:

9           “(1) Price caps, revenue targets, or other form  
10          of incentive regulation.

11          “(2) Cost-of-service regulation.

12          “(3) Such other form of regulation as the Com-  
13          mission considers appropriate to achieve, consistent  
14          with subsection (c), the objectives of subsection (b).

15          “(e) LIMITATION.—In the administration of this sec-  
16          tion, the Commission shall not permit the average rate in  
17          any subclass of mail to increase at an annual rate greater  
18          than the comparable increase in the Consumer Price  
19          Index, unless it has, after notice and opportunity for a  
20          public hearing and comment, determined that such in-  
21          crease is reasonable and equitable and necessary to enable  
22          the Postal Service, under best practices of honest, effi-  
23          cient, and economical management, to maintain and con-  
24          tinue the development of postal services of the kind and  
25          quality adapted to the needs of the United States.

1       “(f) **TRANSITION RULE.**—Until regulations under  
 2 this section first take effect, rates and classes for market-  
 3 dominant products shall remain subject to modification in  
 4 accordance with the provisions of this chapter and section  
 5 407, as such provisions were last in effect before the date  
 6 of the enactment of this section.”.

7       (b) **REPEALED SECTIONS.**—Sections 3623, 3624,  
 8 3625, and 3628 of title 39, United States Code, are re-  
 9 pealed.

10       (c) **REDESIGNATION.**—Chapter 36 of title 39, United  
 11 States Code (as in effect after the amendment made by  
 12 section 501(a)(2), but before the amendment made by sec-  
 13 tion 202) is amended by striking the heading for sub-  
 14 chapter II and inserting the following:

15       “SUBCHAPTER I—PROVISIONS RELATING TO  
 16                                   **MARKET-DOMINANT PRODUCTS**”.

17       **SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-**  
 18                                   **UCTS.**

19       Chapter 36 of title 39, United States Code, is amend-  
 20 ed by inserting after section 3629 the following:

21       “SUBCHAPTER II—PROVISIONS RELATING TO  
 22                                   **COMPETITIVE PRODUCTS**

23       “**§ 3631. Applicability; definitions and updates**

24       “(a) **APPLICABILITY.**—This subchapter shall apply  
 25 with respect to—

1           “(1) priority mail;  
2           “(2) expedited mail;  
3           “(3) mailgrams;  
4           “(4) international mail; and  
5           “(5) parcel post,  
6 subject to any changes the Postal Regulatory Commission  
7 may make under section 3642.

8           “(b) DEFINITION.—For purposes of this subchapter,  
9 the term ‘costs attributable’, as used with respect to a  
10 product, means the direct and indirect postal costs attrib-  
11 utable to such product.

12           “(c) RULE OF CONSTRUCTION.—Mail matter re-  
13 ferred to in subsection (a) shall, for purposes of this sub-  
14 chapter, be considered to have the meaning given to such  
15 mail matter under the mail classification schedule.

16 **“§ 3632. Action of the Governors**

17           “(a) AUTHORITY TO ESTABLISH RATES AND CLASS-  
18 ES.—The Governors shall establish rates and classes for  
19 products in the competitive category of mail in accordance  
20 with the requirements of this subchapter and regulations  
21 promulgated under section 3633.

22           “(b) PROCEDURES.—

23           “(1) IN GENERAL.—Rates and classes shall be  
24 established in writing, complete with a statement of

1 explanation and justification, and the date as of  
2 which each such rate or class takes effect.

3 “(2) RATES OR CLASSES OF GENERAL APPLICA-  
4 BILITY.—In the case of rates or classes of general  
5 applicability in the Nation as a whole or in any sub-  
6 stantial region of the Nation, the Governors shall  
7 cause each rate and class decision under this section  
8 and the record of the Governors’ proceedings in con-  
9 nection with such decision to be published in the  
10 Federal Register at least 30 days before the effective  
11 date of any new rates or classes.

12 “(3) RATES OR CLASSES NOT OF GENERAL AP-  
13 PLICABILITY.—In the case of rates or classes not of  
14 general applicability in the Nation as a whole or in  
15 any substantial region of the Nation, the Governors  
16 shall cause each rate and class decision under this  
17 section and the record of the proceedings in connec-  
18 tion with such decision to be filed with the Postal  
19 Regulatory Commission by such date before the ef-  
20 fective date of any new rates or classes as the Gov-  
21 ernors consider appropriate, but in no case less than  
22 15 days.

23 “(4) CRITERIA.—As part of the regulations re-  
24 quired under section 3633, the Postal Regulatory  
25 Commission shall establish criteria for determining

1 when a rate or class established under this sub-  
2 chapter is or is not of general applicability in the  
3 Nation as a whole or in any substantial region of the  
4 Nation.

5 “(c) TRANSITION RULE.—Until regulations under  
6 section 3633 first take effect, rates and classes for com-  
7 petitive products shall remain subject to modification in  
8 accordance with the provisions of this chapter and section  
9 407, as such provisions were as last in effect before the  
10 date of the enactment of this section.

11 **“§ 3633. Provisions applicable to rates for competitive**  
12 **products**

13 “The Postal Regulatory Commission shall, within 18  
14 months after the date of the enactment of this section,  
15 promulgate (and may from time to time thereafter revise)  
16 regulations—

17 “(1) to prohibit the subsidization of competitive  
18 products by market-dominant products;

19 “(2) to ensure that each competitive product  
20 covers its costs attributable; and

21 “(3) to ensure that all competitive products col-  
22 lectively make a reasonable contribution to the insti-  
23 tutional costs of the Postal Service.”.

1 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**  
2 **NEW PRODUCTS.**

3 Subchapter III of chapter 36 of title 39, United  
4 States Code, is amended to read as follows:

5 “SUBCHAPTER III—PROVISIONS RELATING TO  
6 EXPERIMENTAL AND NEW PRODUCTS

7 “§ 3641. **Market tests of experimental products**

8 “(a) **AUTHORITY.**—

9 “(1) **IN GENERAL.**—The Postal Service may  
10 conduct market tests of experimental products in ac-  
11 cordance with this section.

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

17 “(b) **CONDITIONS.**—A product may not be tested  
18 under this section unless it satisfies each of the following:

19 “(1) **SIGNIFICANTLY DIFFERENT PRODUCT.**—  
20 The product is, from the viewpoint of the mail users,  
21 significantly different from all products offered by  
22 the Postal Service within the 2-year period preceding  
23 the start of the test.

24 “(2) **MARKET DISRUPTION.**—The introduction  
25 or continued offering of the product will not create  
26 an unfair or otherwise inappropriate competitive ad-

1 vantage for the Postal Service or any mailer, par-  
2 ticularly in regard to small business concerns (as de-  
3 fined under subsection (h)).

4 “(3) CORRECT CATEGORIZATION.—The Postal  
5 Service identifies the product, for the purpose of a  
6 test under this section, as either market dominant or  
7 competitive, consistent with the criteria under sec-  
8 tion 3642(b)(1). Costs and revenues attributable to  
9 a product identified as competitive shall be included  
10 in any determination under section 3633(3) (relating  
11 to provisions applicable to competitive products col-  
12 lectively).

13 “(c) NOTICE.—

14 “(1) IN GENERAL.—At least 30 days before ini-  
15 tiating a market test under this section, the Postal  
16 Service shall file with the Postal Regulatory Com-  
17 mission and publish in the Federal Register a no-  
18 tice—

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

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

24 “(2) SAFEGUARDS.—For a competitive experi-  
25 mental product, the provisions of section 504(g)

1 shall be available with respect to any information re-  
2 quired to be filed under paragraph (1) to the same  
3 extent and in the same manner as in the case of any  
4 matter described in section 504(g)(1). Nothing in  
5 paragraph (1) shall be considered to permit or re-  
6 quire the publication of any information as to which  
7 confidential treatment is accorded under the pre-  
8 ceding sentence (subject to the same exception as set  
9 forth in section 504(g)(3)).

10 “(d) DURATION.—

11 “(1) IN GENERAL.—A market test of a product  
12 under this section may be conducted over a period  
13 of not to exceed 24 months.

14 “(2) EXTENSION AUTHORITY.—If necessary in  
15 order to determine the feasibility or desirability of a  
16 product being tested under this section, the Postal  
17 Regulatory Commission may, upon written applica-  
18 tion of the Postal Service (filed not later than 60  
19 days before the date as of which the testing of such  
20 product would otherwise be scheduled to terminate  
21 under paragraph (1)), extend the testing of such  
22 product for not to exceed an additional 12 months.

23 “(e) DOLLAR-AMOUNT LIMITATION.—

24 “(1) IN GENERAL.—A product may be tested  
25 under this section only if the total revenues that are

1 anticipated, or in fact received, by the Postal Service  
2 from such product do not exceed \$10,000,000 na-  
3 tionwide in any year, subject to paragraph (2) and  
4 subsection (g). In carrying out the preceding sen-  
5 tence, the Postal Regulatory Commission may limit  
6 the amount of revenues the Postal Service may ob-  
7 tain from any particular geographic market as nec-  
8 essary to prevent market disruption (as defined in  
9 subsection (b)(2)).

10 “(2) EXEMPTION AUTHORITY.—The Postal  
11 Regulatory Commission may, upon written applica-  
12 tion of the Postal Service, exempt the market test  
13 from the limit in paragraph (1) if the total revenues  
14 that are anticipated, or in fact received, by the Post-  
15 al Service from such product do not exceed  
16 \$50,000,000 in any year, subject to subsection (g).  
17 In reviewing an application under this paragraph,  
18 the Postal Regulatory Commission shall approve  
19 such application if it determines that—

20 “(A) the product is likely to benefit the  
21 public and meet an expected demand;

22 “(B) the product is likely to contribute to  
23 the financial stability of the Postal Service; and

24 “(C) the product is not likely to result in  
25 unfair or otherwise inappropriate competition.

1           “(f) CANCELLATION.—If the Postal Regulatory Com-  
2 mission at any time determines that a market test under  
3 this section fails, with respect to any particular product,  
4 to meet one or more of the requirements of this section,  
5 it may order the cancellation of the test involved or take  
6 such other action as it considers appropriate. A determina-  
7 tion under this subsection shall be made in accordance  
8 with such procedures as the Commission shall by regula-  
9 tion prescribe.

10           “(g) ADJUSTMENT FOR INFLATION.—For purposes  
11 of each year following the year in which occurs the dead-  
12 line for the Postal Service’s first report to the Postal Reg-  
13 ulatory Commission under section 3652(a), each dollar  
14 amount contained in this section shall be adjusted by the  
15 change in the Consumer Price Index for such year (as de-  
16 termined under regulations of the Commission).

17           “(h) DEFINITION OF A SMALL BUSINESS CON-  
18 CERN.—The criteria used in defining small business con-  
19 cerns or otherwise categorizing business concerns as small  
20 business concerns shall, for purposes of this section, be  
21 established by the Postal Regulatory Commission in con-  
22 formance with the requirements of section 3 of the Small  
23 Business Act.

24           “(i) EFFECTIVE DATE.—Market tests under this  
25 subchapter may be conducted in any year beginning with

1 the first year in which occurs the deadline for the Postal  
2 Service’s first report to the Postal Regulatory Commission  
3 under section 3652(a).

4 **“§ 3642. New products and transfers of products be-**  
5 **tween the market-dominant and competi-**  
6 **tive categories of mail**

7 “(a) IN GENERAL.—Upon request of the Postal Serv-  
8 ice or users of the mails, or upon its own initiative, the  
9 Postal Regulatory Commission may change the list of  
10 market-dominant products under section 3621 and the list  
11 of competitive products under section 3631 by adding new  
12 products to the lists, removing products from the lists, or  
13 transferring products between the lists.

14 “(b) CRITERIA.—All determinations by the Postal  
15 Regulatory Commission under subsection (a) shall be  
16 made in accordance with the following criteria:

17 “(1) The market-dominant category of products  
18 shall consist of each product in the sale of which the  
19 Postal Service exercises sufficient market power that  
20 it can effectively set the price of such product sub-  
21 stantially above costs, raise prices significantly, de-  
22 crease quality, or decrease output, without risk of  
23 losing business to other firms offering similar prod-  
24 ucts. The competitive category of products shall con-  
25 sist of all other products.

1           “(2) EXCLUSION OF PRODUCTS COVERED BY  
2           POSTAL MONOPOLY.—A product covered by the post-  
3           al monopoly shall not be subject to transfer under  
4           this section from the market-dominant category of  
5           mail. For purposes of the preceding sentence, the  
6           term ‘product covered by the postal monopoly’  
7           means any product the conveyance or transmission  
8           of which is reserved to the United States under sec-  
9           tion 1696 of title 18, subject to the same exception  
10          as set forth in the last sentence of section 409(e)(1).

11          “(3) ADDITIONAL CONSIDERATIONS.—In mak-  
12          ing any decision under this section, due regard shall  
13          be given to—

14                 “(A) the availability and nature of enter-  
15                 prises in the private sector engaged in the deliv-  
16                 ery of the product involved;

17                 “(B) the views of those who use the prod-  
18                 uct involved on the appropriateness of the pro-  
19                 posed action; and

20                 “(C) the likely impact of the proposed ac-  
21                 tion on small business concerns (within the  
22                 meaning of section 3641(h)).

23          “(c) TRANSFERS OF SUBCLASSES AND OTHER SUB-  
24          ORDINATE UNITS ALLOWABLE.—Nothing in this title  
25          shall be considered to prevent transfers under this section

1 from being made by reason of the fact that they would  
2 involve only some (but not all) of the subclasses or other  
3 subordinate units of the class of mail or type of postal  
4 service involved (without regard to satisfaction of min-  
5 imum quantity requirements standing alone).

6 “(d) NOTIFICATION AND PUBLICATION REQUIRE-  
7 MENTS.—

8 “(1) NOTIFICATION REQUIREMENT.—The Post-  
9 al Service shall, whenever it requests to add a prod-  
10 uct or transfer a product to a different category, file  
11 with the Postal Regulatory Commission and publish  
12 in the Federal Register a notice setting out the basis  
13 for its determination that the product satisfies the  
14 criteria under subsection (b) and, in the case of a  
15 request to add a product or transfer a product to  
16 the competitive category of mail, that the product  
17 meets the regulations promulgated by the Postal  
18 Regulatory Commission pursuant to section 3633.  
19 The provisions of section 504(g) shall be available  
20 with respect to any information required to be filed.

21 “(2) PUBLICATION REQUIREMENT.—The Postal  
22 Regulatory Commission shall, whenever it changes  
23 the list of products in the market-dominant or com-  
24 petitive category of mail, prescribe new lists of prod-  
25 ucts. The revised lists shall indicate how and when

1 any previous lists (including the lists under sections  
2 3621 and 3631) are superseded, and shall be pub-  
3 lished in the Federal Register.

4 “(e) NOTIFICATION REQUIREMENT.—The Postal  
5 Regulatory Commission shall, whenever it reaches a con-  
6 clusion that a product or products should be transferred  
7 between the list of market-dominant products under sec-  
8 tion 3621 and the list of competitive products under sec-  
9 tion 3631, immediately notify the appropriate committees  
10 of the Congress. No such transfer may take effect less  
11 than 12 months after such conclusion.

12 “(f) PROHIBITION.—Except as provided in section  
13 3641, no product that involves the carriage of letters,  
14 printed matter, or mailable packages may be offered by  
15 the Postal Service unless it has been assigned to the mar-  
16 ket-dominant or competitive category of mail (as appro-  
17 priate) either—

18 “(1) under this subchapter; or

19 “(2) by or under any other provision of law.”.

20 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**  
21 **VISIONS.**

22 (a) REDESIGNATION.—Chapter 36 of title 39, United  
23 States Code (as in effect before the amendment made by  
24 subsection (b)) is amended by striking the heading for  
25 subchapter IV and inserting the following:

1           “SUBCHAPTER V—POSTAL SERVICES,  
2           COMPLAINTS, AND JUDICIAL REVIEW”.

3           (b) REPORTS AND COMPLIANCE.—Chapter 36 of title  
4 39, United States Code, is amended by inserting after sub-  
5 chapter III the following:

6                   “SUBCHAPTER IV—REPORTING  
7           REQUIREMENTS AND RELATED PROVISIONS

8   **“§ 3651. Annual reports by the Commission**

9           “(a) IN GENERAL.—The Postal Regulatory Commis-  
10 sion shall submit an annual report to the President and  
11 the Congress concerning the operations of the Commission  
12 under this title, including the extent to which regulations  
13 are achieving the objectives under sections 3622 and 3633,  
14 respectively.

15           “(b) ADDITIONAL INFORMATION.—In addition to the  
16 information required under subsection (a), each report  
17 under this section shall also include, with respect to the  
18 period covered by such report, an estimate of the costs  
19 incurred by the Postal Service in providing—

20                   “(1) postal services to areas of the Nation  
21 where, in the judgment of the Postal Regulatory  
22 Commission, the Postal Service either would not  
23 provide services at all or would not provide such  
24 services in accordance with the requirements of this  
25 title if the Postal Service were not required to pro-

1       vide prompt, reliable, and efficient services to pa-  
2       trons in all areas and all communities, including as  
3       required under the first sentence of section 101(b);

4               “(2) free or reduced rates for postal services as  
5       required by this title; and

6               “(3) other public services or activities which, in  
7       the judgment of the Postal Regulatory Commission,  
8       would not otherwise have been provided by the Post-  
9       al Service but for the requirements of law.

10   The Commission shall detail the bases for its estimates  
11   and the statutory requirements giving rise to the costs  
12   identified in each report under this section.

13       “(c) INFORMATION FROM POSTAL SERVICE.—The  
14   Postal Service shall provide the Postal Regulatory Com-  
15   mission with such information as may, in the judgment  
16   of the Commission, be necessary in order for the Commis-  
17   sion to prepare its reports under this section.

18   **“§ 3652. Annual reports to the Commission**

19       “(a) COSTS, REVENUES, AND RATES.—Except as  
20   provided in subsection (c), the Postal Service shall, no  
21   later than 90 days after the end of each year, prepare and  
22   submit to the Postal Regulatory Commission a report (to-  
23   gether with such nonpublic annex thereto as the Commis-  
24   sion may require under subsection (e))—

1           “(1) which shall analyze costs, revenues, and  
2 rates, using such methodologies as the Commission  
3 shall by regulation prescribe, and in sufficient detail  
4 to demonstrate that the rates in effect for all prod-  
5 ucts during such year complied with all applicable  
6 requirements of this title; and

7           “(2) which shall, for each market-dominant  
8 product provided in such year, provide—

9                   “(A) market information, including mail  
10 volumes; and

11                   “(B) measures of the quality of service af-  
12 farded by the Postal Service in connection with  
13 such product, including—

14                           “(i) the service standard applicable to  
15 such product;

16                           “(ii) the level of service (described in  
17 terms of speed of delivery and reliability)  
18 provided; and

19                           “(iii) the degree of customer satisfac-  
20 tion with the service provided.

21 The Inspector General shall regularly audit the data col-  
22 lection systems and procedures utilized in collecting infor-  
23 mation and preparing such report (including any annex  
24 thereto and the information required under subsection

1 (b)). The results of any such audit shall be submitted to  
2 the Postal Service and the Postal Regulatory Commission.

3 “(b) INFORMATION RELATING TO WORKSHARE DIS-  
4 COUNTS.—

5 “(1) IN GENERAL.—The Postal Service shall in-  
6 clude, in each report under subsection (a), the fol-  
7 lowing information with respect to each market-dom-  
8 inant product for which a workshare discount was in  
9 effect during the period covered by such report:

10 “(A) The per-item cost avoided by the  
11 Postal Service by virtue of such discount.

12 “(B) The percentage of such per-item cost  
13 avoided that the per-item workshare discount  
14 represents.

15 “(C) The per-item contribution made to in-  
16 stitutional costs.

17 “(2) WORKSHARE DISCOUNT DEFINED.—For  
18 purposes of this subsection, the term ‘workshare dis-  
19 count’ has the meaning given such term under sec-  
20 tion 3687.

21 “(c) MARKET TESTS.—In carrying out subsections  
22 (a) and (b) with respect to experimental products offered  
23 through market tests under section 3641 in a year, the  
24 Postal Service—

1           “(1) may report summary data on the costs,  
2 revenues, and quality of service by market test; and

3           “(2) shall report such data as the Postal Regu-  
4 latory Commission requires.

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

11          “(e) CONTENT AND FORM OF REPORTS.—

12           “(1) IN GENERAL.—The Postal Regulatory  
13 Commission shall, by regulation, prescribe the con-  
14 tent and form of the public reports (and any non-  
15 public annex and supporting matter relating thereto)  
16 to be provided by the Postal Service under this sec-  
17 tion. In carrying out this subsection, the Commis-  
18 sion shall give due consideration to—

19           “(A) providing the public with adequate in-  
20 formation to assess the lawfulness of rates  
21 charged;

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

1           “(C) protecting the confidentiality of com-  
2           mercially sensitive information.

3           “(2) REVISED REQUIREMENTS.—The Commis-  
4           sion may, on its own motion or on request of an in-  
5           terested party, initiate proceedings (to be conducted  
6           in accordance with regulations that the Commission  
7           shall prescribe) to improve the quality, accuracy, or  
8           completeness of Postal Service data required by the  
9           Commission under this subsection whenever it shall  
10          appear that—

11           “(A) the attribution of costs or revenues to  
12           products has become significantly inaccurate or  
13           can be significantly improved;

14           “(B) the quality of service data has be-  
15           come significantly inaccurate or can be signifi-  
16           cantly improved; or

17           “(C) those revisions are, in the judgment  
18           of the Commission, otherwise necessitated by  
19           the public interest.

20          “(f) CONFIDENTIAL INFORMATION.—

21           “(1) IN GENERAL.—If the Postal Service deter-  
22           mines that any document or portion of a document,  
23           or other matter, which it provides to the Postal Reg-  
24           ulatory Commission in a nonpublic annex under this  
25           section or pursuant to subsection (d) contains infor-

1       mation which is described in section 410(c) of this  
2       title, or exempt from public disclosure under section  
3       552(b) of title 5, the Postal Service shall, at the  
4       time of providing such matter to the Commission,  
5       notify the Commission of its determination, in writ-  
6       ing, and describe with particularity the documents  
7       (or portions of documents) or other matter for which  
8       confidentiality is sought and the reasons therefor.

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

16       “(g) OTHER REPORTS.—The Postal Service shall  
17       submit to the Postal Regulatory Commission, together  
18       with any other submission that it is required to make  
19       under this section in a year, copies of its then most re-  
20       cent—

21               “(1) comprehensive statement under section  
22       2401(e);

23               “(2) performance plan under section 2803; and

24               “(3) program performance reports under sec-  
25       tion 2804.

1 **“§ 3653. Annual determination of compliance**

2       “(a) OPPORTUNITY FOR PUBLIC COMMENT.—After  
3 receiving the reports required under section 3652 for any  
4 year, the Postal Regulatory Commission shall promptly  
5 provide an opportunity for comment on such reports by  
6 users of the mails, affected parties, and an officer of the  
7 Commission who shall be required to represent the inter-  
8 ests of the general public.

9       “(b) DETERMINATION OF COMPLIANCE OR NON-  
10 COMPLIANCE.—Not later than 90 days after receiving the  
11 submissions required under section 3652 with respect to  
12 a year, the Postal Regulatory Commission shall make a  
13 written determination as to—

14               “(1) whether any rates or fees in effect during  
15 such year (for products individually or collectively)  
16 were not in compliance with applicable provisions of  
17 this chapter (or regulations promulgated there-  
18 under);

19               “(2) whether any performance goals established  
20 under section 2803 or 2804 for such year were not  
21 met; and

22               “(3) whether any market-dominant product  
23 failed to meet any service standard during such  
24 year.

1 If, with respect to a year, no instance of noncompliance  
2 is found under this subsection to have occurred in such  
3 year, the written determination shall be to that effect.

4 “(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a  
5 year, a timely written determination of noncompliance is  
6 made under subsection (b), the Postal Regulatory Com-  
7 mission shall take appropriate action in accordance with  
8 subsections (c)–(e) of section 3662 (as if a complaint aver-  
9 ring such noncompliance had been duly filed and found  
10 under such section to be justified).

11 “(d) REBUTTABLE PRESUMPTION.—A timely written  
12 determination described in the last sentence of subsection  
13 (b) shall, for purposes of any proceeding under section  
14 3662, create a rebuttable presumption of compliance by  
15 the Postal Service (with regard to the matters described  
16 in paragraphs (1) through (3) of subsection (b)) during  
17 the year to which such determination relates.

18 **“§ 3654. Additional financial reporting**

19 “(a) ADDITIONAL FINANCIAL REPORTING.—

20 “(1) IN GENERAL.—The Postal Service shall  
21 file with the Postal Regulatory Commission begin-  
22 ning with the first full fiscal year following the effec-  
23 tive date of this section—

24 “(A) within 35 days after the end of each  
25 fiscal quarter, a quarterly report containing the

1 information required by the Securities and Ex-  
2 change Commission to be included in quarterly  
3 reports under sections 13 and 15(d) of the Se-  
4 curities Exchange Act of 1934 (15 U.S.C. 78m,  
5 78o(d)) on Form 10-Q, as such Form (or any  
6 successor form) may be revised from time to  
7 time;

8 “(B) within 60 days after the end of each  
9 fiscal year, an annual report containing the in-  
10 formation required by the Securities and Ex-  
11 change Commission to be included in annual re-  
12 ports under such sections on Form 10-K, as  
13 such Form (or any successor form) may be re-  
14 vised from time to time; and

15 “(C) periodic reports within the time frame  
16 and containing the information prescribed in  
17 Form 8-K of the Securities and Exchange Com-  
18 mission, as such Form (or any successor form)  
19 may be revised from time to time.

20 “(2) REGISTRANT DEFINED.—For purposes of  
21 defining the reports required by paragraph (1), the  
22 Postal Service shall be deemed to be the ‘registrant’  
23 described in the Securities and Exchange Commis-  
24 sion Forms, and references contained in such Forms

1 to Securities and Exchange Commission regulations  
2 are incorporated herein by reference, as amended.

3 “(3) INTERNAL CONTROL REPORT.—For pur-  
4 poses of defining the reports required by paragraph  
5 (1)(B), the Postal Service shall comply with the  
6 rules prescribed by the Securities and Exchange  
7 Commission implementing section 404 of the Sar-  
8 banes-Oxley Act of 2002 (15 U.S.C. 7262), begin-  
9 ning with the annual report for fiscal year 2007.

10 “(b) FINANCIAL REPORTING.—

11 “(1) The reports required by subsection  
12 (a)(1)(B) shall include, with respect to the Postal  
13 Service’s pension and post-retirement health obliga-  
14 tions—

15 “(A) the funded status of the Postal Serv-  
16 ice’s pension and —postretirement health obli-  
17 gations;

18 “(B) components of the net change in the  
19 fund balances and obligations and the nature  
20 and cause of any significant changes;

21 “(C) components of net periodic costs;

22 “(D) cost methods and assumptions under-  
23 lying the relevant actuarial valuations;

24 “(E) the effect of a one-percentage point  
25 increase in the assumed health care cost trend

1 rate for each future year on the service and in-  
2 terest costs components of net periodic post-  
3 retirement health cost and the accumulated ob-  
4 ligation;

5 “(F) actual contributions to and payments  
6 from the funds for the years presented and the  
7 estimated future contributions and payments  
8 for each of the following 5 years;

9 “(G) the composition of plan assets re-  
10 flected in the fund balances; and

11 “(H) the assumed rate of return on fund  
12 balances and the actual rates of return for the  
13 years presented.

14 “(2)(A) Beginning with reports for the fiscal  
15 year 2007, for purposes of the reports required  
16 under subparagraphs (A) and (B) of subsection  
17 (a)(1), the Postal Service shall include segment re-  
18 porting.

19 “(B) The Postal Service shall determine the ap-  
20 propriate segment reporting under subparagraph (A)  
21 after consultation with the Postal Regulatory Com-  
22 mission.

23 “(c) TREATMENT.—For purposes of the reports re-  
24 quired by subsection (a)(1)(B), the Postal Service shall  
25 obtain an opinion from an independent auditor on whether

1 the information listed in subsection (b) is fairly stated in  
2 all material respects, either in relation to the basic finan-  
3 cial statements as a whole or on a stand-alone basis.

4 “(d) SUPPORTING MATTER.—The Postal Regulatory  
5 Commission shall have access to the audit documentation  
6 and any other supporting matter of the Postal Service and  
7 its independent auditor in connection with any information  
8 submitted under this section.

9 “(e) REVISED REQUIREMENTS.—The Postal Regu-  
10 latory Commission may, on its own motion or on request  
11 of an interested party, initiate proceedings (to be con-  
12 ducted in accordance with regulations that the Commis-  
13 sion shall prescribe) to improve the quality, accuracy, or  
14 completeness of Postal Service data required under this  
15 section whenever it shall appear that—

16 “(1) the data have become significantly inac-  
17 curate or can be significantly improved; or

18 “(2) those revisions are, in the judgment of the  
19 Commission, otherwise necessitated by the public in-  
20 terest.

21 “(f) CONFIDENTIAL INFORMATION.—

22 “(1) IN GENERAL.—If the Postal Service deter-  
23 mines that any document or portion of a document,  
24 or other matter, which it provides to the Postal Reg-  
25 ulatory Commission in a nonpublic annex under this

1 section or pursuant to subsection (d) contains infor-  
2 mation which is described in section 410(c) of this  
3 title, or exempt from public disclosure under section  
4 552(b) of title 5, the Postal Service shall, at the  
5 time of providing such matter to the Commission,  
6 notify the Commission of its determination, in writ-  
7 ing, and describe with particularity the documents  
8 (or portions of documents) or other matter for which  
9 confidentiality is sought and the reasons therefor.

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

17 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND EN-**  
18 **FORCEMENT.**

19 Chapter 36 of title 39, United States Code, is amend-  
20 ed by striking sections 3662 and 3663 and inserting the  
21 following:

22 **“§ 3662. Rate and service complaints**

23 “(a) IN GENERAL.—Interested persons (including an  
24 officer of the Postal Regulatory Commission representing  
25 the interests of the general public) who believe the Postal

1 Service is not operating in conformance with the require-  
2 ments of chapter 1, 4, or 6, or this chapter (or regulations  
3 promulgated under any of those chapters) may lodge a  
4 complaint with the Postal Regulatory Commission in such  
5 form and manner as the Commission may prescribe.

6 “(b) PROMPT RESPONSE REQUIRED.—

7 “(1) IN GENERAL.—The Postal Regulatory  
8 Commission shall, within 90 days after receiving a  
9 complaint under subsection (a), either—

10 “(A) begin proceedings on such complaint;

11 or

12 “(B) issue an order dismissing the com-  
13 plaint (together with a statement of the reasons  
14 therefor).

15 “(2) TREATMENT OF COMPLAINTS NOT TIMELY  
16 ACTED ON.—For purposes of section 3663, any com-  
17 plaint under subsection (a) on which the Commis-  
18 sion fails to act in the time and manner required by  
19 paragraph (1) shall be treated in the same way as  
20 if it had been dismissed pursuant to an order issued  
21 by the Commission on the last day allowable for the  
22 issuance of such order under paragraph (1).

23 “(c) ACTION REQUIRED IF COMPLAINT FOUND TO  
24 BE JUSTIFIED.—If the Postal Regulatory Commission  
25 finds the complaint to be justified, it shall order that the

1 Postal Service take such action as the Commission con-  
2 siders appropriate in order to achieve compliance with the  
3 applicable requirements and to remedy the effects of any  
4 noncompliance (such as ordering unlawful rates to be ad-  
5 justed to lawful levels, ordering the cancellation of market  
6 tests, ordering the Postal Service to discontinue providing  
7 loss-making products, or requiring the Postal Service to  
8 make up for revenue shortfalls in competitive products).

9       “(d) SUSPENSION AUTHORITY.—The Postal Regu-  
10 latory Commission may suspend implementation of rates  
11 or classifications under section 3632(b)(3) for a limited  
12 period of time pending expedited proceedings under this  
13 section. In evaluating whether circumstances warrant sus-  
14 pension, the Commission shall consider factors such as (1)  
15 whether there is a substantial likelihood that such rate or  
16 classification will violate the requirements of chapter 1,  
17 4, or 6, or this chapter (or regulations promulgated under  
18 any of those chapters), (2) whether any persons would suf-  
19 fer substantial injury, loss, or damage absent a suspen-  
20 sion, (3) whether the Postal Service or any other persons  
21 would suffer substantial injury, loss, or damage under a  
22 suspension, and (4) the public interest.

23       “(e) AUTHORITY TO ORDER FINES IN CASES OF DE-  
24 LIBERATE NONCOMPLIANCE.—In addition, in cases of de-  
25 liberate noncompliance by the Postal Service with the re-

1 requirements of this title, the Postal Regulatory Commission  
2 may order, based on the nature, circumstances, extent,  
3 and seriousness of the noncompliance, a fine (in the  
4 amount specified by the Commission in its order) for each  
5 incidence of noncompliance. Fines resulting from the pro-  
6 vision of competitive products shall be paid out of the  
7 Competitive Products Fund established in section 2011.  
8 All receipts from fines imposed under this subsection shall  
9 be deposited in the general fund of the Treasury of the  
10 United States.

11 **“§ 3663. Appellate review**

12 “A person adversely affected or aggrieved by a final  
13 order or decision of the Postal Regulatory Commission  
14 may, within 30 days after such order or decision becomes  
15 final, institute proceedings for review thereof by filing a  
16 petition in the United States Court of Appeals for the Dis-  
17 trict of Columbia. The court shall review the order or deci-  
18 sion in accordance with section 706 of title 5, and chapter  
19 158 and section 2112 of title 28, on the basis of the record  
20 before the Commission. For purposes of this section, the  
21 term ‘person’ includes the Postal Service.

22 **“§ 3664. Enforcement of orders**

23 “The several district courts have jurisdiction specifi-  
24 cally to enforce, and to enjoin and restrain the Postal

1 Service from violating, any order issued by the Postal Reg-  
2 ulatory Commission.”.

3 **SEC. 206. WORKSHARE DISCOUNTS.**

4 (a) IN GENERAL.—Title 39, United States Code, is  
5 amended by adding after section 3686 (as added by sec-  
6 tion 406) the following:

7 **“§ 3687. Workshare discounts**

8 “(a) IN GENERAL.—As part of the regulations estab-  
9 lished under section 3622(a), the Postal Regulatory Com-  
10 mission shall establish rules for workshare discounts that  
11 ensure that such discounts do not exceed the cost that the  
12 Postal Service avoids as the result of workshare activity,  
13 unless—

14 “(1) the discount is—

15 “(A) associated with a new postal service,  
16 a change to an existing postal service, or a new  
17 workshare initiative related to an existing postal  
18 service; and

19 “(B) necessary to induce mailer behavior  
20 that furthers the economically efficient oper-  
21 ation of the Postal Service and the portion of  
22 the discount in excess of the cost that the Post-  
23 al Service avoids as a result of the workshare  
24 activity will be phased out over a limited period  
25 of time;

1           “(2) a reduction in the discount would—

2                   “(A) lead to a loss of volume in the af-  
3           fected category or subclass of mail and reduce  
4           the aggregate contribution to the institutional  
5           costs of the Postal Service from the category or  
6           subclass subject to the discount below what it  
7           otherwise would have been if the discount had  
8           not been reduced to costs avoided;

9                   “(B) result in a further increase in the  
10           rates paid by mailers not able to take advan-  
11           tage of the discount; or

12                   “(C) impede the efficient operation of the  
13           Postal Service;

14           “(3) the amount of the discount above costs  
15           avoided—

16                   “(A) is necessary to mitigate rate shock;  
17           and

18                   “(B) will be phased out over time; or

19           “(4) the discount is provided in connection with  
20           subclasses of mail consisting exclusively of mail mat-  
21           ter of educational, cultural, scientific, or informa-  
22           tional value.

23           “(b) REPORT.—Whenever the Postal Service estab-  
24           lishes or maintains a workshare discount, the Postal Serv-  
25           ice shall, at the time it publishes the workshare discount

1 rate, submit to the Postal Regulatory Commission a de-  
2 tailed report that—

3 “(1) explains the Postal Service’s reasons for  
4 establishing or maintaining the rate;

5 “(2) sets forth the data, economic analyses, and  
6 other information relied on by the Postal Service to  
7 justify the rate; and

8 “(3) certifies that the discount will not ad-  
9 versely affect rates or services provided to users of  
10 postal services who do not take advantage of the dis-  
11 count rate.

12 “(c) DEFINITION.—For purposes of this section, the  
13 term ‘workshare discount’ refers to rate discounts pro-  
14 vided to mailers for the presorting, prebarcoding, han-  
15 dling, or transportation of mail, as further defined by the  
16 Postal Regulatory Commission under section 3622(a).”.

17 (b) CLERICAL AMENDMENT.—The analysis for chap-  
18 ter 36 of title 39, United States Code (as amended by  
19 section 207) is amended by adding after the item relating  
20 to section 3686 the following:

“3687. Workshare discounts.”.

21 **SEC. 207. CLERICAL AMENDMENT.**

22 Chapter 36 of title 39, United States Code, is amend-  
23 ed by striking the heading and analysis for such chapter  
24 and inserting the following:

1 **“CHAPTER 36—POSTAL RATES, CLASSES**  
 2 **AND SERVICES**

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“3626. Reduced rates.

“3627. Adjusting free rates.

“3629. Reduced rates for voter registration purposes.

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW  
 PRODUCTS

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant  
 and competitive categories of mail.

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

“3654. Additional financial reporting.

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

“3661. Postal services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

“SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

“3682. Size and weight limits.

“3683. Uniform rates for books; films, other materials.

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Bonus authority.”.

1 **TITLE III—PROVISIONS RELAT-**  
2 **ING TO FAIR COMPETITION**

3 **SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS**  
4 **FUND.**

5 (a) PROVISIONS RELATING TO POSTAL SERVICE  
6 COMPETITIVE PRODUCTS FUND AND RELATED MAT-  
7 TERS.—

8 (1) IN GENERAL.—Chapter 20 of title 39,  
9 United States Code, is amended by adding at the  
10 end the following:

11 **“§ 2011. Provisions relating to competitive products**

12 “(a) There is established in the Treasury of the  
13 United States a revolving fund, to be called the Postal  
14 Service Competitive Products Fund, which shall be avail-  
15 able to the Postal Service without fiscal year limitation  
16 for the payment of—

17 “(1) costs attributable to competitive products;  
18 and

19 “(2) all other costs incurred by the Postal Serv-  
20 ice, to the extent allocable to competitive products.

21 For purposes of this subsection, the term ‘costs attrib-  
22 utable’ has the meaning given such term by section 3631.

23 “(b) There shall be deposited in the Competitive  
24 Products Fund, subject to withdrawal by the Postal Serv-  
25 ice—

1           “(1) revenues from competitive products;

2           “(2) amounts received from obligations issued  
3       by the Postal Service under subsection (e);

4           “(3) interest and dividends earned on invest-  
5       ments of the Competitive Products Fund; and

6           “(4) any other receipts of the Postal Service  
7       (including from the sale of assets), to the extent al-  
8       locable to competitive products.

9       “(c) If the Postal Service determines that the moneys  
10   of the Competitive Products Fund are in excess of current  
11   needs, it may request the investment of such amounts as  
12   it deems advisable by the Secretary of the Treasury in ob-  
13   ligations of, or obligations guaranteed by, the Government  
14   of the United States, and, with the approval of the Sec-  
15   retary, in such other obligations or securities as it deems  
16   appropriate.

17       “(d) With the approval of the Secretary of the Treas-  
18   ury, the Postal Service may deposit moneys of the Com-  
19   petitive Products Fund in any Federal Reserve bank, any  
20   depository for public funds, or in such other places and  
21   in such manner as the Postal Service and the Secretary  
22   may mutually agree.

23       “(e)(1) Subject to the limitations specified in section  
24   2005(a), the Postal Service is authorized to borrow money  
25   and to issue and sell such obligations as it determines nec-

1 essary to provide for competitive products and deposit  
2 such amounts in the Competitive Products Fund. Any  
3 such borrowings by the Postal Service shall be supported  
4 and serviced by the revenues and receipts from competitive  
5 products and the assets related to the provision of com-  
6 petitive products (as determined under subsection (h) or,  
7 for purposes of any period before accounting practices and  
8 principles under subsection (h) have been established and  
9 applied, the best information available from the Postal  
10 Service, including the audited statements required by sec-  
11 tion 2008(e), but in either case subject to paragraph (5)).

12       “(2) The Postal Service may enter into binding cov-  
13 enants with the holders of such obligations, and with the  
14 trustee, if any, under any agreement entered into in con-  
15 nection with the issuance thereof with respect to—

16               “(A) the establishment of reserve, sinking, and  
17               other funds;

18               “(B) application and use of revenues and re-  
19               ceipts of the Competitive Products Fund;

20               “(C) stipulations concerning the subsequent  
21               issuance of obligations or the execution of leases or  
22               lease purchases relating to properties of the Postal  
23               Service; and

1           “(D) such other matters as the Postal Service  
2           considers necessary or desirable to enhance the mar-  
3           ketability of such obligations.

4           “(3) The obligations issued by the Postal Service  
5           under this section—

6           “(A) shall be in such forms and denominations;

7           “(B) shall be sold at such times and in such  
8           amounts;

9           “(C) shall mature at such time or times;

10          “(D) shall be sold at such prices;

11          “(E) shall bear such rates of interest;

12          “(F) may be redeemable before maturity in  
13          such manner, at such times, and at such redemption  
14          premiums;

15          “(G) may be entitled to such relative priorities  
16          of claim on the assets of the Postal Service with re-  
17          spect to principal and interest payments; and

18          “(H) shall be subject to such other terms and  
19          conditions;

20          as the Postal Service determines.

21          “(4) Obligations issued by the Postal Service under  
22          this subsection—

23          “(A) shall be negotiable or nonnegotiable and  
24          bearer or registered instruments, as specified therein  
25          and in any indenture or covenant relating thereto;

1           “(B) shall contain a recital that they are issued  
2           under this section, and such recital shall be conclu-  
3           sive evidence of the regularity of the issuance and  
4           sale of such obligations and of their validity;

5           “(C) shall be lawful investments and may be ac-  
6           cepted as security for all fiduciary, trust, and public  
7           funds, the investment or deposit of which shall be  
8           under the authority or control of any officer or agen-  
9           cy of the Government of the United States, and the  
10          Secretary of the Treasury or any other officer or  
11          agency having authority over or control of any such  
12          fiduciary, trust, or public funds, may at any time  
13          sell any of the obligations of the Postal Service ac-  
14          quired under this section;

15          “(D) shall not be exempt either as to principal  
16          or interest from any taxation now or hereafter im-  
17          posed by any State or local taxing authority; and

18          “(E) except as provided in section 2006(c) of  
19          this title, shall not be obligations of, nor shall pay-  
20          ment of the principal thereof or interest thereon be  
21          guaranteed by, the Government of the United  
22          States, and the obligations shall so plainly state.

23          “(5) The Postal Service shall make payments of prin-  
24          cipal, or interest, or both on obligations issued under this  
25          section out of revenues and receipts from competitive

1 products and assets related to the provision of competitive  
2 products (as determined under subsection (h) or, for pur-  
3 poses of any period before accounting practices and prin-  
4 ciples under subsection (h) have been established and ap-  
5 plied, the best information available, including the audited  
6 statements required by section 2008(e)). For purposes of  
7 this subsection, the total assets of the Competitive Prod-  
8 ucts Fund shall be the greater of—

9           “(A) the assets related to the provision of com-  
10       petitive products; or

11           “(B) the percentage of total Postal Service rev-  
12       enues and receipts from competitive products times  
13       the total assets of the Postal Service.

14       “(f) The receipts and disbursements of the Competi-  
15       tive Products Fund shall be accorded the same budgetary  
16       treatment as is accorded to receipts and disbursements of  
17       the Postal Service Fund under section 2009a.

18       “(g) A judgment against the Postal Service or the  
19       Government of the United States (or settlement of a  
20       claim) shall, to the extent that it arises out of activities  
21       of the Postal Service in the provision of competitive prod-  
22       ucts, be paid out of the Competitive Products Fund.

23       “(h)(1) The Secretary of the Treasury, in consulta-  
24       tion with the Postal Service and an independent, certified  
25       public accounting firm and such other advisors as the Sec-

1 retary considers appropriate, shall develop recommenda-  
2 tions regarding—

3           “(A) the accounting practices and principles  
4           that should be followed by the Postal Service with  
5           the objectives of (i) identifying and valuing the as-  
6           sets and liabilities of the Postal Service associated  
7           with providing, and the capital and operating costs  
8           incurred by the Postal Service in providing, competi-  
9           tive products, and (ii) subject to subsection (e)(5),  
10          preventing the subsidization of such products by  
11          market-dominant products; and

12           “(B) the substantive and procedural rules that  
13           should be followed in determining the Postal Serv-  
14           ice’s assumed Federal income tax on competitive  
15           products income for any year (within the meaning of  
16           section 3634).

17 Such recommendations shall be submitted to the Postal  
18 Regulatory Commission no earlier than 6 months, and no  
19 later than 12 months, after the effective date of this sec-  
20 tion.

21           “(2)(A) Upon receiving the recommendations of the  
22 Secretary of the Treasury under paragraph (1), the Com-  
23 mission shall give interested parties, including the Postal  
24 Service, users of the mails, and an officer of the Commis-  
25 sion who shall be required to represent the interests of

1 the general public, an opportunity to present their views  
2 on those recommendations through submission of written  
3 data, views, or arguments, with or without opportunity for  
4 oral presentation, or in such other manner as the Commis-  
5 sion considers appropriate.

6 “(B) After due consideration of the views and other  
7 information received under subparagraph (A), the Com-  
8 mission shall by rule—

9 “(i) provide for the establishment and applica-  
10 tion of the accounting practices and principles which  
11 shall be followed by the Postal Service;

12 “(ii) provide for the establishment and applica-  
13 tion of the substantive and procedural rules de-  
14 scribed in paragraph (1)(B); and

15 “(iii) provide for the submission by the Postal  
16 Service to the Postal Regulatory Commission of an-  
17 nual and other periodic reports setting forth such in-  
18 formation as the Commission may require.

19 Final rules under this subparagraph shall be issued not  
20 later than 12 months after the date on which the Sec-  
21 retary of the Treasury makes his submission to the Com-  
22 mission under paragraph (1) (or by such later date as the  
23 Commission and the Postal Service may agree to). The  
24 Commission is authorized to promulgate regulations revis-  
25 ing such rules.

1           “(C) Reports described in subparagraph (B)(iii) shall  
2 be submitted at such time and in such form, and shall  
3 include such information, as the Commission by rule re-  
4 quires. The Commission may, on its own motion or on re-  
5 quest of an interested party, initiate proceedings (to be  
6 conducted in accordance with such rules as the Commis-  
7 sion shall prescribe) to improve the quality, accuracy, or  
8 completeness of Postal Service data under such subpara-  
9 graph whenever it shall appear that—

10           “(i) the quality of the information furnished in  
11 those reports has become significantly inaccurate or  
12 can be significantly improved; or

13           “(ii) those revisions are, in the judgment of the  
14 Commission, otherwise necessitated by the public in-  
15 terest.

16           “(D) A copy of each report described in subpara-  
17 graph (B)(iii) shall also be transmitted by the Postal Serv-  
18 ice to the Secretary of the Treasury and the Inspector  
19 General of the United States Postal Service.

20           “(i) The Postal Service shall render an annual report  
21 to the Secretary of the Treasury concerning the operation  
22 of the Competitive Products Fund, in which it shall ad-  
23 dress such matters as risk limitations, reserve balances,  
24 allocation or distribution of moneys, liquidity require-  
25 ments, and measures to safeguard against losses. A copy

1 of its then most recent report under this subsection shall  
2 be included with any other submission that it is required  
3 to make to the Postal Regulatory Commission under sec-  
4 tion 3652(g).”.

5 (2) CLERICAL AMENDMENT.—The analysis for  
6 chapter 20 of title 39, United States Code, is  
7 amended by adding after the item relating to section  
8 2010 the following:

“2011. Provisions relating to competitive products.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) DEFINITION.—Section 2001 of title 39,  
11 United States Code, is amended by striking “and”  
12 at the end of paragraph (1), by redesignating para-  
13 graph (2) as paragraph (3), and by inserting after  
14 paragraph (1) the following:

15 “(2) ‘Competitive Products Fund’ means the  
16 Postal Service Competitive Products Fund estab-  
17 lished by section 2011; and”.

18 (2) CAPITAL OF THE POSTAL SERVICE.—Sec-  
19 tion 2002(b) of title 39, United States Code, is  
20 amended by striking “Fund,” and inserting “Fund  
21 and the balance in the Competitive Products  
22 Fund,”.

23 (3) POSTAL SERVICE FUND.—

24 (A) PURPOSES FOR WHICH AVAILABLE.—

25 Section 2003(a) of title 39, United States Code,

1 is amended by striking “title.” and inserting  
2 “title (other than any of the purposes, func-  
3 tions, or powers for which the Competitive  
4 Products Fund is available).”.

5 (B) DEPOSITS.—Section 2003(b) of title  
6 39, United States Code, is amended by striking  
7 “There” and inserting “Except as otherwise  
8 provided in section 2011, there”.

9 (4) RELATIONSHIP BETWEEN THE TREASURY  
10 AND THE POSTAL SERVICE.—Section 2006 of title  
11 39, United States Code, is amended—

12 (A) in subsection (a), by inserting “or sec-  
13 tion 2011” before “of this title,”;

14 (B) in subsection (b), by inserting “under  
15 section 2005” before “in such amounts” in the  
16 first sentence and before “in excess of such  
17 amount.” in the second sentence; and

18 (C) in subsection (c), by inserting “or sec-  
19 tion 2011(e)(4)(E)” before “of this title,”.

20 **SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETI-**  
21 **TIVE PRODUCTS INCOME.**

22 Subchapter II of chapter 36 of title 39, United States  
23 Code, as amended by section 202, is amended by adding  
24 at the end the following:

1 **“§ 3634. Assumed Federal income tax on competitive**  
2 **products income**

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

4 “(1) the term ‘assumed Federal income tax on  
5 competitive products income’ means the net income  
6 tax that would be imposed by chapter 1 of the Inter-  
7 nal Revenue Code of 1986 on the Postal Service’s  
8 assumed taxable income from competitive products  
9 for the year; and

10 “(2) the term ‘assumed taxable income from  
11 competitive products’, with respect to a year, refers  
12 to the amount representing what would be the tax-  
13 able income of a corporation under the Internal Rev-  
14 enue Code of 1986 for the year, if—

15 “(A) the only activities of such corporation  
16 were the activities of the Postal Service allo-  
17 cable under section 2011(h) to competitive  
18 products; and

19 “(B) the only assets held by such corpora-  
20 tion were the assets of the Postal Service allo-  
21 cable under section 2011(h) to such activities.

22 “(b) COMPUTATION AND TRANSFER REQUIRE-  
23 MENTS.—The Postal Service shall, for each year beginning  
24 with the year in which occurs the deadline for the Postal  
25 Service’s first report to the Postal Regulatory Commission  
26 under section 3652(a)—

1           “(1) compute its assumed Federal income tax  
2           on competitive products income for such year; and

3           “(2) transfer from the Competitive Products  
4           Fund to the Postal Service Fund the amount of that  
5           assumed tax.

6           “(c) DEADLINE FOR TRANSFERS.—Any transfer re-  
7           quired to be made under this section for a year shall be  
8           due on or before the January 15th next occurring after  
9           the close of such year.”.

10 **SEC. 303. UNFAIR COMPETITION PROHIBITED.**

11           (a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39,  
12           United States Code, is amended by adding after section  
13           404 the following:

14 **“§ 404a. Specific Limitations**

15           “(a) Except as specifically authorized by law, the  
16           Postal Service may not—

17           “(1) establish any rule or regulation (including  
18           any standard) the effect of which is to preclude com-  
19           petition or establish the terms of competition unless  
20           the Postal Service demonstrates that the regulation  
21           does not create an unfair competitive advantage for  
22           itself or any entity funded (in whole or in part) by  
23           the Postal Service;

24           “(2) compel the disclosure, transfer, or licens-  
25           ing of intellectual property to any third party (such

1 as patents, copyrights, trademarks, trade secrets,  
2 and proprietary information); or

3 “(3) obtain information from a person that pro-  
4 vides (or seeks to provide) any product, and then  
5 offer any product or service that uses or is based in  
6 whole or in part on such information, without the  
7 consent of the person providing that information,  
8 unless substantially the same information is obtained  
9 (or obtainable) from an independent source or is  
10 otherwise obtained (or obtainable).

11 “(b) The Postal Regulatory Commission shall pre-  
12 scribe regulations to carry out this section.

13 “(c) Any party (including an officer of the Commis-  
14 sion representing the interests of the general public) who  
15 believes that the Postal Service has violated this section  
16 may bring a complaint in accordance with section 3662.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) GENERAL POWERS.—Section 401 of title  
19 39, United States Code, is amended by striking  
20 “The” and inserting “Subject to the provisions of  
21 section 404a, the”.

22 (2) SPECIFIC POWERS.—Section 404(a) of title  
23 39, United States Code, is amended by striking  
24 “Without” and inserting “Subject to the provisions  
25 of section 404a, but otherwise without”.

1 (c) CLERICAL AMENDMENT.—The analysis for chap-  
2 ter 4 of title 39, United States Code, is amended by insert-  
3 ing after the item relating to section 404 the following:  
“404a. Specific limitations.”.

4 **SEC. 304. SUITS BY AND AGAINST THE POSTAL SERVICE.**

5 (a) IN GENERAL.—Section 409 of title 39, United  
6 States Code, is amended by striking subsections (d) and  
7 (e) and inserting the following:

8 “(d)(1) For purposes of the provisions of law cited  
9 in paragraphs (2)(A) and (2)(B), respectively, the Postal  
10 Service—

11 “(A) shall be considered to be a ‘person’, as  
12 used in the provisions of law involved; and

13 “(B) shall not be immune under any other doc-  
14 trine of sovereign immunity from suit in Federal  
15 court by any person for any violation of any of those  
16 provisions of law by any officer or employee of the  
17 Postal Service.

18 “(2) This subsection applies with respect to—

19 “(A) the Act of July 5, 1946 (commonly re-  
20 ferred to as the ‘Trademark Act of 1946’ (15 U.S.C.  
21 1051 and following)); and

22 “(B) the provisions of section 5 of the Federal  
23 Trade Commission Act to the extent that such sec-  
24 tion 5 applies to unfair or deceptive acts or prac-  
25 tices.

1           “(e)(1) To the extent that the Postal Service, or other  
2 Federal agency acting on behalf of or in concert with the  
3 Postal Service, engages in conduct with respect to any  
4 competitive product, the Postal Service or other Federal  
5 agency (as the case may be)—

6           “(A) shall not be immune under any doctrine of  
7 sovereign immunity from suit in Federal court by  
8 any person for any violation of Federal law by such  
9 agency or any officer or employee thereof; and

10           “(B) shall be considered to be a person (as de-  
11 fined in subsection (a) of the first section of the  
12 Clayton Act) for purposes of—

13           “(i) the antitrust laws (as defined in such  
14 subsection); and

15           “(ii) section 5 of the Federal Trade Com-  
16 mission Act to the extent that such section 5  
17 applies to unfair methods of competition.

18           “(2) No damages, interest on damages, costs or at-  
19 torney’s fees may be recovered, and no criminal liability  
20 may be imposed, under the antitrust laws (as so defined)  
21 from any officer or employee of the Postal Service, or  
22 other Federal agency acting on behalf of or in concert with  
23 the Postal Service, acting in an official capacity.

1       “(3) This subsection shall not apply with respect to  
2 conduct occurring before the date of the enactment of this  
3 subsection.

4       “(f)(1) Each building constructed or altered by the  
5 Postal Service shall be constructed or altered, to the max-  
6 imum extent feasible as determined by the Postal Service,  
7 in compliance with one of the nationally recognized model  
8 building codes and with other applicable nationally recog-  
9 nized codes.

10       “(2) Each building constructed or altered by the  
11 Postal Service shall be constructed or altered only after  
12 consideration of all requirements (other than procedural  
13 requirements) of zoning laws, land use laws, and applica-  
14 ble environmental laws of a State or subdivision of a State  
15 which would apply to the building if it were not a building  
16 constructed or altered by an establishment of the Govern-  
17 ment of the United States.

18       “(3) For purposes of meeting the requirements of  
19 paragraphs (1) and (2) with respect to a building, the  
20 Postal Service shall—

21               “(A) in preparing plans for the building, con-  
22 sult with appropriate officials of the State or polit-  
23 ical subdivision, or both, in which the building will  
24 be located;

1           “(B) upon request, submit such plans in a  
2           timely manner to such officials for review by such  
3           officials for a reasonable period of time not exceed-  
4           ing 30 days; and

5           “(C) permit inspection by such officials during  
6           construction or alteration of the building, in accord-  
7           ance with the customary schedule of inspections for  
8           construction or alteration of buildings in the locality,  
9           if such officials provide to the Postal Service—

10                   “(i) a copy of such schedule before con-  
11                   struction of the building is begun; and

12                   “(ii) reasonable notice of their intention to  
13                   conduct any inspection before conducting such  
14                   inspection.

15 Nothing in this subsection shall impose an obligation on  
16 any State or political subdivision to take any action under  
17 the preceding sentence, nor shall anything in this sub-  
18 section require the Postal Service or any of its contractors  
19 to pay for any action taken by a State or political subdivi-  
20 sion to carry out this subsection (including reviewing  
21 plans, carrying out on-site inspections, issuing building  
22 permits, and making recommendations).

23           “(4) Appropriate officials of a State or a political  
24 subdivision of a State may make recommendations to the  
25 Postal Service concerning measures necessary to meet the

1 requirements of paragraphs (1) and (2). Such officials  
2 may also make recommendations to the Postal Service  
3 concerning measures which should be taken in the con-  
4 struction or alteration of the building to take into account  
5 local conditions. The Postal Service shall give due consid-  
6 eration to any such recommendations.

7       “(5) In addition to consulting with local and State  
8 officials under paragraph (3), the Postal Service shall es-  
9 tablish procedures for soliciting, assessing, and incor-  
10 porating local community input on real property and land  
11 use decisions.

12       “(6) For purposes of this subsection, the term ‘State’  
13 includes the District of Columbia, the Commonwealth of  
14 Puerto Rico, and a territory or possession of the United  
15 States.

16       “(g)(1) Notwithstanding any other provision of law,  
17 legal representation may not be furnished by the Depart-  
18 ment of Justice to the Postal Service in any action, suit,  
19 or proceeding arising, in whole or in part, under any of  
20 the following:

21               “(A) Subsection (d) or (e) of this section.

22               “(B) Subsection (f) or (g) of section 504 (relat-  
23 ing to administrative subpoenas by the Postal Regu-  
24 latory Commission).

1           “(C) Section 3663 (relating to appellate re-  
2       view).

3       The Postal Service may, by contract or otherwise, employ  
4       attorneys to obtain any legal representation that it is pre-  
5       cluded from obtaining from the Department of Justice  
6       under this paragraph.

7           “(2) In any circumstance not covered by paragraph  
8       (1), the Department of Justice shall, under section 411,  
9       furnish the Postal Service such legal representation as it  
10      may require, except that, with the prior consent of the  
11      Attorney General, the Postal Service may, in any such cir-  
12      cumstance, employ attorneys by contract or otherwise to  
13      conduct litigation brought by or against the Postal Service  
14      or its officers or employees in matters affecting the Postal  
15      Service.

16          “(3)(A) In any action, suit, or proceeding in a court  
17      of the United States arising in whole or in part under any  
18      of the provisions of law referred to in subparagraph (B)  
19      or (C) of paragraph (1), and to which the Commission  
20      is not otherwise a party, the Commission shall be per-  
21      mitted to appear as a party on its own motion and as  
22      of right.

23          “(B) The Department of Justice shall, under such  
24      terms and conditions as the Commission and the Attorney  
25      General shall consider appropriate, furnish the Commis-

1 sion such legal representation as it may require in connec-  
2 tion with any such action, suit, or proceeding, except that,  
3 with the prior consent of the Attorney General, the Com-  
4 mission may employ attorneys by contract or otherwise for  
5 that purpose.

6 “(h) A judgment against the Government of the  
7 United States arising out of activities of the Postal Service  
8 shall be paid by the Postal Service out of any funds avail-  
9 able to the Postal Service, subject to the restriction speci-  
10 fied in section 2011(g).”.

11 (b) TECHNICAL AMENDMENT.—Section 409(a) of  
12 title 39, United States Code, is amended by striking “Ex-  
13 cept as provided in section 3628 of this title,” and insert-  
14 ing “Except as otherwise provided in this title,”.

15 **SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.**

16 (a) IN GENERAL.—Section 407 of title 39, United  
17 States Code, is amended to read as follows:

18 **“§ 407. International postal arrangements**

19 “(a) It is the policy of the United States—

20 “(1) to promote and encourage communications  
21 between peoples by efficient operation of inter-  
22 national postal services and other international deliv-  
23 ery services for cultural, social, and economic pur-  
24 poses;

1           “(2) to promote and encourage unrestricted and  
2           undistorted competition in the provision of inter-  
3           national postal services and other international deliv-  
4           ery services, except where provision of such services  
5           by private companies may be prohibited by law of  
6           the United States;

7           “(3) to promote and encourage a clear distinc-  
8           tion between governmental and operational respon-  
9           sibilities with respect to the provision of inter-  
10          national postal services and other international deliv-  
11          ery services by the Government of the United States  
12          and by intergovernmental organizations of which the  
13          United States is a member; and

14          “(4) to participate in multilateral and bilateral  
15          agreements with other countries to accomplish these  
16          objectives.

17          “(b)(1) The Secretary of State shall be responsible  
18          for formulation, coordination, and oversight of foreign pol-  
19          icy related to international postal services and other inter-  
20          national delivery services, and shall have the power to con-  
21          clude treaties, conventions and amendments related to  
22          international postal services and other international deliv-  
23          ery services, except that the Secretary may not conclude  
24          any treaty, convention, or other international agreement  
25          (including those regulating international postal services)

1 if such treaty, convention, or agreement would, with re-  
2 spect to any competitive product, grant an undue or un-  
3 reasonable preference to the Postal Service, a private pro-  
4 vider of international postal or delivery services, or any  
5 other person.

6       “(2) In carrying out the responsibilities specified in  
7 paragraph (1), the Secretary of State shall exercise pri-  
8 mary authority for the conduct of foreign policy with re-  
9 spect to international postal services and international de-  
10 livery services, including the determination of United  
11 States positions and the conduct of United States partici-  
12 pation in negotiations with foreign governments and inter-  
13 national bodies. In exercising this authority, the Sec-  
14 retary—

15           “(A) shall coordinate with other agencies as ap-  
16 propriate, and in particular, shall give full consider-  
17 ation to the authority vested by law or Executive  
18 order in the Postal Regulatory Commission, the De-  
19 partment of Commerce, the Department of Trans-  
20 portation, and the Office of the United States Trade  
21 Representative in this area;

22           “(B) shall maintain continuing liaison with  
23 other executive branch agencies concerned with post-  
24 al and delivery services;

1           “(C) shall maintain continuing liaison with the  
2           Committee on Government Reform of the House of  
3           Representatives and the Committee on Govern-  
4           mental Affairs of the Senate;

5           “(D) shall maintain appropriate liaison with  
6           both representatives of the Postal Service and rep-  
7           resentatives of users and private providers of inter-  
8           national postal services and other international deliv-  
9           ery services to keep informed of their interests and  
10          problems, and to provide such assistance as may be  
11          needed to ensure that matters of concern are  
12          promptly considered by the Department of State or  
13          (if applicable, and to the extent practicable) other  
14          executive branch agencies; and

15          “(E) shall assist in arranging meetings of such  
16          public sector advisory groups as may be established  
17          to advise the Department of State and other execu-  
18          tive branch agencies in connection with international  
19          postal services and international delivery services.

20          “(3) The Secretary of State shall establish an advi-  
21          sory committee (within the meaning of the Federal Advi-  
22          sory Committee Act) to perform such functions as the Sec-  
23          retary considers appropriate in connection with carrying  
24          out subparagraphs (A) through (D) of paragraph (2).

1           “(c)(1) Before concluding any treaty, convention, or  
2 amendment that establishes a rate or classification for a  
3 product subject to subchapter I of chapter 36, the Sec-  
4 retary of State shall request the Postal Regulatory Com-  
5 mission to submit a decision on whether such rate or clas-  
6 sification is consistent with the standards and criteria es-  
7 tablished by the Commission under section 3622.

8           “(2) The Secretary shall ensure that each treaty, con-  
9 vention, or amendment concluded under subsection (b) is  
10 consistent with a decision of the Commission adopted  
11 under paragraph (1), except if, or to the extent, the Sec-  
12 retary determines, by written order, that considerations of  
13 foreign policy or national security require modification of  
14 the Commission’s decision.

15           “(d) Nothing in this section shall be considered to  
16 prevent the Postal Service from entering into such com-  
17 mercial or operational contracts related to providing inter-  
18 national postal services and other international delivery  
19 services as it deems appropriate, except that—

20                   “(1) any such contract made with an agency of  
21 a foreign government (whether under authority of  
22 this subsection or otherwise) shall be solely contrac-  
23 tual in nature and may not purport to be inter-  
24 national law; and

1           “(2) a copy of each such contract between the  
2           Postal Service and an agency of a foreign govern-  
3           ment shall be transmitted to the Secretary of State  
4           and the Postal Regulatory Commission not later  
5           than the effective date of such contract.

6           “(e)(1) With respect to shipments of international  
7           mail that are competitive products within the meaning of  
8           section 3631 that are exported or imported by the Postal  
9           Service, the Bureau of Customs and Border Protection of  
10          the Department of Homeland Security and other appro-  
11          priate Federal agencies shall apply the customs laws of  
12          the United States and all other laws relating to the impor-  
13          tation or exportation of such shipments in the same man-  
14          ner to both shipments by the Postal Service and similar  
15          shipments by private companies.

16          “(2) For purposes of this subsection, the term ‘pri-  
17          vate company’ means a private company substantially  
18          owned or controlled by persons who are citizens of the  
19          United States.

20          “(3) In exercising the authority pursuant to sub-  
21          section (b) to conclude new treaties, conventions and  
22          amendments related to international postal services and  
23          to renegotiate such treaties, conventions and amendments,  
24          the Secretary of State shall, to the maximum extent prac-  
25          ticable, take such measures as are within the Secretary’s

1 control to encourage the governments of other countries  
2 to make available to the Postal Service and private compa-  
3 nies a range of nondiscriminatory customs procedures that  
4 will fully meet the needs of all types of American shippers.  
5 The Secretary of State shall consult with the United  
6 States Trade Representative and the Commissioner of  
7 Customs, Department of Homeland Security in carrying  
8 out this paragraph.

9 “(4) The provisions of this subsection shall take ef-  
10 fect 6 months after the date of the enactment of this sub-  
11 section or such earlier date as the Bureau of Customs and  
12 Border Protection of the Department of Homeland Secu-  
13 rity may determine in writing.”.

14 (b) EFFECTIVE DATE.—Notwithstanding any provi-  
15 sion of the amendment made by subsection (a), the au-  
16 thority of the United States Postal Service to establish  
17 the rates of postage or other charges on mail matter con-  
18 veyed between the United States and other countries shall  
19 remain available to the Postal Service until—

20 (1) with respect to market-dominant products,  
21 the date as of which the regulations promulgated  
22 under section 3622 of title 39, United States Code  
23 (as amended by section 201(a)) take effect; and

24 (2) with respect to competitive products, the  
25 date as of which the regulations promulgated under

1 section 3633 of title 39, United States Code (as  
2 amended by section 202) take effect.

3 **SEC. 306. REDESIGNATION.**

4 Chapter 36 of title 39, United States Code (as in ef-  
5 fect before the amendment made by section 204(a)) is  
6 amended by striking the heading for subchapter V and in-  
7 serting the following:

8 “SUBCHAPTER VI—GENERAL”.

9 **TITLE IV—GENERAL**  
10 **PROVISIONS**

11 **SEC. 401. QUALIFICATION REQUIREMENTS FOR GOV-**  
12 **ERNORS.**

13 (a) IN GENERAL.—Section 202(a) of title 39, United  
14 States Code, is amended by striking “(a)” and inserting  
15 “(a)(1)” and by striking the fourth sentence and inserting  
16 the following: “The Governors shall represent the public  
17 interest generally, and at least 4 of the Governors shall  
18 be chosen solely on the basis of their demonstrated ability  
19 in managing organizations or corporations (in either the  
20 public or private sector) of substantial size; for purposes  
21 of this sentence, an organization or corporation shall be  
22 considered to be of substantial size if it employs at least  
23 50,000 employees. The Governors shall not be representa-  
24 tives of specific interests using the Postal Service, and  
25 may be removed only for cause.”.

1 (b) CONSULTATION REQUIREMENT.—Section 202(a)  
2 of title 39, United States Code, is amended by adding at  
3 the end the following:

4 “(2) In selecting the individuals described in para-  
5 graph (1) for nomination for appointment to the position  
6 of Governor, the President should consult with the Speak-  
7 er of the House of Representatives, the minority leader  
8 of the House of Representatives, the majority leader of  
9 the Senate, and the minority leader of the Senate.”.

10 (c) RESTRICTION.—Section 202(b) of title 39, United  
11 States Code, is amended by striking “(b)” and inserting  
12 “(b)(1)”, and by adding at the end the following:

13 “(2)(A) Notwithstanding any other provision of this  
14 section, in the case of the office of the Governor the term  
15 of which is the first one scheduled to expire at least 4  
16 months after the date of the enactment of this para-  
17 graph—

18 “(i) such office may not, in the case of any per-  
19 son commencing service after that expiration date,  
20 be filled by any person other than an individual cho-  
21 sen from among persons nominated for such office  
22 with the unanimous concurrence of all labor organi-  
23 zations described in section 206(a)(1); and

24 “(ii) instead of the term that would otherwise  
25 apply under the first sentence of paragraph (1), the

1 term of any person so appointed to such office shall  
2 be 3 years.

3 “(B) Except as provided in subparagraph (A), an ap-  
4 pointment under this paragraph shall be made in conform-  
5 ance with all provisions of this section that would other-  
6 wise apply.”.

7 (d) APPLICABILITY.—The amendment made by sub-  
8 section (a) shall not affect the appointment or tenure of  
9 any person serving as a Governor of the Board of Gov-  
10 ernors of the United States Postal Service pursuant to an  
11 appointment made before the date of the enactment of this  
12 Act, or, except as provided in the amendment made by  
13 subsection (c), any nomination made before that date;  
14 however, when any such office becomes vacant, the ap-  
15 pointment of any person to fill that office shall be made  
16 in accordance with such amendment. The requirement set  
17 forth in the fourth sentence of section 202(a)(1) of title  
18 39, United States Code (as amended by subsection (a))  
19 shall be met beginning not later than 9 years after the  
20 date of the enactment of this Act.

21 **SEC. 402. OBLIGATIONS.**

22 (a) PURPOSES FOR WHICH OBLIGATIONS MAY BE  
23 ISSUED.—The first sentence of section 2005(a)(1) of title  
24 39, United States Code, is amended by striking “title.”  
25 and inserting “title, other than any of the purposes for

1 which the corresponding authority is available to the Post-  
2 al Service under section 2011.”.

3 (b) LIMITATION ON NET ANNUAL INCREASE IN OB-  
4 LIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third  
5 sentence of section 2005(a)(1) of title 39, United States  
6 Code, is amended to read as follows: “In any one fiscal  
7 year, the net increase in the amount of obligations out-  
8 standing issued for the purpose of capital improvements  
9 and the net increase in the amount of obligations out-  
10 standing issued for the purpose of defraying operating ex-  
11 penses of the Postal Service shall not exceed a combined  
12 total of \$3,000,000,000.” .

13 (c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

14 (1) IN GENERAL.—Subsection (a) of section  
15 2005 of title 39, United States Code, is amended by  
16 adding at the end the following:

17 “(3) For purposes of applying the respective limita-  
18 tions under this subsection, the aggregate amount of obli-  
19 gations issued by the Postal Service which are outstanding  
20 as of any one time, and the net increase in the amount  
21 of obligations outstanding issued by the Postal Service for  
22 the purpose of capital improvements or for the purpose  
23 of defraying operating expenses of the Postal Service in  
24 any fiscal year, shall be determined by aggregating the  
25 relevant obligations issued by the Postal Service under this

1 section with the relevant obligations issued by the Postal  
2 Service under section 2011.”.

3 (2) CONFORMING AMENDMENT.—The second  
4 sentence of section 2005(a)(1) of title 39, United  
5 States Code, is amended by striking “any such obli-  
6 gations” and inserting “obligations issued by the  
7 Postal Service which may be”.

8 (d) AMOUNTS WHICH MAY BE PLEDGED, ETC.—

9 (1) OBLIGATIONS TO WHICH PROVISIONS  
10 APPLY.—The first sentence of section 2005(b) of  
11 title 39, United States Code, is amended by striking  
12 “such obligations,” and inserting “obligations issued  
13 by the Postal Service under this section,”.

14 (2) ASSETS, REVENUES, AND RECEIPTS TO  
15 WHICH PROVISIONS APPLY.—Subsection (b) of sec-  
16 tion 2005 of title 39, United States Code, is amend-  
17 ed by striking “(b)” and inserting “(b)(1)”, and by  
18 adding at the end the following:

19 “(2) Notwithstanding any other provision of this sec-  
20 tion—

21 “(A) the authority to pledge assets of the Post-  
22 al Service under this subsection shall be available  
23 only to the extent that such assets are not related  
24 to the provision of competitive products (as deter-  
25 mined under section 2011(h) or, for purposes of any

1 period before accounting practices and principles  
2 under section 2011(h) have been established and ap-  
3 plied, the best information available from the Postal  
4 Service, including the audited statements required  
5 by section 2008(e)); and

6 “(B) any authority under this subsection relat-  
7 ing to the pledging or other use of revenues or re-  
8 cepts of the Postal Service shall be available only to  
9 the extent that they are not revenues or receipts of  
10 the Competitive Products Fund.”.

11 **SEC. 403. PRIVATE CARRIAGE OF LETTERS.**

12 (a) IN GENERAL.—Section 601 of title 39, United  
13 States Code, is amended by striking subsection (b) and  
14 inserting the following:

15 “(b) A letter may also be carried out of the mails  
16 when—

17 “(1) the amount paid for the private carriage of  
18 the letter is at least the amount equal to 6 times the  
19 rate then currently charged for the 1st ounce of a  
20 single-piece first class letter;

21 “(2) the letter weighs at least 12½ ounces; or

22 “(3) such carriage is within the scope of serv-  
23 ices described by regulations of the Postal Service  
24 (including, in particular, sections 310.1 and 320.2–  
25 320.8 of title 39 of the Code of Federal Regulations,

1 as in effect on July 1, 2004) that purport to permit  
2 private carriage by suspension of the operation of  
3 this section (as then in effect).

4 “(c) Any regulations necessary to carry out this sec-  
5 tion shall be promulgated by the Postal Regulatory Com-  
6 mission.”.

7 (b) EFFECTIVE DATE.—This section shall take effect  
8 on the date as of which the regulations promulgated under  
9 section 3633 of title 39, United States Code (as amended  
10 by section 202) take effect.

11 **SEC. 404. RULEMAKING AUTHORITY.**

12 Paragraph (2) of section 401 of title 39, United  
13 States Code, is amended to read as follows:

14 “(2) to adopt, amend, and repeal such rules  
15 and regulations, not inconsistent with this title, as  
16 may be necessary in the execution of its functions  
17 under this title and such other functions as may be  
18 assigned to the Postal Service under any provisions  
19 of law outside of this title;”.

20 **SEC. 405. NONINTERFERENCE WITH COLLECTIVE BAR-**  
21 **GAINING AGREEMENTS, ETC.**

22 (a) NONINTERFERENCE WITH COLLECTIVE BAR-  
23 GAINING AGREEMENTS.—Except as provided in section  
24 407, nothing in this Act or any amendment made by this  
25 Act shall restrict, expand, or otherwise affect any of the

1 rights, privileges, or benefits of either employees of or  
2 labor organizations representing employees of the United  
3 States Postal Service under chapter 12 of title 39, United  
4 States Code, the National Labor Relations Act, any hand-  
5 book or manual affecting employee labor relations within  
6 the United States Postal Service, or any collective bar-  
7 gaining agreement.

8 (b) FREE MAILING PRIVILEGES CONTINUE UN-  
9 CHANGED.—Nothing in this Act or any amendment made  
10 by this Act shall affect any free mailing privileges ac-  
11 corded under section 3217 or sections 3403 through 3406  
12 of title 39, United States Code.

13 **SEC. 406. BONUS AND COMPENSATION AUTHORITY.**

14 Subchapter VI of chapter 36 of title 39, United  
15 States Code (as so redesignated by section 306) is amend-  
16 ed by adding at the end the following:

17 **“§ 3686. Bonus authority**

18 “(a) IN GENERAL.—The Postal Service may establish  
19 one or more programs to provide bonuses or other rewards  
20 to officers and employees of the Postal Service in senior  
21 executive or equivalent positions to achieve the objectives  
22 of this chapter.

23 “(b) LIMITATION ON TOTAL COMPENSATION.—

24 “(1) IN GENERAL.—Under any such program,  
25 the Postal Service may award a bonus or other re-

1       ward in excess of the limitation set forth in the last  
2       sentence of section 1003(a), if such program has  
3       been approved under paragraph (2). Any such award  
4       or bonus may not cause the total compensation of  
5       such officer or employee to exceed the total annual  
6       compensation payable to the Vice President under  
7       section 104 of title 3 as of the end of the calendar  
8       year in which the bonus or award is paid.

9               “(2) APPROVAL PROCESS.—If the Postal Serv-  
10       ice wishes to have the authority, under any program  
11       described in subsection (a), to award bonuses or  
12       other rewards in excess of the limitation set forth in  
13       the last sentence of section 1003(a)—

14                       “(A) the Postal Service shall make an ap-  
15       propriate request to the Board of Governors in  
16       such form and manner as the Board requires;  
17       and

18                       “(B) the Board of Governors shall approve  
19       any such request if it certifies, for the annual  
20       appraisal period involved, that the performance  
21       appraisal system for affected officers and em-  
22       ployees of the Postal Service (as designed and  
23       applied) makes meaningful distinctions based  
24       on relative performance.

1           “(3) REVOCATION AUTHORITY.—If the Board  
2           of Governors finds that a performance appraisal sys-  
3           tem previously approved under paragraph (2)(B)  
4           does not (as designed and applied) make meaningful  
5           distinctions based on relative performance, the  
6           Board may revoke or suspend the authority of the  
7           Postal Service to continue a program approved  
8           under paragraph (2) until such time as appropriate  
9           corrective measures have, in the judgment of the  
10          Board, been taken.

11          “(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Not-  
12          withstanding any other provision of law, the Board of Gov-  
13          ernors may allow up to 12 officers or employees of the  
14          Postal Service in critical senior executive or equivalent po-  
15          sitions to receive total compensation in an amount not to  
16          exceed 120 percent of the total annual compensation pay-  
17          able to the Vice President under section 104 of title 3 as  
18          of the end of the calendar year in which such payment  
19          is received. For each exception made under this sub-  
20          section, the Board shall provide written notification to the  
21          Director of the Office of Personnel Management and the  
22          Congress within 30 days after the payment is made setting  
23          forth the name of the officer or employee involved, the  
24          critical nature of his or her duties and responsibilities, and  
25          the basis for determining that such payment is warranted.

1       “(d) INFORMATION FOR INCLUSION IN COMPREHEN-  
2 SIVE STATEMENT.—Included in its comprehensive state-  
3 ment under section 2401(e) for any period shall be—

4               “(1) the name of each person receiving a bonus  
5 or other payment during such period which would  
6 not have been allowable but for the provisions of  
7 subsection (b) or (c);

8               “(2) the amount of the bonus or other payment;  
9 and

10              “(3) the amount by which the limitation set  
11 forth in the last sentence of section 1003(a) was ex-  
12 ceeded as a result of such bonus or other payment.

13       “(e) REGULATIONS.—The Board of Governors may  
14 prescribe regulations for the administration of this sec-  
15 tion.”.

16 **SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DIS-**  
17 **PUTES.**

18       (a) IN GENERAL.—Section 1207(b) of title 39,  
19 United States Code, is amended by striking all that follows  
20 “the Director of the Federal Mediation and Conciliation  
21 Service shall” and inserting “, within 10 days appoint a  
22 mediator of nationwide reputation and professional stat-  
23 ure, and who is also a member of the National Academy  
24 of Arbitrators. The parties shall cooperate with the medi-  
25 ator in an effort to reach an agreement and shall meet

1 and negotiate in good faith at such times and places that  
2 the mediator, in consultation with the parties, shall di-  
3 rect.”.

4 (b) PROVISIONS RELATING TO ARBITRATION  
5 BOARDS.—Section 1207(c) of title 39, United States  
6 Code, is amended—

7 (1) in paragraph (1)—

8 (A) by striking “90” and inserting “60”;

9 (B) by striking “not members of the fact-  
10 finding panel,”; and

11 (C) by striking all that follows “shall be  
12 made” and inserting “from a list of names pro-  
13 vided by the Director. This list shall consist of  
14 not less than 9 names of arbitrators of nation-  
15 wide reputation and professional stature, who  
16 are also members of the National Academy of  
17 Arbitrators, and whom the Director has deter-  
18 mined are available and willing to serve.”; and

19 (2) in paragraph (3), by striking “factfinding  
20 panel” and inserting “mediation”.

21 (c) CONFORMING AMENDMENT.—Section 1207(d) of  
22 title 39, United States Code, is amended by striking “fact-  
23 finding panel will be established” and inserting “mediator  
24 shall be appointed”.

1                   **TITLE V—ENHANCED**  
2                   **REGULATORY COMMISSION**

3   **SEC. 501. REORGANIZATION AND MODIFICATION OF CER-**  
4                   **TAIN PROVISIONS RELATING TO THE POSTAL**  
5                   **REGULATORY COMMISSION.**

6           (a) TRANSFER AND REDESIGNATION.—Title 39,  
7 United States Code, is amended—

8                   (1) by inserting after chapter 4 the following:

9                   **“CHAPTER 5—POSTAL REGULATORY**  
10                   **COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

11   **“§ 501. Establishment**

12           “The Postal Regulatory Commission is an inde-  
13 pendent establishment of the executive branch of the Gov-  
14 ernment of the United States.

15   **“§ 502. Commissioners**

16           “(a) The Postal Regulatory Commission is composed  
17 of 5 Commissioners, appointed by the President, by and  
18 with the advice and consent of the Senate. The Commis-  
19 sioners shall be chosen solely on the basis of their technical  
20 qualifications, professional standing, and demonstrated  
21 expertise in economics, accounting, law, or public adminis-  
22 tration, and may be removed by the President only for

1 cause. Each individual appointed to the Commission shall  
2 have the qualifications and expertise necessary to carry  
3 out the responsibilities accorded Commissioners under the  
4 Postal Accountability and Enhancement Act. Not more  
5 than 3 of the Commissioners may be adherents of the  
6 same political party.

7 “(b) A Commissioner may continue to serve after the  
8 expiration of his term until his successor has qualified,  
9 except that a Commissioner may not so continue to serve  
10 for more than 1 year after the date upon which his term  
11 otherwise would expire under subsection (e).

12 “(c) One of the Commissioners shall be designated  
13 as Chairman by, and shall serve in the position of Chair-  
14 man at the pleasure of, the President.

15 “(d) The Commissioners shall by majority vote des-  
16 ignate a Vice Chairman of the Commission. The Vice  
17 Chairman shall act as Chairman of the Commission in the  
18 absence of the Chairman.

19 “(e) The Commissioners shall serve for terms of 6  
20 years.”;

21 (2) in subchapter I of chapter 36 (as in effect  
22 before the amendment made by section 201(c)), by  
23 striking the heading for such subchapter I and all  
24 that follows through section 3602; and

1           (3) by redesignating sections 3603 and 3604 as  
 2           sections 503 and 504, respectively, and transferring  
 3           such sections to the end of chapter 5 (as inserted by  
 4           paragraph (1)).

5           (b) DETERMINATIONS.—Section 503 of title 39,  
 6 United States Code, as so redesignated by subsection  
 7 (a)(3), is amended by adding at the end the following:  
 8 “Such rules shall include procedures which balance, inter  
 9 alia, the need for protecting due process rights and ensur-  
 10 ing expeditious decision-making.”.

11          (c) APPLICABILITY.—The amendment made by sub-  
 12 section (a)(1) shall not affect the appointment or tenure  
 13 of any person serving as a Commissioner on the Postal  
 14 Regulatory Commission (as so redesignated by section  
 15 504) pursuant to an appointment made before the date  
 16 of the enactment of this Act or any nomination made be-  
 17 fore that date, but, when any such office becomes vacant,  
 18 the appointment of any person to fill that office shall be  
 19 made in accordance with such amendment.

20          (d) CLERICAL AMENDMENT.—The analysis for part  
 21 I of title 39, United States Code, is amended by inserting  
 22 after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission ..... 501”.**

1 **SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMIS-**  
2 **SION TO ISSUE SUBPOENAS.**

3 Section 504 of title 39, United States Code (as so  
4 redesignated by section 501) is amended by adding at the  
5 end the following:

6 “(f)(1) Any Commissioner of the Postal Regulatory  
7 Commission, any administrative law judge appointed by  
8 the Commission under section 3105 of title 5, and any  
9 employee of the Commission designated by the Commis-  
10 sion may administer oaths, examine witnesses, take depo-  
11 sitions, and receive evidence.

12 “(2) The Chairman of the Commission, any Commis-  
13 sioner designated by the Chairman, and any administra-  
14 tive law judge appointed by the Commission under section  
15 3105 of title 5 may, with respect to any proceeding con-  
16 ducted by the Commission under this title—

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

21 “(B) order the taking of depositions and re-  
22 sponses to written interrogatories by a covered per-  
23 son.

24 The written concurrence of a majority of the Commis-  
25 sioners then holding office shall, with respect to each sub-

1 poena under subparagraph (A), be required in advance of  
2 its issuance.

3       “(3) In the case of contumacy or failure to obey a  
4 subpoena issued under this subsection, upon application  
5 by the Commission, the district court of the United States  
6 for the district in which the person to whom the subpoena  
7 is addressed resides or is served may issue an order requir-  
8 ing such person to appear at any designated place to tes-  
9 tify or produce documentary or other evidence. Any failure  
10 to obey the order of the court may be punished by the  
11 court as a contempt thereof.

12       “(4) For purposes of this subsection, the term ‘cov-  
13 ered person’ means an officer, employee, agent, or con-  
14 tractor of the Postal Service.

15       “(g)(1) If the Postal Service determines that any doc-  
16 ument or other matter it provides to the Postal Regulatory  
17 Commission pursuant to a subpoena issued under sub-  
18 section (f), or otherwise at the request of the Commission  
19 in connection with any proceeding or other purpose under  
20 this title, contains information which is described in sec-  
21 tion 410(c) of this title, or exempt from public disclosure  
22 under section 552(b) of title 5, the Postal Service shall,  
23 at the time of providing such matter to the Commission,  
24 notify the Commission, in writing, of its determination  
25 (and the reasons therefor).

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

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

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

10          “(3)(A) Paragraph (2) shall not prevent the Commis-  
11 sion from publicly disclosing relevant information in fur-  
12 therance of its duties under this title if the Commission  
13 has adopted regulations under section 553 of title 5 that  
14 establish a procedure for according appropriate confiden-  
15 tiality to information identified by the Postal Service  
16 under paragraph (1). In determining the appropriate de-  
17 gree of confidentiality to be accorded information identi-  
18 fied by the Postal Service under paragraph (1), the Com-  
19 mission shall balance the nature and extent of the likely  
20 commercial injury to the Postal Service against the public  
21 interest, as required by section 101(d) of this title for fi-  
22 nancial transparency of a government establishment.

23          “(B) Paragraph (2) shall not prevent information  
24 from being furnished under any process of discovery estab-  
25 lished under this title in connection with a proceeding

1 under this title. The Commission shall, by regulations  
2 based on rule 26(c) of the Federal Rules of Civil Proce-  
3 dure, establish procedures for ensuring appropriate con-  
4 fidentiality for any information furnished under the pre-  
5 ceding sentence.”.

6 **SEC. 503. APPROPRIATIONS FOR THE POSTAL REGU-**  
7 **LATORY COMMISSION.**

8 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-  
9 section (d) of section 504 of title 39, United States Code  
10 (as so redesignated by section 501) is amended to read  
11 as follows:

12 “(d) There are authorized to be appropriated, out of  
13 the Postal Service Fund, such sums as may be necessary  
14 for the Postal Regulatory Commission. In requesting an  
15 appropriation under this subsection for a fiscal year, the  
16 Commission shall prepare and submit to the Congress  
17 under section 2009 a budget of the Commission’s ex-  
18 penses, including expenses for facilities, supplies, com-  
19 pensation, and employee benefits.”.

20 (b) BUDGET PROGRAM.—

21 (1) IN GENERAL.—The next to last sentence of  
22 section 2009 of title 39, United States Code, is  
23 amended to read as follows: “The budget program  
24 shall also include separate statements of the  
25 amounts which (1) the Postal Service requests to be

1 appropriated under subsections (b) and (c) of section  
2 2401, (2) the Office of Inspector General of the  
3 United States Postal Service requests to be appro-  
4 priated, out of the Postal Service Fund, under sec-  
5 tion 8L(e) of the Inspector General Act of 1978, and  
6 (3) the Postal Regulatory Commission requests to be  
7 appropriated, out of the Postal Service Fund, under  
8 section 504(d) of this title.”.

9 (2) CONFORMING AMENDMENT.—Section  
10 2003(e)(1) of title 39, United States Code, is  
11 amended by striking the first sentence and inserting  
12 the following: “The Fund shall be available for the  
13 payment of (A) all expenses incurred by the Postal  
14 Service in carrying out its functions as provided by  
15 law, subject to the same limitation as set forth in  
16 the parenthetical matter under subsection (a); (B)  
17 all expenses of the Postal Regulatory Commission,  
18 subject to the availability of amounts appropriated  
19 pursuant to section 504(d); and (C) all expenses of  
20 the Office of Inspector General, subject to the avail-  
21 ability of amounts appropriated pursuant to section  
22 8L(e) of the Inspector General Act of 1978.”.

23 (c) EFFECTIVE DATE.—

1           (1) IN GENERAL.—The amendments made by  
2           this section shall apply with respect to fiscal years  
3           beginning on or after October 1, 2005.

4           (2) SAVINGS PROVISION.—The provisions of  
5           title 39, United States Code, that are amended by  
6           this section shall, for purposes of any fiscal year be-  
7           fore the first fiscal year to which the amendments  
8           made by this section apply, continue to apply in the  
9           same way as if this section had never been enacted.

10 **SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMIS-**  
11 **SION.**

12           (a) AMENDMENTS TO TITLE 39, UNITED STATES  
13 CODE.—Title 39, United States Code, is amended in sec-  
14 tions 404, 503–504 (as so redesignated by section 501),  
15 1001, and 1002 by striking “Postal Rate Commission”  
16 each place it appears and inserting “Postal Regulatory  
17 Commission”.

18           (b) AMENDMENTS TO TITLE 5, UNITED STATES  
19 CODE.—Title 5, United States Code, is amended in sec-  
20 tions 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item  
21 relating to Chairman, Postal Rate Commission), 5315 (in  
22 the item relating to Members, Postal Rate Commission),  
23 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),  
24 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking

1 “Postal Rate Commission” and inserting “Postal Regu-  
2 latory Commission”.

3 (c) AMENDMENT TO THE ETHICS IN GOVERNMENT  
4 ACT OF 1978.—Section 101(f)(6) of the Ethics in Govern-  
5 ment Act of 1978 (5 U.S.C. App.) is amended by striking  
6 “Postal Rate Commission” and inserting “Postal Regu-  
7 latory Commission”.

8 (d) AMENDMENT TO THE REHABILITATION ACT OF  
9 1973.—Section 501(b) of the Rehabilitation Act of 1973  
10 (29 U.S.C. 791(b)) is amended by striking “Postal Rate  
11 Office” and inserting “Postal Regulatory Commission”.

12 (e) AMENDMENT TO TITLE 44, UNITED STATES  
13 CODE.—Section 3502(5) of title 44, United States Code,  
14 is amended by striking “Postal Rate Commission” and in-  
15 serting “Postal Regulatory Commission”.

16 (f) OTHER REFERENCES.—Whenever a reference is  
17 made in any provision of law (other than this Act or a  
18 provision of law amended by this Act), regulation, rule,  
19 document, or other record of the United States to the  
20 Postal Rate Commission, such reference shall be consid-  
21 ered a reference to the Postal Regulatory Commission.

1 **SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMIS-**  
 2 **SION REPRESENTING THE GENERAL PUBLIC.**

3 (a) IN GENERAL.—Chapter 5 of title 39, United  
 4 States Code (as added by this Act) is amended by adding  
 5 after section 504 the following:

6 **“§ 505. Officer of the Postal Regulatory Commission**  
 7 **representing the general public**

8 “The Postal Regulatory Commission shall designate  
 9 an officer of the Postal Regulatory Commission in all pub-  
 10 lic proceedings (such as developing rules, regulations, and  
 11 procedures) who shall represent the interests of the gen-  
 12 eral public.”.

13 (b) CLERICAL AMENDMENT.—The analysis for chap-  
 14 ter 5 of title 39, United States Code (as amended by sec-  
 15 tion 501(a)(1)) is amended by adding after the item relat-  
 16 ing to section 504 the following:

“505. Officer of the Postal Regulatory Commission representing the general  
 public.”.

17 **TITLE VI—INSPECTORS**  
 18 **GENERAL**

19 **SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGU-**  
 20 **LATORY COMMISSION.**

21 (a) IN GENERAL.—Paragraph (2) of section 8G(a)  
 22 of the Inspector General Act of 1978 is amended by insert-  
 23 ing “the Postal Regulatory Commission,” after “the  
 24 United States International Trade Commission,”.

1 (b) ADMINISTRATION.—Section 504 of title 39,  
2 United States Code (as so redesignated by section 501)  
3 is amended by adding after subsection (g) (as added by  
4 section 502) the following:

5 “(h)(1) Notwithstanding any other provision of this  
6 title or of the Inspector General Act of 1978, the authority  
7 to select, appoint, and employ officers and employees of  
8 the Office of Inspector General of the Postal Regulatory  
9 Commission, and to obtain any temporary or intermittent  
10 services of experts or consultants (or an organization of  
11 experts or consultants) for such Office, shall reside with  
12 the Inspector General of the Postal Regulatory Commis-  
13 sion.

14 “(2) Except as provided in paragraph (1), any exer-  
15 cise of authority under this subsection shall, to the extent  
16 practicable, be in conformance with the applicable laws  
17 and regulations that govern selections, appointments and  
18 employment, and the obtaining of any such temporary or  
19 intermittent services, within the Postal Regulatory Com-  
20 mission.”.

21 (c) DEADLINE.—No later than 180 days after the  
22 date of the enactment of this Act—

23 (1) the first Inspector General of the Postal  
24 Regulatory Commission shall be appointed; and

1           (2) the Office of Inspector General of the Post-  
2           al Regulatory Commission shall be established.

3 **SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES**  
4                   **POSTAL SERVICE TO BE APPOINTED BY THE**  
5                   **PRESIDENT.**

6           (a) DEFINITIONAL AMENDMENTS TO THE INSPEC-  
7           TOR GENERAL ACT OF 1978.—Section 11 of the Inspector  
8           General Act of 1978 is amended—

9           (1) in paragraph (1)—

10                   (A) by striking “or” before “the President  
11                   of the Export-Import Bank;” and

12                   (B) by inserting “or the Governors of the  
13                   United States Postal Service (within the mean-  
14                   ing of section 102(3) of title 39, United States  
15                   Code);” after “the President of the Export-Im-  
16                   port Bank;”; and

17           (2) in paragraph (2)—

18                   (A) by striking “or” before “the Export-  
19                   Import Bank;”; and

20                   (B) by inserting “or the United States  
21                   Postal Service,” after “the Export-Import  
22                   Bank,”.

23           (b) SPECIAL PROVISIONS CONCERNING THE UNITED  
24           STATES POSTAL SERVICE.—



1 atives, the Committee on Governmental Affairs of the Sen-  
2 ate, and such other committees or subcommittees of Con-  
3 gress as may be appropriate.

4 “(c) Notwithstanding any provision of paragraph (7)  
5 or (8) of section 6(a), the Inspector General of the United  
6 States Postal Service may select, appoint, and employ  
7 such officers and employees as may be necessary for car-  
8 rying out the functions, powers, and duties of the Office  
9 of Inspector General and to obtain the temporary or inter-  
10 mittent services of experts or consultants or an organiza-  
11 tion of experts or consultants, subject to the applicable  
12 laws and regulations that govern such selections, appoint-  
13 ments, and employment, and the obtaining of such serv-  
14 ices, within the United States Postal Service.

15 “(d) Nothing in this Act shall restrict, eliminate, or  
16 otherwise adversely affect any of the rights, privileges, or  
17 benefits of employees of the United States Postal Service,  
18 or labor organizations representing employees of the  
19 United States Postal Service, under chapter 12 of title 39,  
20 United States Code, the National Labor Relations Act,  
21 any handbook or manual affecting employee labor rela-  
22 tions with the United States Postal Service, or any collec-  
23 tive bargaining agreement.

24 “(e) There are authorized to be appropriated, out of  
25 the Postal Service Fund, such sums as may be necessary

1 for the Office of Inspector General of the United States  
2 Postal Service.”.

3 (2) RELATED PROVISIONS.—For certain related  
4 provisions, see section 503(b).

5 (c) EXERCISE OF CERTAIN POWERS.—Section  
6 6(e)(3) of the Inspector General Act of 1978 is amended—

7 (1) by striking “and the” before “Tennessee  
8 Valley Authority”; and

9 (2) by inserting “, and United States Postal  
10 Service” after “Tennessee Valley Authority”.

11 (d) PUBLIC CONTRACTS.—

12 (1) ADDITIONAL PROVISIONS APPLICABLE.—  
13 Section 410(b)(5) of title 39, United States Code, is  
14 amended—

15 (A) in subparagraph (A), by striking  
16 “and” after the semicolon; and

17 (B) by adding after subparagraph (B) the  
18 following:

19 “(C) the Anti-Kickback Act of 1986 (41  
20 U.S.C. 51 and following), other than sub-  
21 sections (a) and (b) of 7 and section 8 of that  
22 Act; and

23 “(D) section 315 of the Federal Property  
24 and Administrative Services Act of 1949 (41  
25 U.S.C. 265) (relating to protecting contractor

1 employees from reprisal for disclosure of certain  
2 information);”.

3 (2) REGULATIONS ON ALLOWABLE COSTS.—

4 Section 410 of title 39, United States Code, is  
5 amended by adding at the end the following:

6 “(e) The Postal Service shall develop and issue pur-  
7 chasing regulations that prohibit contract costs not allow-  
8 able under section 5.2.5 of the United States Postal Serv-  
9 ice Procurement Manual (Publication 41), as in effect on  
10 July 12, 1995.”.

11 (e) REPORTS.—Section 3013 of title 39, United  
12 States Code, is amended by striking “Postmaster Gen-  
13 eral” each place it appears and inserting “Chief Postal  
14 Inspector”.

15 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

16 (1) RELATING TO THE INSPECTOR GENERAL  
17 ACT OF 1978.—(A) Subsection (a) of section 8G of  
18 the Inspector General Act of 1978 (as amended by  
19 section 601(a)) is further amended—

20 (i) in paragraph (2), by striking “the Post-  
21 al Regulatory Commission, and the United  
22 States Postal Service;” and inserting “and the  
23 Postal Regulatory Commission;” and

24 (ii) in paragraph (4), by striking “except  
25 that” and all that follows through “Code);” and

1           inserting “except that, with respect to the Na-  
2           tional Science Foundation, such term means the  
3           National Science Board;”.

4           (B)(i) Subsection (f) of section 8G of such Act  
5           is repealed.

6           (ii) Subsection (e) of section 8G of such Act is  
7           amended by striking “Except as provided under sub-  
8           section (f) of this section, the” and inserting “The”.

9           (C) Section 8J of such Act is amended by strik-  
10          ing the matter after “8D,” and before “of this Act”  
11          and inserting “8E, 8F, 8H, or 8L”.

12          (2) RELATING TO TITLE 39, UNITED STATES  
13          CODE.—(A) Subsection (e) of section 202 of title 39,  
14          United States Code, is repealed.

15          (B) Paragraph (4) of section 102 of such title  
16          39 (as amended by section 101) is amended to read  
17          as follows:

18                 “(4) ‘Inspector General’ means the Inspector  
19                 General of the United States Postal Service, ap-  
20                 pointed under section 3(a) of the Inspector General  
21                 Act of 1978;”.

22          (C) The first sentence of section 1003(a) of  
23          such title 39 is amended by striking “chapters 2 and  
24          12 of this title, section 8G of the Inspector General  
25          Act of 1978, or other provision of law,” and insert-

1 ing “chapter 2 or 12 of this title, subsection (b) or  
2 (c) of this section, or any other provision of law,”.

3 (D) Section 1003(b) of such title 39 is amended  
4 by striking “respective” and inserting “other”.

5 (E) Section 1003(c) of such title 39 is amended  
6 by striking “included” and inserting “includes”.

7 (3) RELATING TO THE ENERGY POLICY ACT OF  
8 1992.—Section 160(a) of the Energy Policy Act of  
9 1992 (42 U.S.C. 8262f(a)) is amended (in the mat-  
10 ter before paragraph (1)) by striking all that follows  
11 “(5 U.S.C. App.)” and before “shall—”.

12 (g) EFFECTIVE DATE; TRANSITION PROVISIONS.—

13 (1) EFFECTIVE DATE.—Except as provided in  
14 paragraph (2) or subsection (c), this section and the  
15 amendments made by this section shall take effect  
16 on the date of the enactment of this Act.

17 (2) TRANSITION PROVISIONS.—

18 (A) PRESIDENTIAL APPOINTMENT AU-  
19 THORITY AVAILABLE IMMEDIATELY.—The au-  
20 thority to appoint an Inspector General of the  
21 United States Postal Service in accordance with  
22 the amendments made by this section shall be  
23 available as of the effective date of this section.

24 (B) CONTINUATION IN OFFICE.—Pending  
25 the appointment of an Inspector General of the

1 United States Postal Service in accordance with  
2 the amendments made by this section, the indi-  
3 vidual serving as the Inspector General of the  
4 United States Postal Service on the day before  
5 the effective date of this section may continue  
6 to serve—

7 (i) in accordance with applicable pro-  
8 visions of the Inspector General Act of  
9 1978 and (except as provided in clause  
10 (ii)) of title 39, United States Code, as last  
11 in effect before the effective date of this  
12 Act; but

13 (ii) subject to the provisions of such  
14 title 39 as amended by subsection (e) of  
15 this section (deeming any reference to the  
16 “Inspector General” in such provisions, as  
17 so amended, to refer to the individual con-  
18 tinuing to serve under authority of this  
19 subparagraph) and subparagraph (C).

20 (C) AUTHORIZATION OF APPROPRIA-  
21 TIONS.—

22 (i) IN GENERAL.—Notwithstanding  
23 any other provision of this subsection, sec-  
24 tion 8L(e) of the Inspector General Act of  
25 1978 (as amended by this section) shall be

1 effective for purposes of fiscal years begin-  
2 ning on or after October 1, 2005.

3 (ii) SAVINGS PROVISION.—For pur-  
4 poses of the fiscal year ending on Sep-  
5 tember 30, 2005, funding for the Office of  
6 Inspector General of the United States  
7 Postal Service shall be made available in  
8 the same manner as if this Act had never  
9 been enacted.

10 (D) ELIGIBILITY OF PRIOR INSPECTOR  
11 GENERAL.—Nothing in this Act shall prevent  
12 any individual who has served as Inspector  
13 General of the United States Postal Service at  
14 any time before the date of the enactment of  
15 this Act from being appointed to that position  
16 pursuant to the amendments made by this sec-  
17 tion.

## 18 **TITLE VII—EVALUATIONS**

### 19 **SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.**

20 (a) REPORT BY THE POSTAL SERVICE.—The United  
21 States Postal Service shall, within 12 months after the  
22 date of the enactment of this Act, submit to the President,  
23 the Congress, and the Postal Regulatory Commission, a  
24 written report on universal postal service in the United

1 States (hereinafter in this section referred to as “universal  
2 service”). Such report shall include at least the following:

3 (1) A comprehensive review of the history and  
4 development of universal service, including how the  
5 scope and standards of universal service have  
6 evolved over time.

7 (2) The scope and standards of universal serv-  
8 ice provided under current law (including sections  
9 101 and 403 of title 39, United States Code) and  
10 current rules, regulations, policy statements, and  
11 practices of the Postal Service.

12 (3) A description of any geographic areas, pop-  
13 ulations, communities, organizations, or other  
14 groups or entities not currently covered by universal  
15 service or that are covered but that are receiving  
16 services deficient in scope or quality or both.

17 (4) The scope and standards of universal serv-  
18 ice likely to be required in the future in order to  
19 meet the needs and expectations of the American  
20 public, including all types of mail users, based on  
21 such assumptions or alternative sets of assumptions  
22 as the Postal Service considers plausible.

23 (5) Such recommendations as the Postal Serv-  
24 ice considers appropriate.

1 (b) REPORT BY THE POSTAL REGULATORY COMMIS-  
2 SION.—The Postal Regulatory Commission shall, within  
3 12 months after receiving the report of the Postal Service  
4 under subsection (a), submit to the President and the  
5 Congress a written report evaluating the report of the  
6 Postal Service. The report of the Commission shall include  
7 at least the following:

8 (1) Such comments and observations relating to  
9 the matters addressed in the Postal Service’s report  
10 as the Commission considers appropriate.

11 (2) An estimate of the cost attributable to the  
12 obligation to provide universal service under prior  
13 and current law, respectively.

14 (3) An estimate of the likely cost of fulfilling  
15 the obligation to provide universal service under—

16 (A) the assumptions or respective sets of  
17 assumptions of the Postal Service described in  
18 subsection (a)(4); and

19 (B) such other assumptions or sets of as-  
20 sumptions as the Commission considers plau-  
21 sible.

22 (4) Such additional topics and recommenda-  
23 tions as the Commission considers appropriate.

1 (c) CONSULTATION.—In preparing the reports re-  
2 quired by this section, the Postal Service and the Postal  
3 Regulatory Commission—

4 (1) shall consult with each other, other Federal  
5 agencies, users of the mails, enterprises in the pri-  
6 vate sector engaged in the delivery of mail, and the  
7 general public; and

8 (2) shall address in their respective reports any  
9 written comments received under this section.

10 (d) CLARIFYING PROVISION.—Nothing in this section  
11 shall be considered to relate to any services that are not  
12 postal services (within the meaning of section 102 of title  
13 39, United States Code, as amended by section 101).

14 **SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICA-**  
15 **TION, AND OTHER PROVISIONS.**

16 (a) IN GENERAL.—The Postal Regulatory Commis-  
17 sion shall, at least every 5 years, submit a report to the  
18 President and the Congress concerning—

19 (1) the operation of the amendments made by  
20 the Postal Accountability and Enhancement Act;  
21 and

22 (2) recommendations for any legislation or  
23 other measures necessary to improve the effective-  
24 ness or efficiency of the postal laws of the United  
25 States.

1 (b) POSTAL SERVICE VIEWS.—A report under this  
2 section shall be submitted only after reasonable oppor-  
3 tunity has been afforded to the Postal Service to review  
4 such report and to submit written comments thereon. Any  
5 comments timely received from the Postal Service under  
6 the preceding sentence shall be attached to the report sub-  
7 mitted under subsection (a).

8 (c) SPECIFIC INFORMATION REQUIRED.—The Postal  
9 Regulatory Commission shall include, as part of at least  
10 its first report under subsection (a), the following:

11 (1) COST-COVERAGE REQUIREMENT RELATING  
12 TO COMPETITIVE PRODUCTS COLLECTIVELY.—With  
13 respect to section 3633 of title 39, United States  
14 Code (as amended by this Act)—

15 (A) a description of how such section has  
16 operated; and

17 (B) recommendations as to whether or not  
18 such section should remain in effect and, if so,  
19 any suggestions as to how it might be improved.

20 (2) COMPETITIVE PRODUCTS FUND.—With re-  
21 spect to the Postal Service Competitive Products  
22 Fund (under section 2011 of title 39, United States  
23 Code, as amended by section 301), in consultation  
24 with the Secretary of the Treasury—

1 (A) a description of how such Fund has  
2 operated;

3 (B) any suggestions as to how the oper-  
4 ation of such Fund might be improved; and

5 (C) a description and assessment of alter-  
6 native accounting or financing mechanisms that  
7 might be used to achieve the objectives of such  
8 Fund.

9 (3) ASSUMED FEDERAL INCOME TAX ON COM-  
10 PETITIVE PRODUCTS FUND.—With respect to section  
11 3634 of title 39, United States Code (as amended by  
12 this Act), in consultation with the Secretary of the  
13 Treasury—

14 (A) a description of how such section has  
15 operated; and

16 (B) recommendations as to whether or not  
17 such section should remain in effect and, if so,  
18 any suggestions as to how it might be improved.

19 **SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO**  
20 **COMPETITIVE PRODUCTS.**

21 (a) IN GENERAL.—The Federal Trade Commission  
22 shall prepare and submit to the President, the Congress,  
23 and the Postal Regulatory Commission, within 1 year  
24 after the date of the enactment of this Act, a comprehen-  
25 sive report identifying Federal and State laws that apply

1 differently to the United States Postal Service with re-  
2 spect to the competitive category of mail (within the mean-  
3 ing of section 102 of title 39, United States Code, as  
4 amended by section 101) and private companies providing  
5 similar products.

6 (b) RECOMMENDATIONS; ADJUSTMENTS.—The Fed-  
7 eral Trade Commission shall include such recommenda-  
8 tions as it considers appropriate for bringing such legal  
9 differences to an end and, in the interim, to account under  
10 section 3633, for the net economic effects provided by  
11 those laws.

12 (c) CONSULTATION.—In preparing its report, the  
13 Federal Trade Commission shall consult with the United  
14 States Postal Service, the Postal Regulatory Commission,  
15 other Federal agencies, mailers, private companies that  
16 provide delivery services, and the general public, and shall  
17 append to such report any written comments received  
18 under this subsection.

19 (d) COMPETITIVE PRODUCT RATE REGULATION.—  
20 The Postal Regulatory Commission shall take into account  
21 the recommendations of the Federal Trade Commission,  
22 and subsequent events that affect the continuing validity  
23 of the estimate of the net economic effect, in promulgating  
24 or revising the regulations required by section 3633 of title  
25 39, United States Code.

1 **SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECU-**  
2 **TIVE AND ADMINISTRATIVE SCHEDULE MAN-**  
3 **AGEMENT POSITIONS.**

4 (a) **STUDY.**—The Board of Governors shall study  
5 and, within 1 year after the date of the enactment of this  
6 Act, submit to the President and Congress a report con-  
7 cerning the extent to which women and minorities are rep-  
8 resented in supervisory and management positions within  
9 the United States Postal Service. Any data included in the  
10 report shall be presented in the aggregate and by pay level.

11 (b) **PERFORMANCE EVALUATIONS.**—The United  
12 States Postal Service shall, as soon as practicable, take  
13 such measures as may be necessary to ensure that, for  
14 purposes of conducting performance appraisals of super-  
15 visory or managerial employees, appropriate consideration  
16 shall be given to meeting affirmative action goals, achiev-  
17 ing equal employment opportunity requirements, and im-  
18 plementation of plans designed to achieve greater diversity  
19 in the workforce.

20 **SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.**

21 (a) **PLAN.**—The United States Postal Service shall,  
22 before the deadline specified in subsection (b), develop and  
23 be prepared to implement, whenever necessary, a com-  
24 prehensive plan under which reemployment assistance  
25 shall be afforded to employees displaced as a result of the  
26 automation or privatization of any of its functions.

1 (b) REPORT.—Not later than 1 year after the date  
2 of the enactment of this Act, the United States Postal  
3 Service shall submit to the Board of Governors and to  
4 Congress a written report describing its plan under this  
5 section.

6 **SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND**  
7 **SMALL BUSINESSES.**

8 The Board of Governors shall study and, within 1  
9 year after the date of the enactment of this Act, submit  
10 to the President and the Congress a report concerning the  
11 number and value of contracts and subcontracts the Post-  
12 al Service has entered into with women, minorities, and  
13 small businesses.

14 **SEC. 707. RATES FOR PERIODICALS.**

15 (a) IN GENERAL.—The United States Postal Service,  
16 acting jointly with the Postal Regulatory Commission,  
17 shall study and submit to the President and Congress a  
18 report concerning—

19 (1) the quality, accuracy, and completeness of  
20 the information used by the Postal Service in deter-  
21 mining the direct and indirect postal costs attrib-  
22 utable to periodicals; and

23 (2) any opportunities that might exist for im-  
24 proving efficiencies in the collection, handling, trans-  
25 portation, or delivery of periodicals by the Postal

1 Service, including any pricing incentives for mailers  
2 that might be appropriate.

3 (b) RECOMMENDATIONS.—The report shall include  
4 recommendations for any administrative action or legisla-  
5 tion that might be appropriate.

6 **SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

7 (a) IN GENERAL.—Within 12 months after the date  
8 of the enactment of this Act, the Office of Inspector Gen-  
9 eral of the United States Postal Service shall study and  
10 submit to the President, the Congress, and the United  
11 States Postal Service, a report concerning the administra-  
12 tion of section 3626(k) of title 39, United States Code.

13 (b) SPECIFIC REQUIREMENTS.—The study and re-  
14 port shall specifically address the adequacy and fairness  
15 of the process by which assessments under section 3626(k)  
16 of title 39, United States Code, are determined and ap-  
17 pealable, including—

18 (1) whether the Postal Regulatory Commission  
19 or any other body outside the Postal Service should  
20 be assigned a role; and

21 (2) whether a statute of limitations should be  
22 established for the commencement of proceedings by  
23 the Postal Service thereunder.

1 **SEC. 709. NETWORK OPTIMIZATION.**

2 (a) IN GENERAL.—The Postal Service shall, within  
3 90 days after the end of each fiscal year, prepare and sub-  
4 mit to the Postal Regulatory Commission, the Congress,  
5 and the Board of Governors a written report on the postal  
6 processing, transportation, and distribution networks.  
7 Such report shall include at least the following:

8 (1) An account of actions taken during the pre-  
9 ceding fiscal year to improve the efficiency and effec-  
10 tiveness of the processing, transportation, and dis-  
11 tribution networks, while preserving the timely deliv-  
12 ery of postal services.

13 (2) An account of—

14 (A) actions taken to identify any excess ca-  
15 pacity within the processing, transportation,  
16 and distribution networks; and

17 (B) actions taken to implement savings  
18 through realignment or consolidation of facili-  
19 ties.

20 (3) Identification of statutory or regulatory ob-  
21 stacles that prevented or will prevent the Postal  
22 Service from taking action to realign or consolidate  
23 facilities.

24 (4) Such additional topics and recommenda-  
25 tions as the Postal Service considers appropriate.

1 (b) TREATMENT AS PERFORMANCE GOALS.—The  
2 Postal Service shall establish and report the matters set  
3 forth in subsection (a) as performance goals in the reports  
4 required by sections 2803 and 2804.

5 (c) ACTIONS TO BE TAKEN.—The Postal Service  
6 shall take such actions it considers, in its sole discretion,  
7 necessary and appropriate to provide the Nation with a  
8 modern and efficient network for the processing, transpor-  
9 tation, and distribution of mail. Nothing in this section  
10 shall prevent the Postal Service from making such im-  
11 provements in the efficiency and effectiveness of the net-  
12 work as it deems appropriate.

13 **SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF**  
14 **THE POSTAL SERVICE.**

15 (a) APPOINTMENT OF RESEARCH ORGANIZATION.—  
16 Not later than 90 days after the date of the enactment  
17 of this Act, the Comptroller General of the United States  
18 shall appoint, in such manner and under such terms as  
19 he in his sole discretion determines appropriate, an inde-  
20 pendent, impartial, and expert research organization  
21 (hereinafter in this section referred to as the “research  
22 organization”) to prepare and submit to the President and  
23 to Congress a comprehensive report that evaluates what  
24 business model would best promote an efficient, reliable,  
25 innovative, and viable Postal Service that can meet the

1 needs of the Nation and its citizens in the 21st century.  
2 The final report required by this section shall be submitted  
3 within 27 months of the date of the enactment of this Act.  
4 The final report shall identify costs, benefits, and feasible  
5 options, if any, associated with one or more strategies  
6 for—

7           (1) maintaining the Postal Service in its cur-  
8           rent form as an independent establishment in the ex-  
9           ecutive branch of the Government; and

10           (2) transforming the Postal Service into an or-  
11           dinary corporation, owned wholly by the Govern-  
12           ment, wholly by private shareholders, or partly by  
13           the Government and partly by private shareholders.

14           (b) PROTECTION OF UNIVERSAL SERVICE.—The re-  
15           search organization may include such recommendations as  
16           it considers appropriate with respect to how the Postal  
17           Service’s business model can be maintained or trans-  
18           formed in an orderly manner that will minimize adverse  
19           effects on all interested parties and assure continued avail-  
20           ability of affordable, universal postal service throughout  
21           the United States (based on the reports required by sec-  
22           tion 701). The research organization shall not consider  
23           any strategy or other course of action that would pose a  
24           significant risk to the continued availability of affordable,  
25           universal postal service throughout the United States.

1 (c) ELEMENTS OF REPORT.—

2 (1) TOPICS TO ADDRESS.—The report shall ad-  
3 dress at least the following:

4 (A) Specification of nature and bases of  
5 one or more sets of reasonable assumptions  
6 about the development of the postal services  
7 market, to the extent that such assumptions  
8 may be necessary or appropriate for each strat-  
9 egy identified by the research organization.

10 (B) Specification of the nature and bases  
11 of one or more sets of reasonable assumptions  
12 about the development of the regulatory frame-  
13 work for postal services, to the extent that such  
14 assumptions may be necessary or appropriate  
15 for each strategy identified by the research or-  
16 ganization.

17 (C) Qualitative and, to the extent possible,  
18 quantitative effects that each strategy identified  
19 by the research organization may have on uni-  
20 versal service generally, the Postal Service,  
21 mailers, postal employees, private companies  
22 that provide delivery services, and the general  
23 public.

24 (D) Financial effects that each strategy  
25 identified by the research organization may

1 have on the Postal Service, postal employees,  
2 the Treasury of the United States, and other  
3 affected parties, including the American mailing  
4 consumer.

5 (E) Feasible and appropriate procedural  
6 steps and timetables for implementing each  
7 strategy identified by the research organization.

8 (F) Such additional topics as the Comp-  
9 troller General or the research organization  
10 shall consider necessary and appropriate.

11 (2) MATTERS TO CONSIDER.—For each strat-  
12 egy identified, the research organization shall assess  
13 how each business model might—

14 (A) address the human-capital challenges  
15 facing the Postal Service, including how em-  
16 ployee-management relations within the Postal  
17 Service may be improved;

18 (B) optimize the postal infrastructure, in-  
19 cluding the best methods for providing retail  
20 services that ensure convenience and access to  
21 customers;

22 (C) ensure the safety and security of the  
23 mail and of postal employees;

1           (D) minimize areas of inefficiency or waste  
2           and improve operations involved in the collec-  
3           tion, processing, or delivery of mail; and

4           (E) impact other matters that the Comp-  
5           troller General or the research organization de-  
6           termines are relevant to evaluating a viable  
7           long-term business model for the Postal Service.

8           (3) EXPERIENCES OF OTHER COUNTRIES.—In  
9           preparing the report required by subsection (a), the  
10          research organization shall comprehensively and  
11          quantitatively investigate the experiences of other in-  
12          dustrialized countries that have transformed the na-  
13          tional post office. The research organization shall  
14          undertake such original research as it deems nec-  
15          essary. In each case, the research organization shall  
16          describe as fully as possible the costs and benefits of  
17          transformation of the national post office on all af-  
18          fected parties and shall identify any lessons that for-  
19          eign experience may imply for each strategy identi-  
20          fied by the research organization.

21          (d) OUTSIDE EXPERTS.—In preparing its study, the  
22          research organization may retain the services of additional  
23          experts and consultants.

24          (e) CONSULTATION.—In preparing its report, the re-  
25          search organization shall consult fully with the Postal

1 Service, the Postal Regulatory Commission, other Federal  
2 agencies, postal employee unions and management asso-  
3 ciations, mailers, private companies that provide delivery  
4 services, and the general public. The research organization  
5 shall include with its final report a copy of all formal writ-  
6 ten comments received under this subsection.

7 (f) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated from the Postal Service  
9 Fund such sums as may be necessary to carry out this  
10 section.

11 **SEC. 711. STUDY ON CERTAIN PROPOSED AMENDMENTS.**

12 The Government Accountability Office shall study  
13 and, within 12 months after the date of the enactment  
14 of this Act, submit to the Congress a report on sections  
15 805 and 807 of H.R. 22 (109th Congress), as introduced.  
16 Such report shall include the following:

17 (1) A description of the efficiencies of the cur-  
18 rent system under section 5402 of title 39, United  
19 States Code.

20 (2) The potential for cost savings to the United  
21 States Postal Service if the Postal Service, rather  
22 than the Department of Transportation, were to ad-  
23 minister international mail carriage.

1           (3) The potential for harm to domestic air car-  
2 riers and American workers currently employed by  
3 domestic air carriers.

4           (4) The potential loss of revenue to domestic air  
5 carriers and American workers currently employed  
6 by domestic air carriers.

7           (5) The process by which the United States  
8 Postal Service would administer any changes in cur-  
9 rent law.

10          (6) The process by which the Department of  
11 Transportation administers current law.

12          (7) The potential for change in protection of  
13 national security by carriage by foreign carriers of  
14 international mail to and from the United States.

15 **SEC. 712. DEFINITION.**

16          For purposes of this title, the term “Board of Gov-  
17 ernors” has the meaning given such term by section 102  
18 of title 39, United States Code.

19 **TITLE VIII—MISCELLANEOUS;**  
20 **TECHNICAL AND CON-**  
21 **FORMING AMENDMENTS**

22 **SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

23          Section 3061 of title 18, United States Code, is  
24 amended by adding at the end the following:

1       “(c)(1) The Postal Service may employ police officers  
2 for duty in connection with the protection of property  
3 owned or occupied by the Postal Service or under the  
4 charge and control of the Postal Service, and persons on  
5 the property, including duty in areas outside the property  
6 to the extent necessary to protect the property and persons  
7 on the property.

8       “(2) With respect to such property, such officers shall  
9 have the power to—

10           “(A) enforce Federal laws and regulations for  
11 the protection of persons and property;

12           “(B) carry firearms; and

13           “(C) make arrests without a warrant for any  
14 offense against the United States committed in the  
15 presence of the officer or for any felony cognizable  
16 under the laws of the United States if the officer has  
17 reasonable grounds to believe that the person to be  
18 arrested has committed or is committing a felony.

19       “(3) With respect to such property, such officers may  
20 have, to such extent as the Postal Service may by regula-  
21 tions prescribe, the power to—

22           “(A) serve warrants and subpoenas issued  
23 under the authority of the United States; and

24           “(B) conduct investigations, on and off the  
25 property in question, of offenses that may have been

1 committed against property owned or occupied by  
2 the Postal Service or persons on the property.

3 “(4)(A) As to such property, the Postmaster General  
4 may prescribe regulations necessary for the protection and  
5 administration of property owned or occupied by the Post-  
6 al Service and persons on the property. The regulations  
7 may include reasonable penalties, within the limits pre-  
8 scribed in subparagraph (B), for violations of the regula-  
9 tions. The regulations shall be posted and remain posted  
10 in a conspicuous place on the property.

11 “(B) A person violating a regulation prescribed under  
12 this subsection shall be fined under this title, imprisoned  
13 for not more than 30 days, or both.”.

14 **SEC. 802. DATE OF POSTMARK TO BE TREATED AS DATE OF**  
15 **APPEAL IN CONNECTION WITH THE CLOSING**  
16 **OR CONSOLIDATION OF POST OFFICES.**

17 (a) IN GENERAL.—Section 404(b) of title 39, United  
18 States Code, is amended by adding at the end the fol-  
19 lowing:

20 “(6) For purposes of paragraph (5), any appeal re-  
21 ceived by the Commission shall—

22 “(A) if sent to the Commission through the  
23 mails, be considered to have been received on the  
24 date of the Postal Service postmark on the envelope  
25 or other cover in which such appeal is mailed; or

1           “(B) if otherwise lawfully delivered to the Com-  
2           mission, be considered to have been received on the  
3           date determined based on any appropriate docu-  
4           mentation or other indicia (as determined under reg-  
5           ulations of the Commission).”.

6           (b) EFFECTIVE DATE.—This section and the amend-  
7           ments made by this section shall apply with respect to any  
8           determination to close or consolidate a post office which  
9           is first made available, in accordance with paragraph (3)  
10          of section 404(b) of title 39, United States Code, after  
11          the end of the 3-month period beginning on the date of  
12          the enactment of this Act.

13       **SEC. 803. PROVISIONS RELATING TO BENEFITS UNDER**  
14                               **CHAPTER 81 OF TITLE 5, UNITED STATES**  
15                               **CODE, FOR OFFICERS AND EMPLOYEES OF**  
16                               **THE FORMER POST OFFICE DEPARTMENT.**

17          (a) IN GENERAL.—Section 8 of the Postal Reorga-  
18          nization Act (39 U.S.C. 1001 note) is amended by insert-  
19          ing “(a)” after “8.” and by adding at the end the fol-  
20          lowing:

21          “(b) For purposes of chapter 81 of title 5, United  
22          States Code, the Postal Service shall, with respect to any  
23          individual receiving benefits under such chapter as an offi-  
24          cer or employee of the former Post Office Department,  
25          have the same authorities and responsibilities as it has

1 with respect to an officer or employee of the Postal Service  
2 receiving such benefits.”.

3 (b) EFFECTIVE DATE.—This section and the amend-  
4 ments made by this section shall be effective as of the first  
5 day of the fiscal year in which this Act is enacted.

6 **SEC. 804. OBSOLETE PROVISIONS.**

7 (a) REPEAL.—

8 (1) IN GENERAL.—Chapter 52 of title 39,  
9 United States Code, is repealed.

10 (2) CONFORMING AMENDMENTS.—(A) Section  
11 5005(a) of title 39, United States Code, is amend-  
12 ed—

13 (i) by striking paragraph (1), and by re-  
14 designating paragraphs (2) through (4) as  
15 paragraphs (1) through (3), respectively; and

16 (ii) in paragraph (3) (as so designated by  
17 clause (i)), by striking “(as defined in section  
18 5201(6) of this title)”.

19 (B) Section 5005(b) of such title 39 is amended  
20 by striking “(a)(4)” each place it appears and in-  
21 serting “(a)(3)”.

22 (C) Section 5005(c) of such title 39 is amended  
23 by striking “by carrier or person under subsection  
24 (a)(1) of this section, by contract under subsection

1 (a)(4) of this section, or” and inserting “by contract  
2 under subsection (a)(3) of this section or”.

3 (b) **ELIMINATING RESTRICTION ON LENGTH OF CON-**  
4 **TRACTS.**—(1) Section 5005(b)(1) of title 39, United  
5 States Code, is amended by striking “(or where the Postal  
6 Service determines that special conditions or the use of  
7 special equipment warrants, not in excess of 6 years)” and  
8 inserting “(or such longer period of time as may be deter-  
9 mined by the Postal Service to be advisable or appro-  
10 priate)”.

11 (2) Section 5402(d) of such title 39 is amended by  
12 striking “for a period of not more than 4 years”.

13 (3) Section 5605 of such title 39 is amended by strik-  
14 ing “for periods of not in excess of 4 years”.

15 (c) **CLERICAL AMENDMENT.**—The analysis for part  
16 V of title 39, United States Code, is amended by repealing  
17 the item relating to chapter 52.

18 **SEC. 805. INVESTMENTS.**

19 Subsection (c) of section 2003 of title 39, United  
20 States Code, is amended—

21 (1) by striking “(c) If” and inserting “(c)(1)

22 Except as provided in paragraph (2), if”; and

23 (2) by adding at the end the following:

1       “(2)(A) Nothing in this section shall be considered  
2 to authorize any investment in any obligations or securi-  
3 ties of a commercial entity.

4       “(B) For purposes of this paragraph, the term ‘com-  
5 mercial entity’ means any corporation, company, associa-  
6 tion, partnership, joint stock company, firm, society, or  
7 other similar entity, as further defined under regulations  
8 prescribed by the Postal Regulatory Commission.”.

9       **SEC. 806. REDUCED RATES.**

10       Section 3626 of title 39, United States Code, is  
11 amended—

12               (1) in subsection (a), by striking all before  
13 paragraph (4) and inserting the following:

14       “(a)(1) Except as otherwise provided in this section,  
15 rates of postage for a class of mail or kind of mailer under  
16 former section 4358, 4452(b), 4452(c), 4554(b), or  
17 4554(c) of this title shall be established in accordance with  
18 section 3622.

19       “(2) For the purpose of this subsection, the term  
20 ‘regular-rate category’ means any class of mail or kind of  
21 mailer, other than a class or kind referred to in section  
22 2401(c).

23       “(3) Rates of postage for a class of mail or kind of  
24 mailer under former section 4358(a) through (c) of this  
25 title shall be established so that postage on each mailing

1 of such mail reflects its preferred status as compared to  
2 the postage for the most closely corresponding regular-rate  
3 category mailing.”;

4 (2) in subsection (g), by adding at the end the  
5 following:

6 “(3) For purposes of this section and former section  
7 4358(a) through (c) of this title, those copies of an issue  
8 of a publication entered within the county in which it is  
9 published, but distributed outside such county on postal  
10 carrier routes originating in the county of publication,  
11 shall be treated as if they were distributed within the  
12 county of publication.

13 “(4)(A) In the case of an issue of a publication, any  
14 number of copies of which are mailed at the rates of post-  
15 age for a class of mail or kind of mailer under former  
16 section 4358(a) through (c) of this title, any copies of such  
17 issue which are distributed outside the county of publica-  
18 tion (excluding any copies subject to paragraph (3)) shall  
19 be subject to rates of postage provided for under this para-  
20 graph.

21 “(B) The rates of postage applicable to mail under  
22 this paragraph shall be established in accordance with sec-  
23 tion 3622.

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

1 of such issue outside the county of publication (not count-  
2 ing recipients of copies subject to paragraph (3)) is less  
3 than 5,000.”; and

4 (3) by adding at the end the following:

5 “(n) In the administration of this section, matter that  
6 satisfies the circulation standards for requester publica-  
7 tions shall not be excluded from being mailed at the rates  
8 for mail under former section 4358 solely because such  
9 matter is designed primarily for free circulation or for cir-  
10 culation at nominal rates, or fails to meet the require-  
11 ments of former section 4354(a)(5).”.

12 **SEC. 807. HAZARDOUS MATTER.**

13 (a) NONMAILABILITY GENERALLY.—Section 3001 of  
14 title 39, United States Code, is amended—

15 (1) by redesignating subsection (n) as sub-  
16 section (o); and

17 (2) by inserting after subsection (m) the fol-  
18 lowing:

19 “(n)(1) Except as otherwise authorized by law or reg-  
20 ulations of the Postal Service, hazardous material is non-  
21 mailable.

22 “(2) In this subsection, the term ‘hazardous material’  
23 means a substance or material designated by the Secretary  
24 of Transportation under section 5103(a) of title 49.”.

1 (b) MAILABILITY.—Chapter 30 of title 39, United  
2 States Code, is amended by adding at the end the fol-  
3 lowing:

4 **“§ 3018. Hazardous material**

5 “(a) IN GENERAL.—The Postal Service shall pre-  
6 scribe regulations for the safe transportation of hazardous  
7 material in the mail.

8 “(b) PROHIBITIONS.—No person may—

9 “(1) mail or cause to be mailed hazardous ma-  
10 terial that has been declared by statute or Postal  
11 Service regulation to be nonmailable;

12 “(2) mail or cause to be mailed hazardous ma-  
13 terial in violation of any statute or Postal Service  
14 regulation restricting the time, place, or manner in  
15 which hazardous material may be mailed; or

16 “(3) manufacture, distribute, or sell any con-  
17 tainer, packaging kit, or similar device that—

18 “(A) is represented, marked, certified, or  
19 sold by such person for use in the mailing of  
20 hazardous material; and

21 “(B) fails to conform with any statute or  
22 Postal Service regulation setting forth stand-  
23 ards for a container, packaging kit, or similar  
24 device used for the mailing of hazardous mate-  
25 rial.

1       “(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAM-  
2 AGES.—

3           “(1) IN GENERAL.—A person who knowingly  
4 violates this section or a regulation prescribed under  
5 this section shall be liable for—

6           “(A) a civil penalty of at least \$250, but  
7 not more than \$100,000, for each violation;

8           “(B) the costs of any clean-up associated  
9 with each violation; and

10          “(C) damages.

11          “(2) KNOWING ACTION.—A person acts know-  
12 ingly for purposes of paragraph (1) when—

13          “(A) the person has actual knowledge of  
14 the facts giving rise to the violation; or

15          “(B) a reasonable person acting in the cir-  
16 cumstances and exercising reasonable care  
17 would have had that knowledge.

18          “(3) SEPARATE VIOLATIONS.—

19          “(A) VIOLATIONS OVER TIME.—A separate  
20 violation under this subsection occurs for each  
21 day hazardous material, mailed or caused to be  
22 mailed in noncompliance with this section, is in  
23 the mail.

24          “(B) SEPARATE ITEMS.—A separate viola-  
25 tion under this subsection occurs for each item

1 containing hazardous material that is mailed or  
2 caused to be mailed in noncompliance with this  
3 section.

4 “(d) HEARINGS.—The Postal Service may determine  
5 that a person has violated this section or a regulation pre-  
6 scribed under this section only after notice and an oppor-  
7 tunity for a hearing. Proceedings under this section shall  
8 be conducted in accordance with section 3001(m).

9 “(e) PENALTY CONSIDERATIONS.—In determining  
10 the amount of a civil penalty for a violation of this section,  
11 the Postal Service shall consider—

12 “(1) the nature, circumstances, extent, and  
13 gravity of the violation;

14 “(2) with respect to the person who committed  
15 the violation, the degree of culpability, any history of  
16 prior violations, the ability to pay, and any effect on  
17 the ability to continue in business;

18 “(3) the impact on Postal Service operations;  
19 and

20 “(4) any other matters that justice requires.

21 “(f) CIVIL ACTIONS TO COLLECT.—

22 “(1) IN GENERAL.—In accordance with section  
23 409(d), a civil action may be commenced in an ap-  
24 propriate district court of the United States to col-

1 lect a civil penalty, clean-up costs, and damages as-  
2 sessed under subsection (c).

3 “(2) COMPROMISE.—The Postal Service may  
4 compromise the amount of a civil penalty, clean-up  
5 costs, and damages assessed under subsection (c) be-  
6 fore commencing a civil action with respect to such  
7 civil penalty, clean-up costs, and damages under  
8 paragraph (1).

9 “(g) CIVIL JUDICIAL PENALTIES.—

10 “(1) IN GENERAL.—At the request of the Post-  
11 al Service, the Attorney General may bring a civil  
12 action in an appropriate district court of the United  
13 States to enforce this section or a regulation pre-  
14 scribed under this section.

15 “(2) RELIEF.—The court in a civil action under  
16 paragraph (1) may award appropriate relief, includ-  
17 ing a temporary or permanent injunction, civil pen-  
18 alties as determined in accordance with this section,  
19 or punitive damages.

20 “(3) CONSTRUCTION.—A civil action under this  
21 subsection shall be in lieu of civil penalties for the  
22 same violation under subsection (c)(1)(A).

23 “(h) DEPOSIT OF AMOUNTS COLLECTED.—

24 “(1) POSTAL SERVICE FUND.—Except as pro-  
25 vided under paragraph (2), amounts collected under

1 subsection (c)(1)(B) and (C) shall be deposited into  
2 the Postal Service Fund under section 2003.

3 “(2) TREASURY.—Amounts collected under sub-  
4 section (c)(1)(A) and any punitive damages collected  
5 under subsection (c)(1)(C) shall be deposited into  
6 the Treasury of the United States.”.

7 (c) CONFORMING AMENDMENTS.—(1) Section  
8 2003(b) of title 39, United States Code, is amended—

9 (A) in paragraph (7), by striking “and” after  
10 the semicolon;

11 (B) in paragraph (8), by striking “purposes.”  
12 and inserting “purposes; and”; and

13 (C) by adding at the end the following:

14 “(9) any amounts collected under section  
15 3018.”.

16 (2) The analysis for chapter 30 of title 39, United  
17 States Code, is amended by adding at the end the fol-  
18 lowing:

“3018. Hazardous material.”.

19 (d) INJURIOUS ARTICLES AS NONMAILABLE.—Sec-  
20 tion 1716(a) of title 18, United States Code, is amended  
21 by inserting after “explosives,” the following: “hazardous  
22 materials,”.

1 **SEC. 808. PROVISIONS RELATING TO COOPERATIVE MAIL-**  
2 **INGS.**

3 (a) DETERMINATION.—The Postal Regulatory Com-  
4 mission shall examine section E670.5.3 of the Domestic  
5 Mail Manual to determine whether it contains adequate  
6 safeguards to protect against (1) abuses of rates for non-  
7 profit mail and (2) deception of consumers.

8 (b) REGULATIONS.—If the Postal Regulatory Com-  
9 mission determines that section E670.5.3 of the Domestic  
10 Mail Manual does not contain adequate safeguards as de-  
11 scribed in the preceding subsection, the Commission shall  
12 promulgate such regulations as may be necessary to en-  
13 sure such safeguards.

14 (c) TIMING.—The Postal Regulatory Commission  
15 shall complete the examination required by subsection (a)  
16 and the promulgation of any necessary regulations re-  
17 quired by subsection (b) within one year after the date  
18 of the enactment of this section.

19 **SEC. 809. TECHNICAL AND CONFORMING AMENDMENTS.**

20 (a) REIMBURSEMENT.—Section 3681 of title 39,  
21 United States Code, is amended by striking “section  
22 3628” and inserting “sections 3662 through 3664”.

23 (b) SIZE AND WEIGHT LIMITS.—Section 3682 of title  
24 39, United States Code, is amended to read as follows:

1 **“§ 3682. Size and weight limits**

2       “The Postal Service may establish size and weight  
3 limitations for mail matter in the market-dominant cat-  
4 egory of mail consistent with regulations the Postal Regu-  
5 latory Commission may prescribe under section 3622. The  
6 Postal Service may establish size and weight limitations  
7 for mail matter in the competitive category of mail con-  
8 sistent with its authority under section 3632.”.

9       (c) REVENUE FOREGONE, ETC.—Title 39, United  
10 States Code, is amended—

11           (1) in section 503 (as so redesignated by sec-  
12 tion 501), by striking “this chapter.” and inserting  
13 “this title.”; and

14           (2) in section 2401(d), by inserting “(as last in  
15 effect before enactment of the Postal Accountability  
16 and Enhancement Act)” after “3626(a)” and after  
17 “3626(a)(3)(B)(ii)”.

18       (d) APPROPRIATIONS AND REPORTING REQUIRE-  
19 MENTS.—

20           (1) APPROPRIATIONS.—Subsection (e) of sec-  
21 tion 2401 of title 39, United States Code, is amend-  
22 ed—

23           (A) by striking “Committee on Post Office  
24 and Civil Service” each place it appears and in-  
25 serting “Committee on Government Reform”;  
26           and

1 (B) by striking “Not later than March 15  
2 of each year,” and inserting “Each year,”.

3 (2) REPORTING REQUIREMENTS.—Sections  
4 2803(a) and 2804(a) of title 39, United States  
5 Code, are amended by striking “2401(g)” and in-  
6 serting “2401(e)”.

7 (e) AUTHORITY TO FIX RATES AND CLASSES GEN-  
8 ERALLY; REQUIREMENT RELATING TO LETTERS SEALED  
9 AGAINST INSPECTION.—Section 404 of title 39, United  
10 States Code (as amended by section 102) is further  
11 amended by redesignating subsections (b) and (c) as sub-  
12 sections (d) and (e), respectively, and by inserting after  
13 subsection (a) the following:

14 “(b) Except as otherwise provided, the Governors are  
15 authorized to establish reasonable and equitable classes of  
16 mail and reasonable and equitable rates of postage and  
17 fees for postal services in accordance with the provisions  
18 of chapter 36. Postal rates and fees shall be reasonable  
19 and equitable and sufficient to enable the Postal Service,  
20 under best practices of honest, efficient, and economical  
21 management, to maintain and continue the development  
22 of postal services of the kind and quality adapted to the  
23 needs of the United States.

24 “(c) The Postal Service shall maintain one or more  
25 classes of mail for the transmission of letters sealed

1 against inspection. The rate for each such class shall be  
2 uniform throughout the United States, its territories, and  
3 possessions. One such class shall provide for the most ex-  
4 peditious handling and transportation afforded mail mat-  
5 ter by the Postal Service. No letter of such a class of do-  
6 mestic origin shall be opened except under authority of  
7 a search warrant authorized by law, or by an officer or  
8 employee of the Postal Service for the sole purpose of de-  
9 termining an address at which the letter can be delivered,  
10 or pursuant to the authorization of the addressee.”.

11 (f) LIMITATIONS.—Section 3684 of title 39, United  
12 States Code, is amended by striking all that follows “any  
13 provision” and inserting “of this title.”.

14 (g) MISCELLANEOUS.—Title 39, United States Code,  
15 is amended—

16 (1) in section 1005(d)(2)—

17 (A) by striking “subsection (g) of section  
18 5532,”; and

19 (B) by striking “8344,” and inserting  
20 “8344”;

21 (2) in the analysis for part III, by striking the  
22 item relating to chapter 28 and inserting the fol-  
23 lowing:

**“28. Strategic Planning and Performance Management .... 2801”;**

24 (3) in section 3005(a)—

1 (A) in the matter before paragraph (1), by  
 2 striking all that follows “nonmailable” and pre-  
 3 cedes “(h),” and inserting “under section  
 4 3001(d),”; and

5 (B) in the sentence following paragraph  
 6 (3), by striking all that follows “nonmailable”  
 7 and precedes “(h),” and inserting “under such  
 8 section 3001(d),”;

9 (4) in section 3210(a)(6)(C), by striking the  
 10 matter after “if such mass mailing” and before  
 11 “than 60 days” and inserting “is postmarked  
 12 fewer”; and

13 (5) by striking the heading for section 3627  
 14 and inserting the following:

15 **“§ 3627. Adjusting free rates”.**

16 **TITLE IX—POSTAL PENSION**  
 17 **FUNDING REFORM AMEND-**  
 18 **MENTS**

19 **SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.**

20 (a) TERMINATION OF OBLIGATION TO PAY GOVERN-  
 21 MENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of  
 22 title 5, United States Code, is amended by striking all that  
 23 follows “be equal to” and inserting “zero.”.

24 (b) DETERMINATION AND DISPOSITION OF POSTAL  
 25 SURPLUS OR SUPPLEMENTAL LIABILITY.—Section

1 8348(h) of title 5, United States Code, is amended to read  
2 as follows:

3 “(h)(1) For purposes of this subsection, a Postal sur-  
4 plus (or supplemental liability) is the amount, as esti-  
5 mated by the Office, by which—

6 “(A) the actuarial present value of all future  
7 benefits which are payable from the Fund under this  
8 subchapter to current or former employees of the  
9 United States Postal Service, or their survivors, and  
10 attributable to civilian employment with the Postal  
11 Service, is less than (or greater than)

12 “(B) the sum of—

13 “(i) the actuarial present value of deduc-  
14 tions to be withheld from the future basic pay  
15 of employees of the Postal Service currently  
16 subject to this subchapter pursuant to section  
17 8334;

18 “(ii) that portion of the Fund balance, as  
19 of the date such surplus or supplemental liabil-  
20 ity is determined, attributable to payments to  
21 the Fund by the Postal Service and its employ-  
22 ees, plus the earnings on such amounts while in  
23 the Fund; and

24 “(iii) any other appropriate amount, as de-  
25 termined by the Office in accordance with gen-

1           erally accepted actuarial practices and prin-  
2           ciples.

3           “(2)(A)(i) Not later than June 15, 2006, the Office  
4 shall determine the Postal surplus or supplemental liabil-  
5 ity as of September 30, 2005.

6           “(ii) If a supplemental liability is determined under  
7 this subparagraph for fiscal year 2005, the Office shall  
8 establish an amortization schedule, including a series of  
9 equal annual installments commencing September 30,  
10 2006, which provides for the liquidation of such liability  
11 by September 30, 2043.

12           “(iii) If a surplus is determined under this subpara-  
13 graph for fiscal year 2005, the amount of the surplus shall  
14 be transferred to the Postal Service Retiree Health Bene-  
15 fits Fund by June 30, 2006.

16           “(B)(i) For each of fiscal years 2006 through 2038,  
17 the Office shall determine the Postal surplus or supple-  
18 mental liability as of the close of such fiscal year, with  
19 each such determination to be made by June 15th of the  
20 following fiscal year.

21           “(ii) If a supplemental liability is determined under  
22 this subparagraph for a fiscal year, the Office shall estab-  
23 lish an amortization schedule, including a series of equal  
24 annual installments commencing on September 30 of the

1 following fiscal year, which provides for the liquidation of  
2 such liability by September 30, 2043.

3 “(iii)(I) If a surplus of \$500,000,000 or more is de-  
4 termined under this subparagraph for a fiscal year, the  
5 amount of the surplus shall be transferred to the Postal  
6 Service Retiree Health Benefits Fund by June 30th of the  
7 following fiscal year.

8 “(II) If a surplus of less than \$500,000,000 is deter-  
9 mined under this subparagraph for a fiscal year, the sur-  
10 plus shall remain in the Fund, subject to transfer in a  
11 subsequent fiscal year under subclause (I) or subpara-  
12 graph (C)(iii).

13 “(C)(i) Not later than June 15, 2040, the Office shall  
14 determine the Postal surplus or supplemental liability as  
15 of September 30, 2039.

16 “(ii) If a supplemental liability is determined under  
17 this subparagraph for fiscal year 2039, the Office shall  
18 establish an amortization schedule, including a series of  
19 equal annual installments commencing September 30,  
20 2040, which provides for the liquidation of such liability  
21 by September 30, 2043.

22 “(iii) If a surplus is determined under this subpara-  
23 graph for fiscal year 2039, the amount of the surplus—

1           “(I) shall be applied first toward reducing the  
2 amount of any supplemental liability described in  
3 section 8423(b)(1)(B); and

4           “(II) to the extent that any portion of such sur-  
5 plus remains after the application of subclause (I),  
6 shall, not later than June 30, 2040, be transferred  
7 to the Postal Service Retiree Health Benefits Fund.

8           “(D) An amortization schedule under this para-  
9 graph—

10           “(i) shall be established in accordance with gen-  
11 erally accepted actuarial practices and principles,  
12 with interest computed at the rate used in the most  
13 recent valuation of the Civil Service Retirement Sys-  
14 tem;

15           “(ii) shall supersede any amortization schedule  
16 previously established under this paragraph; and

17           “(iii) shall not be taken into account, for pur-  
18 poses of any determination of Postal surplus or sup-  
19 plemental liability, except to the extent of any  
20 amounts under such schedule actually paid.

21           “(E)(i) The Postal Service shall pay to the Office the  
22 amounts due under any amortization schedule established  
23 under this paragraph, to the extent not superseded or can-  
24 celed.

1       “(ii) A determination under subparagraph (B)(i) or  
2 (C)(i) that no supplemental liability exists shall cancel any  
3 amortization schedule previously established under this  
4 paragraph, to the extent of any amounts first coming due  
5 after the close of the fiscal year to which such determina-  
6 tion relates.

7       “(3) Notwithstanding any other provision of law, in  
8 computing the amount of any payment under any other  
9 subsection of this section that is based on the amount of  
10 the unfunded liability, such payment shall be computed  
11 disregarding that portion of the unfunded liability that the  
12 Office determines will be liquidated by payments under  
13 this subsection.

14       “(4) As used in this subsection, ‘Postal Service Re-  
15 tiree Health Benefits Fund’ refers to the Postal Service  
16 Retiree Health Benefits Fund, as established by section  
17 8909a.”.

18       (c) PROVISIONS RELATING TO AMOUNTS FOR MILI-  
19 TARY SERVICE.—In the application of paragraph (2) of  
20 section 8348(g) of title 5, United States Code, for fiscal  
21 year 2006, the Office of Personnel Management shall in-  
22 clude, in addition to the amount otherwise computed  
23 under that paragraph, the amounts that would have been  
24 included for fiscal years 2003 through 2005 with respect  
25 to credit for military service of former employees of the

1 United States Postal Service if Public Law 108-18 had  
2 not been enacted (including earnings thereon) and the  
3 Secretary of the Treasury shall make the required transfer  
4 to the Civil Service Retirement and Disability Fund based  
5 on that amount.

6 (d) REVIEW.—

7 (1) IN GENERAL.—Notwithstanding any other  
8 provision of this section, any determination or rede-  
9 termination made by the Office of Personnel Man-  
10 agement under this section shall, upon request of  
11 the United States Postal Service, be subject to re-  
12 view by the Postal Regulatory Commission. The  
13 Commission shall submit a report containing the re-  
14 sults of any such review to the Postal Service, the  
15 Office of Personnel Management, and the Congress.

16 (2) RESPONSE.—Upon receiving the report of  
17 the Postal Regulatory Commission, the Office of  
18 Personnel Management shall reconsider its deter-  
19 mination or redetermination in light of such report,  
20 and shall make any appropriate adjustments. The  
21 Office shall submit a report containing the results of  
22 its reconsideration to the Commission, the Postal  
23 Service, and the Congress.

1 **SEC. 902. HEALTH INSURANCE.**

2 (a) IN GENERAL.—Chapter 89 of title 5, United  
3 States Code, is amended—

4 (1) in section 8906(g)(2)(A), by striking “by  
5 the United States Postal Service.” and inserting  
6 “first from the Postal Service Retiree Health Bene-  
7 fits Fund up to the amount contained therein, with  
8 any remaining amount paid by the United States  
9 Postal Service.”;

10 (2) by inserting after section 8909 the fol-  
11 lowing:

12 **“§ 8909a. Postal Service Retiree Health Benefits Fund**

13 “(a) There is in the Treasury of the United States  
14 a Postal Service Retiree Health Benefits Fund (herein-  
15 after in this section referred to as the ‘Fund’) which is  
16 administered by the Office of Personnel Management. Any  
17 amounts transferred to the Fund under section  
18 8348(h)(2) shall yield interest at a rate equal to the  
19 weighted average yield of all the investments in the Civil  
20 Service Retirement and Disability Fund as of the date of  
21 transfer. All other investments of amounts in the Fund  
22 shall be made in accordance with subsections (c)–(e) of  
23 section 8348.

24 “(b) The Fund is available without fiscal year limita-  
25 tion for payments required by section 8906(g)(2).

1           “(c)(1) Not later than June 30, 2006, and by June  
2 30 of each succeeding year, the Office of Personnel Man-  
3 agement shall compute the net present value of the excess  
4 of future payments required by section 8906(g)(2)(A) for  
5 current and future United States Postal Service annu-  
6 itants over the value of the assets of the Fund as of the  
7 end of the fiscal year ending on September 30 of that year.  
8 The actuarial costing method to be used by the Office and  
9 all actuarial assumptions shall be established by the Office  
10 after consultation with the United States Postal Service  
11 and must be in accordance with generally accepted actu-  
12 arial practices and principles.

13           “(2) Not later than September 30, 2006, and by Sep-  
14 tember 30 of each succeeding year, the Office shall com-  
15 pute and the United States Postal Service shall pay into  
16 such Fund—

17           “(A) the portion of the net present value de-  
18 scribed in paragraph (1) attributable to the current  
19 year’s service of Postal Service employees; and

20           “(B) interest on the net present value described  
21 in paragraph (1) for that fiscal year, at the interest  
22 rate used in computing that net present value;

23 except that the amount otherwise payable by the Postal  
24 Service under the preceding provisions of this paragraph  
25 by not later than September 30, 2006, shall be reduced

1 by the total contributions made by the Postal Service  
2 under section 8906(g)(2) and attributable to fiscal year  
3 2006 (as determined by the Office).

4 “(3)(A) Any computation or other determination of  
5 the Office under this subsection shall, upon request of the  
6 Postal Service, be subject to review by the Postal Regu-  
7 latory Commission. The Commission shall submit a report  
8 containing the results of any such review to the Postal  
9 Service, the Office of Personnel Management, and the  
10 Congress.

11 “(B) Upon receiving the report of the Postal Regu-  
12 latory Commission, the Office of Personnel Management  
13 shall reconsider its computation or other determination in  
14 light of such report, and shall make any appropriate ad-  
15 justments. The Office shall submit a report containing the  
16 results of its reconsideration to the Commission, the Post-  
17 al Service, and the Congress.

18 “(4) The Office shall promulgate, after consultation  
19 with the United States Postal Service, any regulations it  
20 deems necessary under this subsection.”; and

21 (3) in the analysis by inserting after the item  
22 relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

23 (b) REVIEW.—

24 (1) IN GENERAL.—Any regulation established  
25 under section 8909a(c)(4) of title 5, United States

1 Code (as amended by subsection (a)) shall, upon re-  
2 quest of the Postal Service, be subject to review by  
3 the Postal Regulatory Commission. The Commission  
4 shall submit a report containing the results of any  
5 such review to the Postal Service, the Office of Per-  
6 sonnel Management, and the Congress.

7 (2) RESPONSE.—Upon receiving the report of  
8 the Postal Regulatory Commission, the Office of  
9 Personnel Management shall reconsider its regula-  
10 tion in light of such report, and shall take such ac-  
11 tion as it considers appropriate. The Office shall  
12 submit a report containing the results of its recon-  
13 sideration to the Commission, the Postal Service,  
14 and the Congress.

15 **SEC. 903. REPEALER.**

16 Section 3 of Public Law 108–18 is repealed.

17 **SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND**  
18 **MILITARY SAVINGS.**

19 (a) DEFINITION.—For purposes of this section, the  
20 term “total savings” means, for any fiscal year, the  
21 amount equal to—

22 (1) the amount of contributions that the Postal  
23 Service would otherwise have been required to make  
24 to the Civil Service Retirement and Disability Fund  
25 under subchapter III of chapter 83 of title 5, United

1 States Code, for such fiscal year if Public Law 108-  
2 18 and this Act had not been enacted, minus

3 (2) the amount of amortization payments (if  
4 any) required under section 8348(h)(2) of title 5,  
5 United States Code, for such fiscal year.

6 (b) CALCULATIONS.—The following calculations shall  
7 be made for each of fiscal years 2006 through 2015:

8 (1) Not later than January 31 of the fiscal year  
9 following the fiscal year involved, the Office of Per-  
10 sonnel Management (in consultation with the Postal  
11 Service) shall determine the total savings for the fis-  
12 cal year.

13 (2) On the date of making its determination  
14 under paragraph (1), the Office shall also determine  
15 (in consultation with the Postal Service) the amount  
16 by which—

17 (A) the amount the Postal Service paid for  
18 that fiscal year into the Postal Service Retiree  
19 Health Benefits Fund in accordance with  
20 8909a(c)(2) of title 5, United States Code, ex-  
21 ceeds (if at all)

22 (B) the amount of payments made by the  
23 Postal Service for that fiscal year from such  
24 Fund in order to satisfy the requirements of  
25 section 8906(g)(2) of such title 5.

1 (c) REQUIREMENTS.—

2 (1) IF THRESHOLD IS MET.—If the amount cal-  
3 culated under subsection (b)(2) for a fiscal year is  
4 greater than or equal to two-thirds of the total sav-  
5 ings in such fiscal year, no further action under this  
6 section is necessary with respect to such fiscal year.

7 (2) IF THRESHOLD IS NOT MET.—

8 (A) IN GENERAL.—If the amount cal-  
9 culated under subsection (b)(2) for a fiscal year  
10 is less than two-thirds of the total savings in  
11 such fiscal year, the Postal Service shall pay  
12 into the Postal Service Retiree Health Benefits  
13 Fund, by June 30 of the following fiscal year,  
14 an amount equal to the difference.

15 (B) ALLOWABLE ALTERNATIVE.—

16 (i) IN GENERAL.—Notwithstanding  
17 subparagraph (A), and subject to clause  
18 (ii), the Postal Service may instead use the  
19 amount that it would otherwise be required  
20 to pay into the Postal Service Retiree  
21 Health Benefits Fund for a year (or any  
22 portion thereof) to reduce the postal debt.

23 (ii) LIMITATION.—Amounts used to  
24 reduce the postal debt under this subpara-

1 graph may not exceed a total of  
2 \$3,000,000,000.

3 (3) AGGREGATION ALLOWED.—Notwithstanding  
4 paragraph (2), if the amount calculated under sub-  
5 section (b)(2) for a fiscal year is less than two-thirds  
6 of the total savings in such fiscal year, but the sum  
7 of the amounts calculated under subsection (b)(2)  
8 for all fiscal years from 2006 to the fiscal year in-  
9 volved is greater than or equal to two-thirds of the  
10 sum of the total savings for such years, no further  
11 action under this section is necessary with respect to  
12 such fiscal year.

13 (d) REPORTING REQUIREMENT.—The Office of Per-  
14 sonnel Management shall submit a report containing the  
15 results of its calculations under subsection (b) to the Post-  
16 al Service, the Postal Regulatory Commission, and the  
17 Congress.

18 (e) WAIVER AUTHORITY.—The requirements of sub-  
19 section (c)(2)(A) may, upon application of the Postal Serv-  
20 ice, be waived by the Postal Regulatory Commission, to  
21 the extent that the Commission determines that such  
22 waiver is reasonable and equitable and necessary to enable  
23 the Postal Service, under best practices of honest, effi-  
24 cient, and economical management, to maintain and con-

1 tinue the development of postal services of the kind and  
2 quality adapted to the needs of the United States.

3 **SEC. 905. EFFECTIVE DATES.**

4 (a) IN GENERAL.—Except as otherwise provided, this  
5 title shall take effect on October 1, 2005.

6 (b) GOVERNMENT CONTRIBUTIONS.—Section 901(a)  
7 shall take effect on the first day of the first pay period  
8 beginning on or after October 1, 2005.

Passed the House of Representatives July 26, 2005.

Attest:

*Clerk.*



109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 22**

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**AN ACT**

To reform the postal laws of the United States.

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V. House Committee Report on H.R. 22,  
H.R. Rept. No. 109-66, 109th Cong.,  
1st Sess. (Apr. 28, 2005)

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POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

APRIL 28, 2005.—Ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 22]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 22) to reform the postal laws of the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Postal Accountability and Enhancement Act”.

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

Sec. 1. Short title; table of contents.

**TITLE I—DEFINITIONS; POSTAL SERVICES**

Sec. 101. Definitions.

- Sec. 102. Postal services.
- Sec. 103. Financial transparency.

#### TITLE II—MODERN RATE REGULATION

- Sec. 201. Provisions relating to market-dominant products.
- Sec. 202. Provisions relating to competitive products.
- Sec. 203. Provisions relating to experimental and new products.
- Sec. 204. Reporting requirements and related provisions.
- Sec. 205. Complaints; appellate review and enforcement.
- Sec. 206. Workshare discounts.
- Sec. 207. Clerical amendment.

#### TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

- Sec. 301. Postal Service Competitive Products Fund.
- Sec. 302. Assumed Federal income tax on competitive products income.
- Sec. 303. Unfair competition prohibited.
- Sec. 304. Suits by and against the Postal Service.
- Sec. 305. International postal arrangements.
- Sec. 306. Redesignation.

#### TITLE IV—GENERAL PROVISIONS

- Sec. 401. Qualification requirements for Governors.
- Sec. 402. Obligations.
- Sec. 403. Private carriage of letters.
- Sec. 404. Rulemaking authority.
- Sec. 405. Noninterference with collective bargaining agreements, etc.
- Sec. 406. Bonus and compensation authority.
- Sec. 407. Mediation in collective-bargaining disputes.

#### TITLE V—ENHANCED REGULATORY COMMISSION

- Sec. 501. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
- Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.
- Sec. 503. Appropriations for the Postal Regulatory Commission.
- Sec. 504. Redesignation of the Postal Rate Commission.
- Sec. 505. Officer of the Postal Regulatory Commission representing the general public.

#### TITLE VI—INSPECTORS GENERAL

- Sec. 601. Inspector General of the Postal Regulatory Commission.
- Sec. 602. Inspector General of the United States Postal Service to be appointed by the President.

#### TITLE VII—EVALUATIONS

- Sec. 701. Universal postal service study.
- Sec. 702. Assessments of ratemaking, classification, and other provisions.
- Sec. 703. Study on equal application of laws to competitive products.
- Sec. 704. Greater diversity in Postal Service Executive and administrative schedule management positions.
- Sec. 705. Plan for assisting displaced workers.
- Sec. 706. Contracts with women, minorities, and small businesses.
- Sec. 707. Rates for periodicals.
- Sec. 708. Assessment of certain rate deficiencies.
- Sec. 709. Network optimization.
- Sec. 710. Assessment of future business model of the postal service.
- Sec. 711. Study on certain proposed amendments.
- Sec. 712. Definition.

#### TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

- Sec. 801. Employment of postal police officers.
- Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
- Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
- Sec. 804. Obsolete provisions.
- Sec. 805. Investments.
- Sec. 806. Reduced rates.
- Sec. 807. Hazardous matter.
- Sec. 808. Provisions relating to cooperative mailings.
- Sec. 809. Technical and conforming amendments.

#### TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

- Sec. 901. Civil Service Retirement System.
- Sec. 902. Health insurance.
- Sec. 903. Repealer.
- Sec. 904. Ensuring appropriate use of escrow and military savings.
- Sec. 905. Effective dates.

## TITLE I—DEFINITIONS; POSTAL SERVICES

### SEC. 101. DEFINITIONS.

Section 102 of title 39, United States Code, is amended by striking “and” at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following:

“(5) ‘postal service’ means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto;

“(6) ‘product’ means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

“(7) ‘rates’, as used with respect to products, includes fees for postal services;

“(8) ‘market-dominant product’ or ‘product in the market-dominant category of mail’ means a product subject to subchapter I of chapter 36;

“(9) ‘competitive product’ or ‘product in the competitive category of mail’ means a product subject to subchapter II of chapter 36;

“(10) ‘Consumer Price Index’ means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

“(11) ‘year’, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.”.

#### SEC. 102. POSTAL SERVICES.

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

(1) in subsection (a), by striking paragraph (6) and by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively; and

(2) by adding at the end the following:

“(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.”.

(b) CONFORMING AMENDMENT.—Section 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by striking “404(a)(8)” and inserting “404(a)(7)”.

#### SEC. 103. FINANCIAL TRANSPARENCY.

(a) IN GENERAL.—Section 101 of title 39, United States Code, is amended by redesignating subsections (d) through (g) as subsections (e) through (h), respectively, and by inserting after subsection (c) the following:

“(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.”.

(b) CONFORMING AMENDMENT.—Section 5001 of title 39, United States Code, is amended by striking “101(e) and (f)” and inserting “101(f) and (g)”.

## TITLE II—MODERN RATE REGULATION

#### SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

(a) IN GENERAL.—Chapter 36 of title 39, United States Code, is amended by striking sections 3621 and 3622 and inserting the following:

##### “§ 3621. Applicability; definitions

“(a) APPLICABILITY.—This subchapter shall apply with respect to—

“(1)(A) single piece first-class letters (both domestic and international);

“(B) single piece first-class cards (both domestic and international); and

“(C) special services;

“(2) all first-class mail not included under paragraph (1);

“(3) periodicals;

“(4) standard mail;

“(5) media mail;

“(6) library mail; and

“(7) bound printed matter,

subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

##### “§ 3622. Modern rate regulation

“(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

“(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

“(1) To establish and maintain a fair and equitable schedule for rates and classification.

“(2) To maximize incentives to reduce costs and increase efficiency.

“(3) To create predictability and stability in rates.

“(4) To maintain high quality service standards.

“(5) To allow the Postal Service pricing flexibility.

“(6) To assure adequate revenues, including retained earnings, to maintain financial stability.

“(7) To reduce the administrative burden of the ratemaking process.

“(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

“(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

“(2) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

“(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

“(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

“(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

“(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

“(7) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

“(8) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

“(9) the desirability of special classifications from the point of view of both the user and of the Postal Service;

“(10) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

“(11) the policies of this title as well as such other factors as the Commission deems appropriate.

“(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

“(1) Price caps, revenue targets, or other form of incentive regulation.

“(2) Cost-of-service regulation.

“(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

“(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

“(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.”

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 501(a)(2), but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS”.

**SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.**

Chapter 36 of title 39, United States Code, is amended by inserting after section 3629 the following:

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

**“§ 3631. Applicability; definitions and updates**

“(a) **APPLICABILITY.**—This subchapter shall apply with respect to—

- “(1) priority mail;
- “(2) expedited mail;
- “(3) mailgrams;
- “(4) international mail; and
- “(5) parcel post,

subject to any changes the Postal Regulatory Commission may make under section 3642.

“(b) **DEFINITION.**—For purposes of this subchapter, the term ‘costs attributable’, as used with respect to a product, means the direct and indirect postal costs attributable to such product.

“(c) **RULE OF CONSTRUCTION.**—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**“§ 3632. Action of the Governors**

“(a) **AUTHORITY TO ESTABLISH RATES AND CLASSES.**—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

“(b) **PROCEDURES.**—

“(1) **IN GENERAL.**—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

“(2) **RATES OR CLASSES OF GENERAL APPLICABILITY.**—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors’ proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

“(3) **RATES OR CLASSES NOT OF GENERAL APPLICABILITY.**—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

“(4) **CRITERIA.**—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

“(c) **TRANSITION RULE.**—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

**“§ 3633. Provisions applicable to rates for competitive products**

“The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

- “(1) to prohibit the subsidization of competitive products by market-dominant products;
- “(2) to ensure that each competitive product covers its costs attributable; and
- “(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.”.

**SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.**

Subchapter III of chapter 36 of title 39, United States Code, is amended to read as follows:

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

“§ 3641. Market tests of experimental products

“(a) AUTHORITY.—

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

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

“(b) CONDITIONS.—A product may not be tested under this section unless it satisfies each of the following:

“(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.

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

“(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

“(c) NOTICE.—

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

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

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

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

“(d) DURATION.—

“(1) IN GENERAL.—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

“(2) EXTENSION AUTHORITY.—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

“(e) DOLLAR-AMOUNT LIMITATION.—

“(1) IN GENERAL.—A product may be tested under this section only if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 nationwide in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

“(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

“(A) the product is likely to benefit the public and meet an expected demand;

“(B) the product is likely to contribute to the financial stability of the Postal Service; and

“(C) the product is not likely to result in unfair or otherwise inappropriate competition.

“(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

“(g) ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).

“(h) DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.

“(i) EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a).

**“§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:

“(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

“(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term ‘product covered by the postal monopoly’ means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

“(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

“(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

“(B) the views of those who use the product involved on the appropriateness of the proposed action; and

“(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

“(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

“(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

“(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

“(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate

how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

“(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

“(f) PROHIBITION.—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

- “(1) under this subchapter; or
- “(2) by or under any other provision of law.”.

**SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.**

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended by striking the heading for subchapter IV and inserting the following:

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW”.

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

**“§ 3651. Annual reports by the Commission**

“(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

“(b) ADDITIONAL INFORMATION.—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

“(1) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

“(2) free or reduced rates for postal services as required by this title; and

“(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

The Commission shall detail the bases for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

“(c) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**“§ 3652. Annual reports to the Commission**

“(a) COSTS, REVENUES, AND RATES.—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex thereto as the Commission may require under subsection (e))—

“(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that the rates in effect for all products during such year complied with all applicable requirements of this title; and

“(2) which shall, for each market-dominant product provided in such year, provide—

“(A) market information, including mail volumes; and

“(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

“(i) the service standard applicable to such product;

“(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

“(iii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

“(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

“(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

“(A) The per-item cost avoided by the Postal Service by virtue of such discount.

“(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

“(C) The per-item contribution made to institutional costs.

“(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term ‘workshare discount’ has the meaning given such term under section 3687.

“(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service—

“(1) may report summary data on the costs, revenues, and quality of service by market test; and

“(2) shall report such data as the Postal Regulatory Commission requires.

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

“(e) CONTENT AND FORM OF REPORTS.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

“(A) providing the public with adequate information to assess the lawfulness of rates charged;

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

“(C) protecting the confidentiality of commercially sensitive information.

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

“(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

“(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

“(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

- “(1) comprehensive statement under section 2401(e);
- “(2) performance plan under section 2803; and
- “(3) program performance reports under section 2804.

**“§ 3653. Annual determination of compliance**

“(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

“(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

- “(1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder);
- “(2) whether any performance goals established under section 2803 or 2804 for such year were not met; and
- “(3) whether any market-dominant product failed to meet any service standard during such year.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

“(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

“(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.

**“§ 3654. Additional financial reporting**

“(a) ADDITIONAL FINANCIAL REPORTING.—

“(1) IN GENERAL.—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

“(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

“(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

“(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

“(2) REGISTRANT DEFINED.—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the ‘registrant’ described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

“(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2007.

“(b) FINANCIAL REPORTING.—

“(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service’s pension and post-retirement health obligations—

“(A) the funded status of the Postal Service’s pension and —postretirement health obligations;

“(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

“(C) components of net periodic costs;

“(D) cost methods and assumptions underlying the relevant actuarial valuations;

“(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

“(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

“(G) the composition of plan assets reflected in the fund balances; and

“(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

“(2)(A) Beginning with reports for the fiscal year 2007, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

“(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

“(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

“(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

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

“(1) the data have become significantly inaccurate or can be significantly improved; or

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

“(f) CONFIDENTIAL INFORMATION.—

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

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

#### SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

Chapter 36 of title 39, United States Code, is amended by striking sections 3662 and 3663 and inserting the following:

##### “§ 3662. Rate and service complaints

“(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

“(b) PROMPT RESPONSE REQUIRED.—

“(1) IN GENERAL.—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

“(A) begin proceedings on such complaint; or

“(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

“(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in

the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

“(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

“(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

“(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

**“§ 3663. Appellate review**

“A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term ‘person’ includes the Postal Service.

**“§ 3664. Enforcement of orders**

“The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.”.

**SEC. 206. WORKSHARE DISCOUNTS.**

(a) IN GENERAL.—Title 39, United States Code, is amended by adding after section 3686 (as added by section 406) the following:

**“§ 3687. Workshare discounts**

“(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as the result of workshare activity, unless—

“(1) the discount is—

“(A) associated with a new postal service, a change to an existing postal service, or a new workshare initiative related to an existing postal service; and

“(B) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;

“(2) a reduction in the discount would—

“(A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

“(B) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

- “(C) impede the efficient operation of the Postal Service;
- “(3) the amount of the discount above costs avoided—
- “(A) is necessary to mitigate rate shock; and
- “(B) will be phased out over time; or
- “(4) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.
- “(b) REPORT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—
- “(1) explains the Postal Service’s reasons for establishing or maintaining the rate;
- “(2) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and
- “(3) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.
- “(c) DEFINITION.—For purposes of this section, the term ‘workshare discount’ refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under section 3622(a).”
- (b) CLERICAL AMENDMENT.—The analysis for chapter 36 of title 39, United States Code (as amended by section 207) is amended by adding after the item relating to section 3686 the following:

“3687. Workshare discounts.”.

**SEC. 207. CLERICAL AMENDMENT.**

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

**“CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES**

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

- “Sec.
- “3621. Applicability; definitions.
- “3622. Modern rate regulation.
- “3626. Reduced rates.
- “3627. Adjusting free rates.
- “3629. Reduced rates for voter registration purposes.

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

- “3631. Applicability; definitions and updates.
- “3632. Action of the Governors.
- “3633. Provisions applicable to rates for competitive products.
- “3634. Assumed Federal income tax on competitive products.

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

- “3641. Market tests of experimental products.
- “3642. New products and transfers of products between the market-dominant and competitive categories of mail.

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

- “3651. Annual reports by the Commission.
- “3652. Annual reports to the Commission.
- “3653. Annual determination of compliance.
- “3654. Additional financial reporting.

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

- “3661. Postal services.
- “3662. Rate and service complaints.
- “3663. Appellate review.
- “3664. Enforcement of orders.

“SUBCHAPTER VI—GENERAL

- “3681. Reimbursement.
- “3682. Size and weight limits.
- “3683. Uniform rates for books; films, other materials.
- “3684. Limitations.
- “3685. Filing of information relating to periodical publications.
- “3686. Bonus authority.”.

## TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

### SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

(1) IN GENERAL.—Chapter 20 of title 39, United States Code, is amended by adding at the end the following:

#### “§ 2011. Provisions relating to competitive products

“(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

“(1) costs attributable to competitive products; and

“(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term ‘costs attributable’ has the meaning given such term by section 3631.

“(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

“(1) revenues from competitive products;

“(2) amounts received from obligations issued by the Postal Service under subsection (e);

“(3) interest and dividends earned on investments of the Competitive Products Fund; and

“(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

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

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

“(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund. Any such borrowings by the Postal Service shall be supported and serviced by the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e), but in either case subject to paragraph (5)).

“(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

“(A) the establishment of reserve, sinking, and other funds;

“(B) application and use of revenues and receipts of the Competitive Products Fund;

“(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

“(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

“(3) The obligations issued by the Postal Service under this section—

“(A) shall be in such forms and denominations;

“(B) shall be sold at such times and in such amounts;

“(C) shall mature at such time or times;

“(D) shall be sold at such prices;

“(E) shall bear such rates of interest;

“(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

“(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

“(H) shall be subject to such other terms and conditions;

as the Postal Service determines.

“(4) Obligations issued by the Postal Service under this subsection—

“(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

“(B) shall contain a recital that they are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

“(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

“(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

“(E) except as provided in section 2006(c) of this title, shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

“(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e)). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—

“(A) the assets related to the provision of competitive products; or

“(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.

“(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.

“(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

“(h)(1) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and such other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

“(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

“(B) the substantive and procedural rules that should be followed in determining the Postal Service’s assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

“(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments, with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

“(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

“(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

“(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

“(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

“(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

“(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

“(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

“(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).”

(2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended by adding after the item relating to section 2010 the following:

“2011. Provisions relating to competitive products.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking “and” at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2) ‘Competitive Products Fund’ means the Postal Service Competitive Products Fund established by section 2011; and”

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking “Fund,” and inserting “Fund and the balance in the Competitive Products Fund,”.

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking “title.” and inserting “title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).”

(B) DEPOSITS.—Section 2003(b) of title 39, United States Code, is amended by striking “There” and inserting “Except as otherwise provided in section 2011, there”.

(4) RELATIONSHIP BETWEEN THE TREASURY AND THE POSTAL SERVICE.—Section 2006 of title 39, United States Code, is amended—

(A) in subsection (a), by inserting “or section 2011” before “of this title,”;

(B) in subsection (b), by inserting “under section 2005” before “in such amounts” in the first sentence and before “in excess of such amount.” in the second sentence; and

(C) in subsection (c), by inserting “or section 2011(e)(4)(E)” before “of this title,”.

#### SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

Subchapter II of chapter 36 of title 39, United States Code, as amended by section 202, is amended by adding at the end the following:

##### “§ 3634. Assumed Federal income tax on competitive products income

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

“(1) the term ‘assumed Federal income tax on competitive products income’ means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

“(2) the term ‘assumed taxable income from competitive products’, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

“(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

“(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

“(b) COMPUTATION AND TRANSFER REQUIREMENTS.—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

“(1) compute its assumed Federal income tax on competitive products income for such year; and

“(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

“(c) DEADLINE FOR TRANSFERS.—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.”.

**SEC. 303. UNFAIR COMPETITION PROHIBITED.**

(a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39, United States Code, is amended by adding after section 404 the following:

**“§ 404a. Specific Limitations**

“(a) Except as specifically authorized by law, the Postal Service may not—

“(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

“(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

“(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

“(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.

“(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.”.

(b) CONFORMING AMENDMENTS.—

(1) GENERAL POWERS.—Section 401 of title 39, United States Code, is amended by striking “The” and inserting “Subject to the provisions of section 404a, the”.

(2) SPECIFIC POWERS.—Section 404(a) of title 39, United States Code, is amended by striking “Without” and inserting “Subject to the provisions of section 404a, but otherwise without”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

“404a. Specific limitations.”.

**SEC. 304. SUITS BY AND AGAINST THE POSTAL SERVICE.**

(a) IN GENERAL.—Section 409 of title 39, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

“(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—

“(A) shall be considered to be a ‘person’, as used in the provisions of law involved; and

“(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

“(2) This subsection applies with respect to—

“(A) the Act of July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051 and following)); and

“(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

“(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any competitive product, the Postal Service or other Federal agency (as the case may be)—

“(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and

“(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

“(i) the antitrust laws (as defined in such subsection); and

“(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

“(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.

“(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.

“(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

“(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

“(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

“(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

“(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

“(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

“(i) a copy of such schedule before construction of the building is begun; and

“(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

“(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

“(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

“(6) For purposes of this subsection, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

“(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

“(A) Subsection (d) or (e) of this section.

“(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

“(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

“(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it

may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

“(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

“(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

“(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).”.

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking “Except as provided in section 3628 of this title,” and inserting “Except as otherwise provided in this title.”.

**SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.**

(a) IN GENERAL.—Section 407 of title 39, United States Code, is amended to read as follows:

**“§ 407. International postal arrangements**

“(a) It is the policy of the United States—

“(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

“(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

“(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

“(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

“(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

“(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

“(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

“(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

“(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

“(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their

interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

“(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

“(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

“(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

“(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission’s decision.

“(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

“(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and

“(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

“(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

“(2) For purposes of this subsection, the term ‘private company’ means a private company substantially owned or controlled by persons who are citizens of the United States.

“(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary’s control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

“(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.”.

(b) EFFECTIVE DATE.—Notwithstanding any provision of the amendment made by subsection (a), the authority of the United States Postal Service to establish the rates of postage or other charges on mail matter conveyed between the United States and other countries shall remain available to the Postal Service until—

(1) with respect to market-dominant products, the date as of which the regulations promulgated under section 3622 of title 39, United States Code (as amended by section 201(a)) take effect; and

(2) with respect to competitive products, the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

**SEC. 306. REDESIGNATION.**

Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

“SUBCHAPTER VI—GENERAL”.

## **TITLE IV—GENERAL PROVISIONS**

**SEC. 401. QUALIFICATION REQUIREMENTS FOR GOVERNORS.**

(a) **IN GENERAL.**—Section 202(a) of title 39, United States Code, is amended by striking “(a)” and inserting “(a)(1)” and by striking the fourth sentence and inserting the following: “The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.”.

(b) **CONSULTATION REQUIREMENT.**—Section 202(a) of title 39, United States Code, is amended by adding at the end the following:

“(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.”.

(c) **RESTRICTION.**—Section 202(b) of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

“(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

“(ii) instead of the term that would otherwise apply under the first sentence of paragraph (1), the term of any person so appointed to such office shall be 3 years.

“(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.”.

(d) **APPLICABILITY.**—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

**SEC. 402. OBLIGATIONS.**

(a) **PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.**—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “title.” and inserting “title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.”.

(b) **LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.**—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: “In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of \$3,000,000,000.”.

(c) **LIMITATIONS ON OBLIGATIONS OUTSTANDING.**—

(1) **IN GENERAL.**—Subsection (a) of section 2005 of title 39, United States Code, is amended by adding at the end the following:

“(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding

as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.”.

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking “any such obligations” and inserting “obligations issued by the Postal Service which may be”.

(d) AMOUNTS WHICH MAY BE PLEDGED, ETC.—

(1) OBLIGATIONS TO WHICH PROVISIONS APPLY.—The first sentence of section 2005(b) of title 39, United States Code, is amended by striking “such obligations,” and inserting “obligations issued by the Postal Service under this section.”.

(2) ASSETS, REVENUES, AND RECEIPTS TO WHICH PROVISIONS APPLY.—Subsection (b) of section 2005 of title 39, United States Code, is amended by striking “(b)” and inserting “(b)(1)”, and by adding at the end the following:

“(2) Notwithstanding any other provision of this section—

“(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

“(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.”.

#### SEC. 403. PRIVATE CARRIAGE OF LETTERS.

(a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and inserting the following:

“(b) A letter may also be carried out of the mails when—

“(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;

“(2) the letter weighs at least 12½ ounces; or

“(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2004) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

“(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.”.

(b) EFFECTIVE DATE.—This section shall take effect on the date as of which the regulations promulgated under section 3633 of title 39, United States Code (as amended by section 202) take effect.

#### SEC. 404. RULEMAKING AUTHORITY.

Paragraph (2) of section 401 of title 39, United States Code, is amended to read as follows:

“(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;”.

#### SEC. 405. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in section 407, nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

(b) FREE MAILING PRIVILEGES CONTINUE UNCHANGED.—Nothing in this Act or any amendment made by this Act shall affect any free mailing privileges accorded under section 3217 or sections 3403 through 3406 of title 39, United States Code.

#### SEC. 406. BONUS AND COMPENSATION AUTHORITY.

Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by section 306) is amended by adding at the end the following:

**“§ 3686. Bonus authority**

“(a) IN GENERAL.—The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.

“(b) LIMITATION ON TOTAL COMPENSATION.—

“(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.

“(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

“(A) the Postal Service shall make an appropriate request to the Board of Governors in such form and manner as the Board requires; and

“(B) the Board of Governors shall approve any such request if it certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

“(3) REVOCATION AUTHORITY.—If the Board of Governors finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

“(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

“(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

“(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

“(2) the amount of the bonus or other payment; and

“(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

“(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.”.

**SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DISPUTES.**

(a) IN GENERAL.—Section 1207(b) of title 39, United States Code, is amended by striking all that follows “the Director of the Federal Mediation and Conciliation Service shall” and inserting “, within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.”.

(b) PROVISIONS RELATING TO ARBITRATION BOARDS.—Section 1207(c) of title 39, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “90” and inserting “60”;

(B) by striking “not members of the factfinding panel.”; and

(C) by striking all that follows “shall be made” and inserting “from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.”; and

(2) in paragraph (3), by striking “factfinding panel” and inserting “mediation”.

(c) CONFORMING AMENDMENT.—Section 1207(d) of title 39, United States Code, is amended by striking “factfinding panel will be established” and inserting “mediator shall be appointed”.

**TITLE V—ENHANCED REGULATORY COMMISSION**

**SEC. 501. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.**

(a) TRANSFER AND REDESIGNATION.—Title 39, United States Code, is amended— (1) by inserting after chapter 4 the following:

**“CHAPTER 5—POSTAL REGULATORY COMMISSION**

- “Sec.
- “501. Establishment.
- “502. Commissioners.
- “503. Rules; regulations; procedures.
- “504. Administration.

**“§ 501. Establishment**

“The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

**“§ 502. Commissioners**

“(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

“(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (e).

“(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

“(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

- “(e) The Commissioners shall serve for terms of 6 years.”;
- (2) in subchapter I of chapter 36 (as in effect before the amendment made by section 201(c)), by striking the heading for such subchapter I and all that follows through section 3602; and
- (3) by redesignating sections 3603 and 3604 as sections 503 and 504, respectively, and transferring such sections to the end of chapter 5 (as inserted by paragraph (1)).

(b) DETERMINATIONS.—Section 503 of title 39, United States Code, as so redesignated by subsection (a)(3), is amended by adding at the end the following: “Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.”.

(c) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 504) pursuant to an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

(d) CLERICAL AMENDMENT.—The analysis for part I of title 39, United States Code, is amended by inserting after the item relating to chapter 4 the following:

“5. Postal Regulatory Commission ..... 501”.

**SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.**

Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding at the end the following:

“(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any

employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

“(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

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

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

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

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

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

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

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

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

“(3)(A) Paragraph (2) shall not prevent the Commission from publicly disclosing relevant information in furtherance of its duties under this title if the Commission has adopted regulations under section 553 of title 5 that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest, as required by section 101(d) of this title for financial transparency of a government establishment.

“(B) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.”.

**SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 501) is amended to read as follows:

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

(b) **BUDGET PROGRAM.**—

(1) **IN GENERAL.**—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: “The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8L(e) of the Inspector

General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.”.

(2) CONFORMING AMENDMENT.—Section 2003(e)(1) of title 39, United States Code, is amended by striking the first sentence and inserting the following: “The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8L(e) of the Inspector General Act of 1978.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2005.

(2) SAVINGS PROVISION.—The provisions of title 39, United States Code, that are amended by this section shall, for purposes of any fiscal year before the first fiscal year to which the amendments made by this section apply, continue to apply in the same way as if this section had never been enacted.

**SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMISSION.**

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 501), 1001, and 1002 by striking “Postal Rate Commission” each place it appears and inserting “Postal Regulatory Commission”.

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(d) AMENDMENT TO THE REHABILITATION ACT OF 1973.—Section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)) is amended by striking “Postal Rate Office” and inserting “Postal Regulatory Commission”.

(e) AMENDMENT TO TITLE 44, UNITED STATES CODE.—Section 3502(5) of title 44, United States Code, is amended by striking “Postal Rate Commission” and inserting “Postal Regulatory Commission”.

(f) OTHER REFERENCES.—Whenever a reference is made in any provision of law (other than this Act or a provision of law amended by this Act), regulation, rule, document, or other record of the United States to the Postal Rate Commission, such reference shall be considered a reference to the Postal Regulatory Commission.

**SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMISSION REPRESENTING THE GENERAL PUBLIC.**

(a) IN GENERAL.—Chapter 5 of title 39, United States Code (as added by this Act) is amended by adding after section 504 the following:

**“§ 505. Officer of the Postal Regulatory Commission representing the general public**

“The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 39, United States Code (as amended by section 501(a)(1)) is amended by adding after the item relating to section 504 the following:

“505. Officer of the Postal Regulatory Commission representing the general public.”.

## TITLE VI—INSPECTORS GENERAL

**SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.**

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is amended by inserting “the Postal Regulatory Commission,” after “the United States International Trade Commission.”.

(b) ADMINISTRATION.—Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding after subsection (g) (as added by section 502) the following:

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

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

(c) DEADLINE.—No later than 180 days after the date of the enactment of this Act—

(1) the first Inspector General of the Postal Regulatory Commission shall be appointed; and

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

**SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE TO BE APPOINTED BY THE PRESIDENT.**

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking “or” before “the President of the Export-Import Bank;” and

(B) by inserting “or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);” after “the President of the Export-Import Bank;”; and

(2) in paragraph (2)—

(A) by striking “or” before “the Export-Import Bank;”; and

(B) by inserting “or the United States Postal Service,” after “the Export-Import Bank.”

(b) SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE.—

(1) IN GENERAL.—The Inspector General Act of 1978 is amended by inserting after section 8K the following:

“SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

“SEC. 8L. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

“(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term ‘appropriate committees of Congress’ to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

“(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

“(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

“(e) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.”

(2) RELATED PROVISIONS.—For certain related provisions, see section 503(b).  
 (c) EXERCISE OF CERTAIN POWERS.—Section 6(e)(3) of the Inspector General Act of 1978 is amended—

- (1) by striking “and the” before “Tennessee Valley Authority”; and
- (2) by inserting “, and United States Postal Service” after “Tennessee Valley Authority”.

(d) PUBLIC CONTRACTS.—

(1) ADDITIONAL PROVISIONS APPLICABLE.—Section 410(b)(5) of title 39, United States Code, is amended—

- (A) in subparagraph (A), by striking “and” after the semicolon; and
- (B) by adding after subparagraph (B) the following:  
 “(C) the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and  
 “(D) section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265) (relating to protecting contractor employees from reprisal for disclosure of certain information);”.

(2) REGULATIONS ON ALLOWABLE COSTS.—Section 410 of title 39, United States Code, is amended by adding at the end the following:

“(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.”.

(e) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking “Postmaster General” each place it appears and inserting “Chief Postal Inspector”.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—(A) Subsection (a) of section 8G of the Inspector General Act of 1978 (as amended by section 601(a)) is further amended—

- (i) in paragraph (2), by striking “the Postal Regulatory Commission, and the United States Postal Service;” and inserting “and the Postal Regulatory Commission;” and
- (ii) in paragraph (4), by striking “except that” and all that follows through “Code;” and inserting “except that, with respect to the National Science Foundation, such term means the National Science Board;”.

(B)(i) Subsection (f) of section 8G of such Act is repealed.  
 (ii) Subsection (c) of section 8G of such Act is amended by striking “Except as provided under subsection (f) of this section, the” and inserting “The”.

(C) Section 8J of such Act is amended by striking the matter after “8D,” and before “of this Act” and inserting “8E, 8F, 8H, or 8L”.

(2) RELATING TO TITLE 39, UNITED STATES CODE.—(A) Subsection (e) of section 202 of title 39, United States Code, is repealed.

(B) Paragraph (4) of section 102 of such title 39 (as amended by section 101) is amended to read as follows:

“(4) ‘Inspector General’ means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;”.

(C) The first sentence of section 1003(a) of such title 39 is amended by striking “chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law,” and inserting “chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law;”.

(D) Section 1003(b) of such title 39 is amended by striking “respective” and inserting “other”.

(E) Section 1003(c) of such title 39 is amended by striking “included” and inserting “includes”.

(3) RELATING TO THE ENERGY POLICY ACT OF 1992.—Section 160(a) of the Energy Policy Act of 1992 (42 U.S.C. 8262f(a)) is amended (in the matter before paragraph (1)) by striking all that follows “(5 U.S.C. App.)” and before “shall—”.

(g) EFFECTIVE DATE; TRANSITION PROVISIONS.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2) or subsection (c), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSITION PROVISIONS.—

(A) PRESIDENTIAL APPOINTMENT AUTHORITY AVAILABLE IMMEDIATELY.—The authority to appoint an Inspector General of the United States Postal Service in accordance with the amendments made by this section shall be available as of the effective date of this section.

(B) CONTINUATION IN OFFICE.—Pending the appointment of an Inspector General of the United States Postal Service in accordance with the amendments made by this section, the individual serving as the Inspector General

of the United States Postal Service on the day before the effective date of this section may continue to serve—

(i) in accordance with applicable provisions of the Inspector General Act of 1978 and (except as provided in clause (ii)) of title 39, United States Code, as last in effect before the effective date of this Act; but

(ii) subject to the provisions of such title 39 as amended by subsection (e) of this section (deeming any reference to the “Inspector General” in such provisions, as so amended, to refer to the individual continuing to serve under authority of this subparagraph) and subparagraph (C).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, section 8L(e) of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2005.

(ii) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2005, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(D) ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

## TITLE VII—EVALUATIONS

### SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.

(a) REPORT BY THE POSTAL SERVICE.—The United States Postal Service shall, within 12 months after the date of the enactment of this Act, submit to the President, the Congress, and the Postal Regulatory Commission, a written report on universal postal service in the United States (hereinafter in this section referred to as “universal service”). Such report shall include at least the following:

(1) A comprehensive review of the history and development of universal service, including how the scope and standards of universal service have evolved over time.

(2) The scope and standards of universal service provided under current law (including sections 101 and 403 of title 39, United States Code) and current rules, regulations, policy statements, and practices of the Postal Service.

(3) A description of any geographic areas, populations, communities, organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.

(4) The scope and standards of universal service likely to be required in the future in order to meet the needs and expectations of the American public, including all types of mail users, based on such assumptions or alternative sets of assumptions as the Postal Service considers plausible.

(5) Such recommendations as the Postal Service considers appropriate.

(b) REPORT BY THE POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall, within 12 months after receiving the report of the Postal Service under subsection (a), submit to the President and the Congress a written report evaluating the report of the Postal Service. The report of the Commission shall include at least the following:

(1) Such comments and observations relating to the matters addressed in the Postal Service’s report as the Commission considers appropriate.

(2) An estimate of the cost attributable to the obligation to provide universal service under prior and current law, respectively.

(3) An estimate of the likely cost of fulfilling the obligation to provide universal service under—

(A) the assumptions or respective sets of assumptions of the Postal Service described in subsection (a)(4); and

(B) such other assumptions or sets of assumptions as the Commission considers plausible.

(4) Such additional topics and recommendations as the Commission considers appropriate.

(c) CONSULTATION.—In preparing the reports required by this section, the Postal Service and the Postal Regulatory Commission—

(1) shall consult with each other, other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of mail, and the general public; and

(2) shall address in their respective reports any written comments received under this section.

(d) CLARIFYING PROVISION.—Nothing in this section shall be considered to relate to any services that are not postal services (within the meaning of section 102 of title 39, United States Code, as amended by section 101).

**SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.**

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

(1) the operation of the amendments made by the Postal Accountability and Enhancement Act; and

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review such report and to submit written comments thereon. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

(c) SPECIFIC INFORMATION REQUIRED.—The Postal Regulatory Commission shall include, as part of at least its first report under subsection (a), the following:

(1) COST-COVERAGE REQUIREMENT RELATING TO COMPETITIVE PRODUCTS COLLECTIVELY.—With respect to section 3633 of title 39, United States Code (as amended by this Act)—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

(2) COMPETITIVE PRODUCTS FUND.—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 301), in consultation with the Secretary of the Treasury—

(A) a description of how such Fund has operated;

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

(3) ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS FUND.—With respect to section 3634 of title 39, United States Code (as amended by this Act), in consultation with the Secretary of the Treasury—

(A) a description of how such section has operated; and

(B) recommendations as to whether or not such section should remain in effect and, if so, any suggestions as to how it might be improved.

**SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COMPETITIVE PRODUCTS.**

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President, the Congress, and the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and private companies providing similar products.

(b) RECOMMENDATIONS; ADJUSTMENTS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end and, in the interim, to account under section 3633, for the net economic effects provided by those laws.

(c) CONSULTATION.—In preparing its report, the Federal Trade Commission shall consult with the United States Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received under this subsection.

(d) COMPETITIVE PRODUCT RATE REGULATION.—The Postal Regulatory Commission shall take into account the recommendations of the Federal Trade Commission, and subsequent events that affect the continuing validity of the estimate of the net economic effect, in promulgating or revising the regulations required by section 3633 of title 39, United States Code.

**SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.**

(a) **STUDY.**—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) **PERFORMANCE EVALUATIONS.**—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

**SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.**

(a) **PLAN.**—The United States Postal Service shall, before the deadline specified in subsection (b), develop and be prepared to implement, whenever necessary, a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the United States Postal Service shall submit to the Board of Governors and to Congress a written report describing its plan under this section.

**SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.**

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

**SEC. 707. RATES FOR PERIODICALS.**

(a) **IN GENERAL.**—The United States Postal Service, acting jointly with the Postal Regulatory Commission, shall study and submit to the President and Congress a report concerning—

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) **RECOMMENDATIONS.**—The report shall include recommendations for any administrative action or legislation that might be appropriate.

**SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

(a) **IN GENERAL.**—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) **SPECIFIC REQUIREMENTS.**—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

(1) whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role; and

(2) whether a statute of limitations should be established for the commencement of proceedings by the Postal Service thereunder.

**SEC. 709. NETWORK OPTIMIZATION.**

(a) **IN GENERAL.**—The Postal Service shall, within 90 days after the end of each fiscal year, prepare and submit to the Postal Regulatory Commission, the Congress, and the Board of Governors a written report on the postal processing, transportation, and distribution networks. Such report shall include at least the following:

(1) An account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of the processing, transportation, and distribution networks, while preserving the timely delivery of postal services.

(2) An account of—

(A) actions taken to identify any excess capacity within the processing, transportation, and distribution networks; and

(B) actions taken to implement savings through realignment or consolidation of facilities.

(3) Identification of statutory or regulatory obstacles that prevented or will prevent the Postal Service from taking action to realign or consolidate facilities.

(4) Such additional topics and recommendations as the Postal Service considers appropriate.

(b) TREATMENT AS PERFORMANCE GOALS.—The Postal Service shall establish and report the matters set forth in subsection (a) as performance goals in the reports required by sections 2803 and 2804.

(c) ACTIONS TO BE TAKEN.—The Postal Service shall take such actions it considers, in its sole discretion, necessary and appropriate to provide the Nation with a modern and efficient network for the processing, transportation, and distribution of mail. Nothing in this section shall prevent the Postal Service from making such improvements in the efficiency and effectiveness of the network as it deems appropriate.

**SEC. 710. ASSESSMENT OF FUTURE BUSINESS MODEL OF THE POSTAL SERVICE.**

(a) APPOINTMENT OF RESEARCH ORGANIZATION.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall appoint, in such manner and under such terms as he in his sole discretion determines appropriate, an independent, impartial, and expert research organization (hereinafter in this section referred to as the “research organization”) to prepare and submit to the President and to Congress a comprehensive report that evaluates what business model would best promote an efficient, reliable, innovative, and viable Postal Service that can meet the needs of the Nation and its citizens in the 21st century. The final report required by this section shall be submitted within 27 months of the date of the enactment of this Act. The final report shall identify costs, benefits, and feasible options, if any, associated with one or more strategies for—

(1) maintaining the Postal Service in its current form as an independent establishment in the executive branch of the Government; and

(2) transforming the Postal Service into an ordinary corporation, owned wholly by the Government, wholly by private shareholders, or partly by the Government and partly by private shareholders.

(b) PROTECTION OF UNIVERSAL SERVICE.—The research organization may include such recommendations as it considers appropriate with respect to how the Postal Service’s business model can be maintained or transformed in an orderly manner that will minimize adverse effects on all interested parties and assure continued availability of affordable, universal postal service throughout the United States (based on the reports required by section 701). The research organization shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States.

(c) ELEMENTS OF REPORT.—

(1) TOPICS TO ADDRESS.—The report shall address at least the following:

(A) Specification of nature and bases of one or more sets of reasonable assumptions about the development of the postal services market, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the research organization.

(B) Specification of the nature and bases of one or more sets of reasonable assumptions about the development of the regulatory framework for postal services, to the extent that such assumptions may be necessary or appropriate for each strategy identified by the research organization.

(C) Qualitative and, to the extent possible, quantitative effects that each strategy identified by the research organization may have on universal service generally, the Postal Service, mailers, postal employees, private companies that provide delivery services, and the general public.

(D) Financial effects that each strategy identified by the research organization may have on the Postal Service, postal employees, the Treasury of the United States, and other affected parties, including the American mailing consumer.

(E) Feasible and appropriate procedural steps and timetables for implementing each strategy identified by the research organization.

(F) Such additional topics as the Comptroller General or the research organization shall consider necessary and appropriate.

(2) MATTERS TO CONSIDER.—For each strategy identified, the research organization shall assess how each business model might—

(A) address the human-capital challenges facing the Postal Service, including how employee-management relations within the Postal Service may be improved;

(B) optimize the postal infrastructure, including the best methods for providing retail services that ensure convenience and access to customers;

(C) ensure the safety and security of the mail and of postal employees;

(D) minimize areas of inefficiency or waste and improve operations involved in the collection, processing, or delivery of mail; and

(E) impact other matters that the Comptroller General or the research organization determines are relevant to evaluating a viable long-term business model for the Postal Service.

(3) EXPERIENCES OF OTHER COUNTRIES.—In preparing the report required by subsection (a), the research organization shall comprehensively and quantitatively investigate the experiences of other industrialized countries that have transformed the national post office. The research organization shall undertake such original research as it deems necessary. In each case, the research organization shall describe as fully as possible the costs and benefits of transformation of the national post office on all affected parties and shall identify any lessons that foreign experience may imply for each strategy identified by the research organization.

(d) OUTSIDE EXPERTS.—In preparing its study, the research organization may retain the services of additional experts and consultants.

(e) CONSULTATION.—In preparing its report, the research organization shall consult fully with the Postal Service, the Postal Regulatory Commission, other Federal agencies, postal employee unions and management associations, mailers, private companies that provide delivery services, and the general public. The research organization shall include with its final report a copy of all formal written comments received under this subsection.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Postal Service Fund such sums as may be necessary to carry out this section.

**SEC. 711. STUDY ON CERTAIN PROPOSED AMENDMENTS.**

The Government Accountability Office shall study and, within 12 months after the date of the enactment of this Act, submit to the Congress a report on sections 805 and 807 of H.R. 22 (109th Congress), as introduced. Such report shall include the following:

(1) A description of the efficiencies of the current system under section 5402 of title 39, United States Code.

(2) The potential for cost savings to the United States Postal Service if the Postal Service, rather than the Department of Transportation, were to administer international mail carriage.

(3) The potential for harm to domestic air carriers and American workers currently employed by domestic air carriers.

(4) The potential loss of revenue to domestic air carriers and American workers currently employed by domestic air carriers.

(5) The process by which the United States Postal Service would administer any changes in current law.

(6) The process by which the Department of Transportation administers current law.

(7) The potential for change in protection of national security by carriage by foreign carriers of international mail to and from the United States.

**SEC. 712. DEFINITION.**

For purposes of this title, the term “Board of Governors” has the meaning given such term by section 102 of title 39, United States Code.

## **TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS**

**SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

“(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) With respect to such property, such officers shall have the power to—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms; and

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the

laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

“(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

“(A) serve warrants and subpoenas issued under the authority of the United States; and

“(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

“(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

“(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.”

**SEC. 802. DATE OF POSTMARK TO BE TREATED AS DATE OF APPEAL IN CONNECTION WITH THE CLOSING OR CONSOLIDATION OF POST OFFICES.**

(a) **IN GENERAL.**—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

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

“(A) if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or

“(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).”

(b) **EFFECTIVE DATE.**—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

**SEC. 803. PROVISIONS RELATING TO BENEFITS UNDER CHAPTER 81 OF TITLE 5, UNITED STATES CODE, FOR OFFICERS AND EMPLOYEES OF THE FORMER POST OFFICE DEPARTMENT.**

(a) **IN GENERAL.**—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting “(a)” after “8.” and by adding at the end the following:

“(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.”

(b) **EFFECTIVE DATE.**—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

**SEC. 804. OBSOLETE PROVISIONS.**

(a) **REPEAL.**—

(1) **IN GENERAL.**—Chapter 52 of title 39, United States Code, is repealed.

(2) **CONFORMING AMENDMENTS.**—(A) Section 5005(a) of title 39, United States Code, is amended—

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking “(as defined in section 5201(6) of this title)”.

(B) Section 5005(b) of such title 39 is amended by striking “(a)(4)” each place it appears and inserting “(a)(3)”.

(C) Section 5005(c) of such title 39 is amended by striking “by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or” and inserting “by contract under subsection (a)(3) of this section or”.

(b) **ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.**—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking “(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)” and inserting “(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)”.

(2) Section 5402(d) of such title 39 is amended by striking “for a period of not more than 4 years”.

(3) Section 5605 of such title 39 is amended by striking “for periods of not in excess of 4 years”.

(c) CLERICAL AMENDMENT.—The analysis for part V of title 39, United States Code, is amended by repealing the item relating to chapter 52.

**SEC. 805. INVESTMENTS.**

Subsection (c) of section 2003 of title 39, United States Code, is amended—

(1) by striking “(c) If” and inserting “(c)(1) Except as provided in paragraph (2), if”;

(2) by adding at the end the following:

“(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

“(B) For purposes of this paragraph, the term ‘commercial entity’ means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.”.

**SEC. 806. REDUCED RATES.**

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

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

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

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

(2) in subsection (g), by adding at the end the following:

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

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

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

“(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.”; and

(3) by adding at the end the following:

“(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).”.

**SEC. 807. HAZARDOUS MATTER.**

(a) NONMAILABILITY GENERALLY.—Section 3001 of title 39, United States Code, is amended—

(1) by redesignating subsection (n) as subsection (o); and

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

“(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

“(2) In this subsection, the term ‘hazardous material’ means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.”.

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

**“§ 3018. Hazardous material**

“(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

“(b) PROHIBITIONS.—No person may—

“(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

“(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

“(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

“(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

“(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

“(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

“(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

“(A) a civil penalty of at least \$250, but not more than \$100,000, for each violation;

“(B) the costs of any clean-up associated with each violation; and

“(C) damages.

“(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

“(A) the person has actual knowledge of the facts giving rise to the violation; or

“(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

“(3) SEPARATE VIOLATIONS.—

“(A) VIOLATIONS OVER TIME.—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

“(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

“(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

“(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

“(1) the nature, circumstances, extent, and gravity of the violation;

“(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

“(3) the impact on Postal Service operations; and

“(4) any other matters that justice requires.

“(f) CIVIL ACTIONS TO COLLECT.—

“(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

“(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

“(g) CIVIL JUDICIAL PENALTIES.—

“(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

“(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

“(3) CONSTRUCTION.—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

“(h) DEPOSIT OF AMOUNTS COLLECTED.—

“(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

“(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.”

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking “and” after the semicolon;

(B) in paragraph (8), by striking “purposes.” and inserting “purposes; and”; and

(C) by adding at the end the following:

“(9) any amounts collected under section 3018.”.

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

“3018. Hazardous material.”.

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after “explosives,” the following: “hazardous materials.”.

**SEC. 808. PROVISIONS RELATING TO COOPERATIVE MAILINGS.**

(a) DETERMINATION.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against (1) abuses of rates for nonprofit mail and (2) deception of consumers.

(b) REGULATIONS.—If the Postal Regulatory Commission determines that section E670.5.3 of the Domestic Mail Manual does not contain adequate safeguards as described in the preceding subsection, the Commission shall promulgate such regulations as may be necessary to ensure such safeguards.

(c) TIMING.—The Postal Regulatory Commission shall complete the examination required by subsection (a) and the promulgation of any necessary regulations required by subsection (b) within one year after the date of the enactment of this section.

**SEC. 809. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking “section 3628” and inserting “sections 3662 through 3664”.

(b) SIZE AND WEIGHT LIMITS.—Section 3682 of title 39, United States Code, is amended to read as follows:

**“§ 3682. Size and weight limits**

“The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.”.

(c) REVENUE FOREGONE, ETC.—Title 39, United States Code, is amended—

(1) in section 503 (as so redesignated by section 501), by striking “this chapter.” and inserting “this title.”; and

(2) in section 2401(d), by inserting “(as last in effect before enactment of the Postal Accountability and Enhancement Act)” after “3626(a)” and after “3626(a)(3)(B)(ii)”.

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking “Committee on Post Office and Civil Service” each place it appears and inserting “Committee on Government Reform”; and

(B) by striking “Not later than March 15 of each year,” and inserting “Each year.”.

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking “2401(g)” and inserting “2401(e)”.

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

“(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

“(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be

uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.”

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows “any provision” and inserting “of this title.”.

(g) MISCELLANEOUS.—Title 39, United States Code, is amended—

(1) in section 1005(d)(2)—

(A) by striking “subsection (g) of section 5532,”; and

(B) by striking “8344,” and inserting “8344”;

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

“28. Strategic Planning and Performance Management ..... 2801”;

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows “non-mailable” and precedes “(h),” and inserting “under section 3001(d),”; and

(B) in the sentence following paragraph (3), by striking all that follows “nonmailable” and precedes “(h),” and inserting “under such section 3001(d),”;

(4) in section 3210(a)(6)(C), by striking the matter after “if such mass mailing” and before “than 60 days” and inserting “is postmarked fewer”; and

(5) by striking the heading for section 3627 and inserting the following:

“§ 3627. Adjusting free rates”.

## TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

### SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.

(a) TERMINATION OF OBLIGATION TO PAY GOVERNMENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of title 5, United States Code, is amended by striking all that follows “be equal to” and inserting “zero.”.

(b) DETERMINATION AND DISPOSITION OF POSTAL SURPLUS OR SUPPLEMENTAL LIABILITY.—Section 8348(h) of title 5, United States Code, is amended to read as follows:

“(h)(1) For purposes of this subsection, a Postal surplus (or supplemental liability) is the amount, as estimated by the Office, by which—

“(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, is less than (or greater than)

“(B) the sum of—

“(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the Postal Service currently subject to this subchapter pursuant to section 8334;

“(ii) that portion of the Fund balance, as of the date such surplus or supplemental liability is determined, attributable to payments to the Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

“(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

“(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.

“(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2005, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

“(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

“(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

“(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

“(iii)(I) If a surplus of \$500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

“(II) If a surplus of less than \$500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

“(C)(i) Not later than June 15, 2040, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2039.

“(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2039, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2040, which provides for the liquidation of such liability by September 30, 2043.

“(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

“(I) shall be applied first toward reducing the amount of any supplemental liability described in section 8423(b)(1)(B); and

“(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

“(D) An amortization schedule under this paragraph—

“(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

“(ii) shall supersede any amortization schedule previously established under this paragraph; and

“(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

“(E)(i) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph, to the extent not superseded or canceled.

“(ii) A determination under subparagraph (B)(i) or (C)(i) that no supplemental liability exists shall cancel any amortization schedule previously established under this paragraph, to the extent of any amounts first coming due after the close of the fiscal year to which such determination relates.

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

“(4) As used in this subsection, ‘Postal Service Retiree Health Benefits Fund’ refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.”

(c) PROVISIONS RELATING TO AMOUNTS FOR MILITARY SERVICE.—In the application of paragraph (2) of section 8348(g) of title 5, United States Code, for fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service if Public Law 108-18 had not been enacted (including earnings thereon) and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(d) REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, any determination or redetermination made by the Office of Personnel Management under this section shall, upon request of the United States Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

**SEC. 902. HEALTH INSURANCE.**

(a) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended—

(1) in section 8906(g)(2)(A), by striking “by the United States Postal Service.” and inserting “first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.”;

(2) by inserting after section 8909 the following:

**“§ 8909a. Postal Service Retiree Health Benefits Fund**

“(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the ‘Fund’) which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

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

“(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

“(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

“(A) the portion of the net present value described in paragraph (1) attributable to the current year’s service of Postal Service employees; and

“(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value; except that the amount otherwise payable by the Postal Service under the preceding provisions of this paragraph by not later than September 30, 2006, shall be reduced by the total contributions made by the Postal Service under section 8906(g)(2) and attributable to fiscal year 2006 (as determined by the Office).

“(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

“(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection.”; and

(3) in the analysis by inserting after the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

(b) REVIEW.—

(1) IN GENERAL.—Any regulation established under section 8909a(c)(4) of title 5, United States Code (as amended by subsection (a)) shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its regulation in light of such report, and shall take such action as it considers appropriate. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

**SEC. 903. REPEALER.**

Section 3 of Public Law 108–18 is repealed.

**SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND MILITARY SAVINGS.**

(a) **DEFINITION.**—For purposes of this section, the term “total savings” means, for any fiscal year, the amount equal to—

(1) the amount of contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund under subchapter III of chapter 83 of title 5, United States Code, for such fiscal year if Public Law 108-18 and this Act had not been enacted, minus

(2) the amount of amortization payments (if any) required under section 8348(h)(2) of title 5, United States Code, for such fiscal year.

(b) **CALCULATIONS.**—The following calculations shall be made for each of fiscal years 2006 through 2015:

(1) Not later than January 31 of the fiscal year following the fiscal year involved, the Office of Personnel Management (in consultation with the Postal Service) shall determine the total savings for the fiscal year.

(2) On the date of making its determination under paragraph (1), the Office shall also determine (in consultation with the Postal Service) the amount by which—

(A) the amount the Postal Service paid for that fiscal year into the Postal Service Retiree Health Benefits Fund in accordance with 8909a(c)(2) of title 5, United States Code, exceeds (if at all)

(B) the amount of payments made by the Postal Service for that fiscal year from such Fund in order to satisfy the requirements of section 8906(g)(2) of such title 5.

(c) **REQUIREMENTS.**—

(1) **IF THRESHOLD IS MET.**—If the amount calculated under subsection (b)(2) for a fiscal year is greater than or equal to two-thirds of the total savings in such fiscal year, no further action under this section is necessary with respect to such fiscal year.

(2) **IF THRESHOLD IS NOT MET.**—

(A) **IN GENERAL.**—If the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, the Postal Service shall pay into the Postal Service Retiree Health Benefits Fund, by June 30 of the following fiscal year, an amount equal to the difference.

(B) **ALLOWABLE ALTERNATIVE.**—

(i) **IN GENERAL.**—Notwithstanding subparagraph (A), and subject to clause (ii), the Postal Service may instead use the amount that it would otherwise be required to pay into the Postal Service Retiree Health Benefits Fund for a year (or any portion thereof) to reduce the postal debt.

(ii) **LIMITATION.**—Amounts used to reduce the postal debt under this subparagraph may not exceed a total of \$3,000,000,000.

(3) **AGGREGATION ALLOWED.**—Notwithstanding paragraph (2), if the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, but the sum of the amounts calculated under subsection (b)(2) for all fiscal years from 2006 to the fiscal year involved is greater than or equal to two-thirds of the sum of the total savings for such years, no further action under this section is necessary with respect to such fiscal year.

(d) **REPORTING REQUIREMENT.**—The Office of Personnel Management shall submit a report containing the results of its calculations under subsection (b) to the Postal Service, the Postal Regulatory Commission, and the Congress.

(e) **WAIVER AUTHORITY.**—The requirements of subsection (c)(2)(A) may, upon application of the Postal Service, be waived by the Postal Regulatory Commission, to the extent that the Commission determines that such waiver is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

**SEC. 905. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as otherwise provided, this title shall take effect on October 1, 2005.

(b) **GOVERNMENT CONTRIBUTIONS.**—Section 901(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

## COMMITTEE STATEMENT AND VIEWS

## BACKGROUND AND NEED FOR LEGISLATION

The United States Postal Service (USPS) processes and delivers over 200 billion pieces of mail to more than 130 million households and businesses in the United States each year. The agency's mission, outlined in the Postal Reorganization Act of 1970, is to provide postal services that bind the Nation together through the correspondence of the people, to provide access in all communities, and to offer prompt, reliable postal services at uniform prices.<sup>1</sup> The 1970 law was designed to transform the Postal Service from a bureaucracy subsidized by tax revenue to a self-supporting, business-like entity supported by the fees (e.g., stamp revenue) paid by its users. Today the Postal Service is the center of a \$900 billion industry employing 9 million workers nationwide.

The mission of the USPS is being challenged by a variety of factors including decreasing volume, insufficient revenue, mounting debts, and electronic communications alternatives such as Internet advertising, electronic bill payments, emails and faxes.

In January, the Comptroller General maintained the Postal Service on its list of high risk areas, stating that "comprehensive postal reform is urgently needed. The Postal Service's financial viability is at risk because its business model—which relies on mail volume growth to cover the costs of its expanding delivery network—is not aligned with 21st century realities." The Comptroller General outlined the trends that are creating the need for reform:

- declining mail volume, particularly for First-Class Mail, which is critical to generating sufficient revenues to maintain affordable, high-quality, universal postal service;
- changes in the mail mix from high-margin to lower-margin products;
- increased competition from private delivery companies;
- projected revenue declines and increases in expenses;
- significant financial liabilities and obligations that continue to exceed assets (e.g., \$60 billion in unfunded retiree health obligations and a multibillion-dollar escrow account);
- uncertain funding for emergency preparedness (the Postal Service has received almost \$800 million in emergency response funds from Congress to help cover its security costs for 2005);
- changing demographics of the aging postal workforce; and
- challenges in restructuring infrastructure and workforce to become more efficient and performance based.

## PRESIDENT'S COMMISSION

On July 31, 2003, the President's Commission on the Postal Service released its recommendations for maintaining the viability of the Postal Service. Roughly half of the recommendations require legislative change. Most of these concerns have been addressed in earlier postal reform proposals, although some specific recommendations differ. New issues raised by the Commission include reform of the collective bargaining process and legislative changes making it easier to close post offices and processing centers. In ad-

<sup>1</sup> 39 U.S.C. 101 et seq.

dition, the Commission recommended that the Postal Service not be responsible for funding the portion of Civil Service Retirement System (CSRS) employees' pensions that are attributable to their prior military service, for which no other agency is responsible under CSRS.

#### ADMINISTRATION'S PRINCIPLES FOR POSTAL REFORM

On December 8, 2003, the Department of the Treasury released a set of 5 principles, based on the recommendations of the President's Commission that should guide Congress's effort to reform the Postal Service. The principles are:

- **Implement Best Practices:** Ensure that the Postal Service's governing body is equipped to meet the responsibilities and objectives of an enterprise of its size and scope.
- **Transparency:** Ensure that important factual information on the Postal Service's product costs and performance is accurately measured and made available to the public in a timely manner.
- **Flexibility:** Ensure that the Postal Service's governing body and management have the authority to reduce costs, set rates, and adjust key aspects of its business in order to meet its obligations to customers in a dynamic marketplace.
- **Accountability:** Ensure that a Postal Service operating with greater flexibility has appropriate independent oversight to protect consumer welfare and universal mail service.
- **Self-Financing:** Ensure that a Postal Service operating with greater flexibility is financially self-sufficient, covering all of its obligations.

#### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

The "Postal Accountability and Enhancement Act", introduced as H.R. 22 by Mr. McHugh on January 4, 2005, with Chairman Davis, Ranking Member Waxman, and Mr. Danny Davis as original co-sponsors, affirmatively responds to all of the Administration's five principles for postal reform, and incorporates most of the seventeen legislative recommendations made by the President's Commission on the U.S. Postal Service. The bill mandates transparency in the Service's finances, costs, and operations. The legislation creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and institutes improvements to the collective bargaining process. However, unlike the unconstrained pricing flexibility recommended by the President's Commission for competitive products, the bill imposes limited but important controls to protect the public interest from unfair competition.

The objective of the bill is to position the Postal Service to operate in a more business-like manner. To achieve this goal, the system must be responsive to market considerations and must provide clear incentives for postal management and the Postal Service as an institution. The Postal Service would no longer operate under a break-even mandate. By maximizing gains and minimizing costs, the Postal Service could generate earnings that would be retained, and which could be distributed as incentives to management as well as to employees through collective bargaining. In the same

way, losses could not be recovered by increasing rates beyond specific parameters without regulatory approval.

On April 8, 2005, the Postal Service filed a request with the Postal Rate Commission for an across-the-board rate increase of 5.4 percent, or 2 cents on a first class stamp.<sup>2</sup> According to the Postal Service, this rate increase is only necessary to meet the escrow requirement of Public Law 108–18, the Postal Civil Service Retirement System Funding Reform Act of 2003. The Postal Accountability and Enhancement Act eliminates the P.L. 108–18 escrow requirement, which should substantially mitigate the need for this rate increase.

Highlights of the Postal Accountability and Enhancement Act include:

**Preservation of Universal Service:** Maintenance of a universal postal system must be the cornerstone of any postal reform measure, and the bill preserves this mandate by giving the Postal Service the ability to remain viable and effective. The statutory mission of the Postal Service is focused strictly on postal services. A study will be required to recommend concrete standards for universal service. In addition, the Postal Regulatory Commission will develop an annual estimate of the costs of universal service so that Congress can better understand how to provide the necessary protections in the future.

**Promotion of Efficiency and Flexibility:** The bill gives postal management and employees the tools to adapt and survive in the face of enormous challenges caused by changing technology and a dynamic communications marketplace. The bill encourages innovation and efficiency by permitting the Postal Service to distribute earnings as bonuses to all employees. In the same way, losses could not be recovered by increasing rates beyond specified parameters without regulatory approval. The bill also allows the Postal Service to better react to market conditions by streamlining the rate setting process, and permitting rates that are better tailored to consumers' needs.

**Ensuring Fair Competition and Accountability:** Under the legislation, the Postal Service will compete on a level playing field, under many of the same terms and conditions as faced by its private sector competitors, albeit with stronger controls, oversight, and limitations in recognition of its governmental status. The Postal Service will be given flexibility to price competitive products, but competitive products and services will have to pay their own costs without subsidy from market-dominant mail revenues. A "Postal Regulatory Commission" is created from the existing Postal Rate Commission to oversee and regulate the Postal Service. The bill clarifies the distinction between competitive and market-dominant products and imposes prohibitions on the Postal Service's ability to regulate areas in which it competes. In addition, the bill, for the first time, subjects the Postal Service's competitive products to many of the same laws as private companies, such as—

- Antitrust laws
- Fair-trade laws
- Equal customs procedures

<sup>2</sup>Postal Rate Commission Docket No. R2005–1, "Postal Rate and Fee Changes Pursuant to Public Law 108–18."

An assumed federal income tax payment  
 Basis for Future Reforms: The legislation mandates several studies, including a comprehensive assessment of the scope and standards for universal service. Other evaluations address:  
 Equal application of laws  
 Plans for assisting displaced workers  
 Quality of ratemaking data for Periodicals' costs  
 An assessment of the revenue deficiency process  
 The future business model and legal status of the Postal Service

## SECTION-BY-SECTION ANALYSIS

### TITLE I—DEFINITIONS; POSTAL SERVICES

#### *Sec. 101. Definitions*

Section 101 of the bill proposes, for the first time, a clear definition of “postal services” as the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto. The definition of “postal service” will clarify the scope of activities that the Postal Service is authorized to pursue.

Section 101 also defines the term “product” to mean “any postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied.”

Section 101 further clarifies that “rates,” as used with respect to products, “includes fees for postal services.” It defines “market-dominant product” as “a product subject to subchapter I of chapter 36” and “competitive product” as “a product subject to subchapter II of chapter 36.” Section 101 defines “Consumer Price Index” to mean the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor. Finally, section 101 defines “year” to refer to a fiscal year for most purposes of rate regulation.

#### *Sec. 102. Postal Services*

Section 102 declares that the Postal Service’s authority to offer products and services is limited to postal services. Current law is unclear in this respect. The section strikes a provision that gave the Postal Service the specific power “to provide, establish, change, or abolish special nonpostal or similar services.” If the Service unlawfully offers a nonpostal service or product, the Postal Regulatory Commission may order that the Postal Service cease providing the product under the complaint procedures outlined in section 202 of the bill. An exception is made for “special nonpostal or similar services” provided as of January 4, 2005.

The changes made by this section should not be interpreted to limit the Postal Service’s ability to furnish government services to the public, such as acceptance of passport applications and sale of duck stamps, in accordance with section 411 of title 39.

#### *Sec. 103. Transparency*

Recognizing the recommendations of the President’s Commission on the U.S. Postal Service as well as the Administration’s key principles for reform, including the need for a more open and accountable executive branch, the nation’s postal laws will now include a

clear mandate that the Postal Service must be subject to a high degree of transparency, including in its finances and operations. This is a key foundation for ensuring fair treatment of both customers and competitors.

#### TITLE II—MODERN RATE REGULATION

In the new regulatory regime proposed in the bill, the classes of mail and services are classified as either Market Dominant or Competitive products. In general, the bill requires the Postal Regulatory Commission to design, within 24 months, a new system of rate regulation for Market Dominant products. The new system will, for the most part, continue the ratemaking factors found in current law while providing increased flexibility, predictability, incentives for efficiency, and long term financial stability. The Commission is required to ensure that price increases of subclasses in the Market Dominant category do not exceed the rise in the Consumer Price Index (CPI) unless such an increase is reasonable and equitable and necessary for the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

With respect to Competitive products, the Postal Regulatory Commission must issue regulations within 18 months to guard against subsidization by market-dominant products and ensure that competitive products cover their attributable costs and, as a group, make a reasonable contribution to institutional costs. Once the Commission has issued its regulations, the Postal Service is given pricing flexibility somewhat comparable to that exercised by private competitors. The changes regarding competitive products will be complemented by title III, which provides for a level playing field for such products in several important respects.

##### *Sec. 201. Provisions relating to market-dominant products*

Section 201 of the bill establishes a new, modern system for regulation of Market Dominant products, which account for almost 90 percent of current Postal Service revenues. In current title 39, chapter 36 deals with regulation of postal rates. The bill redesignates subchapter I of chapter 36 (establishing the Postal Rate Commission) as chapter 5 (see section 501, below). Section 201 revises subchapter II, which currently sets out the process of rate regulation, and redesignates it as subchapter I. As amended, subchapter I relates only to regulation of Market Dominant products. Section 201 adds two new provisions to title 39, sections 3621 and 3622, as follows.

Section 3621 lists certain postal products to be regulated as Market Dominant products immediately after enactment: First-Class mail (but not priority and express mail, which are deemed competitive products), Periodical mail, Standard mail, media mail, library mail, and bound printed matter. This list specifically includes “Aunt Minnie” or “individual consumer” mail, that is, domestic and international single piece First-Class letters and cards. Special services (e.g., post office boxes in rural areas, certificates of mailing and delivery, etc.) are also regarded as Market Dominant products. The products listed have the same meaning given them in the Mail Classification Schedule (39 CFR pt. 3001, Subpt. C, App. A) as of

the date of enactment. After enactment, the Commission may revise the list of Market Dominant products. See new section 3642 set out in section 203 of the bill.

Subsection 3622(a) requires the Postal Regulatory Commission to establish within 24 months a new system for regulating postage rates and classes for Market Dominant products. The Commission may subsequently revise the system.

Subsection 3622(b) provides that the objectives of the new system shall be:

1. Establish and maintain a fair and equitable schedule for rates and classification;
2. Maximize incentives to reduce costs and increase efficiency;
3. Create predictability and stability in rates;
4. Maintain high quality service standards;
5. Allow the Postal Service pricing flexibility;
6. Assure adequate revenues, including retained earnings, to maintain financial stability; and
7. Reduce the administrative burden of the ratemaking process.

Subsection 3622(c) requires that, in establishing or revising the new system, the Commission shall take into account certain factors, which are modeled after the rate and classification factors found in sections 3622 and 3623 of current law. These factors include the value of the mail service actually provided for each class or type of mail to both the sender and recipient; the direct and indirect postal costs attributable to each class or type of mail service and that portion of all other Postal Service costs reasonably assignable to the class or type; the effect of rate increases on certain groups; available alternative means to sending and receiving letters or other mail matter at reasonable costs; the degree of preparation of mail for delivery into the system performed by the mailer and its effect upon reducing Postal Service costs; simplicity of structure for the entire schedule, along with simple, identifiable relationships between rates or fees charged the various classes of mail for postal services; the relative value to the people of the kinds of mail matter entered in the postal system and the desirability and justification for special classifications and services; the importance of providing classifications with extremely high degrees of reliability and speed of delivery, and of providing classifications without such requirements; the desirability of special classifications; the educational, cultural, scientific, and informational value to the recipient; and the policies of this title as well as such other factors as the Commission deems appropriate.

Subsection 3622(d) declares that the new system may include price caps, revenue targets, cost-of-service regulation, or such other forms of regulation as the Commission considers appropriate. This subsection lists potential approaches and is not intended to limit the options of the Commission to a particular result.

Subsection 3622(e) requires that the Postal Regulatory Commission ensure that the average rate for any subclass does not increase by more than the annual increase in the Consumer Price Index unless the Commission has determined, after notice and opportunity for a public hearing and comment, that such an increase is "reasonable and equitable and necessary to enable the Postal

Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.”

The current rate-setting process provides little or no incentive for the Postal Service to control its costs because all costs are ultimately passed through to the consumer regardless of how efficiently or inefficiently the Postal Service operates. Under the new system, the Postal Regulatory Commission will have the flexibility to design a system that will improve efficiency and control costs. The details of such a system have been left to the Commission so that this regulatory body will be able to respond to changes in mail volume, technologies, and other factors. To ensure fairness, the new system provides that rates from any one subclass should not increase faster than CPI, unless the Commission finds such increase “reasonable and equitable and necessary” to maintain services and quality.

*Sec. 202. Provisions relating to competitive products*

Section 202 of the bill adds a new subchapter II to chapter 36 of title 39. Subchapter II establishes a flexible system for regulation of Competitive products, which currently account for about 10 percent of current Postal Service revenues. Section 202 adds three new sections to title 39, as follows.

Section 3631 lists the present mail classes and products to be included within the Competitive category immediately after enactment. This list includes Priority mail, Express mail, mailgrams, international mail not included in the market-dominant category, and parcel post. After enactment, the Commission may revise the list of Competitive products. See new section 3642 set out in section 203 of the bill. Further the section defines “costs attributable”, as the direct and indirect costs attributable to a postal product. Although single piece parcels are assigned to the competitive category, the Committee expects the Postal Regulatory Commission to monitor package delivery services of the Postal Service. If there is not effective competition in rural areas or elsewhere, the Postal Regulatory Commission should consider appropriate changes, including transfers of single piece parcels to the market dominant category.

Section 3632 provides that the Governors of the Postal Service may establish rates and classes for all products in the Competitive category of mail after giving notice in the Federal Register at least 30 days in advance, for rates or classes of general applicability in the Nation as a whole or in any substantial region. For rates and classes not in that category, the Governors must file their decision at least 15 days in advance with the Postal Regulatory Commission, which shall establish the criteria for determining when rate or class falls within this 15 day category. The Governors’ new pricing authority for competitive products does not take effect until the Postal Regulatory Commission promulgates regulations under section 3633.

Section 3633 requires the Postal Regulatory Commission to promulgate regulations within 18 months of enactment prohibiting subsidization of competitive products by market dominant products. The Commission shall ensure that each competitive product

covers its attributable costs, and in addition ensure that competitive products collectively make a “reasonable contribution” to the institutional costs of the Postal Service. The committee expects that the Commission, like the courts, will take into account the inherent differences between market dominant and competitive markets.

In addressing the attributable costs, the Commission should continue to focus on the need to have reliable indicators of cost causality. This committee heard testimony from differing viewpoints, with some urging a higher attribution of costs. The goal of the Commission should be a technically correct result, placing accuracy above achieving a particular outcome of higher or lower attribution.

With respect to the requirement that competitive products collectively make a reasonable contribution to overhead, it should be noted that the broad standard contains inherent flexibility. It is not intended to dictate a particular approach that the Postal Regulatory Commission should follow.

*Sec. 203. Provisions relating to experimental and new products*

Section 203 of the bill adds a new subchapter III to chapter 36 of title 39. Subchapter III provides rules for market tests of experimental products and for shifting products between the Market Dominant and Competitive categories. The new subchapter III replaces, and thus repeals, the current subchapter III dealing with temporary rates and classes. Section 203 adds two new provisions to title 39 as follows.

Section 3641 authorizes the Postal Service to conduct limited market tests, which are exempt from the statutory criteria for market-dominant and competitive products. Market tests under this section are restricted to periods that last no more than two years (which may be increased to three years by the Commission) and to products that earn less than \$10 million annually nationwide (which may be raised to \$50 million by the Commission). Regardless of duration or size, a market test may not be conducted under this section if it will “create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns.” Under this section, the Commission retains substantial oversight authority over market tests. Under section 3652, the Postal Service is obliged to provide summary information in annual reports to the Postal Regulatory Commission about market tests.

Section 3642 authorizes the Postal Regulatory Commission to classify new products as falling in either the Market Dominant category or Competitive category, to transfer existing products between the two categories, and to remove a product from a list for a category. Subsection (b) adopts criteria for the two categories that reflect the Federal Communications Commission’s (FCC) approach to defining “dominant” carriers for the purpose of regulation. Paragraph (b)(1) provides that: “The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.” Prod-

ucts covered by the postal monopoly may not be transferred to the Competitive category. Paragraph (b)(3) requires the Postal Regulatory Commission to consider in addition (a) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved; (b) the views of those who use the product involved on the appropriateness of the action; and (c) the likely impact of the proposed action on small business concerns. The Commission is also allowed to transfer a subclass or other subordinate unit of a class of mail or type of postal service.

Subsection 3642(d) provides that the Postal Regulatory Commission must ensure that any change in the lists of products in the Market Dominant and Competitive categories is published in the Federal Register. Subsection (e) requires that Congress be notified when the Commission has concluded a product should be transferred and that such transfer may not take effect for one year. Subsection (f) provides that the Postal Service may not offer any product involving the carriage of letters, printed matter, or packages until it is categorized as falling in either the Market Dominant or Competitive Category (except for an experimental product).

*Sec. 204. Reporting requirements and related provisions*

Section 204 of the bill adds a new subchapter IV to chapter 36 of title 39. In general, subchapter IV provides for annual audits of Postal Service operations by the Postal Regulatory Commission to ensure compliance with the ratemaking criteria of the act.

Section 3651 requires that the Postal Regulatory Commission provide an annual report to the President and the Congress concerning its operations, including an assessment of whether its regulations for Market Dominant and Competitive products are meeting legislative policy. As part of this report, the Commission is directed to prepare an estimate of public service costs borne by the Postal Service including universal service costs, revenue-forgone costs, and other costs (e.g., law enforcement activities). The Postal Service must give the Commission such information as the Commission deems necessary to prepare the reports.

Subsection 3652(a) requires that the Postal Service submit information to the Postal Regulatory Commission no later than three months after the last day of each fiscal year, which demonstrates that the rates in effect for all Market Dominant and Competitive products during the year are in compliance with the requirements of this title. In addition, information must be provided on each product in the Market Dominant category including volume and market information, along with measures of quality of service, including service standards, the level of service (in terms of speed and reliability), and customer satisfaction. In this manner, the bill mandates that the Postal Service must develop measures for and report on, among other things, the speed and reliability of postal services in all classes of mail in the Market Dominant category. The Postal Service Inspector General is required to regularly audit the data collection systems and procedures that the Postal Service uses in the report prepared for Postal Regulatory Commission review.

Subsection 3652(b) requires annual reporting on work-sharing discounts, including the per-item cost avoided by the Postal Service by virtue of such discount; the percentage of such per-item cost

avoided that the per-item discount represents; and the per-item contribution made to institutional costs.

Subsection 3652(c) provides that the Service must provide such data as the Commission requires for market tests but may provide summary data on the required costs, revenues, and quality of service for market tests for which the Commission has not required specific information.

Subsection 3652(d) states that the Commission will have access to all the working papers and supporting materials of the Postal Service and the Inspector General in connection with the required reports.

Subsection 3652(e) provides that the Commission must develop regulations prescribing the content and form of the required annual reports. In doing so, the Commission shall give due consideration to providing the public with adequate information to assess the lawfulness of rates charged, avoiding unnecessary or unwarranted administrative effort or expense on the part of the Postal Service, and protecting the confidentiality of commercially sensitive information. The Commission may specify what information will be provided as either (1) public reports or (2) non-public annexes and supporting matter. The subsection also contains a provision for the Commission, on its own motion or on request from an interested party, to initiate a proceeding to improve the quality, accuracy, or completeness of Postal Service data required by the Commission.

Subsection 3652(f) provides that the Postal Service may obtain confidential treatment for information that is protected from disclosure under current law, in accordance with provisions outlined in new section 504. See section 502 of the bill.

Subsection 3652(g) requires the Postal Service to provide the Commission, as part of information to be examined in the annual audit, specific reports that are submitted to Congress, including the comprehensive statement required under section 2401 and the performance plan and program reports required under the Government Performance and Results Act.

Section 3653 provides that, after receiving annual reports from the Postal Service in accordance with section 3652, the Postal Regulatory Commission shall provide an opportunity for public comment. The Commission will then, within 90 days, make a written determination whether any rates and fees were not in compliance with the law or whether performance goals or any service standards were not met. If any noncompliance is found, the Commission is required to take appropriate action under the revised complaint procedure, section 3662 (section 205 of the bill, below). On the other hand, a determination of compliance creates a rebuttable presumption of compliance in any complaint proceeding on the specific matters reviewed in the annual audit.

Section 3654(a) requires the Postal Service to file with the Postal Regulatory Commission the quarterly, annual, and periodic reports required of Securities and Exchange Commission registrants, and to comply with the internal control requirements of Sarbanes-Oxley. Section 3654(b) and (c) require the Postal Service to include in such reports information regarding their pension and postretirement health obligations, segment reporting (after consultation with the Postal Regulatory Commission on the appropriate manner of such reporting), and that such reports be independently audited.

Section 3654(d) requires that the Postal Regulatory Commission have access to audit documentation and other supporting matter of such reports. Section 3654(e) allows the Postal Regulatory Commission to revise the requirements of Section 3654 when the data required by the reports have become significantly inaccurate or can be significantly improved, or when such revisions are otherwise necessitated by the public interest. Section 3654(f) provides for confidential treatment of information provided to the Postal Regulatory Commission under certain circumstances.

*Sec. 205. Complaints; appellate review and enforcement*

Section 205 of the bill revises the complaint and appellate review provisions set out in subchapter V of chapter 36, title 39 (as redesignated by the bill). In general, the bill strengthens the authority of the Postal Regulatory Commission to act on complaints. Section 205 repeals current sections 3662 (rate and service complaints) and 3663 (annual report on international services) and adds three sections in title 39 as follows:

Section 3662 provides the Postal Regulatory Commission with enhanced authority to respond to complaints of pricing, service, or other actions by the Postal Service in violation of law. As revised, this section would require the Commission to begin proceedings on or dismiss complaints within 90 days and if not acted on, the complaint shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1). In subsection 3662(c), the amendment gives the Commission broad authority to correct violations by ordering the Postal Service to take whatever steps the Commission considers appropriate. For instance, the Commission may order the Postal Service to adjust the rates of Competitive products to lawful levels if they are set below attributable costs (the Commission has no such authority under current law). The Commission is authorized to suspend Competitive product rates or classifications under section 3632(b)(3) that are not of general applicability in the Nation as a whole or in any substantial region of the Nation. This suspension is permitted for only a limited period of time pending expedited proceedings under 3662, and four key factors are outlined in subsection (d) that the Commission must consider in evaluating whether this authority may be exercised. The Committee does not intend this provision to restrain the ability of the Postal Service to compete fully and fairly against private sector competitors in competitive markets. Under subsection (e), for cases of deliberate noncompliance with law, the Commission is authorized to levy fines based on the seriousness, nature, circumstances, and extent of the noncompliance. Fines resulting from provision of Competitive products must be paid out of the Competitive Products Fund, and all fines are paid into the general Treasury fund.

Section 3663 provides for appeals of any order or decision of the Postal Regulatory Commission to the United States Court of Appeals for the District of Columbia Circuit in accordance with chapter 706 of title 5 and chapter 158 of title 28.

Section 3664 gives any United States District Court jurisdiction to enforce orders of the Postal Regulatory Commission and issue injunctions or restraining orders.

*Sec. 206. Workshare discounts*

Section 206 amends Title 39 by adding section 3687, requiring the Postal Regulatory Commission to establish rules for workshare discounts that ensure that workshare discounts do not exceed the cost that the Postal Service avoids as the result of private sector workshare activity, except (1) where the discount is associated with a new product or service or with a change to an existing product or service and is necessary to induce certain mailer behavior, although such discount must be phased out over a limited period of time; (2) to the extent that a reduction in the discount would lead to a loss of volume in the affected category and reduce the aggregate contribution to institutional costs of the Postal Service, from the mail matter subject to the discount, below what it otherwise would have been if the discount had not been reduced to costs avoided; would result in a further increase in the rates paid by mailers not able to take advantage of the discount; or would impede the efficient operation of the Postal Service; (3) where the amount of the discount above costs avoided is necessary to mitigate rate shock and will be phased out over time; or (4) where the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

Section 206 also requires the Postal Service to submit to the Postal Regulatory Commission reports justifying each worksharing discount.

*Sec. 207. Clerical amendment*

Section 207 of the bill revises the analysis of chapter 36, title 39, in accordance with the changes made by the bill.

## TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

*Sec. 301. Postal Service Competitive Products Fund*

Section 301 of the bill adds a new section 2011 to title 39. Section 2011 establishes an off-budget fund within the Treasury for revenues and expenditures associated with competitive products. The “Competitive Products Fund” is in addition to the current Postal Service Fund. The intent of this section is to level the playing field for the Postal Service and its competitors in the Competitive product market by requiring the Postal Service to keep separate financial accounts for Market Dominant and Competitive products. Separation of accounts also protects the interests of postal consumers in the Market Dominant category and taxpayers.

Subsection 2011 essentially permits the Postal Service to manage the Competitive Products Fund in its discretion. The new fund can borrow money from Treasury to support competitive products by pledging the assets of the fund and its revenues and receipts.

Subsection 2011(h) requires that the Secretary of the Treasury, in consultation with the Postal Service, an independent accountant, and other appropriate advisors, develop recommendations for rules such as accounting practices and principles that will identify and value the assets, liabilities, capital, and operating costs, associated with Competitive products. Treasury’s recommendations must be submitted to the Postal Regulatory Commission, which must then provide an opportunity for all other interested parties to present

their views. The Postal Service, among others, will therefore be able to present its own recommendations and counterarguments. While Treasury will have the first opportunity to make recommendations, the Committee expects the Commission to give consideration to all input from interested parties, without a presumption that the Treasury recommendations are correct. After taking into account all views and information presented, the Commission must issue rules providing for the establishment and application of accounting practices and principles, certain substantive and procedural rules, and submission by the Postal Service of annual and periodic reports. The Commission is authorized to update the rules as necessary.

The Postal Service must report to the Postal Regulatory Commission on the Competitive Products Fund periodically, as may be required by the Commission. In addition, the Postal Service must prepare an annual report for the Secretary of the Treasury concerning the operation of this Fund. This report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of the report must also be provided to the Commission as part of the required annual reports.

*Sec. 302. Assumed Federal income tax on competitive products income*

Section 302 of the bill adds a new section 3634 to title 39. Section 3634 requires the Postal Service each year to compute an assumed Federal income tax on income from Competitive products and to transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

*Sec. 303. Unfair competition prohibited*

Section 303 of the bill adds a new section 404a to title 39. Section 404a prohibits the Postal Service from (1) establishing rules or regulations which preclude competition or give the Postal Service an unfair competitive advantage; (2) compelling disclosure, transfer, or licensing of intellectual property to any third party; or (3) offering any product or service that makes use of information obtained from a person that provides or seeks to provide a product to the Postal Service (unless the person has consented to such use or substantially the same information is otherwise obtainable). The Postal Regulatory Commission is required to prescribe regulations to carry out the purposes of this section, and the prohibitions are enforced through the Commission's strengthened complaint process and remedies, which include ordering rescission of any regulation.

*Sec. 304. Suits by and against the Postal Service*

Section 304 of the bill amends section 409 of title 39 to make the Postal Service more amenable to other laws regulating the conduct of commercial activities.

First, the amendment subjects all Postal Service activities to federal laws prohibiting the conduct of business in a fraudulent manner (the Lanham Act and certain parts of the Federal Trade Commission Act).

Second, the amendment subjects Postal Service conduct with respect to competitive products to federal antitrust laws and unfair

competition prohibitions and eliminates sovereign immunity protection from suits in Federal court for violations of Federal law. The amended section 409 allows injunctive relief against officers and employees of the Postal Service in case of violation of the antitrust laws, while the Postal Service itself would be subject to all available remedies.

Fourth, the amendment would require the Postal Service to consider local zoning, planning, or land use regulations and building codes when constructing or altering buildings.

As amended, section 409 further requires the Postal Service to represent itself in most legal proceedings permitted by the amendment as well as in cases involving administrative subpoenas issued by the Postal Regulatory Commission and appeals of decisions by the Commission or the Governors. The amendment requires that judgments arising out of activities of the Postal Service must be paid by the Postal Service, and judgments arising out of violations of law involving competitive products must be paid from revenues from competitive products.

#### *Sec. 305. International postal arrangements*

Section 305 of the bill replaces section 407 of title 39. Section 407 deals with international postal arrangements.

New subsection 407(a) establishes a policy framework for future international postal agreements that stresses separation of regulatory and operational functions.

Subsection 407(b) vests the Secretary of State with authority to lead U.S. delegations in intergovernmental meetings devoted to postal matters. The Secretary is barred from concluding agreements with respect to any competitive product that give preference to any entity, either public or private, including the Postal Service. The subsection provides the Secretary in carrying out his responsibilities under this section shall maintain continuing liaison with other federal agencies and the Congress, and appropriate liaison with the Postal Service and affected members of the public. The subsection further declares that the Secretary of State shall establish an advisory committee, under the Federal Advisory Committee Act, to help perform such functions as the Secretary considers appropriate in connection with the necessary coordination and liaison with entities in the public and private sectors as the Secretary develops U.S. foreign policy related to international postal services and other international delivery services.

Subsection 407(c) provides that, before concluding an international agreement that establishes a rate or classification for a market-dominant product, the Secretary shall request a decision from the Postal Regulatory Commission to determine whether the proposed rate or classification is consistent with the Commission standards and criteria for market dominant products. The Secretary must ensure that international agreements are consistent with the Commission's decision except to the extent that modification may be required by considerations of foreign policy or national security.

Subsection 407(d) authorizes the Postal Service to enter into agreements or contracts as it deems appropriate for international postal services or other international delivery services without the consent of the Secretary as long as any agreements with agencies

or subsidiaries of foreign governments are contractual in nature and do not purport to be international law. The Postal Service must notify the Secretary and the Commission of agreements with agencies of foreign governments.

In light of studies conducted by the General Accounting Office and the former U.S. Customs Service, subsection 407(e) requires the Bureau of Customs and Border Protection of the Department of Homeland Security to afford non-discriminatory access to U.S. customs procedures for both the Postal Service's Competitive products and similar products of U.S.-owned private carriers. Since some foreign governments currently limit access to simplified customs procedures to government post offices—thus discriminating between the Postal Service and U.S. private carriers—the subsection requires the Secretary of State “to the maximum extent practicable” to negotiate with other countries to make available customs procedures that do not discriminate between the Postal Service and U.S. private carriers while fully meeting the needs of all types of American shippers.

*Sec. 306. Redesignation*

Section 306 redesignates a subchapter heading in chapter 36 of title 39 to reflect various amendments in the bill.

TITLE IV—GENERAL PROVISIONS

*Sec. 401. Qualification requirements for Governors*

Section 401 of the bill amends section 202 of title 39. Section 202 establishes the Board of Governors and provides that the nine Governors shall represent the public interest generally. The amendment adds a requirement that the President shall select at least four Governors based solely on their demonstrated ability in managing organizations or corporations, in either the public or the private sector, of substantial size (employing at least 50,000 employees). The amendment requires the President to consult with the Speaker and minority leader of the House and the majority and minority leaders of the Senate in selecting individuals to nominate to the Board.

The amendment also has a provision that one of the nine Governors must be chosen from among persons unanimously nominated by all labor unions recognized by law as collective-bargaining representatives for employees of the Postal Service in one or more bargaining units. The term of office for this Governor is three years (instead of nine).

Section 401 recognizes the bill vests enhanced powers and responsibilities in the Governors. A majority of current and former Board members have indicated support for well-defined qualification requirements for Board appointments. The qualification provisions in the bill are modeled on the appointment criteria for the Amtrak Board of Directors. Those Governors currently serving or nominated before enactment are not affected by this change.

*Sec. 402. Obligations*

Current law imposes a \$2 billion annual cap on borrowing for capital investments and a \$1 billion annual cap on borrowing for operating expenses. As recommended by the President's Commis-

sion on the U.S. Postal Service, section 402 of the bill amends section 2005 of title 39 to eliminate these annual sub-limits, but still maintains the overall \$3 billion cap on the annual net increase in borrowed funds. Current law also remains unchanged regarding the aggregate \$15 billion limit of obligations outstanding at any one time, and this cap would apply in the aggregate to the Postal Service Fund and the Competitive Products Fund.

*Sec. 403. Private carriage of letters*

Section 405 of the bill amends section 601 of title 39 to provide limited additional statutory exemptions to the postal monopoly. In summary, this section provides that a letter may be carried outside the mail under three new circumstances: (1) when the amount paid to a private carrier is at least 6 times the rate then currently charged for the first ounce of a single-piece first-class letter, (2) when the letter weighs at least 12 and a half ounces, and (3) when private carriage is within the scope of current Postal Service regulations that purport to suspend the operation of current law.

The proposed price and weight limits for the postal monopoly, 6 times the first-class stamp price and 12 and a half ounces, remain significantly more protective of the Postal Service than postal monopoly limits enacted in other industrialized nations that have concluded smaller monopolies will promote greater efficiency without jeopardizing universal service. For example, in 1997, the European Union limited European postal monopolies to 5 times the stamp price or 12 and a half ounces. In 2002, the European Union adopted a second postal directive that reduced last year the limits on postal monopoly laws to 3 times the stamp price or 3 and a half ounces. Canada's postal monopoly has been limited to 3 times the stamp price since 1981; Australia's monopoly is limited to 4 times the stamp price or 8 ounces. Indeed, several countries have abolished their postal monopolies or are in the process of doing so, including Germany, Sweden, New Zealand, and the United Kingdom. In comments submitted to the Committee in August 1998, the Department of Justice stated its support for limiting the scope of the statutory monopoly with a bright-line test for identifying products falling within it. In that August 1998 correspondence, the Department also noted that the Postal Service's entry into competitive markets suggested that economic theory did not justify the postal monopoly as it existed under current law. In April 1997, the General Accounting Office testified that the "impact of reducing the scope of the letter mail monopoly to \$2 would not significantly affect the Postal Service's ability to provide affordable universal service because little of the first-class mail volumes that are currently protected by the postal monopoly would become subject to competition. \* \* \* Available data indicate that less than 3 percent of the first-class mail revenues are currently derived from first-class mail that falls outside the proposed reduced limit of \$2." By setting the limit at 6 times the first-class stamp price, the amended section 601 provides that the price limit on the postal monopoly will rise as the stamp price increases.

As predicted by the Postal Rate Commission Chairman's testimony in 1996, the Postal Service subsequently testified that year that it would interpret current Section 601(b) of Title 39 to allow it to repeal the changes proposed by the bill. Subsection (b) is de-

rived from section 7 of an 1864 postal act, and the revision repeals it as obsolete—this suspension power has never been used as provided; in fact, no occasion is known of the Post Office or the Postal Service suspending the exception for postage paid mail. Current subsection (b) of 601 simply authorizes the Postal Service to suspend the exception of paragraph (a) and thereby forbid the private carriage of letters even if postage is paid. The Postal Service's authority to reapply the postal monopoly to stamped letters is unnecessary and antiquated; it is repealed by the bill. Some entities in both the government and the private sector have testified that since 1974, the Postal Service has often misused the suspension power of 601(b). Since 1974, the Postal Service has, under color of subsection (b), issued regulations that rather than suspend the exception to the monopoly for stamped letters set out in subsection (a), instead suspend the postal monopoly itself (i.e., the criminal prohibitions set out in chapter 83 of title 18, U.S. Code). Indeed, when the Postal Service first proposed these regulations in 1973 that purported to derive a suspension power for the private express statutes contained in Title 18 of the U.S. Code, the Postal Rate Commission's General Counsel concluded that use of the suspension authority in this way violated the legislative language and intent. The "grandfather clause" provided in the bill will authorize the continuation of private activities that the Postal Service has permitted under color of this section. In this way, the bill protects mailers and private carriers who have relied upon regulations that the Postal Service has adopted to date in apparent misinterpretation of the current subsection (b).

By establishing boundaries for the postal monopoly while providing the Postal Service more commercial freedom, the bill clarifies the scope of the statutory monopoly that historically has been defined solely by the Service.

The suspension for outgoing international mail would be continued, to the extent that it involves the uninterrupted carriage of letters from a point within the United States to a foreign country for delivery to an ultimate destination outside the United States. However, the requirement that a shipper or carrier submit to an inspection or audit or face a presumption of violation would not be continued. At the time this regulation (section 320.8 of title 39 of the Code of Federal Regulations) was promulgated, the carriage and delivery of mail was generally the preserve of government-owned or sponsored postal administrations in foreign countries. The Committee intends the suspension to incorporate more recent changes in the laws of destinating countries, so that it would not prohibit delivery outside a foreign government-owned or sponsored post if such delivery is permitted by the laws of the foreign country.

The Postal Regulatory Commission is authorized to adopt regulations necessary to carry out the exceptions to the postal monopoly set out in section 601 as amended. This amendment does not take effect until the Postal Regulatory Commission promulgates regulations for the competitive pricing system under section 3633.

#### *Sec. 404. Rulemaking authority*

Section 404 of the bill amends section 401(2) of title 39 to clarify the rulemaking function of the Postal Service. As amended, section 401(2) authorizes the Postal Service "to adopt, amend, and repeal

such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title.” This amendment is intended to make clear that the Postal Service is not, unless explicitly authorized by Congress, empowered to adopt regulations implementing other parts of the U.S. code, e.g., the criminal laws. This amendment is fully consistent with the legislative history of this provision (which originated in the 1960 codification) and is modeled on the Federal Communications Commission’s rulemaking authority, 47 USC 154(i). The amendment recognizes that the rule-making authority of the Postal Service is affected by its obligations under title 5 and certain other limited provisions of law outside title 39.

*Sec. 405. Noninterference with collective bargaining agreements, etc.*

Section 405 of the bill addresses two specific issues. First, subsection (a) mandates that, except for section 407, nothing in the bill, or amendments made by the bill to current law, can affect any of the rights, privileges, or benefits of postal employees or the labor organizations representing them. Second, subsection (b) clarifies that nothing in the bill will affect free mail as currently provided by law for (1) correspondence of members of the diplomatic corps and consuls of the countries of the Postal Union of Americas and Spain; (2) people who are blind and other people with a physical impairment preventing them from using or reading conventionally printed material; and (3) mailing of balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.

*Sec. 406. Bonus authority*

Section 406 of the bill adds a new section 3686 to title 39. Section 3686 authorizes the Postal Service to establish one or more bonus or reward programs in furtherance of the objectives of chapter 36. The Board of Governors must review any such program prior to implementation and may approve any program that it finds “makes meaningful distinctions based on relative performance.” The section states that bonus payments may exceed the salary cap for postal employees established in section 1003(a) of title 39 so long as the total compensation of such employees does not exceed the annual compensation of the Vice President of the United States. The Board of Governors may also allow up to twelve officers or employees of the Postal Service to receive total compensation of up to 120 percent of the Vice President’s annual compensation, but report to Congress and the Office of Personnel Management within 30 days of a payment made under this exception. For each employee whose compensation exceeds the salary cap by virtue of a bonus or other payment awarded under this section, the Postal Service is required to list in its annual comprehensive statement the name of the employee, the amount of the bonus, the limitation of the salary cap, and amount by which the cap was exceeded. Nothing in this new section is intended to modify existing statutory authority for employment in the Postal Service under chapter 10 of title 39, particularly in regard to section 1001(c) (i.e., authority for the Postal Service to hire individuals as executives under employment contracts).

*Sec. 407. Mediation in collective bargaining disputes*

Section 407 is intended to expedite the resolution of collective bargaining disputes. It would replace the fact-finding panel that currently conducts the first step in the dispute resolution process with a mediator appointed by the Director of the Federal Mediation and Conciliation Service. If the parties are unable to agree and determine to submit the dispute to arbitration, the existing process of an arbitration board remains in place. This new step in the current bargaining process reflects a joint suggestion by the Postal Service and its four postal unions, and is based upon a recommendation by the President's Commission on the U.S. Postal Service. It should assist disagreeing parties in forging a final agreement, or limiting the issues that must be addressed if interest arbitration becomes necessary.

TITLE V—ENHANCED REGULATORY COMMISSION

*Sec. 501. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission*

Section 501 of the bill creates a new chapter 5 in title 39 to establish the Postal Regulatory Commission. Chapter 5 consists of four sections as follows.

Section 501 of title 39 establishes the Postal Regulatory Commission. Section 3601 of current law, establishing the Postal Rate Commission, is repealed.

Section 502 of title 39 sets out the qualifications and terms of office for the five Commissioners. This section provides that "Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration." Section 3602, establishing terms of office for Commissioners of the Postal Rate Commission, is repealed. Commissioners currently serving or nominated before enactment are not affected by this change.

Section 503 of title 39 authorizes and directs the Commission to issue rules and regulations. Section 503 is a redesignation of current section 3603.

Section 504 of title 39 sets out rules governing the administration of the Commission. Section 504 is a redesignation of current section 3604.

In sum, section 501 of the bill recognizes the Commission's enhanced responsibilities by establishing the Commission in provisions set out in a chapter located in part I of title 39, dealing with general matters, rather than, as in current law, provisions set out in a subchapter of chapter 36, and dealing with rate regulation.

*Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas*

Section 502 of the bill amends section 504 of title 39 (i.e., section 3604 of current law as redesignated by section 501 of the bill). As amended, section 504 provides that Commissioners, any administrative law judge appointed by the Commission, and any designated employee of the Commission may administer oaths, examine witnesses, take depositions, and receive evidence. In addition, the Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the

Commission may issue subpoenas requiring the attendance and presentation of testimony by, or production of documentary or other evidence in the possession of, officers, employees, agents, or contractors of the Postal Service and to order the taking of depositions of and responses to written interrogatories by such persons. Such subpoena or order is allowed with respect to any proceeding conducted by the Commission under this title. Any subpoena requires the written concurrence of a majority of Commissioners then holding office in advance of its issuance. Failure to obey a subpoena may be referred to the appropriate United States District Court, and failure to obey a court order is punishable as a contempt of court.

The amendment also provides for the handling of information the Postal Service views as proprietary that is requested from the Postal Service by the Commission. As amended, section 504 provides that, if the Postal Service determines requested information is proprietary and so notifies the Commission in writing, the Commission may use the information only for the purpose supplied and must restrict access to the information to Commission officers and employees. However, the amendment authorizes the Commission to publicly disclose relevant information it deems necessary in furtherance of its duties, as long as it has adopted regulations establishing a procedure for affording appropriate confidentiality; this authority includes a mandate to the Commission to balance the nature and extent of likely commercial injury with the mandate for financial transparency of 101(d) of this Title. The amendment further provides for the possibility of discovery of such information by interested parties and requires the Commission to adopt rules to protect the confidentiality of such information similar to the rules that govern protective orders issued by the federal courts under the Federal Rules of Civil Procedure.

*Sec. 503. Appropriations for the Postal Regulatory Commission*

Section 503 of the bill further amends section 504 of title 39 to ensure the financial independence of the Postal Regulatory Commission. Under the amendment, funding for the Commission will be paid out of the Postal Service Fund, as under current law, but the budget of the Commission will no longer be subject to disapproval by the Governors.

*Sec. 504. Redesignation of the Postal Rate Commission*

Section 504 of the bill changes “Postal Rate Commission” to the “Postal Regulatory Commission” in various statutes.

*Sec. 505. Officer of the Postal Regulatory Commission representing the general public*

Section 505 ensures that the existing role of a Consumer Advocate is maintained in all proceedings of the new Postal Regulatory Commission, to ensure that the interests of the general public are represented.

## TITLE VI—INSPECTORS GENERAL

*Sec. 601. Inspector General of the Postal Regulatory Commission*

Section 601 of the bill amends the Inspector General Act of 1978 to provide for an Inspector General for the Postal Regulatory Commission.

*Sec. 602. Inspector General of the United States Postal Service to be appointed by the President*

Section 602 of the bill amends the Inspector General Act of 1978 to require appointment of the Postal Service's Inspector General by the President with Senate confirmation, in the same manner as the other presidentially appointed Inspectors General at major federal departments and agencies. In keeping with the intent of the Inspector General Act, the Inspector General is required to investigate internal criminal activity committed by Postal Service employees, including Inspection Service employees. By clarifying the investigative responsibilities of the Inspector General, this section complies with the Inspector General Act's requirement to avoid duplication and insure effective coordination and cooperation between the Inspection Service and the Office of the Inspector General. Section 602 provides that the current Inspector General will remain in office until the President appoints one pursuant to the new authority, although the Section makes clear that nothing in this act shall prevent the current Inspector General from being appointed by the President. In addition, the provision authorizes an appropriation for the Office of Inspector General rather than leaving its budget to the discretion of the agency it is charged with overseeing, consistent with the similar manner in which the Federal Deposit Insurance Corporation (FDIC) Inspector General receives a congressional appropriation from the FDIC's fund. Such a change is critical to recognizing the independence and objectivity of this key watchdog entity.

The bill also subjects the Postal Service, for the first time, to provisions of the Anti-Kickback Act, gives Postal Service contractor employees whistleblower protection, and requires the Postal Service to develop and issue purchasing regulations prohibiting the reimbursement of certain contractor costs. Under the Anti-Kickback Act, major postal contractors would have to maintain compliance systems that would detect and prevent kickbacks. In addition, whistleblower protection would apply to postal contractors' employees. Finally, the Postal Service would be required to develop and issue purchasing regulations that prohibit the reimbursement of contract costs not allowable under the Postal Service Procurement Manual.

## TITLE VII—EVALUATIONS

*Sec. 701. Universal Postal Service Study*

Recognizing that the concept of universal postal service has never been defined in the United States, and yet is a critical component of assessing the future role of a national post office, section 701 directs the Postal Service to submit a report on universal postal service in the United States to the President, Congress, and the Postal Regulatory Commission. The report must include a review

of the history and development of universal service, an explanation of the current scope and standards of universal service and what will likely be required in the future, a description of groups not currently covered by universal service or receiving deficient service or quality, and such recommendations as the Postal Service deems appropriate. The Postal Regulatory Commission must then evaluate the Postal Service's study and issue its own report to the President and the Congress. That report must include, according to paragraph (b): (1) comments and observations on the matters raised in the Postal Service's report as the Commission considers appropriate; (2) an estimate of the cost attributable to the obligation to provide universal service under prior and current law; (3) an estimate of the likely cost of fulfilling the obligation to provide universal service; and (4) additional topics and recommendations as the Commission considers appropriate. According to paragraph (c), in preparing the reports required by section 701 the Postal Service and the Postal Regulatory Commission (1) shall consult with each other, other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of mail, and the general public; and (2) shall address in their respective reports any written comments received under this section.

*Sec. 702. Assessments of ratemaking, classification and other provisions*

Section 702 of the bill requires the Postal Regulatory Commission to report, in conjunction with the views of the Postal Service, to the President and the Congress, at least every 5 years, on the operation of the amendments made by this bill, with recommendations for any legislative or other measures necessary to improve the effectiveness or efficiency of the nation's postal laws. Specifically, at least the first report must include, under paragraph (c), information on (1) the operation of the Commission regulations applicable to rates for competitive products and relevant recommendations; (2) the competitive products fund; and (3) the assumed Federal income tax on the competitive products fund.

*Sec. 703. Study on equal application of laws to competitive products*

Section 703 of the bill requires the Federal Trade Commission to prepare a report detailing how federal and state laws apply differently to the Postal Service with respect to competitive products and private companies providing similar products. The Commission is directed to report within one year after enactment and to include recommendations for resolving any identified disparities in legal treatment. The Federal Trade Commission is to consult in preparing its report with the Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received.

*Sec. 704. Greater diversity in Postal Service executive and administrative schedule management positions*

Section 704 of the bill directs the Board of Governors to study and report to the President and Congress on the extent of representation by women and minorities in supervisory and management positions within the Postal Service. In addition, the Postal Service

is required, as part of its performance evaluations of supervisory and management employees, to give appropriate consideration to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans to achieve greater workforce diversity.

*Sec. 705. Plan for assisting displaced workers*

Section 705 of the bill requires the Postal Service to develop and be prepared to implement a plan for affording reemployment assistance to employees displaced by automation or privatization. The plan is to be provided to the Board of Governors and Congress within one year of enactment.

*Sec. 706. Contracts with women, minorities and small businesses*

Section 706 of the bill requires the Board of Governors, within one year, to study and report to the President and Congress on the number and value of contracts and subcontracts entered into with women, minorities, and small businesses.

*Sec. 707. Rates for periodicals*

Section 707 of the bill requires the Postal Service, acting jointly with the Postal Regulatory Commission and the General Accounting Office, to study and submit to the President and Congress a report concerning (1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and (2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate. The report shall include recommendations for any administrative action or legislation that might be appropriate.

*Sec. 708. Assessment of certain rate deficiencies*

Section 708 of the bill requires the Office of Inspector General of the Postal Service to study and submit to the President, the Congress, and the Postal Service a report concerning the Postal Service's administration of the reduced rate provisions of section 3626(k) of title 39. The study must specifically address the adequacy and fairness of the process by which assessments are determined and appealable, including whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role, and whether a statute of limitations should be established for the commencement of proceedings by the Postal Service.

*Sec. 709. Postal processing and distribution network study*

Section 709 requires the Postal Service to provide an annual report to the Postal Regulatory Commission, the Congress, and the Board of Governors on the processing, transportation, and distribution network of the Service, with an eye toward recommendations on improving the system's efficiency and effectiveness. Per subsection (b), the annual report would be publicly incorporated into the reports and plans required by the Government Performance and Results Act, whose reports are reviewed each year by the Post-

al Regulatory Commission under its annual determination of compliance required by new Sections 3652(g) and 3653. Subsection (c) emphasizes that the Postal Service shall take such actions it considers, in its sole discretion, necessary and appropriate to provide the Nation with a modern and efficient network for the processing, transportation, and distribution of mail. Nothing in this section shall prevent the Postal Service from making such improvements in the efficiency and effectiveness of the network, as it deems appropriate.

*Sec. 710. Assessment of future business model of the Postal Service*

Section 710 requires a comprehensive, two year study by an independent, impartial, and expert research organization appointed by the Comptroller General to assess the costs, benefits, effects, and future strategies for maintaining the Postal Service as wholly part of the Executive Branch, or transforming it into a private corporation in whole or in part. This should provide Congress the proper foundation to evaluate the appropriate long term business model for the Postal Service.

Section (a) outlines the process to be undertaken by the Comptroller General in selecting the research organization. Section (b) makes clear that the research organization shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States. Section (c) specifies the topics and matters to consider that will compromise the elements of the report. Subsection (d) permits the use of outside experts by the research organization, while Subsection (f) requires consultation with the wide range of postal stakeholders and inclusion of such comments in the final report. Subsection (e) provides funding from the Postal Service for the study.

*Sec. 711. Study on certain proposed amendments*

Section 711 of the bill directs the Government Accountability Office to study proposals in H.R. 22 (109th Congress), as introduced section 805, that would move to a market-based system for establishing rates for the carriage of international mail. The list of matters to evaluate are not intended to limit the GAO from considering additional issues that it deems appropriate to analyze.

*Sec. 712. Definition*

Section 712 of the bill declares that the term “Board of Governors” as used in this title shall have the same meaning as given in section 102 of title 39.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

*Sec. 801. Employment of Postal Police Officers*

Section 801 of the bill further amends section 404 and makes permanent the authority for the Postal Service to employ postal police officers to protect property owned or occupied by the Postal Service or under the charge and control of the Postal Service and to protect persons on the property. The Postal Service currently employs more than one thousand uniformed Postal Police Officers

who are assigned to critical postal facilities throughout the country. The officers provide perimeter security, escort high-value mail shipments, and perform other essential protective functions. To date, Congress has provided temporary authority for such officers each year in appropriations bills.

*Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices*

Section 802 of the bill further amends section 404 of title 39 to provide that the appeal to the Postal Regulatory Commission of a post office closing by any person shall be considered timely if it is postmarked within 30 days of notification of the closure to the appellant. The Commission testified that current law, which requires the appeal to be received by the Commission within 30 days, precludes adequate consideration of certain post office closings.

*Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department*

Section 803 of the bill amends section 8 of the Postal Reorganization Act of 1970 (39 U.S.C. 1001 note) and addresses the administrative status of employees affected by change made by Public Law 105-33 (repealing the authority for transitional appropriations) by clarifying their status as officers and employees of the U.S. Postal Service with respect to compensation for work injuries.

*Sec. 804. Obsolete provisions*

Subsection 804(a) of the bill repeals chapter 52 of title 39, relating to contracts for the surface transportation of mail. Such contracts are now allowed under section 5005 of title 39.

Subsection 804(b) authorizes the Postal Service to lengthen the statutory four-year limitation on postal transportation contracts as it deems appropriate or advisable. The four-year limitations in current postal law date from President Grant's Administration and reflect the spoils system of that era by allowing a new President to assume control of the Post Office Department and its accompanying patronage.

The Committee has spent the last 10 years examining all aspects of the Postal Service with the thought of giving it the flexibility and the authority it needs to survive as a viable public institution well into the future. During our extensive review we have discovered some sound policies and programs of the Postal Service that have been quite successful, and the Committee recommends the Postal Service continue that which works for it. One such sound policy is the Postal Service's relationship with its Highway Contractors (Star Routes). For the last 56 years, the Postal Service has contracted with Highway Contractors for periods up to four years. Such contracts may be renewed for successive contract terms and may be adjusted, with the consent of the Contractor, for increased or decreased costs resulting from changed conditions occurring during the contract term.

The Postal Service has also provided indemnity payments for contracts cancelled for reasons other than default. This program has returned corresponding benefits to both the Postal Service and its Highway Contractors. The Postal Service has had the benefit of

continuity of service from a dedicated group of highway transportation suppliers, and the contractors have been able to amortize their costs over a longer period of time thus keeping their rates economic and efficient. These Highway Contractors have also provided efficient and reliable service in times of unanticipated increases in Postal mail volume. As a result of this program's highly successful history, the Committee recommends that the Postal Service maintain its 56 year old policy of renewing and adjusting Highway Contractors with indemnity provisions or liquidated damages. As noted, the Committee has included in this bill a provision that permits the Postal Service to contract for longer terms than 4 years.

The Postal Service is in the midst of a major transformation to improve and modernize its operations. The Postal Service has identified the procurement area, particularly improvements in its supply chain management, as an area in need of change and improvement.

The Committee requested that the Government Accountability Office (GAO) determine the Postal Service's progress in implementing supply chain management initiatives and whether these initiatives have had an effect on small businesses. Supply chain management is a process that has helped successful private-sector companies leverage their buying power and identify more efficient ways to procure goods and services.

In its report entitled "Progress in Implementing Supply Chain Management Initiatives," GAO-04-540, the GAO recommended that the Postal Service improve implementation of its bulk fuel program, consider adjustments to reverse auction procedures, and focus more attention on small, minority-owned, and woman-owned businesses in carrying out supply chain management initiatives. GAO also believes that the Postal Service should have a mechanism in place to ensure accountability and transparency in its small business contracting.

The Committee will continue its oversight of these programs and urges the Postal Service to move quickly to address issues identified by GAO in its report.

#### *Sec. 805. Investments*

Section 805 of the bill amends section 2003 of title 39 to prohibit the Postal Service from using funds from the Postal Service Fund to invest in "obligations or securities of a commercial entity." Under the bill's establishment of new section 2011(c) of title 39, such investments are permitted using funds from the Competitive Products Fund with the approval of the Secretary of the Treasury.

#### *Sec. 806. Reduced rates*

Section 806 makes changes related to the rates provided for "within county publications"—publications within the county in which they are published. These types of publications are predominantly small-circulation, local newspapers—family-owned or small group weeklies targeted toward the news and advertising needs of small communities or counties. Before the Postal Reorganization Act, within county publications, along with other classes of mail and types of mailers such as nonprofit periodicals and library matter, were allowed to mail at reduced rates of postage. In 1970, the

Postal Reorganization Act required that the products cover their attributable costs, but their institutional costs were paid for by annual appropriation. In 1993, Congress phased in rate increases so that after five years the reduced rate mailers would eventually pay half the institutional costs that comparable commercial mailers paid. Following the realization of some practical difficulties related to this "fifty percent markup rule," the law was changed in 2000 with respect to certain publications. Within county publications, however, remained subject to the fifty percent markup rule.

This bill correctly discontinues the fifty percent markup rule for within county publications. Continuing such a rule could unduly limit the flexibility available to the Postal Regulatory Commission in creating a new rate-setting approach. This section at the same time preserves the preferred status of within county publication rates by tracking the phrasing of the current statute. The intent of the change is to maintain the special status of within county publications while replacing the fifty percent markup rule with a more general statement that within county rates should reflect the mail's "preferred status." Because of the local nature of within county publications, they have low costs compared to many national publications. As a result, the current approach toward within county publications is for them to have their own subclass status, which keeps them from having their costs averaged together with more costly national mail. This section is not intended to require the Commission or Postal Service to delete the within county subclass; rather, it is intended to maintain authority for preferred treatment of within county publications in terms of rates.

*Sec. 807. Hazardous matter*

Section 807 provides for penalties regarding illegal use of the mails to transport hazardous matter. It adds a new section 3018 to title 39 that prohibits the mailing of hazardous material, the causing of hazardous material to be mailed, and the manufacture, distribution, or sale of containers, packaging kits or other devices (for use in mailing hazardous materials) that fail to conform with relevant standards. Subsection (c) states that persons knowingly violating hazardous material mailing provisions shall be liable for civil penalties, clean up charges, and damages. Subsection (d) states that there must be notice and an opportunity for hearing before the Postal Service can determine a violation to the hazardous material provisions has occurred. Subsection (e) states what matters the Postal Service shall consider before determining the amount of civil penalties to violators of the hazardous material provisions. Subsections (f), (g) and (h) outline the procedures for collecting and depositing such penalties, costs and damages.

*Sec. 808. Provisions relating to cooperative mailings*

Section 808 directs the Postal Regulatory Commission to study the Postal Service's Cooperative Mail Rule to determine whether it contains adequate safeguards to protect against abuses of rates for nonprofit mail and deception of consumers. The Cooperative Mail Rule is a long-standing postal regulation designed to prevent the commercial exploitation of the nonprofit rate by prohibiting for-profit mail matter such as advertisements for products and services from being sent at the nonprofit rate. It has also been applied to

prevent abusive relationships between commercial fundraisers and nonprofits, and to otherwise regulate those relationships. If the Postal Regulatory Commission determines that the Cooperative Mail Rule does not adequately safeguard against abuse of the non-profit rate, section 810 authorizes the Commission to promulgate such regulations as it deems necessary.

*Sec. 809. Technical and conforming amendments*

Miscellaneous technical and conforming amendments required by the bill's changes to Title 39.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

In 2003, the Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18 or the Act) was enacted to change the calculation of Postal Service contributions to the Civil Service Retirement System (CSRS). The Act credited the Postal Service for the real value of contributions it had made in the past and changed how contributions would be computed in the future. The Act provided immediate financial relief to the Postal Service, allowing the Postal Service to use the savings resulting from the change in FY 2003–2005 to reduce its debt and hold postage rates steady. After FY 2005, the Act required that the savings go into an escrow account, absent any additional congressional action.

P.L. 108–18 was enacted quickly to avert a financial crisis at the Postal Service, which had indicated that, absent a change, a rate increase would have been necessary within a year. However, the Act left two issues unresolved. First, the Act did not address whether the escrow account would be used to pay down debt, prefund retiree health benefits, or for some other purpose. Second, there was disagreement about what entity should be responsible for paying the costs of retirement benefits related to military service. Under previous law, the Treasury Department had paid those benefits for CSRS retirees. P.L. 108–18 shifted the responsibility for these military costs to the Postal Service, both prospectively and retrospectively.

This bill addresses both of these issues. The bill removes the requirement in P.L. 108–18 that funds be collected and placed in an escrow account, and requires the Treasury Department to pay the costs of retirement benefits related to military service. Returning the responsibility for military costs to Treasury will result in an immediate overfunding of the CSRS fund. The bill directs the Postal Service to use that overfunding and other savings to address both its short- and long-term financial needs and ensures that the Postal Service reduces its growing unfunded liability for retiree health benefits. In its 2003 annual report, the Postal Service estimated that liability as being between \$47 and \$57 billion.

*Sec. 901. Civil Service Retirement System*

Section 901 restores the responsibility to the Treasury Department for paying retirement costs related to military service. Because such a change will result in an immediate overfunding of the Postal Service's portion of the CSRS Fund, the section terminates the Postal Service's obligation to make CSRS contributions. The Office of Personnel Management is required to determine whether there is a postal surplus or a supplemental liability by June 15,

2006. If there is a surplus, as anticipated, the Office must transfer that amount to the Postal Service Retiree Health Benefits Fund. If there is a supplemental liability, the Office must establish an amortization schedule to liquidate the liability by the end of FY 2043. All determinations and redeterminations made by the Office are subject to review by the Postal Regulatory Commission at the Postal Service's request. The Commission must submit the results of its review to the Office, the Postal Service, and Congress. The Office must reconsider its decision in light of the Commission's review and make appropriate adjustments.

Subsection (c) ensures that the monetary impact of restoring to Treasury the responsibility for military costs is retroactive, as if the relevant provision of P.L. 108-18 had not been enacted. It directs the Office to transfer to the CSRS Fund amounts that it would otherwise have paid for FY 2003-2005 and earnings on those amounts.

#### *Sec. 902. Health insurance*

Section 902 would change the way the Postal Service finances its share of the cost of providing health care to retirees. The Postal Service must pay a portion of health care premiums for currently retired employees eligible to participate in the Federal Employees Health Benefits (FEHB) program. Currently, the Postal Service pays only its portion of the health premiums incurred by current retirees each year. Under section 902, the Postal Service would begin paying for estimated costs of retiree health care as such costs are accrued by current workers.

The bill creates a new on-budget account, the Postal Service Retiree Health Benefits Fund (PSRHBF), which would earn interest at the same rate as the CSRS Fund. The bill also requires calculation of the unfunded liability for health care costs of current and future retirees, which would be the difference between the assets held in the PSRHBF and the net present value of accrued liabilities projected for retiree health care.

Starting in 2006, the bill requires the Postal Service to make payments equal to the annual increase in the unfunded liability attributable to current employees. The Postal Service also would pay annual interest costs on the unfunded liability (attributable to current and future retirees). These payments, made at the end of each fiscal year, would be deposited into the PSRHBF. The Postal Service's share of health care premiums for current retirees would be paid out of the PSRHBF as soon as adequate funds are available in the account to do so.

The bill directs the Office of Personnel Management to compute the required prefunding and interest payments after consultation with the Postal Service. All computations or other determinations made by the Office, along with any relevant regulations established by the office, are subject to review by the Postal Regulatory Commission at the Postal Service's request. The Commission must submit the results of its review to the Office, the Postal Service, and Congress. The Office must reconsider its decision in light of the Commission's review and make appropriate adjustments.

*Sec. 903. Repealer*

Section 903 repeals section 3 of the Postal Civil Service Retirement System Funding Reform Act, related to the disposition of savings accruing to the Postal Service. This change removes the requirement that savings be placed in an escrow account.

*Sec. 904. Ensuring appropriate use of escrow and military savings*

Section 904 requires that for the ten years beginning in FY 2006, two-thirds of the “total savings”—the amount of money the Postal Service would have had to pay to the CSRS Fund if P.L. 108–18 and this bill had not been enacted, less any amortization payments required to the CSRS Fund for any supplemental liability as described above—be used to address the Postal Service’s long-term needs of prefunding retiree health benefits and paying down its debt. Amounts that would otherwise have been paid into the Fund established under 8909a(a) under this paragraph, but that are used to reduce the postal debt may not exceed a total of \$3 billion for fiscal years 2006–2015.

A safety valve is also put in place to allow the Postal Service to appeal to the Postal Regulatory Commission for relief from the requirement that two-thirds of the savings be allocated for such purposes.

After FY 2015, there is not a specific statutory requirement related to the total savings. Instead, the Committee expects that the Postal Service will use its best judgment in promoting its long-term viability (by further reducing the unfunded liability for retiree health benefits, debt repayment, and other measures) while moderating postage rate increases. The absence of a specific requirement after FY 2015 should not be interpreted by the Postal Service as a sign that it no longer needs to be concerned with the outstanding unfunded liability for retiree health benefits.

*Sec. 905. Effective dates*

Title IX will take effect on October 1, 2005.

## EXPLANATION OF AMENDMENTS

The Committee adopted an amendment in the nature of a substitute offered by Chairman Davis when it considered the bill on April 13, 2005. The amendment contained the following changes to H.R. 22, as introduced:

- **Required SEC-like financial reporting by the Postal Service:** The substitute amendment requires the Postal Service to file with the PRC the same public financial statements and reports required of private companies by the Securities and Exchange Commission, including a breakdown of costs and revenues by segment as defined by USPS in consultation with the PRC.
- **Network Optimization:** The substitute amendment requires annual assessment of network optimization, which would be publicly incorporated into the reports and plans required by the Government Performance and Results Act.
- **Worksharing:** The substitute amendment conforms H.R. 22 with S. 662 (109th Congress), as introduced, eliminating the House bill’s four-year limit on new worksharing discounts that

exceed the costs avoided by the Postal Service and instead requiring such discounts to apply for only a limited time period.

- **Banking, Borrowing and Investing:** The substitute amendment limits the Postal Service's Competitive Products fund to banking, borrowing and investing with the U.S. Treasury, rather than with the private sector.

- **Treatment of Confidential Information:** The substitute amendment provides the Postal Regulatory Commission, rather than the Postal Service, with the authority to decide what regulatory information will be protected from public disclosure on grounds of commercial sensitivity.

- **Rate Discrimination:** The substitute amendment maintains the current law prohibition on undue or unreasonable rate discrimination.

- **Salary Cap Flexibility:** The substitute amendment establishes a more efficient process for the Postal Service's authority to offer bonuses and other compensation to its employees, consistent with similar performance incentive programs in other sectors.

- **Business Model Study:** The substitute amendment requires the Government Accountability Office to assess the costs, benefits, effects, and future strategies for maintaining the Postal Service as wholly part of the Executive Branch, or transforming it into a private corporation in whole or in part.

- **Outside Auditor:** The substitute amendment removes a provision from H.R. 22 that would have required the Inspector General—rather than an independent accounting firm selected by the Board—to certify the Postal Service's annual financial statements.

- **Technical Changes:** The substitute amendment makes a technical change to the definition of a "postal service," and moves the directive that the PRC take the fairness and equity of the rate structure into account from the list of the factors to be considered in regulation to the list of objectives.

In addition, two sections of the bill were struck following adoption of an amendment offered by Mr. LaTourette. Mr. LaTourette's amendment struck sections 805 and 807 of the legislation and instead created a new study in Title VII of H.R. 22 for the Government Accountability Office (GAO) to evaluate aspects of the matter. Mr. LaTourette's amendment was adopted by voice vote.

For more than 20 years, the air transportation of U.S. mail to domestic destinations has been open to competitive bidding. However, air transport of international mail is subject to the same regulatory control of the U.S. Department of Transportation (DOT) that has been in place since the late 1970s. Section 805 would have permitted the Postal Service the same opportunity to contract for the transportation of international mail that it has had domestically for decades. Also, Section 805 protected domestic carriers from unfair competition by ensuring that any foreign carrier competing for a contract must be from a country whose nation provides the same opportunity for U.S. carriers to deliver its mail. Fifty-one countries already contract with U.S. carriers to move mail for their post offices, and in fact, the Postal Service pays more for the air transportation of mail to the U.S. carriers than what those same U.S. carriers charge a foreign post to transport their mail. Section 807 of

the bill, which would have repealed the Postal Service's ability to unilaterally fine air carriers for delays in moving international mail because such authority would be inappropriate in a negotiated contracting environment, was also deleted under Mr. LaTourette's amendment in order to reflect the amendment's repeal of the flexibilities that would have been provided by section 805.

Mr. LaTourette's amendment replaces these sections with a section mandating a Government Accountability Office study of the matter, including an assessment of the impact of such reforms on the domestic airlines. This study should build on the GAO's April 8, 2005 report on this subject.

#### COMMITTEE CONSIDERATION

H.R. 22 is derived from H.R. 3717, introduced in the 104th Congress, H.R. 22, introduced in the 105th and 106th Congresses, H.R. 4970 introduced in the 107th Congress, and H.R. 4341 introduced in the 108th Congress.

In the 104th Congress, the former Postal Service Subcommittee, chaired by Mr. McHugh, held oversight hearings on the Postal Service and, in particular, its calls for greater commercial flexibility, on February 23, March 2 and 8, May 23, June 7, 14, and 28, and November 15, 1995, and January 25 (with the Senate Committee on Governmental Affairs) and March 13 and 19, 1996. In addition, on November 15, 1995, the Subcommittee held a legislative hearing on H.R. 210, a bill to provide for privatization of the Postal Service.

On June 25, 1996, Subcommittee Chairman McHugh introduced H.R. 3717, the Postal Reform Act of 1996. The Subcommittee held legislative hearings on H.R. 3717 on July 10 and 18 and September 17 and 26, 1996.

In the 105th Congress, on January 7, 1997, Subcommittee Chairman McHugh reintroduced former H.R. 3717 as H.R. 22, the Postal Reform Act of 1997. The Subcommittee held a legislative hearing on H.R. 22 on April 16, 1997. The Subcommittee also held a general oversight hearing on April 24, 1997. On December 12, 1997, Mr. McHugh issued a comprehensive, section-by-section plan for revision of H.R. 22. In late February 1998, Mr. McHugh announced that the Subcommittee was actively soliciting written comments through early April on proposed revisions to H.R. 22. The Subcommittee received 47 written submissions. The 47 comments subsequently received were shared with all Subcommittee Members for review, and they were posted on the Subcommittee's web page for public examination. In addition, the Subcommittee received extensive additional comments more informally from representatives of interested parties. Through this process, the Subcommittee attempted to ensure that the public and all postal stakeholders had repeated opportunities to provide input on the revisions as proposed December 1997.

After carefully evaluating all of the comments received, Postal Service Subcommittee Chairman McHugh released the text of a comprehensive amendment to H.R. 22 on September 2, 1998, which was also posted on the Subcommittee's web page. On September 24, 1998, the Subcommittee on the Postal Service voted to approve H.R. 22, renamed the Postal Modernization Act of 1998, as amended by the comprehensive amendment announced by Subcommittee

Chairman McHugh on September 2, 1998, and to send it to the Committee on Government Reform and Oversight for further consideration, which did not occur before the 105th Congress adjourned.

With the beginning of the 106th Congress, Postal Service Subcommittee Chairman McHugh introduced a revised version of H.R. 22, and the Subcommittee convened a final round of hearings on the bill on February 11 and March 4, 1999. After incorporating further modifications from these hearings, on April 29, 1999, the Postal Service Subcommittee approved H.R. 22 again and reported it to the Committee on Government Reform. However, the Committee did not consider the bill before the 106th Congress expired. The Subcommittee did convene additional hearings throughout 1999 and 2000 that continued to explore and underscore the need for reform.

In the 107th Congress, the Postal Service Subcommittee was abolished and postal issues became the focus of the full Government Reform Committee. After several full Committee hearings on the Postal Service's worsening financial situation—the General Accounting Office added the Service to its watch-list of “high risk” agencies—the Committee marked up a revised postal reform bill, H.R. 4970, introduced by Mr. McHugh. H.R. 4970, the Postal Accountability and Enhancement Act, was the product of a nearly year long bipartisan effort of the Committee staff to address remaining concerns and objections that certain stakeholders expressed with previous versions of the postal reform legislation. Despite support for the legislation, there was disagreement among some Committee members over the timing of moving the bill forward. As a result, in a mark-up on June 20, 2002, H.R. 4970 failed on a vote of 6 ayes, 20 no, and 9 voting “present.” Nine Members did not vote.

In the 108th Congress, the Government Reform Committee's Special Panel on Postal Reform and Oversight, chaired by Mr. McHugh, held three hearings in a two week period to examine the need to modernize our nation's postal laws following the work of the President's Commission. On January 28, 2004, the Panel heard from the Treasury Department, the Postal Service, the Postal Rate Commission, and the General Accounting Office. On February 5, the Panel traveled to Chicago, Illinois for a hearing in which the Presidents of all postal unions and employee groups testified. The Panel held a final hearing on February 11 in which nine CEOs of competitors, commercial and nonprofit mailers, and postal reliant businesses testified. On March 23, 2004, the Committee held a joint hearing with the Senate Governmental Affairs Committee, in which it heard testimony from the Secretary of the Treasury and the Postal Service.

All witnesses stated support for the Administration's broad principles on postal reform, and the hearings underscored that universal postal service is at risk and reform is urgently needed to minimize the danger of significant taxpayer bailout or dramatic postal rate increases. As the General Accounting Office emphasized, the Postal Service's current business model, formulated as it was in 1970, is no longer sustainable in the 21st century.

On May 12, 2004, the Committee met in open session and ordered reported favorably the bill introduced by Mr. McHugh, H.R.

4341, by roll call vote, a quorum being present, with a vote of 40 yeas and 0 nays. The Committee filed its report to accompany H.R. 4341 on September 8, 2004, as Report 108–672 Part I. The Judiciary Committee then sought referral of the bill to address matters within its jurisdiction. On September 15, 2004, the Judiciary Committee considered H.R. 4341 and ordered the bill reported with several amendments by voice vote (see Report 108–672 Part II filed September 23, 2004). The bill was then placed on the Union Calendar, Calendar No. 427. The 108th Congress adjourned before further action was taken on H.R. 4341.

On January 4, 2005, Mr. McHugh and Chairman Davis introduced H.R. 22. On April 13, 2005, the Committee on Government Reform ordered the bill reported to the House, as amended, by a recorded vote.

#### ROLLCALL VOTE

Representatives	Aye	Nay	Present	Dem.	Aye	Nay	Present
Mr. Davis (VA), (chairman) ..	X	.....	.....	Mr. Waxman .....	X	.....	.....
Mr. Shays .....	X	.....	.....	Mr. Lantos .....	X	.....	.....
Mr. Burton .....	X	.....	.....	Mr. Owens .....	X	.....	.....
Mrs. Ros-Lehtinen .....	X	.....	.....	Mr. Towns .....	X	.....	.....
Mr. McHugh .....	X	.....	.....	Mr. Kanjorski .....	X	.....	.....
Mr. Mica .....	X	.....	.....	Mr. Sanders .....	X	.....	.....
Mr. Gutknecht .....	X	.....	.....	Mrs. Maloney .....	X	.....	.....
Mr. Souder .....	X	.....	.....	Mr. Cummings .....	X	.....	.....
Mr. LaTourette .....	X	.....	.....	Mr. Kucinich .....	X	.....	.....
Mr. Platts .....	X	.....	.....	Mr. Davis (IL) .....	X	.....	.....
Mr. Cannon .....	X	.....	.....	Mr. Clay .....	X	.....	.....
Mr. Duncan .....	X	.....	.....	Ms. Watson .....	X	.....	.....
Mrs. Miller (MI) .....	X	.....	.....	Mr. Lynch .....	X	.....	.....
Mr. Turner (OH) .....	X	.....	.....	Mr. Van Hollen .....	X	.....	.....
Mr. Issa .....	X	.....	.....	Ms. Sanchez .....	X	.....	.....
Mrs. Brown-Waite .....	X	.....	.....	Mr. Ruppersberger .....	.....	.....	.....
Mr. Porter .....	X	.....	.....	Mr. Higgins .....	X	.....	.....
Mr. Marchant .....	X	.....	.....	Ms. Norton .....	X	.....	.....
Mr. Westmoreland .....	X	.....	.....	.....	.....	.....	.....
Mr. McHenry .....	X	.....	.....	.....	.....	.....	.....
Mr. Dent .....	X	.....	.....	.....	.....	.....	.....
Mrs. Foxx .....	X	.....	.....	.....	.....	.....	.....
Vacancy				.....	.....	.....	.....

Totals: Ayes 39, Nays 0, Present 0.

#### CORRESPONDENCE

U.S. HOUSE OF REPRESENTATIVES,  
 COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
*Washington, DC, April 25, 2005.*

Hon. TOM DAVIS,  
*Chairman, Committee on Government Reform,  
 Rayburn Building, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 22, the Postal Accountability and Enhancement Act.

Our committee recognizes the importance of H.R. 22 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legis-

lation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,  
*Chairman.*

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Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Transportation and Infrastructure's jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 22 by the Committee on Transportation and Infrastructure.

I agree that the Committee on Transportation and Infrastructure has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to not request a sequential referral of H.R. 22. In addition, I will support your request for the appointment of outside conferees from the Committee on Transportation and Infrastructure to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Government Reform Committee's report on H.R. 22 and in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,  
*Chairman.*

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and institutes improvements to the collective bargaining process.

Legislative branch employees and their families, to the extent that they are otherwise eligible for the benefits provided by this legislation, have equal access to its benefits.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF  
THE COMMITTEE

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

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 22. Article I, Section 8, Clause 7 of the Constitution of the United States grants the Congress the power to establish post offices.

FEDERAL ADVISORY COMMITTEE ACT

Section 305 of H.R. 22 establishes an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. Appendix 2). The functions of the advisory committee are reflected in the descriptive portions of this report.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement on whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 22. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST  
ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the

Committee has received the following cost estimate for H.R. 22 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 25, 2005.*

Hon. TOM DAVIS,  
*Chairman, Committee on Government Reform,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 22, the Postal Accountability and Enhancement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for Postal Service costs), Geoffrey Gerhardt (for retirement costs), and Julie Christensen (for health care costs).

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

*H.R. 22—Postal Accountability and Enhancement Act*

Summary: H.R. 22 would change the laws that govern the operation of the United States Postal Service (USPS), particularly those regarding the cost of pensions and health care benefits of retired workers and the requirement to hold certain funds in escrow. CBO estimates that enacting this legislation would result in on-budget savings of \$35.7 billion and off-budget costs of \$41.6 billion over the 2006–2015 period. (The net expenditures of the USPS are classified as “off-budget.”) Thus, CBO estimates the net cost to the unified budget would be \$5.9 billion over the 2006–2015 period. All of those effects reflect changes in direct spending. In addition, we estimate that implementing H.R. 22 would have discretionary costs of about \$1.6 billion over the 2006–2015 period, assuming appropriation of the necessary amounts. (Enacting the bill would not affect federal revenues.)

Enacting H.R. 22 would not affect how much the federal government spends on pension or health care benefits for USPS retirees. By increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow account requirements, however, the bill would increase future budget deficits as measured by the unified federal budget. Eliminating the escrow account requirement for the USPS would allow that agency to increase spending for capital improvements or other projects, pay down its outstanding debt, postpone or diminish future rate increases, or some combination of these options. Enacting the bill also would reduce direct spending by making the costs of the Postal Rate Commission and the USPS Office of the Inspector General subject to appropriation.

H.R. 22 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Major provisions of H.R. 22 would:

Eliminate a requirement in Public Law 108–18 (P.L. 108–18), the Postal Civil Service Retirement Funding Reform Act of

2003, that the Postal Service place savings from reduced pension contributions in escrow.

Transfer from the Postal Service to the Department of the Treasury responsibility for paying pension costs associated with military service credits.

Replace direct payments the Postal Service is making for retiree health care costs with payments designed to prefund some of the health care costs of current employees when they retire.

Revise the procedure for raising postal rates.

Strengthen the USPS Board of Governors and the Postal Rate Commission, which would be redesignated the Postal Regulatory Commission (PRC).

Make other changes designed to increase the Postal Service's competitiveness with private industry.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 22 is summarized in Table 1. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 550 (health), 900 (net interest), and 950 (undistributed off-setting receipts).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 22

	By fiscal year, in billions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING										
On-Budget Effects:										
Estimated Budget Authority	-2.9	-3.0	-3.1	-3.3	-3.4	-3.6	-3.8	-4.0	-4.2	-4.4
Estimated Outlays .....	-2.9	-3.0	-3.1	-3.3	-3.4	-3.6	-3.8	-4.0	-4.2	-4.4
Off-Budget Effects:										
Estimated Budget Authority	2.9	3.2	3.5	3.6	3.9	4.3	4.5	4.9	5.3	5.6
Estimated Outlays .....	2.9	3.2	3.5	3.6	3.9	4.3	4.5	4.9	5.3	5.6
Total Unified Budget Effect:										
Estimated Budget Authority	0.0	0.2	0.3	0.4	0.5	0.7	0.7	0.9	1.1	1.1
Estimated Outlays .....	0.0	0.2	0.3	0.4	0.5	0.7	0.7	0.9	1.1	1.1
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level .....	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Estimated Outlays .....	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Note.—Components may not add to totals because of rounding.

### *Basis of estimate*

For this estimate, CBO assumes that H.R. 22 will be enacted near the start of fiscal year 2006. For direct spending, CBO estimates that enacting the bill would result in on-budget savings of \$35.7 billion and off-budget costs of \$41.6 billion over the 2006–2015 period, for a net cost to the unified budget of \$5.9 billion over the 10-year period. In addition, we estimate that implementing H.R. 22 would cost about \$1.6 billion over the 2006–2015 period, assuming appropriation of the necessary amounts, mostly to fund the USPS Office of the Inspector General.

### *Background*

The following paragraphs present background information relating to the major provisions of H.R. 22, mostly for postal finances affected by the bill.

**Budgetary Treatment of USPS.** Although the Postal Service is a federal agency, its financial operations are classified as off-budget.

Despite this treatment, federal budget documents present the net income (gross income minus expenses) of the agency in the unified budgetary totals for the federal government. The Postal Service is required by law to set postage rates to cover its full costs, although from year to year its net income may be positive or negative. In fiscal year 2004, the Postal Service generated \$69.6 billion in collections, mostly from postage and user fees, and had \$65.5 billion in expenses, for a net cash surplus of \$4.1 billion in that year. CBO projects that the USPS will end 2005 with a cash surplus of \$3.8 billion.

**USPS and Federal Retirement Plans.** Postal Service employees participate in the federal government's two main defined benefit pension programs. Those workers initially hired prior to 1984 are covered by the Civil Service Retirement System (CSRS) while those initially hired after 1983, as well as former CSRS workers who elected to change federal retirement plans in 1987 or 1998, participate in the Federal Employees' Retirement System (FERS). In 2004, about 25 percent of the USPS workforce was covered by CSRS, and the rest were under FERS.

The Postal Service and its employees each make payroll contributions toward the civilian retirement system (CSRS and FERS). Unlike other agencies, the agency contribution rate for most CSRS employees is 17.4 percent of basic pay (most other agencies contribute 7 percent), while the employee contribution rate is 7 percent.<sup>1</sup> For FERS employees, the agency contribution rate for most employees is 10.7 percent, while the employee rate is 0.8 percent, plus Social Security payroll taxes on both employers and employees. Workers in CSRS receive generally higher benefits than those in FERS, but unlike FERS, those in CSRS do not participate in Social Security and do not receive agency contributions toward the Thrift Savings Plan. In addition to its payroll contributions, the Postal Service also makes annual amortization payments toward an unfunded liability within CSRS. In 2004, that payment was about \$250 million.

**USPS and Federal Health Benefits.** The Postal Service also pays a portion of health care premiums for currently retired USPS employees who are eligible to participate in the Federal Employees Health Benefits (FEHB) program. Currently, there are over 400,000 Postal Service retirees who participate in the FEHB program. On average, the Postal Service currently pays about 45 percent of the health care premiums for its retirees. Retirees pay about 30 percent of their FEHB premiums with general revenues accounting for the remaining amount, roughly 25 percent. In 2004, the Postal Service paid \$1.3 billion to FEHB for premiums for current retirees.

**USPS Escrow Fund.** Starting in fiscal year 2006, the Postal Service will be required under current law to begin holding funds in an escrow account equal to the difference between what the Postal Service currently pays toward CSRS and what it would have paid for CSRS benefits prior to the enactment P.L. 108-18. Under cur-

<sup>1</sup> P.L. 108-18 increased the contribution rate the Postal Service pays for its CSRS employees from 7 percent to 17.4 percent. That legislation also eliminated a series of amortization payments the Postal Service was required to make for unfunded CSRS liabilities. For more details, see CBO's cost estimates of the Postal Civil Service Retirement System Funding Reform Act of 2003 (S. 380 and H.R. 735 from the 108th Congress). These estimates are posted on [www.cbo.gov](http://www.cbo.gov).



TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING FOR H.R. 22—Continued

	By fiscal year, outlays in billions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total Off-Budget Effects .....	2.9	3.2	3.5	3.6	3.9	4.3	4.5	4.9	5.3	5.6
Total Unified Budget Effects .....	0.0	0.2	0.3	0.4	0.5	0.7	0.7	0.9	1.1	1.1
Memorandum										
Payments from the Postal Service received by										
PSRHBFB .....	-5.2	-6.7	-7.0	-7.3	-7.6	-7.9	-8.2	-8.6	-9.0	-9.4
FEHB premiums paid from PSRHBFB .....	0.4	2.0	2.3	2.6	2.9	3.2	3.5	3.8	4.2	4.6
Net outlays of PSRHBFB .....	-4.7	-4.7	-4.7	-4.7	-4.7	-4.7	-4.7	-4.8	-4.8	-4.8

a. Starting in July 2006, CBO assumes that payments of FEHB premiums for Postal Service retirees would be paid out of the Postal Service Retiree Health Benefits Fund instead of being paid directly by the Postal Service as under current law. The bill would have no effect on spending by the FEHB program for health benefits for Postal Service annuitants.

Notes.—FEHB = Federal Employees Health Benefits program; PSRHBFB = Postal Service Retiree Health Benefits Fund; PRC = Postal Regulatory Commission; USPS = United States Postal Service.

Components may not add to totals because of rounding.

Amounts in the table represent net changes in offsetting receipts, which are recorded in the budget as changes in direct spending. A positive sign indicates lower offsetting receipts, thus an increase in outlays; negative numbers represent increased offsetting receipts, or a reduction in net outlays.

#### *On-budget effects (direct spending)*

CBO estimates the on-budget effect of the pension and health care provisions in H.R. 22 would be a net increase in offsetting receipts of \$2.9 billion in 2006, \$15.8 billion over the 2006–2010 period, and \$35.7 billion over the 2006–2015 period. That increase in on-budget collections (i.e., reduction in direct spending) would come from increased transfers (off-budget outlays) coming from the USPS. (The off-budget effects are discussed in the following section.)

Civil Service Retirement Contributions. H.R. 22 would change the way the Postal Service finances retirement benefits for current and retired employees. Starting in October 2005, the bill would transfer financial responsibility for military service credits earned by Postal Service employees and retirees participating in CSRS from the Postal Service to the Department of the Treasury. Military service credits represent time served in the U.S. military that is credited toward benefits under the civilian retirement system. Most federal agencies are not responsible for the cost to the pension system of the military service credits incurred by their CSRS employees, but P.L. 108–18 transferred responsibility for military service credits from the Treasury to the Postal Service beginning in June 2004.

The Office of Personnel Management (OPM) estimates that transferring responsibility for military service credits from the Postal Service back to the Treasury would cause the Postal Service to have overfunded its obligation to CSRS by about \$20.3 billion through September 2005.<sup>2</sup> Consequently, under H.R. 22 the Postal Service would no longer be obligated to make either agency contributions or any further annual amortization payments for CSRS. (Employee contributions would continue at 7 percent of basic pay and retirement benefits under CSRS would not change.)

<sup>2</sup>This overfunding, which is calculated on a net-present-value basis, represents an estimate of the total amount of money the Postal Service will have contributed toward CSRS from 1971 through September 30, 2005, minus the agency's CSRS liabilities if USPS bears no financial responsibility for the pension costs associated with military service credits. The projected overfunding is due primarily to larger-than-expected returns on assets held in the CSRDF.

Spending by the Postal Service—including amounts paid into other federal accounts—is considered off-budget spending. However, the Civil Service Retirement and Disability Fund (CSRDF) is an on-budget account, so the amounts the CSRDF collects from the Postal Service are on-budget offsetting receipts. Reducing payments the Postal Service makes to the CSRDF would result in a reduction in off-budget spending and a reduction in on-budget offsetting receipts. CBO estimates transferring responsibility for military service credits, and the attendant reduction in CSRS contributions such a change would bring, would reduce onbudget receipts by \$1.8 billion in 2006 and \$11.7 billion over the 2006–2015 period. Although the Treasury Department would then be responsible for the costs associated with those pension liabilities under the bill, the Treasury payment and receipt by CSRDF are both on-budget intragovernmental transactions. That is, the bill would replace one intragovernmental transfer with another. Instead of a transfer from the off-budget Postal Service to the on-budget CSRDF, there would be a transfer from the Treasury to the CSRDF.

Postal Service Retiree Health Benefits Fund. H.R. 22 also would change the way the Postal Service finances its share of the cost of providing health care to retirees. Instead of directly paying a portion of the health premiums incurred by current retirees each year, the USPS would begin paying for estimated costs of retiree health care as such costs are accrued by current workers. Starting in 2006, H.R. 22 would require the USPS to make payments equal to the annual increase in retiree health care liabilities accrued by current employees. These payments would be deposited into a new on-budget account, the Postal Service Retiree Health Benefits Fund (PSRHBF), which would earn interest at the same rate as the CSRDF. CBO currently projects that the CSRDF fund will earn about 5.75 percent next year. The Postal Service's share of health care premiums for current retirees would be paid out of the PSRHBF as soon as adequate funds are available in the account to do so.

Under H.R. 22, any overfunding toward CSRS liabilities (after financial responsibility for military service credits reverts to the Treasury) would be transferred from the CSRDF to the PSRHBF by June 30, 2006. Based on information provided by OPM, CBO anticipates that the transfer to the new fund would total \$21.2 billion and would occur in June 2006. This amount reflects the \$20.3 billion in estimated CSRS overfunding plus interest that would accrue between the end of the valuation period in September 2005 and when CBO assumes the asset transfer would take place in June 2006.

Under the bill, the Postal Service also would pay annual interest costs on the unfunded liabilities for health care costs of both current and future retirees. The unfunded liability would be the difference between the assets held in the PSRHBF and the net present value of accrued liabilities projected for retiree health care. The bill would direct OPM to compute the required prefunding and interest payments after consultation with the Postal Service, subject to review by the PRC. The bill specifies that payments would be made at the end of each fiscal year.

Based on information provided by OPM and using CBO's current projections of long-term interest rates, CBO anticipates the net

present value of the unfunded liability for the health care costs of retirees would amount to about \$49 billion at the end of 2006 and remain roughly at that level through the end of 2015. CBO estimates that payments by the Postal Service for prefunding health care costs of retirees and interest on the remaining unfunded liability would be \$5.2 billion in 2006 (net of the 2006 premium adjustment described below), \$33.8 billion over the 2006–2010 period, and \$76.8 billion over the 2006–2015 period. Those amounts could change significantly if future rates are much different than currently projected by CBO.

For fiscal year 2006, H.R. 22 would reduce the initial prefunding and interest payments otherwise due at the end of the year under the bill. The reduction would reflect all contributions directly paid to the FEHB program by the Postal Service in fiscal year 2006 for its share of premiums for current annuitants—about \$1.3 billion in that year. (Such contributions would be made by June 30, 2006, prior to the transfer of assets from the CSRDF into the PSRHBF.) Before applying the offset, CBO estimates that the total payments required under the bill for prefunding retiree health costs and interest on the remaining unfunded liability would be \$6.5 billion in 2006. The final payment required under the bill, net of the adjustment for specified 2006 premium contributions, would be \$5.2 billion in 2006 as stated above.

CBO expects that the transfer of \$21.2 billion from the CSRDF to the PSRHBF resulting from the shift in responsibility for military service credits would occur in June 2006. Therefore, the Postal Service would cease making payments under current law for its share of FEHB premiums for annuitants beginning in July 2006; with those premium payments instead being drawn from the PSRHBF. (As mentioned earlier, the bill also would direct the Postal Service to deduct all fiscal year 2006 contributions toward its share of health premiums for current retirees made prior to July 2006 from initial prefunding and interest payments otherwise due under the bill for fiscal year 2006.) CBO estimates that change in the funding mechanism for retiree health benefits would reduce off-budget payments by the Postal Service for FEHB premiums by \$0.4 billion in 2006 (which reflects premium payments, under current law, for the last three months of 2006), \$10.2 billion over the 2006–2010 period, and \$29.4 billion over the 2006–2015 period. On-budget payments for those amounts would then be transferred from the PSRHBF to the FEHB program to pay the Postal Service's share of health care costs for retirees.

The bill would require a minimum level of prefunding by the Postal Service through 2015, after accounting for disbursements for health premiums from the PSRHBF. To achieve the annual or cumulative prefunding target, payments from the Postal Service to the PSRHBF—net of premiums paid by the PSRHBF—must total at least two-thirds of the amount the Postal Service would have paid toward CSRS prior to the enactment of P.L. 108–18. If the threshold is not met, additional prefunding payments would be required to make up the shortfall. Those payments also could be used to reduce postal debt (up to \$3 billion) in lieu of contributions to the fund. The requirement could be waived completely by the PRC under certain conditions. CBO anticipates that the threshold estab-

lished under the bill would be met and no additional payments would be required through 2015.

Health premiums paid by the Postal Service for FEHB and any payments that would be made into the new PSRHBF would be considered on-budget offsetting receipts. CBO estimates the increase in on-budget receipts as a result of changes in how the Postal Service finances its health care obligations would be \$4.7 billion in 2006, \$23.6 billion over the 2006–2010 period, and \$47.4 billion over the 2006–2015 period.

*Off-budget effects (direct spending)*

CBO estimates that enacting H.R. 22 would result in net off-budget costs \$2.9 billion in fiscal year 2006, \$17.2 billion over the 2006–2010 period, and \$41.6 billion over the 2006–2015 period. Those amounts reflect the effects of allowing the Postal Service to increase other spending, reduce postal rates, or some combination of these actions because the bill would eliminate the requirement for the Postal Service to fund the escrow account. The net costs also reflect off-budget savings from a provision in the bill to make the costs of the PRC and the USPS Office of the Inspector General subject to appropriation, thus reducing direct spending by about \$1.6 billion over the next 10 years. The bill contains many other provisions that could affect USPS cash flows in each year, but we estimate they would not have a significant net effect on the USPS over the long term.

**Elimination of Escrow Fund.** P.L. 108–18 permanently reduced payments by the USPS to the CSRDF. As a result of that act, USPS payments to the CSRDF declined by \$2.5 billion to \$5.5 billion annually, beginning in 2003. For fiscal years starting in 2006, P.L. 108–18 requires that savings resulting from reduced payments to the CSRDF be considered an operating expense of the Postal Service and held in escrow, remaining unavailable for obligation unless authorized by subsequent legislation.

H.R. 22 would amend P.L. 108–18 to eliminate the escrow fund requirement. As a result of this provision, the Postal Service could lower rates and thus reduce its revenues from the levels expected under current law, or maintain rates and increase spending, or some combination of these actions. The net outlays of the Postal Service would increase because collections would not be deposited in escrow. CBO estimates that eliminating the escrow requirement would increase net off-budget spending by about \$3.1 billion in 2006, \$17.9 billion over the 2006–2010 period, and \$43.2 billion over the 2006–2015 period. Much of the spending would go toward making new payments to the on-budget account for health care costs.

**Make Cost of PRC and USPS IG Subject to Appropriation.** Under current law, the PRC and the Inspector General of the Postal Service are funded from the Postal Service Fund without annual Congressional appropriation. In total, these offices spent about \$140 million in 2004. H.R. 22 would authorize the appropriation of such sums as may be necessary from the Postal Service Fund for these offices. Thus, enacting this legislation would reduce direct spending—and therefore, increase spending subject to appropriation—by about \$140 million annually beginning in fiscal year 2006.

Changes to USPS Rate-Setting Procedures. Under the bill the Postal Service would be directed to define the cost basis for the different products and services it supplies. These products and services would broadly be categorized as market-dominant products and competitive products. Different rate-setting procedures would apply to these different categories of products and services.

Market-Dominant Products. Under H.R. 22, market-dominant products would include: first class mail, special services, periodicals, standard mail, media mail, library mail, and bound printed matter.

H.R. 22 would require the PRC to establish, within two years of enactment, a new system for regulating postage rates for market-dominant products. The bill would permit the new system to involve price caps, revenue targets, or other forms of incentive or cost-of-service regulation. However, the legislation would mandate that the average rate for any market dominant product could not rise more than the annual increase in the Consumer Price Index (CPI), unless a larger increase would be necessary to ensure the viability of the Postal Service.

Since 1970, increases in postage rates have largely tracked the rate of inflation. Over the past 10 years, rates were increased in 1995, 1999, 2001, and 2002 as a result of rate cases, and the Postal Service has begun preparation for a rate increase in 2006. Under the bill, we expect that the Postal Service would increase rates for market-dominant mail services more frequently than under current law, but by smaller increments (as limited by the CPI). Over the long term, CBO does not expect that enacting H.R. 22 would significantly change the revenues from market-dominant products that the Postal Service would be expected to receive under current law.

Competitive Products. Under H.R. 22, competitive products would include the following: priority mail, express mail, mailgrams, international mail, and parcel post. Currently, the competitive products contribute less than 15 percent of total postal revenues.

H.R. 22 would direct the PRC to prohibit subsidizing competitive products by market dominant products, ensure that each competitive product covers its attributable costs, and ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service. After these requirements have been implemented, the USPS could change rates for competitive products without consulting the PRC, as long as the cost coverage requirements are met. The Postal Service, however, would have to provide public notice and justification of changes in rates.

In addition, H.R. 22 would require the Postal Service to establish a new off-budget fund, the Competitive Products Fund, solely for revenues and expenditures associated with competitive products. We expect that it could be difficult to differentiate postal expenses related only to competitive products, as USPS uses the same employees and facilities to handle both market dominant and competitive products.

CBO cannot predict the bill's effect on Postal Service revenues from competitive products because the agency could set and change prices with few restrictions, although we would expect that yearly cash flows under the bill would differ from those estimated under current law. CBO also cannot predict how successfully the Postal

Service might compete in the open market. However, the highly competitive nature of the mailing industry would tend to keep prices and revenues down, while the labor-intensive cost structure of the USPS would maintain upward pressure on expenses. Thus, over the long term under this legislation, CBO expects the Postal Service to attempt to recover its costs and break even as it did before the enactment of P.L. 108–18.

**Other Off-Budget Effects.** H.R. 22 would make many other changes to the laws governing the Postal Service, the PRC, and the delivery of mail and other postal products. Some of these provisions, such as the expansion of USPS contracting authority for the interstate air transportation of mail, would yield savings. Other provisions, including the requirement for additional USPS reports and the establishment of an inspector general for the PRC, would increase costs. In total, CBO does not expect the net effects of these provisions to be significant.

*Spending subject to appropriation*

H.R. 22 would authorize the appropriation of such sums as may be necessary, out of the Postal Service Fund, for the PRC and the Inspector General of the Postal Service. (Currently, these offices are funded out the Postal Service Fund without Congressional action.) Beginning in 2006, this provision would entail about \$140 million a year in spending, subject to appropriation of the necessary amounts. (Spending after 2006 would increase to reflect anticipated inflation.) Enacting the bill would reduce direct spending by the same amounts. Spending on these activities would likely still be considered off-budget, since funds would come from the Postal Service Fund.

In addition, H.R. 22 would require OPM to make actuarial computations related to the CSRS and PSRHBFB trust funds and would increase OPM's administrative workload to comply with the requirements under the bill. CBO estimates that such activities would cost less than \$500,000 annually, assuming the availability of appropriated funds.

**Intergovernmental and private-sector impact:** H.R. 22 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Mark Grabowicz for USPS costs; Geoffrey Gerhardt for retirement costs; and Julia Christensen for health care costs; impact on state, local, and tribal governments: Sarah Puro; impact on the private sector: Paige Piper/Bach.

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 39, UNITED STATES CODE**

\* \* \* \* \*

**PART I—GENERAL**

Chap.		Sec.
<b>1. Postal Policy and Definitions</b> .....		<b>101</b>
* * * * *		
<b>5. Postal Regulatory Commission</b> .....		<b>501</b>

**CHAPTER 1—POSTAL POLICY AND DEFINITIONS**

\* \* \* \* \*

**§ 101. Postal policy**

(a) \* \* \*

\* \* \* \* \*

*(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service’s market-dominant products and companies competing with the Postal Service’s competitive products.*

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

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

**[(f)]** *(g)* In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation to the destination of important letter mail to all parts of the Nation shall be a primary goal of postal operations.

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

**§ 102. Definitions**

As used in this title—

(1) \* \* \*

\* \* \* \* \*

(3) “Governors” means the 9 members of the Board of Governors appointed by the President, by and with the advice and consent of the Senate, under section 202(a) of this title; **[(and)]**

**[(4)]** “Inspector General” means the Inspector General appointed under section 202(e) of this title; **[(and)]**

(4) “Inspector General” means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;

(5) “postal service” means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto;

(6) “product” means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

(7) “rates”, as used with respect to products, includes fees for postal services;

(8) “market-dominant product” or “product in the market-dominant category of mail” means a product subject to subchapter I of chapter 36;

(9) “competitive product” or “product in the competitive category of mail” means a product subject to subchapter II of chapter 36;

(10) “Consumer Price Index” means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

(11) “year”, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.

## CHAPTER 2—ORGANIZATION

\* \* \* \* \*

### § 202. Board of Governors

(a)(1) The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 11 members appointed in accordance with this section. Nine of the members, to be known as Governors, shall be appointed by the President, by and with the advice and consent of the Senate, not more than 5 of whom may be adherents of the same political party. The Governors shall elect a Chairman from among the members of the Board. [The Governors shall be chosen to represent the public interest generally, and shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.] *The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.* Each Governor shall receive a salary of \$30,000 a year plus \$300 a day for not more than 42 days of meetings each year and shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board. Nothing in the preceding sentence shall be construed to limit the number of days of meetings each year to 42 days.

(2) *In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representa-*

*tives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.*

(b)(1) The terms of the 9 Governors shall be 9 years, except that the terms of the 9 Governors first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 9 years, following the appointment of the first of them. Any Governor appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term. A Governor may continue to serve after the expiration of his term until his successor has qualified, but not to exceed one year.

(2)(A) *Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—*

*(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and*

*(ii) instead of the term that would otherwise apply under the first sentence of paragraph (1), the term of any person so appointed to such office shall be 3 years.*

(B) *Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.*

\* \* \* \* \*

[(e)(1) The Governors shall appoint and shall have the power to remove the Inspector General.

[(2) The Inspector General shall be appointed—

[(A) for a term of 7 years;

[(B) without regard to political affiliation; and

[(C) solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

[(3) The Inspector General may at any time be removed upon the written concurrence of at least 7 Governors, but only for cause. Nothing in this subsection shall be considered to exempt the Governors from the requirements of section 8G(e) of the Inspector General Act of 1978.]

\* \* \* \* \*

**CHAPTER 4—GENERAL AUTHORITY**

Sec.  
401. General powers of the Postal Service.

\* \* \* \* \*

404a. *Specific limitations.*

\* \* \* \* \*

**§ 401. General powers of the Postal Service**

**[The]** *Subject to the provisions of section 404a, the Postal Service shall have the following general powers:*

(1) \* \* \*

**[(2) to adopt, amend, and repeal such rules and regulations as it deems necessary to accomplish the objectives of this title;]**

*(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;*

\* \* \* \* \*

**§ 404. Specific powers**

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

(1) \* \* \*

\* \* \* \* \*

**[(6) to provide, establish, change, or abolish special non-postal or similar services;]**

**[(7)]** *(6) to investigate postal offenses and civil matters relating to the Postal Service;*

**[(8)]** *(7) to offer and pay rewards for information and services in connection with violation of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues, or property, to the person informing for the same, and to pay the other one-half into the Postal Service Fund; and*

**[(9)]** *(8) to authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service.*

*(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.*

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

[(b)] (d)(1) \* \* \*

\* \* \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

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

(A) *if sent to the Commission through the mails, be considered to have been received on the date of the Postal Service postmark on the envelope or other cover in which such appeal is mailed; or*

(B) *if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).*

(e) *Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.*

**§ 404a. Specific Limitations**

(a) *Except as specifically authorized by law, the Postal Service may not—*

(1) *establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;*

(2) *compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or*

(3) *obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).*

(b) *The Postal Regulatory Commission shall prescribe regulations to carry out this section.*

(c) *Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Serv-*

*ice has violated this section may bring a complaint in accordance with section 3662.*

\* \* \* \* \*

**【§ 407. International Postal Arrangements.**

【(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

【(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

【(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

【(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

【(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

【(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

【(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other persons as the Secretary or the Postal Service considers appropriate.】

**§ 407. International postal arrangements**

(a) *It is the policy of the United States—*

(1) *to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;*

(2) *to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;*

(3) *to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and*

(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

(A) shall coordinate with other agencies as appropriate, and in particular, shall give full consideration to the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;

(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;

(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.

(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).

(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

(2) *The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.*

(d) *Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—*

(1) *any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be international law; and*

(2) *a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.*

(e)(1) *With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.*

(2) *For purposes of this subsection, the term "private company" means a private company substantially owned or controlled by persons who are citizens of the United States.*

(3) *In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.*

(4) *The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.*

\* \* \* \* \*

#### **§ 409. Suits by and against the Postal Service**

(a) **[Except as provided in section 3628 of this title,]** *Except as otherwise provided in this title, the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed*

to the appropriate United States district court under the provisions of chapter 89 of title 28.

\* \* \* \* \*

[(d) The Department of Justice shall furnish, under section 411 of this title, the Postal Service such legal representation as it may require, but with the prior consent of the Attorney General the Postal Service may employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.]

[(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.]

*(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—*

*(A) shall be considered to be a “person”, as used in the provisions of law involved; and*

*(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.*

*(2) This subsection applies with respect to—*

*(A) the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946” (15 U.S.C. 1051 and following)); and*

*(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.*

*(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any competitive product, the Postal Service or other Federal agency (as the case may be)—*

*(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and*

*(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—*

*(i) the antitrust laws (as defined in such subsection); and*

*(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.*

*(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.*

*(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.*

*(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.*

*(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all re-*

quirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

(3) For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—

(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—

(i) a copy of such schedule before construction of the building is begun; and

(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

(6) For purposes of this subsection, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

(A) Subsection (d) or (e) of this section.

(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

(C) Section 3663 (relating to appellate review).

The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

(2) *In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.*

(3)(A) *In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.*

(B) *The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.*

(h) *A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).*

\* \* \* \* \*

**§ 410. Application of other laws**

(a) \* \* \*

(b) The following provisions shall apply to the Postal Service:

(1) \* \* \*

\* \* \* \* \*

(5) the following provisions of title 41:

(A) sections 35–45 (known as the Walsh-Healey Act, relating to wages and hours); **[and]**

(B) chapter 6 (the Service Contract Act of 1965);

(C) *the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and*

(D) *section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265) (relating to protecting contractor employees from reprisal for disclosure of certain information);*

\* \* \* \* \*

(e) *The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.*

\* \* \* \* \*

**CHAPTER 5—POSTAL REGULATORY COMMISSION**

- Sec.
- 501. Establishment.
- 502. Commissioners.

503. Rules; regulations; procedures.

504. Administration.

505. Officer of the Postal Regulatory Commission representing the general public.

### **§ 501. Establishment**

*The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.*

### **§ 502. Commissioners**

*(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.*

*(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (e).*

*(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.*

*(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.*

*(e) The Commissioners shall serve for terms of 6 years.*

### **【§ 3603.】 § 503. Rules; regulations; procedures**

The [Postal Rate] *Postal Regulatory Commission* shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this [chapter] *title*. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service. *Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.*

### **【§ 3604.】 § 504. Administration**

(a) The Chairman of the [Postal Rate] *Postal Regulatory Commission* shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed

under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

\* \* \* \* \*

[(d)(1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

[(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

[(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget.

Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.

[(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service fund established under section 2003 of this title.]

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

\* \* \* \* \*

*(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.*

*(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—*

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

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

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

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

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

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

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

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

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

(3)(A) Paragraph (2) shall not prevent the Commission from publicly disclosing relevant information in furtherance of its duties under this title if the Commission has adopted regulations under section 553 of title 5 that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest, as required by section 101(d) of this title for financial transparency of a government establishment.

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

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

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

**§505. Officer of the Postal Regulatory Commission representing the general public**

The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such

as developing rules, regulations, and procedures) who shall represent the interests of the general public.

**CHAPTER 6—PRIVATE CARRIAGE OF LETTERS**

\* \* \* \* \*

**§ 601. Letters carried out of the mail**

(a) \* \* \*

[(b) The Postal Service may suspend the operation of any part of this section upon any mail route where the public interest requires the suspension.]

(b) *A letter may also be carried out of the mails when—*

*(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;*

*(2) the letter weighs at least 12<sup>1</sup>/<sub>2</sub> ounces; or*

*(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2004) that purport to permit private carriage by suspension of the operation of this section (as then in effect).*

(c) *Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.*

\* \* \* \* \*

**PART II—PERSONNEL**

\* \* \* \* \*

**CHAPTER 10—EMPLOYMENT WITHIN THE POSTAL SERVICE**

\* \* \* \* \*

**§ 1001. Appointment and status**

(a) \* \* \*

\* \* \* \* \*

(d) Notwithstanding section 5533, 5535, or 5536 of title 5, or any other provision of law, any officer or employee of the Government of the United States is eligible to serve and receive pay concurrently as an officer or employee of the Postal Service (other than as a member of the Board or of the [Postal Rate] *Postal Regulatory Commission*) and as an officer or employee of any other department, agency, or establishment of the Government of the United States.

\* \* \* \* \*

**§ 1002. Political recommendations**

(a) Except as provided in subsection (e) of this section, each appointment, promotion, assignment, transfer, or designation, interim or otherwise, of an officer or employee in the Postal Service (except a Governor or member of the [Postal Rate] *Postal Regulatory Commission*) shall be made without regard to any recommendation or

statement, oral or written, with respect to any person who requests or is under consideration for such appointment, promotion, assignment, transfer, or designation, made by—

(1) \* \* \*

\* \* \* \* \*

**§ 1003. Employment policy**

(a) Except as provided under [chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law,] *chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law*, the Postal Service shall classify and fix the compensation and benefits of all officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5.

(b) Compensation and benefits for all officers and employees serving in or under the Office of Inspector General of the United States Postal Service shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the [respective] *other* Offices of Inspector General of the various establishments named in section 11(2) of the Inspector General Act of 1978.

(c) Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term “Postal Inspector” [included] *includes* any agent to whom any investigative powers are granted under section 3061 of title 18.

\* \* \* \* \*

**§ 1005. Applicability of laws relating to Federal employees**

(a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

(2) The provisions of [subsection (g) of section 5532,] subsections (i) and (l)(2) of section 8344[, ] and subsections (f) and (i)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions—

(A) \* \* \*

\* \* \* \* \*

**CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS**

\* \* \* \* \*

**§ 1207. Labor disputes**

(a) \* \* \*

(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration

date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall **direct the establishment of a factfinding panel consisting of 3 persons.** For this purpose, he shall submit to the parties a list of not less than 15 names, from which list each party, within 10 days, shall select 1 person. The 2 so selected shall then choose from the list a third person who shall serve as chairman of the factfinding panel. If either of the parties fails to select a person or if the 2 members are unable to agree on the third person within 3 days, the selection shall be made by the Director. The factfinding panel shall issue after due investigation a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.], *within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.*

(c)(1) If no agreement is reached within **[90]** 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefor, an arbitration board shall be established consisting of 3 members, **[not members of the factfinding panel,]** 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made **[by the Director.** If the parties do not agree on the framing of the issues to be submitted, the factfinding panel shall frame the issues and submit them to the arbitration board.] *from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.*

\* \* \* \* \*

(3) Costs of the arbitration board and **[factfinding panel]** *mediation* shall be shared equally by the Postal Service and the bargaining representative.

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

ing arbitration in accordance with the terms of subsection (c) of this section.

\* \* \* \* \*

**PART III—MODERNIZATION AND FISCAL ADMINISTRATION**

Chap.		Sec.
<b>20. Finance</b> .....		<b>2001</b>
* * * * *		
<b>[28. Strategic planning and performance management</b> .....		<b>2801]</b>
<b>28. Strategic Planning and Performance Management</b> .....		<b>2801</b>
* * * * *		

**CHAPTER 20—FINANCE**

Sec.	
2001. Definitions.	
* * * * *	
2011. Provisions relating to competitive products.	

**§ 2001. Definitions**

As used in this chapter—

(1) “Fund” means the Postal Service Fund established by section 2003 of this chapter; **[and]**

(2) “*Competitive Products Fund*” means the Postal Service *Competitive Products Fund* established by section 2011; and

**[(2)]** (3) “obligations”, when referring to debt instruments issued by the Postal Service, means notes, bonds, debentures, mortgages, and any other evidence of indebtedness.

**§ 2002. Capital of the Postal Service**

(a) \* \* \*

(b) The capital of the Postal Service at any time shall consist of its assets, including the balance in the **[Fund,]** *Fund and the balance in the Competitive Products Fund*, less its liabilities.

\* \* \* \* \*

**§ 2003. The Postal Service Fund**

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

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

(1) \* \* \*

\* \* \* \* \*

(7) amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service; **[and]**

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

(9) any amounts collected under section 3018.

[(c) If] (c)(1) *Except as provided in paragraph (2), if the Postal Service determines that the moneys of the Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as it deems appropriate.*

(2)(A) *Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.*

(B) *For purposes of this paragraph, the term "commercial entity" means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.*

\* \* \* \* \*

(e)(1) [The Fund shall be available for the payment of all expenses incurred by the Postal Service in carrying out its functions as provided by law and, subject to the provisions of section 3604 of this title, all of the expenses of the Postal Rate Commission.] *The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8L(e) of the Inspector General Act of 1978. The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service. Neither the Fund nor any of the funds credited to it shall be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31.*

\* \* \* \* \*

**§ 2005. Obligations**

(a)(1) The Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this [title.] *title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.* The aggregate amount of [any such obligations] *obligations issued by the Postal Service which may be outstanding at any one time shall not exceed the maximum amount then allowable under paragraph (2) of this subsection. [In any one fiscal year the net increase in the amount of obligations outstanding issued for the purpose of capital improvements shall not*

exceed \$2,000,000,000, and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed \$1,000,000,000.】 *In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of \$3,000,000,000.*

\* \* \* \* \*

*(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.*

*(b)(1) The Postal Service may pledge the assets of the Postal Service and pledge and use its revenues and receipts for the payment of the principal of or interest on [such obligations,] obligations issued by the Postal Service under this section, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it deems necessary or desirable. The Postal Service is authorized to enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to the establishment of reserve, sinking, and other funds, application and use of revenues and receipts of the Postal Service, stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service and such other matters as the Postal Service deems necessary or desirable to enhance the marketability of such obligations.*

*(2) Notwithstanding any other provision of this section—*

*(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and*

*(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.*

\* \* \* \* \*

**§ 2006. Relationship between the Treasury and the Postal Service**

(a) At least 15 days before selling any issue of obligations under section 2005 or section 2011 of this title, the Postal Service shall advise the Secretary of the Treasury of the amount, proposed date of sale, maturities, terms and conditions, and expected maximum rates of interest of the proposed issue in appropriate detail and shall consult with him or his designee thereon. The Secretary may elect to purchase such obligations under such terms, including rates of interest, as he and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable Treasury securities of comparable maturity, as determined by the Secretary. If the Secretary does not purchase such obligations, the Postal Service may proceed to issue and sell them to a party or parties other than the Secretary upon notice to the Secretary and upon consultation as to the date of issuance, maximum rates of interest, and other terms and conditions.

(b) Subject to the conditions of subsection (a) of this section, the Postal Service may require the Secretary of the Treasury to purchase obligations of the Postal Service *under section 2005* in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed \$2,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Postal Service *under section 2005* in excess of such amount.

(c) Notwithstanding section 2005(d)(5) or section 2011(e)(4)(E) of this title, obligations issued by the Postal Service *under section 2005* shall be obligations of the Government of the United States, and payment of principal and interest thereon shall be fully guaranteed by the Government of the United States, such guaranty being expressed on the face thereof, if and to the extent that—

(1) \* \* \*

\* \* \* \* \*

**§ 2009. Annual budget**

The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Service may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fiscal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and

operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings. [The budget program shall also include separate statements of the amounts which the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401 of this title.] *The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8L(e) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.* The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.

\* \* \* \* \*

**§2011. Provisions relating to competitive products**

(a) *There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—*

- (1) *costs attributable to competitive products; and*
- (2) *all other costs incurred by the Postal Service, to the extent allocable to competitive products.*

*For purposes of this subsection, the term “costs attributable” has the meaning given such term by section 3631.*

(b) *There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—*

- (1) *revenues from competitive products;*
- (2) *amounts received from obligations issued by the Postal Service under subsection (e);*
- (3) *interest and dividends earned on investments of the Competitive Products Fund; and*
- (4) *any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.*

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

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

(e)(1) *Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund. Any such borrowings by the Postal Service shall be supported and serviced by the revenues and receipts from competitive products*

and the assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e), but in either case subject to paragraph (5)).

(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

(A) the establishment of reserve, sinking, and other funds;

(B) application and use of revenues and receipts of the Competitive Products Fund;

(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

(3) The obligations issued by the Postal Service under this section—

(A) shall be in such forms and denominations;

(B) shall be sold at such times and in such amounts;

(C) shall mature at such time or times;

(D) shall be sold at such prices;

(E) shall bear such rates of interest;

(F) may be redeemable before maturity in such manner, at such times, and at such redemption premiums;

(G) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

(H) shall be subject to such other terms and conditions;

as the Postal Service determines.

(4) Obligations issued by the Postal Service under this subsection—

(A) shall be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

(B) shall contain a recital that they are issued under this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

(C) shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the Government of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired under this section;

(D) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority; and

(E) except as provided in section 2006(c) of this title, shall not be obligations of, nor shall payment of the principal thereof or

*interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.*

*(5) The Postal Service shall make payments of principal, or interest, or both on obligations issued under this section out of revenues and receipts from competitive products and assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available, including the audited statements required by section 2008(e)). For purposes of this subsection, the total assets of the Competitive Products Fund shall be the greater of—*

*(A) the assets related to the provision of competitive products;*

*or*

*(B) the percentage of total Postal Service revenues and receipts from competitive products times the total assets of the Postal Service.*

*(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service Fund under section 2009a.*

*(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.*

*(h)(1) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and such other advisors as the Secretary considers appropriate, shall develop recommendations regarding—*

*(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and*

*(B) the substantive and procedural rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).*

*Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.*

*(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments, with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.*

*(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—*

*(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;*

(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

(ii) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).

\* \* \* \* \*

**CHAPTER 24—APPROPRIATIONS AND ANNUAL REPORT**

\* \* \* \* \*

**§ 2401. Appropriations**

(a) \* \* \*

\* \* \* \* \*

(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a) (as last in effect before enactment of the Postal Accountability and Enhancement Act), for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of

section 3626(a)(3)(B)(ii) (as last in effect before enactment of the Postal Accountability and Enhancement Act) were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service \$29,000,000 for each of fiscal years 1994 through 2035.

(e) The Postal Service shall present to the Committee on Governmental Affairs of the Senate and the [Committee on Post Office and Civil Service] Committee on Government Reform of the House of Representatives and the Committees on Appropriations of the Senate and the House of Representatives, at the same time it submits its annual budget under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated, and a comprehensive statement relating to the following matters:

(1) \* \* \*

\* \* \* \* \*

[Not later than March 15 of each year,] Each year, the Postal Service shall appear before the Committee on Governmental Affairs of the Senate and the [Committee on Post Office and Civil Service] Committee on Government Reform of the House of Representatives to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to such budget and statement. Each such committee shall take such action as it considers appropriate and shall advise the Postal Service of such action.

\* \* \* \* \*

**CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT**

\* \* \* \* \*

**§ 2803. Performance plans**

(a) The Postal Service shall prepare an annual performance plan covering each program activity set forth in the Postal Service budget, which shall be included in the comprehensive statement presented under section [2401(g)] 2401(e) of this title. Such plan shall—

(1) \* \* \*

\* \* \* \* \*

**§ 2804. Program performance reports**

(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section [2401(g)] 2401(e) of this title.

\* \* \* \* \*

**PART IV—MAIL MATTER**

\* \* \* \* \*

**CHAPTER 30—NONMAILABLE MATTER**

Sec.  
3001. Nonmailable matter.

\* \* \* \* \*

3018. *Hazardous material.*

**§ 3001. Nonmailable matter**

(a) \* \* \*

\* \* \* \* \*

(n)(1) *Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.*

(2) *In this subsection, the term “hazardous material” means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.*

[(n)] (o) The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

\* \* \* \* \*

**§ 3005. False representations; lotteries**

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable [under 3001(d),] *under section 3001(d),* (h), (i), (j), or (k) of this title, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) \* \* \*

\* \* \* \* \*

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For purposes of the preceding sentence, the mailing of matter which is nonmailable [under such 3001(d),] *under such section 3001(d),* (h), (i), (j), or (k) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

\* \* \* \* \*

**§ 3013. Semiannual reports on investigative activities of the Postal Service**

The [Postmaster General] *Chief Postal Inspector* shall submit semiannual reports to the Inspector General summarizing the investigative activities of the Postal Service. One semiannual report shall be submitted for the reporting period beginning on October 1

and ending on March 31, and the other semiannual report shall be submitted for the reporting period beginning on April 1 and ending on September 30. Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved and shall include with respect to such reporting period—

(1) \* \* \*

\* \* \* \* \*

The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the [Postmaster General] *Chief Postal Inspector* under this section include any information relating to activities of the Inspector General.

\* \* \* \* \*

**§ 3018. Hazardous material**

(a) *IN GENERAL.*—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

(b) *PROHIBITIONS.*—No person may—

(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be non-mailable;

(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

(A) is represented, marked, certified, or sold by such person for use in the mailing of hazardous material; and

(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

(c) *CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.*—

(1) *IN GENERAL.*—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

(A) a civil penalty of at least \$250, but not more than \$100,000, for each violation;

(B) the costs of any clean-up associated with each violation; and

(C) damages.

(2) *KNOWING ACTION.*—A person acts knowingly for purposes of paragraph (1) when—

(A) the person has actual knowledge of the facts giving rise to the violation; or

(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

(3) *SEPARATE VIOLATIONS.*—

(A) *VIOLATIONS OVER TIME.*—A separate violation under this subsection occurs for each day hazardous material, mailed or caused to be mailed in noncompliance with this section, is in the mail.

(B) *SEPARATE ITEMS.*—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

(d) *HEARINGS.*—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

(e) *PENALTY CONSIDERATIONS.*—In determining the amount of a civil penalty for a violation of this section, the Postal Service shall consider—

(1) the nature, circumstances, extent, and gravity of the violation;

(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

(3) the impact on Postal Service operations; and

(4) any other matters that justice requires.

(f) *CIVIL ACTIONS TO COLLECT.*—

(1) *IN GENERAL.*—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

(2) *COMPROMISE.*—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

(g) *CIVIL JUDICIAL PENALTIES.*—

(1) *IN GENERAL.*—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

(2) *RELIEF.*—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

(3) *CONSTRUCTION.*—A civil action under this subsection shall be in lieu of civil penalties for the same violation under subsection (c)(1)(A).

(h) *DEPOSIT OF AMOUNTS COLLECTED.*—

(1) *POSTAL SERVICE FUND.*—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

(2) *TREASURY.*—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.

**CHAPTER 32—PENALTY AND FRANKED MAIL**

\* \* \* \* \*

**§ 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials**

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

\* \* \* \* \*

(6)(A) \* \* \*

\* \* \* \* \*

(C) No Member of the Senate may mail any mass mailing as franked mail if such mass mailing [is mailed fewer] *is postmarked fewer* than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any national, State or local office in which such Member is a candidate for election.

\* \* \* \* \*

**[CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES****[SUBCHAPTER I—POSTAL RATE COMMISSION****[Sec.****[3601. Establishment.****[3602. Terms of office.****[3603. Rules; regulations; procedures.****[3604. Administration.****[SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL****[3621. Authority to fix rates and classes.****[3622. Rates and fees.****[3623. Mail classification.****[3624. Recommended decisions of Commission.****[3625. Action of the Governors.****[3626. Reduced rates.****[3627. Adjusting free rates.****[3628. Appellate review.****[3629. Reduced rates for voter registration purposes.****[SUBCHAPTER III—TEMPORARY RATES AND CLASSES****[3641. Temporary changes in rates and classes.****[3642. Special authority relating to reduced-rate categories of mail.****[SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS****[3661. Postal services.****[3662. Rate and service complaints.****[3663. Annual report on international services.****[SUBCHAPTER V—GENERAL****[3681. Reimbursement.****[3682. Size and weight limits.****[3683. Uniform rates for books; films; other materials.****[3684. Limitations.****[3685. Filing of information relating to periodical publications.****[SUBCHAPTER I—POSTAL RATE COMMISSION****[§ 3601. Establishment**

[(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, ap-

pointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

[(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

[(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

[(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

#### **[(§ 3602. Terms of office**

[(The Commissioners of the Postal Rate Commission shall serve for terms of 6 years except that—

[(1) the terms of the Commissioners first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 2 years, 2 at the end of 4 years, and 2 at the end of 6 years, following the appointment of the first of them; and

[(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

### **[(SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL**

#### **[(§ 3621. Authority to fix rates and classes**

[(Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of this chapter. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service. For purposes of this section, “total estimated costs” shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and expense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.

#### **[(§ 3622. Rates and fees**

[(a) From time to time the Postal Service shall request the Postal Rate Commission to submit a recommended decision on changes

in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of this title. The Postal Service may submit such suggestions for rate adjustments as it deems suitable.

[(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees in each class of mail or type of service in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable schedule;

[(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

[(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

[(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

[(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

[(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

[(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

[(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

[(9) such other factors as the Commission deems appropriate.

[(c) Regular rates for each class or subclass of mail that includes 1 or more special rate categories for mail under former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the corresponding special rate categories authorized by former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title.

[(d) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.

### **[(§ 3623. Mail classification**

[(a) Within 2 years after the effective date of this subchapter, the Postal Service shall request the Postal Rate Commission to make a recommended decision on establishing a mail classification schedule in accordance with the provisions of this section.

[(b) Following the establishment of the mail classification schedule requested under subsection (a) of this section, the Postal Service may from time to time request that the Commission submit, or the Commission may submit to the Governors on its own initiative, a recommended decision on changes in the mail classification schedule.

[(c) The Commission shall make a recommended decision on establishing or changing the schedule in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable classification system for all mail;

[(2) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

[(3) the importance of providing classifications with extremely high degrees of reliability and speed of delivery;

[(4) the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery;

[(5) the desirability of special classifications from the point of view of both the user and of the Postal Service; and

[(6) such other factors as the Commission may deem appropriate.

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

#### **§ 3624. Recommended decisions of Commission**

[(a) The Postal Rate Commission shall promptly consider a request made under section 3622 or 3623 of this title, except that the Commission shall not recommend a decision until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public.

[(b) In order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties, the Commission may (without limitation) adopt rules which provide for—

[(1) the advance submission of written direct testimony;

[(2) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;

[(3) discovery both from the Postal Service and the parties to the proceedings;

[(4) limitation of testimony; and

[(5) the conduct of the entire proceedings off the record with the consent of the parties.

[(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

[(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.

[(d) The Commission shall transmit its recommended decision in a rate, fee, or classification matter to the Governors. The recommended decision shall include a statement specifically responsive to the criteria established under section 3622 or 3623, as the case may be.

#### **[\S 3625. Action of the Governors**

[(a) Upon receiving a recommended decision from the Postal Rate Commission, the Governors may approve, allow under protest, reject, or modify that decision in accordance with the provisions of this section.

[(b) The Governors may approve the recommended decision and order the decision placed in effect.

[(c) The Governors may, under protest, allow a recommended decision of the Commission to take effect and (1) seek judicial review thereof under section 3628 of this title, or (2) return the recommended decision to the Commission for reconsideration and a further recommended decision, which shall be acted upon under this section and subject to review in accordance with section 3628 of this title.

[(d) The Governors may reject the recommended decision of the Commission and the Postal Service may resubmit its request to the Commission for reconsideration. Upon resubmission, the request shall be reconsidered, and a further recommended decision of the Commission shall be acted upon under this section and subject to review in accordance with section 3628 of this title. However, with the unanimous written concurrence of all of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission under this subsection if the Governors expressly find that (1) such modification is in accord with the record and the policies of this chapter, and (2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.

[(e) The decision of the Governors to approve, allow under protest, reject, or modify a recommended decision of the Commission shall be in writing and shall include an estimate of anticipated revenue and a statement of explanation and justification. The decision, the record of the Commission's hearings, and the Commission's recommended decision shall be made generally available at the time the decision is issued and shall be printed and made

available for sale by the Public Printer within 10 days following the day the decision is issued.

[(f) The Board shall determine the date on which the new rates, fees, the mail classification schedule, and changes in such schedule under this subchapter shall become effective.]

## **CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES**

### *SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS*

*Sec.*

- 3621. *Applicability; definitions.*
- 3622. *Modern rate regulation.*
- 3626. *Reduced rates.*
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### **SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS**

#### **§ 3621. Applicability; definitions**

- (a) *APPLICABILITY.*—*This subchapter shall apply with respect to—*
- (1)(A) *single piece first-class letters (both domestic and international);*
  - (B) *single piece first-class cards (both domestic and international); and*
  - (C) *special services;*
  - (2) *all first-class mail not included under paragraph (1);*
  - (3) *periodicals;*
  - (4) *standard mail;*
  - (5) *media mail;*
  - (6) *library mail; and*

(7) bound printed matter, subject to any changes the Postal Regulatory Commission may make under section 3642.

(b) *RULE OF CONSTRUCTION.*—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

**§ 3622. Modern rate regulation**

(a) *AUTHORITY GENERALLY.*—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

(b) *OBJECTIVES.*—Such system shall be designed to achieve the following objectives:

(1) To establish and maintain a fair and equitable schedule for rates and classification.

(2) To maximize incentives to reduce costs and increase efficiency.

(3) To create predictability and stability in rates.

(4) To maintain high quality service standards.

(5) To allow the Postal Service pricing flexibility.

(6) To assure adequate revenues, including retained earnings, to maintain financial stability.

(7) To reduce the administrative burden of the ratemaking process.

(c) *FACTORS.*—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

(1) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

(2) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

(3) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

(4) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

(5) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

(6) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

(7) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

(8) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of pro-

*viding those that do not require high degrees of reliability and speed of delivery;*

*(9) the desirability of special classifications from the point of view of both the user and of the Postal Service;*

*(10) the educational, cultural, scientific, and informational value to the recipient of mail matter; and*

*(11) the policies of this title as well as such other factors as the Commission deems appropriate.*

*(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:*

*(1) Price caps, revenue targets, or other form of incentive regulation.*

*(2) Cost-of-service regulation.*

*(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).*

*(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.*

*(f) TRANSITION RULE.—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.*

### **§ 3626. Reduced rates**

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

[(2) For the purpose of this subsection—

[(A) the term “costs attributable”, as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

[(B) the term “regular-rate category” means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (3)(A) or section 2401(c); and

[(C) the term “institutional-costs contribution”, as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

[(3)(A) Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358 of this title shall be established in a manner such that the esti-

mated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

[(i) the estimated costs attributable to such class of mail or kind of mailer; and

[(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

[(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

[(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents relative to the estimated costs attributable to such category of mail, times

[(ii)(I) one-twelfth, for fiscal year 1994;

[(II) one-sixth, for fiscal year 1995;

[(III) one-fourth, for fiscal year 1996;

[(IV) one-third, for fiscal year 1997;

[(V) five-twelfths, for fiscal year 1998; and

[(VI) one-half, for any fiscal year after fiscal year 1998.

[(C) Temporary special authority to permit the timely implementation of the preceding provisions of this paragraph is provided under section 3642.

[(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting “one-half”.]

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

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

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

\* \* \* \* \*

(g)(1) \* \* \*

\* \* \* \* \*

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

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

shall be subject to rates of postage provided for under this paragraph.

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

(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.

\* \* \* \* \*

(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).

**[§ 3627. Adjusting free and reduced rates]**

**§ 3627. Adjusting free rates**

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent free of postage under section 3217 or 3403–3406 the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

**[§ 3628. Appellate review**

[A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission and the Governors. The court may affirm the decision or order that the entire matter be returned for further consideration, but the court may not modify the decision. The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision made by the Commission or Governors under this chapter except as provided in this section.]

\* \* \* \* \*

**SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS**

**§ 3631. Applicability; definitions and updates**

- (a) **APPLICABILITY.**—This subchapter shall apply with respect to—
- (1) priority mail;
  - (2) expedited mail;
  - (3) mailgrams;
  - (4) international mail; and

(5) parcel post, subject to any changes the Postal Regulatory Commission may make under section 3642.

(b) *DEFINITION.*—For purposes of this subchapter, the term “costs attributable”, as used with respect to a product, means the direct and indirect postal costs attributable to such product.

(c) *RULE OF CONSTRUCTION.*—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

### **§3632. Action of the Governors**

(a) *AUTHORITY TO ESTABLISH RATES AND CLASSES.*—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

(b) *PROCEDURES.*—

(1) *IN GENERAL.*—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

(2) *RATES OR CLASSES OF GENERAL APPLICABILITY.*—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors’ proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

(3) *RATES OR CLASSES NOT OF GENERAL APPLICABILITY.*—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

(4) *CRITERIA.*—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

(c) *TRANSITION RULE.*—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

### **§3633. Provisions applicable to rates for competitive products**

The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

(1) to prohibit the subsidization of competitive products by market-dominant products;

(2) to ensure that each competitive product covers its costs attributable; and

(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.

**§ 3634. Assumed Federal income tax on competitive products income**

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

(1) the term “assumed Federal income tax on competitive products income” means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

(2) the term “assumed taxable income from competitive products”, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

(b) *COMPUTATION AND TRANSFER REQUIREMENTS.*—The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—

(1) compute its assumed Federal income tax on competitive products income for such year; and

(2) transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

(c) *DEADLINE FOR TRANSFERS.*—Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.

**[SUBCHAPTER III—TEMPORARY RATES AND CLASSES**

**[§ 3641. Temporary changes in rates and classes**

[(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days’ notice in the Federal Register.

[(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated

income, including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

[(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

[(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commission transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

[(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

[(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.

**[(§ 3642. Special authority relating to reduced-rate categories of mail**

[(a) In order to permit the timely implementation of section 3626(a)(3), the Postal Service may establish temporary rates of postage for any class of mail or kind of mailer referred to in section 3626(a)(3)(A).

[(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

[(1) All attributable costs and institutional-costs contributions assumed shall be the same as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

[(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

[(A) such a rate may take effect only after 10 days' notice in the Federal Register; and

[(B) no such rate may take effect after September 30, 1998.

[(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

[(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for a particular class of mail or kind of mailer, except as provided in paragraph (5).

[(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

[(A) the rates established for such class of mail or kind of mailer by the earlier adjustment are superseded by new rates established under subchapter II; and

[(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

[(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.

[(d) Notwithstanding any provision of section 3626(a)(3)(B) or subsection (a) of this section, any temporary rates established under this section for non-letter-shaped mail under former section 4452(b) or 4452(c) of this title shall not be lower than the rates in effect for such mail on September 30, 1993.]

### SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

#### § 3641. *Market tests of experimental products*

(a) *AUTHORITY.*—

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

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

(b) *CONDITIONS.*—*A product may not be tested under this section unless it satisfies each of the following:*

(1) *SIGNIFICANTLY DIFFERENT PRODUCT.*—*The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.*

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

(3) *CORRECT CATEGORIZATION.*—*The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable*

to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

(c) NOTICE.—

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

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

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

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

(d) DURATION.—

(1) *IN GENERAL.*—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

(2) *EXTENSION AUTHORITY.*—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

(e) DOLLAR-AMOUNT LIMITATION.—

(1) *IN GENERAL.*—A product may be tested under this section only if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 nationwide in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

(2) *EXEMPTION AUTHORITY.*—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

(A) the product is likely to benefit the public and meet an expected demand;

(B) the product is likely to contribute to the financial stability of the Postal Service; and

(C) *the product is not likely to result in unfair or otherwise inappropriate competition.*

(f) **CANCELLATION.**—*If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.*

(g) **ADJUSTMENT FOR INFLATION.**—*For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission).*

(h) **DEFINITION OF A SMALL BUSINESS CONCERN.**—*The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.*

(i) **EFFECTIVE DATE.**—*Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).*

**§ 3642. New products and transfers of products between the market-dominant and competitive categories of mail**

(a) **IN GENERAL.**—*Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.*

(b) **CRITERIA.**—*All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:*

(1) *The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.*

(2) **EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.**—*A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term "product covered by the postal monopoly" means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).*

(3) **ADDITIONAL CONSIDERATIONS.**—*In making any decision under this section, due regard shall be given to—*

(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;  
 (B) the views of those who use the product involved on the appropriateness of the proposed action; and

(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

(c) **TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.**—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

(d) **NOTIFICATION AND PUBLICATION REQUIREMENTS.**—

(1) **NOTIFICATION REQUIREMENT.**—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

(2) **PUBLICATION REQUIREMENT.**—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

(e) **NOTIFICATION REQUIREMENT.**—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

(f) **PROHIBITION.**—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

(1) under this subchapter; or

(2) by or under any other provision of law.

#### **SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS**

##### **§ 3651. Annual reports by the Commission**

(a) **IN GENERAL.**—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the ex-

tent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

(b) *ADDITIONAL INFORMATION.*—In addition to the information required under subsection (a), each report under this section shall also include, with respect to the period covered by such report, an estimate of the costs incurred by the Postal Service in providing—

(1) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

(2) free or reduced rates for postal services as required by this title; and

(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

The Commission shall detail the bases for its estimates and the statutory requirements giving rise to the costs identified in each report under this section.

(c) *INFORMATION FROM POSTAL SERVICE.*—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

### **§ 3652. Annual reports to the Commission**

(a) *COSTS, REVENUES, AND RATES.*—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex thereto as the Commission may require under subsection (e))—

(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that the rates in effect for all products during such year complied with all applicable requirements of this title; and

(2) which shall, for each market-dominant product provided in such year, provide—

(A) market information, including mail volumes; and

(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

(i) the service standard applicable to such product;

(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

(iii) the degree of customer satisfaction with the service provided.

The Inspector General shall regularly audit the data collection systems and procedures utilized in collecting information and preparing such report (including any annex thereto and the information required under subsection (b)). The results of any such audit shall be submitted to the Postal Service and the Postal Regulatory Commission.

*(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—*

*(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:*

*(A) The per-item cost avoided by the Postal Service by virtue of such discount.*

*(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.*

*(C) The per-item contribution made to institutional costs.*

*(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term “workshare discount” has the meaning given such term under section 3687.*

*(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered through market tests under section 3641 in a year, the Postal Service—*

*(1) may report summary data on the costs, revenues, and quality of service by market test; and*

*(2) shall report such data as the Postal Regulatory Commission requires.*

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

*(e) CONTENT AND FORM OF REPORTS.—*

*(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—*

*(A) providing the public with adequate information to assess the lawfulness of rates charged;*

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

*(C) protecting the confidentiality of commercially sensitive information.*

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

*(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;*

*(B) the quality of service data has become significantly inaccurate or can be significantly improved; or*

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

*(f) CONFIDENTIAL INFORMATION.—*

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

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

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

(g) *OTHER REPORTS*.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

- (1) comprehensive statement under section 2401(e);
- (2) performance plan under section 2803; and
- (3) program performance reports under section 2804.

### **§ 3653. Annual determination of compliance**

(a) *OPPORTUNITY FOR PUBLIC COMMENT*.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.

(b) *DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE*.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

- (1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder);
- (2) whether any performance goals established under section 2803 or 2804 for such year were not met; and
- (3) whether any market-dominant product failed to meet any service standard during such year.

If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.

(c) *IF ANY NONCOMPLIANCE IS FOUND*.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

(d) *REBUTTABLE PRESUMPTION*.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters de-

scribed in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.

**§ 3654. Additional financial reporting**

(a) **ADDITIONAL FINANCIAL REPORTING.**—

(1) **IN GENERAL.**—The Postal Service shall file with the Postal Regulatory Commission beginning with the first full fiscal year following the effective date of this section—

(A) within 35 days after the end of each fiscal quarter, a quarterly report containing the information required by the Securities and Exchange Commission to be included in quarterly reports under sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)) on Form 10-Q, as such Form (or any successor form) may be revised from time to time;

(B) within 60 days after the end of each fiscal year, an annual report containing the information required by the Securities and Exchange Commission to be included in annual reports under such sections on Form 10-K, as such Form (or any successor form) may be revised from time to time; and

(C) periodic reports within the time frame and containing the information prescribed in Form 8-K of the Securities and Exchange Commission, as such Form (or any successor form) may be revised from time to time.

(2) **REGISTRANT DEFINED.**—For purposes of defining the reports required by paragraph (1), the Postal Service shall be deemed to be the “registrant” described in the Securities and Exchange Commission Forms, and references contained in such Forms to Securities and Exchange Commission regulations are incorporated herein by reference, as amended.

(3) **INTERNAL CONTROL REPORT.**—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2007.

(b) **FINANCIAL REPORTING.**—

(1) The reports required by subsection (a)(1)(B) shall include, with respect to the Postal Service’s pension and post-retirement health obligations—

(A) the funded status of the Postal Service’s pension and postretirement health obligations;

(B) components of the net change in the fund balances and obligations and the nature and cause of any significant changes;

(C) components of net periodic costs;

(D) cost methods and assumptions underlying the relevant actuarial valuations;

(E) the effect of a one-percentage point increase in the assumed health care cost trend rate for each future year on the service and interest costs components of net periodic postretirement health cost and the accumulated obligation;

(F) actual contributions to and payments from the funds for the years presented and the estimated future contributions and payments for each of the following 5 years;

(G) the composition of plan assets reflected in the fund balances; and

(H) the assumed rate of return on fund balances and the actual rates of return for the years presented.

(2)(A) Beginning with reports for the fiscal year 2007, for purposes of the reports required under subparagraphs (A) and (B) of subsection (a)(1), the Postal Service shall include segment reporting.

(B) The Postal Service shall determine the appropriate segment reporting under subparagraph (A) after consultation with the Postal Regulatory Commission.

(c) TREATMENT.—For purposes of the reports required by subsection (a)(1)(B), the Postal Service shall obtain an opinion from an independent auditor on whether the information listed in subsection (b) is fairly stated in all material respects, either in relation to the basic financial statements as a whole or on a stand-alone basis.

(d) SUPPORTING MATTER.—The Postal Regulatory Commission shall have access to the audit documentation and any other supporting matter of the Postal Service and its independent auditor in connection with any information submitted under this section.

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

(1) the data have become significantly inaccurate or can be significantly improved; or

(2) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest.

(f) CONFIDENTIAL INFORMATION.—

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

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

[SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS]

*SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND  
JUDICIAL REVIEW*

\* \* \* \* \*

**§ 3662. Rate and service complaints**

Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Postal Rate Commission in such form and in such manner as it may prescribe. The Commission may in its discretion hold hearings on such complaint. If the Commission, in a matter covered by subchapter II of this chapter, determines the complaint to be justified, it shall, after proceedings in conformity with section 3624 of this title, issue a recommended decision which shall be acted upon in accordance with the provisions of section 3625 of this title and subject to review in accordance with the provisions of section 3628 of this title. If a matter not covered by subchapter II of this chapter is involved, and the Commission after hearing finds the complaint to be justified, it shall render a public report thereon to the Postal Service which shall take such action as it deems appropriate.

**§ 3663. Annual report on international services**

(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.]

**§ 3662. Rate and service complaints**

(a) *IN GENERAL.*—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

(b) *PROMPT RESPONSE REQUIRED.*—

(1) *IN GENERAL.*—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

(A) begin proceedings on such complaint; or

(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

(2) *TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.*—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

(c) *ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.*—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

(d) *SUSPENSION AUTHORITY.*—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

(e) *AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NON-COMPLIANCE.*—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

### **§ 3663. Appellate review**

A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term “person” includes the Postal Service.

**§ 3664. Enforcement of orders**

*The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.*

**[SUBCHAPTER V—GENERAL]**

**SUBCHAPTER VI—GENERAL**

**§ 3681. Reimbursement**

No mailer may be reimbursed for any amount paid under any rate or fee which, after such payment, is determined to have been unlawful after proceedings in accordance with the provisions of **[section 3628]** *sections 3662 through 3664* of this title, or is superseded by a lower rate or fee established under subchapter II of this chapter.

**[§ 3682. Size and weight limits**

**[The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.]**

**§ 3682. Size and weight limits**

*The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.*

\* \* \* \* \*

**§ 3684. Limitations**

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision **[of section 3682 or 3683 or chapter 30, 32, or 34 of this title.]** *of this title.*

\* \* \* \* \*

**§ 3686. Bonus authority**

*(a) IN GENERAL.—The Postal Service may establish one or more programs to provide bonuses or other rewards to officers and employees of the Postal Service in senior executive or equivalent positions to achieve the objectives of this chapter.*

*(b) LIMITATION ON TOTAL COMPENSATION.—*

*(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2). Any such award or bonus may not cause the total compensation of such officer or employee to exceed the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which the bonus or award is paid.*

*(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a),*

to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

(A) the Postal Service shall make an appropriate request to the Board of Governors in such form and manner as the Board requires; and

(B) the Board of Governors shall approve any such request if it certifies, for the annual appraisal period involved, that the performance appraisal system for affected officers and employees of the Postal Service (as designed and applied) makes meaningful distinctions based on relative performance.

(3) REVOCATION AUTHORITY.—If the Board of Governors finds that a performance appraisal system previously approved under paragraph (2)(B) does not (as designed and applied) make meaningful distinctions based on relative performance, the Board may revoke or suspend the authority of the Postal Service to continue a program approved under paragraph (2) until such time as appropriate corrective measures have, in the judgment of the Board, been taken.

(c) EXCEPTIONS FOR CRITICAL POSITIONS.—Notwithstanding any other provision of law, the Board of Governors may allow up to 12 officers or employees of the Postal Service in critical senior executive or equivalent positions to receive total compensation in an amount not to exceed 120 percent of the total annual compensation payable to the Vice President under section 104 of title 3 as of the end of the calendar year in which such payment is received. For each exception made under this subsection, the Board shall provide written notification to the Director of the Office of Personnel Management and the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.

(d) INFORMATION FOR INCLUSION IN COMPREHENSIVE STATEMENT.—Included in its comprehensive statement under section 2401(e) for any period shall be—

(1) the name of each person receiving a bonus or other payment during such period which would not have been allowable but for the provisions of subsection (b) or (c);

(2) the amount of the bonus or other payment; and

(3) the amount by which the limitation set forth in the last sentence of section 1003(a) was exceeded as a result of such bonus or other payment.

(e) REGULATIONS.—The Board of Governors may prescribe regulations for the administration of this section.

### **§ 3687. Workshare discounts**

(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as the result of workshare activity, unless—

(1) the discount is—

(A) associated with a new postal service, a change to an existing postal service, or a new workshare initiative related to an existing postal service; and

- (B) necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service and the portion of the discount in excess of the cost that the Postal Service avoids as a result of the workshare activity will be phased out over a limited period of time;
- (2) a reduction in the discount would—
  - (A) lead to a loss of volume in the affected category or subclass of mail and reduce the aggregate contribution to the institutional costs of the Postal Service from the category or subclass subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;
  - (B) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or
  - (C) impede the efficient operation of the Postal Service;
- (3) the amount of the discount above costs avoided—
  - (A) is necessary to mitigate rate shock; and
  - (B) will be phased out over time; or
- (4) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.
- (b) *REPORT.*—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report that—
  - (1) explains the Postal Service’s reasons for establishing or maintaining the rate;
  - (2) sets forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate; and
  - (3) certifies that the discount will not adversely affect rates or services provided to users of postal services who do not take advantage of the discount rate.
- (c) *DEFINITION.*—For purposes of this section, the term “workshare discount” refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under section 3622(a).

**PART V—TRANSPORTATION OF MAIL**

Chap.	Sec.
<b>50. General</b> .....	<b>5001</b>
<b>[52. Transportation of Mail by Surface Carrier</b> .....	<b>5201]</b>
* * * * *	

**CHAPTER 50—GENERAL**

\* \* \* \* \*

**§ 5001. Provisions for carrying mail**

The Postal Service shall provide for the transportation of mail in accordance with the policies established under section [101(e) and (f)] 101(f) and (g) of this title and the provisions of this chapter. Notwithstanding any other provision of this title, the Postal Service may make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emer-

gency arises. Such arrangements shall terminate when the emergency ceases and the Postal Service is promptly able to secure transportation services under other provisions of this title.

\* \* \* \* \*

**§ 5005. Mail transportation**

(a) The Postal Service may obtain mail transportation service—  
 [(1) from common carriers by rail and motor vehicle or persons as provided in chapter 52 of this title;]

[(2)] (1) from air carriers as provided in chapter 54 of this title;

[(3)] (2) from water carriers as provided in chapter 56 of this title; and

[(4)] (3) by contract from any person [(as defined in section 5201(6) of this title)] or carrier for surface and water transportation under such terms and conditions as it deems appropriate, subject to the provisions of this section.

(b)(1) Contracts for the transportation of mail procured under subsection [(a)(4)] (a)(3) of this section shall be for periods not in excess of 4 years [(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)] (or such longer period of time as may be determined by the Postal Service to be advisable or appropriate) and shall be entered into only after advertising a sufficient time previously for proposals. The Postal Service, with the consent of the holder of any such contract, may adjust the compensation allowed under that contract for increased or decreased costs resulting from changed conditions occurring during the term of the contract.

(2) A contract under subsection [(a)(4)] (a)(3) of this section may be renewed at the existing rate by mutual agreement between the contractor or subcontractor and the Postal Service.

\* \* \* \* \*

(c) The Postal Service, in determining whether to obtain transportation of mail [by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or] by contract under subsection (a)(3) of this section or by Government motor vehicle, shall use the mode of transportation which best serves the public interest, due consideration being given to the cost of the transportation service under each mode.

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**[CHAPTER 52—TRANSPORTATION OF MAIL BY SURFACE CARRIER**

- [Sec.
- [5201. Definitions.
- [5202. Applicability.
- [5203. Authorization of service by carrier.
- [5204. Changes in service; placement of equipment.
- [5205. Evidence of service.
- [5206. Fines and deductions.
- [5207. Surface Transportation Board to fix rates.
- [5208. Procedures.
- [5209. Special rates.
- [5210. Intermodal transportation.
- [5211. Statistical studies.

- §5212. Special contracts.
- §5213. Carrier operations; receipts; expenditures.
- §5214. Agreements with passenger common carriers by motor vehicle.
- §5215. Star route certification.

### § 5201. Definitions

For purposes of this chapter—

- (1) “Board” means the Surface Transportation Board;
- (2) “carrier” and “regulated surface carrier” mean a railroad, a freight forwarder, or a motor carrier;
- (3) “railroad” means a railway common carrier, including an electric urban and interurban railway common carrier;
- (4) “freight forwarder” means any regulated freight forwarder which holds itself out to the general public as a carrier to transport or provide transportation of property as authorized by a registration issued by the Board;
- (5) “motor carrier” means a motor carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 13102(12) of title 49, that holds a registration issued by the Board;
- (6) “person” includes any person other than a carrier holding a certificate or registration issued by the Board; and
- (7) “mail” includes equipment and supplies of the Postal Service.

### § 5202. Applicability

This chapter applies to mail transportation performed by any person or carrier or carrier combination regardless of the mode of transportation actually used to provide the service.

### § 5203. Authorization of service by carrier

(a) The Postal Service may establish mail routes and authorize mail transportation service thereon.

(b) A carrier shall transport mail offered for transportation by the Postal Service in the manner, under the conditions, and with the service prescribed by the Postal Service. A carrier is entitled to receive fair and reasonable compensation for the transportation and service connected therewith.

(c) The Postal Service shall determine the trains or motor vehicles upon which mail shall be transported, except that no carrier shall be compelled to transport mail on any train or vehicle which is operated exclusively for the transportation of passengers and their baggage.

(d) A carrier shall transport with due speed such mail as the Postal Service directs under this section.

(e) No carrier shall be required to serve territory it is not otherwise authorized to serve, to provide service for the Postal Service at a rate which is less than compensatory cost, or to provide service at a detriment to the carrier or its other customers.

(f) Any order or determination of the Postal Service providing for the transportation of mail by a motor carrier shall be filed with the Board. If the Board finds, within 90 days after the filing, that the order or determination will be detrimental to the motor carrier or its other customers, or that such carrier does not operate equipment suitable for the transportation of mail, the order or determination shall be terminated.

[(g) An order or determination of the Postal Service under this section shall be consistent with the orders of the Board under sections 5207 and 5208 of this title.

**【§ 5204. Changes in service; placement of equipment**

[(a) The Postal Service may authorize, according to the need therefor, new or additional mail transportation service by carriers at the rate or compensation fixed under this chapter. It may reduce or discontinue service with pro rata reductions in compensation and indemnity for the loss of reasonable investment in equipment used exclusively for mail.

[(b) A railroad shall place cars used for full or apartment post office service in position at such times before departure as the Postal Service directs.

**【§ 5205. Evidence of service**

[(A carrier shall submit evidence of its performance of mail transportation service, signed by an authorized official, in such form and at such times as the Postal Service requires. Mail transportation service is considered that of the carrier performing it regardless of the ownership of the property used by the carrier.

**【§ 5206. Fines and deductions**

[(a) The Postal Service may fine any carrier an amount not to exceed \$500 for each day the carrier refuses to perform mail transportation services required by it at rates or compensation established under this chapter.

[(b) The Postal Service shall fine a carrier an amount it deems reasonable for failure or refusal by that carrier to transport mail as required by the Postal Service under section 5203 of this title.

[(c) The Board may make deductions from the compensation of a carrier for failure to perform mail transportation service as required under section 5203 of this title. If the failure to perform is due to the fault of the carrier, it may deduct a sum not exceeding twice the compensation applying to such service. Such deductions shall not be made prior to the expiration of 60 days following service upon the carrier by the Board of notice of intention to assess a fine or make a deduction and of the basis therefor.

**【§ 5207. Surface Transportation Board to fix rates**

[(a) The Board shall determine and fix the fair and reasonable rates or compensation for the transportation of mail by carrier and the service connected therewith, and shall prescribe the method of computing such rates or compensation. The Board shall publish its orders stating its determination under this section which shall remain in force until changed by it after notice and hearing.

[(b) For the purpose of determining and fixing rates or compensation under this section, the Board may make just and reasonable classifications of carriers and, where just and equitable, fix general rates applicable to carriers in the same classification.

[(c) In determining and fixing fair and reasonable rates or compensation under this section, the Board shall consider the relation between the Government and carriers as public service corporations, and the nature of public service as distinguished, if there is

a distinction, from the ordinary transportation business of the carriers.

[(d) Initial rates or compensation for mail transportation service by any carrier or carriers shall be those agreed to by the Postal Service and the carrier or carriers, and such rates or compensation shall continue in effect until such time as the Board fixes the rates or compensation under subsection (a) of this section.

#### **【§ 5208. Procedures**

[(a) At any time after 6 months from the entry of an order stating the Board's determination under section 5207 of this title, the Postal Service or an interested carrier may apply for a reexamination and substantially similar proceedings as have theretofore been had shall be followed with respect to the rates of compensation for services covered by the application. At the conclusion of the hearing the Board shall enter an order stating its determination.

[(b) Except as authorized by sections 5207(d), 5209, 5210, and 5212 of this title, the Postal Service shall pay a carrier the rates or compensation so determined and fixed for application at such stated times as named in the order.

[(c) The Postal Service may file with the Board a comprehensive plan stating—

[(1) its requirements for the transportation of mail by carrier;

[(2) the character and speed of the trains or motor vehicles which are to carry the various kinds of mail;

[(3) the service, both terminal and en route, which carriers are to render;

[(4) what it believes to be the fair and reasonable rates or compensation for the services required; and

[(5) all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the Board.

[(d) When a comprehensive plan is filed, the Board shall give notice of not less than 30 days to each carrier required by the Postal Service to transport mail pursuant to such plan. A carrier may file its answer at the time fixed by the Board, but not later than 30 days after the expiration date fixed by the Board in the notice, and the Board shall proceed with the hearing.

#### **【§ 5209. Special rates**

【Upon petition by the Postal Service, the Board shall determine and fix carload or truckload, or less than carload or truckload, rates for the transportation of mail not entitled to high priority in transportation. A carrier shall perform the service at the rates so determined when requested to do so and under the conditions prescribed by the Postal Service.

#### **【§ 5210. Intermodal transportation**

【The Postal Service may permit a carrier to perform mail transportation by any form of transportation it deems appropriate at rates or compensation not exceeding those allowable for similar service by the designated form of transportation.

**【§ 5211. Statistical studies**

【The Postal Service may arrange for weighing and measuring mail transported on carrier mail routes and make other computations for statistical and administrative purposes to carry out the purposes of this chapter.

**【§ 5212. Special contracts**

【The Postal Service may enter into special contracts with any carrier or person, without advertising, for bids and for periods not in excess of 4 years. It may contract to pay lower rates or compensation or, where in its judgment conditions warrant, higher rates or compensation than those determined or fixed by the Board. The fact that the Board has not prescribed rates or compensation for the carrier involved, under section 5207 of this title, shall not preclude execution of a contract under this section. Such contracts may be negotiated only after reasonable notice has been posted in advance in post offices on the post roads to be served, and other carriers or persons have been given an opportunity to offer to negotiate for the transportation of mail.

**【§ 5213. Carrier operations; receipts; expenditures**

【The Postal Service shall request any carrier transporting the mails to furnish, under seal, such data relating to the operations, receipts, and expenditures of such carrier as may, in its judgment, be deemed necessary to enable it to ascertain the cost of mail transportation and the proper compensation to be paid for such service.

**【§ 5214. Agreements with passenger common carriers by motor vehicle**

【The Postal Service may enter into contracts under such terms and conditions as it shall prescribe and without advertising for bids for the transportation of mail, in passenger-carrying motor vehicles, by passenger common carriers, or by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

**【§ 5215. Star route certification**

【(a) Any person who was a contractor under a star route, mail messenger, or contract motor vehicle service contract on the effective date of this section (or successor in interest to any such person), shall, upon application to the Board for the territory within which such contractor operated on or before the effective date of this section be issued a certificate of public convenience and necessity as a motor carrier for the transportation of mail by the Board without the Board's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

【(b) Applications of persons who were not contractors on the effective date of this section shall be decided in accordance with applicable Board procedure.

【(c) For purposes of this section, the term "person" has the same meaning given that term under section 1 of title 1.】

**CHAPTER 54—TRANSPORTATION OF MAIL BY AIR**

\* \* \* \* \*

**§ 5402. Contracts for transportation of mail by air**

(a) \* \* \*

\* \* \* \* \*

(d) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points in foreign air transportation is not adequate for its purposes, it may contract **【for a period of not more than 4 years】**, without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate, with any air taxi operator or combination thereof for such air transportation service. Contracts made under this subsection may be renewed at the existing rate by mutual agreement between the holder and the Postal Service. The Postal Service, with the consent of the air taxi operator, may adjust the compensation under such contracts for increased or decreased costs occasioned by changed conditions occurring during the contract term. The Postal Service shall cancel such a contract when the Secretary authorizes an additional certificated carrier or carriers to provide service between any pair or pairs of points covered by the contract, and such carrier or carriers inaugurate schedules adequate for its purposes.

\* \* \* \* \*

**CHAPTER 56—TRANSPORTATION OF MAIL BY VESSEL**

\* \* \* \* \*

**§ 5605. Contracts for transportation of mail by vessel**

The Postal Service may contract for the transportation of mail by vessel without advertising for bids **【for periods of not in excess of 4 years】**.

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**SECTION 1402 OF THE VICTIMS OF CRIME ACT OF 1984**

CRIME VICTIMS FUND

SEC. 1402. (a) \* \* \*

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) \* \* \*

(B) fines to be paid into—

(i) \* \* \*

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section **【404(a)(8)】** ~~404(a)(7)~~ of such title 39;

\* \* \* \* \*

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TITLE 5, UNITED STATES CODE

\* \* \* \* \*

PART I—THE AGENCIES GENERALLY

\* \* \* \* \*

CHAPTER 1—ORGANIZATION

\* \* \* \* \*

§ 104. Independent establishment

For the purpose of this title, “independent establishment” means—

(1) an establishment in the executive branch (other than the United States Postal Service or the [Postal Rate] Postal Regulatory Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and

\* \* \* \* \*

CHAPTER 3—POWERS

\* \* \* \* \*

§ 306. Strategic plans

(a) \* \* \*

\* \* \* \* \*

(f) For purposes of this section the term “agency” means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the [Postal Rate] Postal Regulatory Commission.

\* \* \* \* \*

PART III—EMPLOYEES

Subpart A—General Provisions

\* \* \* \* \*

CHAPTER 21—DEFINITIONS

\* \* \* \* \*

§ 2104. Officer

(a) \* \* \*

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the [Postal Rate] Postal Regulatory Commission is deemed not an officer for purposes of this title.

\* \* \* \* \*

**Subpart B—Employment and Retention**

\* \* \* \* \*

**CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT**

\* \* \* \* \*

**SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES**

**§ 3371. Definitions**

For the purpose of this subchapter—

(1) \* \* \*

\* \* \* \* \*

(3) “Federal agency” means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the [Postal Rate] *Postal Regulatory* Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management; and

\* \* \* \* \*

**Subpart D—Pay and Allowances**

\* \* \* \* \*

**CHAPTER 53—PAY RATES AND SYSTEMS**

\* \* \* \* \*

**SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES**

\* \* \* \* \*

**§ 5314. Positions at level III**

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

\* \* \* \* \*

Chairman, [Postal Rate] *Postal Regulatory* Commission.

\* \* \* \* \*

**§ 5315. Positions at level IV**

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

\* \* \* \* \*  
Members, [Postal Rate] *Postal Regulatory Commission* (4).

\* \* \* \* \*

**CHAPTER 55—PAY ADMINISTRATION**

\* \* \* \* \*

**SUBCHAPTER II—WITHHOLDING PAY**

\* \* \* \* \*

**§ 5514. Installment deduction for indebtedness to the United States**

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

\* \* \* \* \*

(5) For purposes of this subsection—

(A) \* \* \*

(B) “agency” includes executive departments and agencies, the United States Postal Service, the [Postal Rate] *Postal Regulatory Commission*, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

\* \* \* \* \*

**Subpart F—Labor-Management and Employee Relations**

\* \* \* \* \*

**CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT**

\* \* \* \* \*

**SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS**

**§ 7342. Receipt and disposition of foreign gifts and decorations**

(a) For the purpose of this section—

(1) “employee” means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the [Postal Rate] *Postal Regulatory Commission*;

\* \* \* \* \*

**CHAPTER 75—ADVERSE ACTIONS**

\* \* \* \* \*

SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

§ 7511. Definitions; application

(a) For the purpose of this subchapter—

(1) “employee” means—

(A) \* \* \*

(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

(i) in an Executive agency; or

(ii) in the United States Postal Service or [Postal Rate] Postal Regulatory Commission; and

\* \* \* \* \*

Subpart G—Insurance and Annuities

\* \* \* \* \*

CHAPTER 83—RETIREMENT

\* \* \* \* \*

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

\* \* \* \* \*

§ 8334. Deductions, contributions, and deposits

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

(B)(i) \* \* \*

(ii) In the case of an employee of the United States Postal Service, the amount to be contributed under this subparagraph shall (instead of the amount described in clause (i)) be equal to [the product derived by multiplying the employee’s basic pay by the percentage equal to—

[(I) the normal-cost percentage for the applicable employee category listed in subparagraph (A), minus

[(II) the percentage deduction rate that applies with respect to such employee under subparagraph (A).] zero.

\* \* \* \* \*

§ 8348. Civil Service Retirement and Disability Fund

(a) \* \* \*

\* \* \* \* \*

[(h)(1)(A) For purposes of this subsection, “Postal supplemental liability” means the estimated excess, as determined by the Office, of—

[(i) the actuarial present value of all future benefits payable from the Fund under this subchapter attributable to the service of current or former employees of the United States Postal Service, over

[(ii) the sum of—

[(I) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United

States Postal Service currently subject to this subchapter pursuant to section 8334;

[(II) the actuarial present value of the future contributions to be made pursuant to section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter;

[(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, including earnings on those payments; and

[(IV) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

[(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

[(ii) Military service so included shall not be included in the computation of any amount under subsection (g)(2).

[(2)(A) Not later than June 30, 2004, the Office shall determine the Postal supplemental liability as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.

[(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

[(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning after September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.

[(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent dynamic actuarial valuation of the Civil Service Retirement System.

[(E) The United States Postal Service shall pay the amounts so determined to the Office, with payments due not later than the date scheduled by the Office.

[(F) An amortization schedule established under subparagraph (B) or (C) shall supersede any amortization schedule previously established under this paragraph.

[(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based upon the amount of the unfunded liability, such

payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.

[(4) Notwithstanding any other provision of this subsection, any determination or redetermination made by the Office under this subsection shall, upon request of the Postal Service, be subject to reconsideration and review (including adjustment by the Board of Actuaries of the Civil Service Retirement System) to the same extent and in the same manner as provided under section 8423(c).]

*(h)(1) For purposes of this subsection, a Postal surplus (or supplemental liability) is the amount, as estimated by the Office, by which—*

*(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, is less than (or greater than)*

*(B) the sum of—*

*(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the Postal Service currently subject to this subchapter pursuant to section 8334;*

*(ii) that portion of the Fund balance, as of the date such surplus or supplemental liability is determined, attributable to payments to the Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and*

*(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.*

*(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.*

*(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2005, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.*

*(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.*

*(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.*

*(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.*

*(iii)(I) If a surplus of \$500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.*

(II) If a surplus of less than \$500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

(C)(i) Not later than June 15, 2040, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2039.

(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2039, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2040, which provides for the liquidation of such liability by September 30, 2043.

(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

(I) shall be applied first toward reducing the amount of any supplemental liability described in section 8423(b)(1)(B); and

(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

(D) An amortization schedule under this paragraph—

(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

(ii) shall supersede any amortization schedule previously established under this paragraph; and

(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

(E)(i) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph, to the extent not superseded or canceled.

(ii) A determination under subparagraph (B)(i) or (C)(i) that no supplemental liability exists shall cancel any amortization schedule previously established under this paragraph, to the extent of any amounts first coming due after the close of the fiscal year to which such determination relates.

(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based on the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.

(4) As used in this subsection, “Postal Service Retiree Health Benefits Fund” refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.

\* \* \* \* \*

**CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM**

\* \* \* \* \*

**SUBCHAPTER I—GENERAL PROVISIONS**

\* \* \* \* \*

**§ 8402. Federal Employees' Retirement System; exclusions**

(a) \* \* \*

\* \* \* \* \*

(c)(1) The Office may exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the [Postal Rate] *Postal Regulatory Commission*, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).

\* \* \* \* \*

SUBCHAPTER II—BASIC ANNUITY

\* \* \* \* \*

**§ 8423. Government contributions**

(a) \* \* \*

(b)(1) The Office shall compute—

(A) the amount of the supplemental liability of the Fund with respect to individuals other than those to whom subparagraph (B) relates, and

(B) the amount of the supplemental liability of the Fund with respect to current or former employees of the United States Postal Service (and the [Postal Rate] *Postal Regulatory Commission*) and their survivors;

as of the close of each fiscal year beginning after September 30, 1987.

\* \* \* \* \*

SUBCHAPTER VII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

\* \* \* \* \*

**§ 8474. Executive Director**

(a) \* \* \*

\* \* \* \* \*

(c) The Executive Director may—

(1) \* \* \*

\* \* \* \* \*

(4) secure directly from an Executive agency, the United States Postal Service, or the [Postal Rate] *Postal Regulatory Commission* any information necessary to carry out the provisions of this subchapter or subchapter III of this chapter and policies of the Board;

\* \* \* \* \*

**CHAPTER 89—HEALTH INSURANCE**

Sec.

8901. Definitions.

\* \* \* \* \*

8909a. *Postal Service Retiree Health Benefits Fund.*

\* \* \* \* \*

**§ 8906. Contributions**

(a) \* \* \*

\* \* \* \* \*

(g)(1) \* \* \*

(2)(A) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971, while employed by the United States Postal Service, shall be paid [by the United States Postal Service.] *first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.*

\* \* \* \* \*

**§ 8909a. Postal Service Retiree Health Benefits Fund**

(a) *There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the “Fund”) which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.*

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

(c)(1) *Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.*

(2) *Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—*

(A) *the portion of the net present value described in paragraph (1) attributable to the current year’s service of Postal Service employees; and*

(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value; except that the amount otherwise payable by the Postal Service under the preceding provisions of this paragraph by not later than September 30, 2006, shall be reduced by the total contributions made by the Postal Service under section 8906(g)(2) and attributable to fiscal year 2006 (as determined by the Office).

(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection.

\* \* \* \* \*

**SECTION 101 OF THE ETHICS IN GOVERNMENT ACT OF 1978**

PERSONS REQUIRED TO FILE

SEC. 101. (a) \* \* \*

\* \* \* \* \*

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) \* \* \*

\* \* \* \* \*

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or [Postal Rate] Postal Regulatory Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

\* \* \* \* \*

**SECTION 501 OF THE REHABILITATION ACT OF 1973**

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

SEC. 501. (a) \* \* \*

(b) Each department, agency, and instrumentality (including the United States Postal Service and the [Postal Rate Office] Postal Regulatory Commission) in the executive branch and the Smithso-

nian Institution shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

\* \* \* \* \*

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**SECTION 3502 OF TITLE 44, UNITED STATES CODE**

**§ 3502. Definitions**

As used in this subchapter—

(1) \* \* \*

\* \* \* \* \*

(5) the term “independent regulatory agency” means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the **[Postal Rate]** *Postal Regulatory* Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

\* \* \* \* \*

---

**INSPECTOR GENERAL ACT OF 1978**

\* \* \* \* \*

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) \* \* \*

\* \* \* \* \*

(e)(1) \* \* \*

\* \* \* \* \*

(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Depart-

ment of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, [and the] Tennessee Valley Authority, and *United States Postal Service* are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

\* \* \* \* \*

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) Notwithstanding section 11 of this Act, as used in this section—

(1) \* \* \*

(2) the term “designated Federal entity” means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, [and the United States Postal Service;] and *the Postal Regulatory Commission;*

\* \* \* \* \*

(4) the term “head of the designated Federal entity” means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, [except that—

[(A) with respect to the National Science Foundation, such term means the National Science Board; and

[(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);] *except that,*

*with respect to the National Science Foundation, such term means the National Science Board;*

\* \* \* \* \*

(c) **Except as provided under subsection (f) of this section, the** *The* Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

\* \* \* \* \*

**(f)(1)** For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

**(2)** In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the “Inspector General”) shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

**(3)(A)(i)** Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

**(I)** ongoing civil or criminal investigations or proceedings;

**(II)** undercover operations;

**(III)** the identity of confidential sources, including protected witnesses;

**(IV)** intelligence or counterintelligence matters; or

**(V)** other matters the disclosure of which would constitute a serious threat to national security.

**(ii)** With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

**(iii)** If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

**(B)** In carrying out the duties and responsibilities specified in this Act, the Inspector General—

**(i)** may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

[(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

[(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

[(3) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

[(4) As used in this subsection, the term "Governors" has the meaning given such term by section 102(3) of title 39, United States Code.]

\* \* \* \* \*

RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

SEC. 8J. The special provisions under section 8, 8A, 8B, 8C, 8D, [8E or 8F] 8E, 8F, 8H, or 8L of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8G(a).

\* \* \* \* \*

SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

SEC. 8L. (a) *In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.*

(b) *In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term "appropriate committees of Congress" to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.*

(c) *Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.*

(d) *Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.*

(e) *There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Office of Inspector General of the United States Postal Service.*

\* \* \* \* \*

#### DEFINITIONS

SEC. 11. As used in this Act—

(1) the term “head of the establishment” means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans’ Affairs; the Director of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Board of Directors of the Tennessee Valley Authority; [or] the President of the Export-Import Bank; or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code); as the case may be;

(2) the term “establishment” means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the Na-

tional Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or the Veterans' Administration, the Social Security Administration, the Tennessee Valley Authority, [or] the Export-Import Bank, or the United States Postal Service, as the case may be;

\* \* \* \* \*

**SECTION 160 OF THE ENERGY POLICY ACT OF 1992**

**SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.**

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.)[, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100-504)] shall—

(1) \* \* \*

\* \* \* \* \*

**TITLE 18, UNITED STATES CODE**

\* \* \* \* \*

**PART I—CRIMES**

\* \* \* \* \*

**CHAPTER 83—POSTAL SERVICE**

\* \* \* \* \*

**§ 1716. Injurious articles as nonmailable**

(a) All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, *hazardous materials*, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

\* \* \* \* \*

**PART II—CRIMINAL PROCEDURE**

\* \* \* \* \*

**CHAPTER 203—ARREST AND COMMITMENT**

\* \* \* \* \*

**§ 3061. Investigative powers of Postal Service personnel**

(a) \* \* \*

\* \* \* \* \*

*(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.*

*(2) With respect to such property, such officers shall have the power to—*

*(A) enforce Federal laws and regulations for the protection of persons and property;*

*(B) carry firearms; and*

*(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.*

*(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—*

*(A) serve warrants and subpoenas issued under the authority of the United States; and*

*(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.*

*(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.*

*(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.*

\* \* \* \* \*

**SECTION 8 OF THE POSTAL REORGANIZATION ACT**

**TRANSFER OF POST OFFICE DEPARTMENT PERSONNEL**

**SEC. 8. (a)** Officers and employees of the Post Office Department shall become officers and employees of the United States Postal

Service on the effective date of this section. The provisions of this section shall not apply to persons occupying the positions of Postmaster General, Deputy Postmaster General, Assistant Postmasters General, General Counsel, or Judicial Officer. This section shall not be construed, however, to prohibit the appointment of such persons to positions in the Postal Service.

*(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.*

### **SECTION 3 OF THE POSTAL CIVIL SERVICE RETIREMENT SYSTEM FUNDING REFORM ACT OF 2003**

(Public Law 108–18)

\* \* \* \* \*

#### **[(SEC. 3. DISPOSITION OF SAVINGS ACCRUING TO THE UNITED STATES POSTAL SERVICE.]**

**[(a) IN GENERAL.—Savings accruing to the United States Postal Service as a result of the enactment of this Act—**

**[(1) shall, to the extent that such savings are attributable to fiscal year 2003 or 2004, be used to reduce the postal debt (in consultation with the Secretary of the Treasury), and the Postal Service shall not incur additional debt to offset the use of the savings to reduce the postal debt in fiscal years 2003 and 2004;**

**[(2) shall, to the extent that such savings are attributable to fiscal year 2005, be used to continue holding postage rates unchanged and to reduce the postal debt, to such extent and in such manner as the Postal Service shall specify (in consultation with the Secretary of the Treasury); and**

**[(3) to the extent that such savings are attributable to any fiscal year after fiscal year 2005, shall be considered to be operating expenses of the Postal Service and, until otherwise provided for by law, shall be held in escrow and may not be obligated or expended.]**

**[(b) AMOUNTS SAVED.—**

**[(1) IN GENERAL.—The amounts representing any savings accruing to the Postal Service in any fiscal year as a result of the enactment of this Act shall be computed by the Office of Personnel Management for each such fiscal year in accordance with paragraph (2).]**

**[(2) METHODOLOGY.—Not later than July 31, 2003, the Office of Personnel Management shall—**

**[(A) formulate a plan specifically enumerating the actuarial methods and assumptions by which the Office shall make its computations under paragraph (1); and**

**[(B) submit such plan to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.]**

**[(3) REQUIREMENTS.—The plan shall be formulated in consultation with the Postal Service and shall include the oppor-**

tunity for the Postal Service to request reconsideration of computations under this subsection, and for the Board of Actuaries of the Civil Service Retirement System to review and make adjustments to such computations, to the same extent and in the same manner as provided under section 8423(c) of title 5, United States Code.

[(c) REPORTING REQUIREMENT.—The Postal Service shall include in each report rendered under section 2402 of title 39, United States Code, the amount applied toward reducing the postal debt, and the size of the postal debt before and after the application of subsection (a), during the period covered by such report.

[(d) SENSE OF CONGRESS.—It is the sense of the Congress that—

[(1) the savings accruing to the Postal Service as a result of the enactment of this Act will be sufficient to allow the Postal Service to fulfill its commitment to hold postage rates unchanged until at least 2006;

[(2) because the Postal Service still faces substantial obligations related to postretirement health benefits for its current and former employees, some portion of the savings referred to in paragraph (1) should be used to address those unfunded obligations; and

[(3) none of the savings referred to in paragraph (1) should be used in the computation of any bonuses for Postal Service executives.

[(e) POSTAL SERVICE PROPOSAL.—

[(1) IN GENERAL.—The United States Postal Service shall, by September 30, 2003, prepare and submit to the President, the Congress, and the General Accounting Office its proposal detailing how any savings accruing to the Postal Service as a result of the enactment of this Act, which are attributable to any fiscal year after fiscal year 2005, should be expended.

[(2) MATTERS TO CONSIDER.—In preparing its proposal under this subsection, the Postal Service shall consider—

[(A) whether, and to what extent, those future savings should be used to address—

[(i) debt repayment;

[(ii) prefunding of postretirement healthcare benefits for current and former postal employees;

[(iii) productivity and cost saving capital investments;

[(iv) delaying or moderating increases in postal rates; and

[(v) any other matter; and

[(B) the work of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).

[(3) GAO REVIEW AND REPORT.—Not later than 60 days after the Postal Service submits its proposal pursuant to paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of such proposal to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

[(4) LEGISLATIVE ACTION.—Not later than 180 days after it has received both the proposal of the Postal Service and the evaluation of such proposal by the General Accounting Office

under this subsection, Congress shall revisit the question of how the savings accruing to the Postal Service as a result of the enactment of this Act should be used.

**[(f) DETERMINATION AND DISPOSITION OF SURPLUS.—**

**[(1) IN GENERAL.—**If, as of the date under paragraph (2), the Office of Personnel Management determines (after consultation with the Postmaster General) that the computation under section 8348(h)(1)(A) of title 5, United States Code, yields a negative amount (hereinafter referred to as a “surplus”)—

**[(A)** the Office shall inform the Postmaster General of its determination, including the size of the surplus so determined; and

**[(B)** the Postmaster General shall submit to the Congress a report describing how the Postal Service proposes that such surplus be used, including a draft of any legislation that might be necessary.

**[(2) DETERMINATION DATE.—**The date to be used for purposes of paragraph (1) shall be September 30, 2025, or such earlier date as, in the judgment of the Office, is the date by which all postal employees under the Civil Service Retirement System will have retired.

**[(g) DEFINITIONS.—**For purposes of this section—

**[(1)** the savings accruing to the Postal Service as a result of the enactment of this Act shall, for any fiscal year, be equal to the amount (if any) by which—

**[(A)** the contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund for such fiscal year if this Act had not been enacted, exceed

**[(B)** the contributions made by the Postal Service to such Fund for such fiscal year; and

**[(2)** the term “postal debt” means the outstanding obligations of the Postal Service, as determined under chapter 20 of title 39, United States Code.]

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VI. Senate Committee Report on S. 2468,  
S. Rept. No. 108-318, 108th Cong.,  
2d Sess.(Aug. 25, 2004) and  
Senate Bill S. 2468, 108th Cong.,  
2d Sess. (reported, Aug. 25, 2004)

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POSTAL ACCOUNTABILITY AND  
ENHANCEMENT ACT

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R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS  
UNITED STATES SENATE

together with

ADDITIONAL VIEWS

TO ACCOMPANY

S. 2468

TO REFORM THE POSTAL LAWS OF THE UNITED STATES



AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

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U.S. GOVERNMENT PRINTING OFFICE

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## Calendar No. 674

108TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
{ 108-318

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### POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

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AUGUST 25, 2004.—Ordered to be printed

Filed, under authority of the order of the Senate of July 22, 2004

Ms. COLLINS, from the Committee on Governmental Affairs,  
submitted the following

### R E P O R T

[To accompany S. 2468]

The Committee on Governmental Affairs, to whom was referred the bill (S. 2468) to reform the postal laws of the United States, having considered the same reports favorably thereon with amendments and recommends that the bill do pass.

#### I. PURPOSE AND SUMMARY

The purpose of S. 2468 is to reform the postal laws of the United States. Among other things, S. 2468 preserves the basic features of universal service-affordable rates, frequent delivery, and convenient community access to retail postal services. The bill also simplifies the pricing process for Postal Service products and services and replaces the current rate-setting process for market-dominant products with a rate-cap based structure. It gives the Postal Service the authority to set rates for competitive products, such as Express Mail and Parcel Post, as long as these prices do not result in cross-subsidy from the market-dominant products. S. 2468 grants the new Postal Regulatory Commission the power to institute emergency price increases due to “unexpected and extraordinary circumstances.” It guarantees a higher degree of transparency to ensure fair treatment of customers of the Postal Service’s and those companies competing with the Postal Service’s competitive products. It requires the Postal Service to report to Congress with a strategy for how they intend to remove from the network excess processing capacity and space. Finally, the bill repeals a Civil Service Retirement System escrow fund provision from Public Law 108-18 and transfers a military pension obligation back to the U.S. Treasury, where it originated.

## II. BACKGROUND AND NEED FOR LEGISLATION

By most accounts, the 1970 Postal Reorganization Act (Public Law 91-375), which created the modern Postal Service, has been a success. Today, the Postal Service receives virtually no taxpayer support and the service its approximately 710,000 career employees provide to every American, every day is second to none. More than thirty years after its birth, the Postal Service now delivers to 141 million addresses each day. It is also the anchor of a \$900 billion per year mailing industry that, according to a study conducted by the Envelope Manufacturers Association Foundation, employs roughly 11.1 million Americans nationwide in virtually every segment of the economy.

Recent years, however, have been difficult ones for the Postal Service. In late 2001, the Postal Service was projecting its third consecutive year of deficits, having lost \$199 million in fiscal year 2000 and \$1.68 billion in fiscal year 2001. It was projecting losses of up to \$4 billion in fiscal year 2002. Mail volume was falling, revenues were below projections and the Postal Service was estimating that it needed to spend \$4 billion on security enhancements in order to prevent a repeat of the tragic anthrax attacks that took several lives in the Fall of 2001. The Postal Service was also perilously close to its \$15 billion statutory debt ceiling.

Recent years have also been difficult for postal customers. While rates have now temporarily stabilized, the combination of an economic recession, terrorism and poor mail volume forced the Postal Service to increase rates three times in less than two years. These increases exceeded the rate of inflation. On January 7, 2001, the price of postage increased by 4.7 percent on average, increasing the price of a First Class stamp from 33 cents to 34 cents. On July 1, 2001, the price of a First Class stamp did not go up again but prices for other postal products increased by an additional 1.6 percent on average. On June 30, 2002, the price of postage increased by an additional 8.7 percent on average-raising the price of a First Class stamp from 34 cents to 37 cents. When mail-dependant businesses experience these kinds of price increases, they often begin mailing less and jobs can be lost.

Things have turned around somewhat for the Postal Service since the last rate increase. Postmaster General John Potter has led a commendable effort to make the Postal Service more operationally efficient. Billions of dollars in costs have been taken out of the system, thousands of positions have been eliminated through attrition and voluntary retirement and successful automation programs have resulted in improved service and productivity, along with reduced costs. More dramatically, on November 1, 2002, the Postal Service learned that an unfunded pension liability related to the cost of its employees' participation in the Civil Service Retirement System (CSRS) they once believed was as high as \$32 billion was actually \$5 billion. A study conducted by the Office of Personnel Management had found that, because pension investments have been earning interest at a higher rate than presumed in the statutory funding formula, the Postal Service would over-fund its CSRS obligation by \$78 billion if it continued to make the same payments it had been making to that point. Chairman Collins and Senator Carper introduced legislation in early 2003, the Postal

Civil Service Retirement System Funding Reform Act (P.L. 108–18), which reduced the amount the Postal Service must pay into the Civil Service Retirement System each year by nearly \$3 billion.

P.L. 108–18, however, did not provide a permanent solution to the Postal Service’s problems. The lower pension payment, coupled with Postmaster General Potter’s aggressive cost cutting, averted the need for the Postal Service Board of Governors to seek an increase to their statutory debt limit. Aggressive cost cutting, however, cannot be sustained without affecting universal service and so will not solve the Postal Service’s long-term challenges. According to the Postal Service, the total volume of mail delivered by the Postal Service has declined by more than 5 billion pieces since 2000. Over the same period, the number of homes and businesses the Postal Service delivers to increased by more than 5 million. First Class mail, the largest contributor to the Postal Service’s bottom line, is leading the decline in volume. Some of those disappearing First Class letters are being replaced by advertising mail, which earns significantly less revenue for the Postal Service.

In addition, the Postal Service has noted that only 22 percent of the Postal Service’s current mail volume is comprised of letters originating in households. A large percentage of that 22 percent is being sent to businesses, non-profit organizations and governments. Bill presentment and payment, advertising mail and other commercial correspondence account for 93 percent of total mail volume. It is highly likely that, as Americans become more comfortable conducting commercial transactions over the Internet, the Postal Service will continue to see declines in First Class mail volume.

Approximately one in four Americans today pay at least some of their bills online. Because processing an electronic payment made over the Internet costs one-third less than processing a check sent through the mail, businesses have an incentive to encourage more Americans to carry out more transactions online. In fact, many businesses no longer charge customers for the convenience of innovations like electronic bill payment but are instead offering incentives aimed at encouraging customers to give up the mail and move to the Internet.

The electronic diversion of mail and its impact on the Postal Service are among the reasons why the Postal Service has been on the Government Accountability Office’s (GAO) “high-risk” list of troubled federal programs in need of reform since 2001. Electronic diversion also comes at a time when, on top of the costs related to serving a growing number of delivery points, the Postal Service is facing more than \$90 billion in unfunded liabilities and obligations. These include \$6.5 billion in debt to the U.S. Treasury, nearly \$7 billion for Workers’ Compensation claims, \$5 billion for CSRS retirement costs, and as much as \$45 billion to cover retiree health care costs. The rate increases that will be needed to finance these liabilities, maintain the Postal Service’s current infrastructure, pay for new letter carriers, and build retail and processing facilities in growing parts of the country will only further erode mail volume. GAO has warned that the Postal Service could be on the verge of a “death spiral” in which decreasing volume and increasing rates lead to further decreases in volume.

To make matters worse, the rate and classification system created in the 1970 Postal Reorganization Act often forces the Postal

Service to wait up to 18 months to change rates, giving management little flexibility to adjust its revenues to changing market conditions or to adapt to meet the unique and changing needs of its customers. The 1970 Act also gives the Postal Rate Commission limited oversight over the Postal Service and creates a Postal Board of Governors comprised of political appointees who sometimes do not have the management experience necessary to run an organization the size of the Postal Service.

There have been a number of efforts in recent years to make some necessary reforms to the way the Postal Service does business. This Committee, led by former Chairman Fred Thompson, Ranking Member Lieberman and Senators Cochran and Akaka, former Chairman and Ranking Member of the Subcommittee on International Security, Proliferation, and Federal Services, asked GAO in March 2001 for a study of the Postal Service's precarious financial situation and its ability to continue to fulfill its universal service obligation. This report identified many of the Postal Service's serious long-term problems. Senators Thompson, Lieberman, Cochran and Akaka then sent a letter to the Postal Board of Governors then-Chairman Robert Rider in June 2001 for a report from the Postal Service on how it planned to reform itself to address the significant challenges it faced. In April of 2002, Postmaster General Potter delivered to Congress a comprehensive Transformation Plan designed to "ensure the continuation of affordable universal service and to prepare the organization for the challenges of change in a dynamic marketplace." Creation of the Plan forced the Postal Service to determine what changes could be made, within existing constraints, that would result in improved operations, performance and finances.

While the Transformation Plan was widely acknowledged as a good "first step," it was also recognized that to truly transform the Postal Service, legislative change would be necessary. In an effort to take a fresh look at the issues, in July of 2002, Chairman Collins introduced a bill to establish a Presidential Postal Commission charged with examining the problems the Postal Service faces, and developing specific recommendations and legislative proposals that Congress and the Postal Service could implement. Five months later, in December of 2002, President Bush announced the creation of the President's Commission on the United States Postal Service (hereafter referred to as "the President's Commission"), a bipartisan commission charged with identifying the operational, structural, and financial challenges facing the Postal Service. The President charged this commission with examining all significant aspects of the Postal Service with the goal of recommending legislative and administrative reforms to ensure its long-term viability.

The President's Commission conducted seven public hearings across the country at which they heard from numerous witnesses. On July 31, 2003, the Commission released its final report, making 35 legislative and administrative recommendations for the reform of the Postal Service. In issuing their report, they sent a strong message to both Congress and the Postal Service:

. . . an incremental approach to Postal Service reform will yield too little, too late given the enterprise's bleak fiscal outlook, the depth of current debt and unfunded obligations, the downward trend in First Class mail volumes and

the limited potential of its legacy postal network that was built for a bygone era.<sup>1</sup>

Beginning in September of 2003, the Committee held a series of seven hearings specifically to review the recommendations of the President's Commission. The Committee heard from the President's Commission's Co-Chair James Johnson, Postmaster General Potter, Postal Service Board of Governors Chairman David Fineman, GAO Comptroller General David Walker, Postal Rate Commission Chairman George Omas, all four major postal unions, postmaster and supervisor associations, mail-dependent businesses, postal competitors, newspaper associations, and experts on the issues of collective bargaining and postal wages, among others. In addition, the Committee joined with the House Government Reform and Oversight Committee to hold an eighth hearing at which U.S. Department of Treasury Secretary John Snow testified.

There appeared to be a broad, general, consensus in the diverse stakeholder community on what elements of reform were necessary, such as legislative changes to the rate-setting process to allow for a more streamlined system. Postal customers wanted this new rate-setting system to provide strong incentives to hold down costs and to provide predictable rates. Many witnesses also considered improved Postal Service transparency and accountability to be essential aspects of reform; along with pricing flexibility to enable the Postal Service to better respond to its customers. The Committee was also asked by countless stakeholders to reconsider two elements of the Postal Civil Service Retirement System Funding Reform Act of 2003. The Act changed the way the Postal Service funds its Civil Service Retirement System (CSRS) obligation. The Committee was specifically asked to repeal the escrow provision of the CSRS Funding Reform Act and to transfer the military pension obligation back to the U.S. Department of Treasury. These were just a few of many legislative proposals for the reform of the Postal Service that the Committee was asked to consider.

These hearings culminated in Chairman Collins' and Senator Carper's May 20, 2004 introduction of The Postal Accountability and Enhancement Act of 2004, S. 2468.

#### THE POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT OF 2004

##### *Postal Service mission*

Congress established the United States Postal Service "to bind the Nation together through the personal, educational, literary, and business correspondence of the people." [39 U.S.C. 101(a)]. In this legislation, the Committee reaffirms the core mission of the Postal Service and limits the Postal Service to providing postal services which comprise the physical delivery of letters, printed matter or packages weighing up to seventy pounds and other ancillary services. By focusing on the business of processing, transporting and delivering physical mail pieces, the Postal Service will avoid the distractions and the associated financial costs that have arisen when the Postal Service has ventured away from its core business. To further this focus on core mail products, the Postal

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<sup>1</sup>The President's Commission on the U.S. Postal Service, *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service* (July 31, 2003), Introduction, p. v.

Service will not be permitted to offer nonpostal products except in cooperation with other government agencies, for example, sale of federal migratory bird hunting and conservation stamps or acceptance of passport applications.

The definition of postal services and the associated definitions of products and rates form a product framework within which the Postal Service will operate and for which the Postal Regulatory Commission will design a regulatory structure. These definitions do not direct the Postal Regulatory Commission or the Postal Service to adopt any specific costing or rate design methodologies.

#### *Regulatory structure*

The Postal Service currently operates under a regulatory structure created more than thirty years ago in the 1970 Postal Reorganization Act, a bill enacted at a time when nobody imagined that innovations like fax machines, cell phones and the Internet would one day compete with hard copy mail. The current structure offers the Postal Service little opportunity to innovate or even to quickly change the prices it charges for its products in response to changes in the market. It also gives the Postal Service little incentive to cut costs, even though the cost of a growing delivery network coupled with falling mail volume and massive debt demands greater efficiency. Meanwhile, the Postal Rate Commission is given limited authority to exercise oversight over the Postal Service. The President's Commission acknowledged these concerns, stating in its report that the laws governing the way the Postal Service operates need to be updated to meet the challenges of the Internet age.<sup>2</sup> The Postal Service acknowledged this itself in the Transformation Plan:

While the basic charter of the Postal Service has remained static since its inception in 1970, the mailing industry and private sector delivery companies have evolved to meet the changing needs of the marketplace. Indeed, innovation and competition were not primary concerns of the 1970 Act. The Act was designed to allow the Postal Service to do what it did in 1970 in a more businesslike manner. By definition and structure, a government entity has goals and mandates that the private sector does not have, and these inhibit the flexibility needed for direct competition. In the far different and more competitive environment of 2002, a revision of the Postal Service's 1970 charter is overdue.<sup>3</sup>

This legislation makes that long overdue revision by establishing a regulatory structure that balances the Postal Service's need for increased pricing and product flexibility with the need for effective oversight and accountability. The Committee has considered that the Postal Service faces little or no competition in providing many products and, for some products, has been granted a legal monopoly which prohibits private sector firms from providing alternative services. Therefore, the Postal Service's current products are divided into two categories: market-dominant products for which there is little or no competition and competitive products for which private sector alternatives exist. The regulatory structure grants

<sup>2</sup>Ibid., 8.

<sup>3</sup>U.S. Postal Service, TRANSFORMATION PLAN, (April 2002), 3.

the Postal Regulatory Commission enhanced review and oversight responsibilities for market-dominant products while streamlining the rate-making procedure for those products to allow a more rapid Postal Service response to changes in market conditions. In addition, the Postal Service's Board of Governors is permitted to more directly manage and price the Postal Service's competitive products; subject to minimal Regulatory Commission oversight to ensure that the Postal Service competes fairly with the private sector delivery services.

Current Postal Service products classified in S. 2468 as market-dominant include First Class Mail Letters, First Class Mail Cards, Periodicals, Standard Mail, single-piece Parcel Post, media mail, bound printed matter, library mail, special services and single-piece international mail. Current Postal Service products classified by this bill as competitive include Priority Mail, expedited mail, bulk parcel post, bulk international mail, and mailgrams.

The Committee considered classifying single-piece Parcel Post as a competitive product. In many parts of the country where a number of private sector delivery services compete with the Postal Service in the package delivery market, classifying single-piece Parcel Post in this way would not be likely to have much of an impact on postal customers. However, the Committee decided to make single-piece Parcel Post a market-dominant product because of the negative impact we feared a competitive classification would have on those postal customers who live in parts of the country with fewer package delivery options. The Postal Service has traditionally kept prices for single-piece Parcel Post low to facilitate universal access to affordable package delivery in all parts of the country. It charges the same rate for single-piece Parcel Post in rural communities as it does in urban or suburban communities with more competitive package delivery markets. If single-piece Parcel Post were made a competitive product subject to the language in new section 3633 of title 39 of the U.S. Code setting cost coverage requirements for all competitive products, it is possible that the Postal Service would be forced to increase the price it charges for the product. This could make single-piece Parcel Post unaffordable for some postal customers. That said, nothing in this bill prevents single-piece Parcel Post from one day being moved from the market-dominant to the competitive category under the new section 3642 of title 39. If the Postal Regulatory Commission considers making this change at any point in the future, the Committee urges them to pay particular attention during their deliberations to the impact their decision could have on the affordability and availability of package delivery services in those communities without a fully-developed competitive package delivery market.

#### *Regulation of market-dominant products*

The Postal Service currently operates under a regulatory structure that has changed little since it was established by the Postal Reorganization Act in 1970 (Public Law 91-375). However, the economy and the market place in which the Postal Service operates have changed in ways that could not have been foreseen more than thirty years ago. Today, electronic and other alternatives to mail have the potential to significantly reduce Postal Service mail volumes; volume reductions are already being seen. These market

pressures combined with a continual growth of the Postal Service's network and the number of postal delivery points threaten the ability of the Postal Service to provide universal service. In addition, a rigid, and overly litigious rate-setting process limits the Postal Service's ability to adjust rates as needed and to adapt postal prices and products to a changing marketplace. This bill proposes needed reforms that will not only address these critical needs but will also enhance oversight ensuring that the Postal Service is accountable to the American people.

In designing the regulatory structure for market-dominant products, the Committee carefully considered whether Congress itself should legislatively establish the details of the regulatory system. On balance, however, the Committee determined that relying on the Postal Regulatory Commission's expertise to develop the price cap will result in a more flexible system that can be adapted to changing market conditions. In implementing this authority, the Postal Regulatory Commission should develop regulations that will give the Postal Service the maximum pricing flexibility possible consistent with the overarching financial and policy goals set forth in this legislation. Replacing one inflexible system with another will not address the needs of the postal community or ensure long-term survival of the American public's postal system.

For market-dominant products, the Postal Regulatory Commission is directed to design, within 12 months, a modern system for regulating rates and classes for market-dominant products. This regulatory system shall be designed to meet nine objectives. These objectives recognize the importance of the postal rate-setting process to both the Postal Service and its customers and the need to ensure that the Postal Service remains a financially viable institution capable of providing the mail services that the American public need. Specifically, these objectives direct the Postal Regulatory Commission to establish a more streamlined regulatory system which will reduce the time and resources needed to litigate and establish new postal rates while giving the Postal Service increased pricing flexibility (Objectives 1 and 5). In addition, the new regulatory system should address postal customers' concerns that rate changes be both predictable and stable (Objective 2), that the mail system be secure and terrorism be deterred (Objective 4), and that an equitable distribution of the Postal Service's institutional costs result (Objective 7). The long term financial viability of the Postal Service is addressed by requiring that the Postal Regulatory Commission maximize incentives for the Postal Service to reduce costs and increase efficiency (Objective 3) thus maintaining affordable and cost-effective postal services. Lastly, the Postal Regulatory Commission is directed to include a provision for the Postal Service to earn adequate revenues, including the ability to retain earnings, both to maintain the Postal Service's financial stability and to meet established service standards (Objective 6). It is the Committee's expectation that the new rate and classification system will be fair and equitable for mailers of all types of sizes.

The Committee believes that the provision for retained earnings will address two concerns expressed during hearings conducted prior to the introduction of this bill. First, the ability to retain earnings will provide the Postal Service with revenues necessary to fund network expansion and necessary capital improvements. In

the current environment the Postal Service faces the need to expand its network as the number of delivery points increases; however, if the concurrent downward trend in mail volumes continues, it will become increasingly difficult to fund this needed expansion. Retained earnings will provide a resource that can be used by the Postal Service to meet its universal service obligation. Secondly, the Committee's determination that a rate cap mechanism is the appropriate regulatory structure is based on a determination that a rate cap can result in downward pressure on costs through restrictions on price changes. If retained earnings are not permitted, that is if revenues must equal costs, the incentive to control costs and thus generate funds for long-term capital investments, network growth or other needs will not exist.

In designing the regulatory structure, the Postal Regulatory Commission shall take into account twelve factors. These factors encompass the current pricing and classification criteria [39 U.S.C. 3622(b) and 3623(c)] used by the Postal Rate Commission to evaluate the Postal Service's Governors' rate and classification requests. The Committee believes that these factors have served a useful role in evaluating rate and classification changes under the current regulatory structure and will provide similar policy guidance for the development of the new regulatory system.

#### *Accurate attribution of costs*

The existing regulatory structure focuses considerable attention on ascertaining what postal costs could reliably be said to have been incurred to provide which specific postal services. Current law requires that the rates for each class of mail and type of service be set so as to recover the direct and indirect costs that were caused by that class or type, in addition to providing a reasonable contribution toward institutional costs. Institutional costs are those 40 percent of the Postal Service's costs, such as salaries for management and other overhead costs, that the Postal Service says cannot be attributed to any specific product. While considering this legislation the Committee heard testimony suggesting that currently accepted levels of cost attributions were both too low and too high, and that specific rules for cost attribution should be incorporated into law. The Committee has decided that the technical decision of what cost analysis methodologies are sufficiently reliable at any given time to form the basis for attribution should be left to the Postal Regulatory Commission, acting with benefit of counsel from all interested persons in open public proceedings.

Identifying costs which can reliably be found to have been caused by each specific subclass and service is essential to maintaining economically efficient rates and avoiding inequitable cross-subsidization, which occurs when rates from one product are used to pay costs associated with another. Over the history of the Postal Reorganization Act the ability to accurately attribute costs has continually evolved, and the Committee expects that with greater transparency about the Postal Service's operations, this process will continue. The current analysis has been guided by a Supreme Court decision, *National Assoc. of Greeting Card Publishers v. USPS*, 462 U.S. 810, 829-34, (1982), that carefully analyzed how the term attributable should be interpreted. This definition has been further refined by U.S. Courts of Appeals and is well under-

stood in the industry. The NAGCP Court rejected a contention that it was appropriate to make classes responsible for the recovery of costs for which an extended inference of causation was claimed. It emphasized the need for reliable indicators of causality without specifying any specific method for identifying causality. Governed by this ruling since 1982, the Postal Rate Commission must have reasonable assurance that any costs attributed to a class of mail are incurred as a result of providing that class of mail. The Committee finds no reason for changing this standard.

*Establishment of a regulatory system for market-dominant products*

In hearings, witnesses from the mailing industry cited the need for predictable and stable rates. Predictability and stability, the Committee learned, allows mailers to better plan their mailing and could allow them to increase the amount of business they do with the Postal Service. Of primary importance, then, is the establishment of a regulatory system that will provide for limits on the percentage changes in Postal Service rates. This system—frequently referred to as a rate or price cap—shall be designed to limit annual rate changes based on the level of inflation. While the Committee considered directing the use of a specific inflation measure as the basis for the rate cap, concern existed that such a determination would unreasonably restrict the flexibility of the Postal Regulatory Commission to establish the best and most effective rate cap mechanism. The Committee expects that the Postal Regulatory Commission, in public proceedings and with the input of all interested parties, will fully and carefully evaluate the merits of a wide range of rate cap structures. This consideration should include, but should not be limited to, the relative merits of different inflation indices including the Consumer Price Index, the Employment Cost Index, and the Gross Domestic Product Price Index; the definition of the product groupings to which the caps will be applied, and the use of productivity factors or offsets. In addition, the Postal Regulatory Commission should consider the experience gained and lessons learned from the construction and application of rate or price caps in other industries. Overall, the Committee believes that the rate cap structure established by the Postal Regulatory Commission should provide for the maximum possible pricing flexibility while maintaining adequate financial safeguards and incentives for cost control.

To provide for predictable rate changes which will allow Postal Service customers to budget for postage expenditures, the Postal Regulatory Commission shall establish a schedule under which rates will change at regular intervals by predictable amounts. While the establishment of a rate cap per se will increase the predictability of postal rate changes by imposing a known cap, the Postal Regulatory Commission must consider whether additional requirements are necessary and appropriate. The Committee believes that the characteristics and relative sophistication of various customer groups may suggest differing rate change schedules are appropriate for specified product groupings. Similarly, market conditions and the relative speed with which market conditions change may also inform the Postal Regulatory Commission's decision in establishing any rate change schedule. The Postal Regulatory Commission may determine that more or less frequent rate changes are

appropriate for different product groupings. However, establishment of schedules for rate changes should be designed to provide a necessary and appropriate level of predictability; it should not be designed to unreasonably restrict the ability of the Postal Service to adjust prices within the rate cap.

To provide for adequate review of any proposed changes in market-dominant product price, a 45-day prior review period is established. This period begins with the Postal Service's public notice of a price adjustment affecting a market-dominant product or products and will provide the Postal Regulatory Commission an opportunity to review the adjustment. If the Postal Regulatory Commission finds that the price adjustment is not in compliance with the established statutory and regulatory requirements, it must notify the Postal Service within the 45-day notice period. In response to this notice, the Postal Service shall describe the actions to be taken to ensure that the rate change is in compliance with the statutory and regulatory requirements. While the Postal Service is expected to respond adequately to any Postal Regulatory Commission determination of noncompliance prior to the scheduled rate implementation, the burden is on the Postal Regulatory Commission to provide adequate notice of noncompliance permitting a Postal Service response prior to the expiration of the 45-day period. If either intentionally or inadvertently, the Postal Regulatory Commission does not notify the Postal Service of any noncompliance, the Committee believes that there would be no impediments to the Postal Service implementing the rate adjustment as noticed at the end of the 45-day period. The Committee clearly recognizes that the 45-day review period is short and has determined that a short review period is consistent with the goals of increasing Postal Service pricing flexibility. To facilitate review of rate adjustments, the Committee presumes that extremely clear and well-defined standards will be established by regulation allowing the Postal Service and the Postal Regulatory Commission to make a rapid determination of whether a rate adjustment meets the applicable criteria. The review period is not intended to be used to evaluate the regulatory structure; if a full review of the regulatory structure is deemed to be necessary, the Committee expects that, during the period of any review of the regulatory structure, the Postal Service will be permitted to adjust rates under the regulatory requirements in effect as of the date of public notice of the adjustment. Therefore, any changes in the regulatory structure will be applicable only to rate adjustments noticed by the Postal Service after the date the new regulations are established.

The Committee believes that the rate cap system to be established under this statute by the Postal Regulatory Commission should give the Postal Service the flexibility to respond to all circumstances it is likely to face in the normal course of business. However, the terrorist attacks of September 11, 2001 and the subsequent use of the mail to transmit anthrax highlight the need to address unexpected and extraordinary circumstances and their effect on the Postal Service and its financial requirements. Therefore, the Postal Regulatory Commission shall establish procedures under which the Postal Service can adjust rates on an expedited basis due to unexpected and extraordinary circumstances. The Committee hopes that these procedures will never be needed; however, it

would be unwise not to recognize the potential need for rapid changes to the postal rate structure in the event of a national emergency.

*Workshare discounts*

The Committee has heard testimony from many parties describing the benefits of the Postal Service's worksharing program. This program was developed by the Postal Service and the Postal Rate Commission to enable customers to pay lower rates when they perform mail preparation or transportation activities such as presorting, prebarcoding, and certain other mail handling activities that would otherwise be performed by the Postal Service. This worksharing program has induced mailers to invest in equipment and processes that facilitate the Postal Service's automation program, has reduced mailing costs, and has otherwise made mail a more economically attractive medium.

The Committee agrees with the principle, supported by the Postal Service, the Postal Rate Commission, and postal employees, that workshare discounts should generally not exceed the costs that the Postal Service avoids as a result of the worksharing activity. When discounts are kept below the costs saved by the Postal Service, mailers have a financial incentive to do work more efficiently than the Postal Service can do it, yielding savings to the participating mailers, to the Postal Service, and to other postal customers whose rates are kept down by the Postal Service's savings under the program.

However, there are four circumstances under which workshare discounts in excess of avoided costs have historically been allowed by the Postal Rate Commission and are warranted, and the Committee has codified these exceptions in the legislation:

- The first exception applies when a discount is associated with a new or changed postal product and is needed, for up to 4 years, to induce mailer behavior that furthers the economically efficient operation of the Postal Service. Such a discount can encourage mailers to invest in new technologies or practices that will save the Postal Service money, and can then provide the Postal Service an opportunity to achieve the resulting efficiencies. For discounts already in effect on the date of enactment, the 4-year period begins on that date.
- The second exception provides that a workshare discount may exceed costs avoided if a reduction in the discount would—(i) lead to a loss in volume of the affected category of mail and thereby reduce the aggregate contribution to institutional costs, (ii) result in a further increase in rates paid by mailers not able to take advantage of the discount, or (iii) impede the efficient operation of the Postal Service.
- The third exception allows a workshare discount to exceed costs avoided if that excess portion of the discount is necessary to mitigate rate shock and will be phased out over time. Discounts under this exception, like those under the first exception, are time-limited.
- The fourth exception applies to discounts that are provided in connection with subclasses of mail consisting exclusively of material having educational, cultural, or scientific value. Discounts

under this fourth exception, like those under the second, are not time-limited.

To ensure that the economic rationale for workshare discounts is transparent and clearly understood, the Postal Service will be required to submit to the Postal Regulatory Commission a report whenever it establishes or maintains a workshare discount. This report must include an explanation of the Postal Service's reasons for establishing or maintaining the rate and must set forth the data, economic analyses, and other information relied upon by the Postal Service to justify the rate.

*Service agreements for market-dominant products*

In the hearings, the Committee heard from numerous witnesses who argued that increased pricing and product flexibility was necessary to provide the Postal Service with the ability to respond quickly and effectively to customers' needs. The current regulatory structure places roadblocks in the way of responsive and cost-effective pricing initiatives. For example, the Capital One service agreement required eight months of litigation, hundreds of pages of testimony, hearings, and extensive legal argument before being recommended by the Postal Rate Commission. The Committee fully supports the Postal Rate Commission's determination that service agreements establishing customer-specific rates and classifications are legal and permissible under current law. In addition, the Committee believes that the regulatory structure established by this legislation, absent the provisions of this section, would permit customer-specific service agreements for both market-dominant and competitive products. However, in evaluating the concerns of postal stakeholders, the Committee has determined that the limited experience to date with service agreements suggests that prudent safeguards might reasonably be included in this legislation. While future review may determine that the requirements we have instituted are unnecessary, we believe these requirements will provide useful legislative guidance in evaluating future service agreements for market-dominant products. Consistent with the Committee's determination that increased pricing discretion should be granted to the Governors, the requirements for service agreements for competitive products decisions for competitive products do not differ from those for any other competitive product rate change as set out in section 3631.

Specifically, the Postal Service is authorized to negotiate service agreements with individual customers or groups of customers for market-dominant products. These agreements would provide for the provision of postal services under terms, conditions, or service standards that differ from those generally available to other users of the mails. Service agreements will, therefore, serve as a vehicle by which the Postal Service and its customers can evaluate unique opportunities to reduce costs, change product offerings to meet specific customer needs or undertake other actions that will provide a benefit to the participating customer. While many view service agreements as a way for the participating customer to reduce its costs (through lowered rates or acceptance of reduced services), the Committee encourages the Postal Service to investigate opportunities that may provide additional or premium (possibly at a higher price) services that would not otherwise be available to customers.

We do not intend for service agreements to be a limited substitute for more broadly applicable classifications. The Postal Service should continue to make every effort to provide products and services of value available to as many customers as possible.

In fact, the conditions established in this legislation will ensure that no one is made worse off as a result of a customer-specific service agreement. Every service agreement must provide sufficient total revenue to ensure that all Postal Service costs attributable to the agreement are covered and that the contribution to the Postal Service's institutional costs from the mail covered by the agreement will not decline; therefore, no other customer will bear an increased institutional cost burden because the Postal Service has entered into the service agreement. In addition, rates or fees for other mailers cannot increase as a result of the agreement. Lastly, the Postal Service will be required to enter into agreements on the same (or substantially similar) conditions with customers who are not party to the agreement; this will result in the benefits from a service agreement being made accessible to any customers who can meet the requirements of the service agreement. Lastly, the Postal Regulatory Commission may suspend, cancel or prevent an agreement if it does not meet the requirements of this section, or following review under the same procedures used for other rate and service complaints as established in section 3662.

Administrative requirements are also established by this legislation that will ensure that the terms and conditions of any service agreements are publically known and to permit the open evaluation of the agreements by both the Postal Regulatory Commission and any customer who may want to determine whether it could benefit under the terms of the agreement. The Postal Service is required to publish the terms of a service agreement in the Federal Register at least thirty days before the service agreement is to take effect. This publication must describe the postal services the agreement involves and the functions the Postal Service and the customer respectively must perform, and the rates and fees payable by the customer during the term of the agreement. In addition, the notice must provide sufficient information (based to the extent practicable on customer specific data) to demonstrate the bases for the Postal Service's view that the agreement meets the legislatively established conditions for a permissible service agreement. As a safeguard for regional or local businesses who may not routinely review Federal Register notices, the Postal Service shall publish this information in a manner that would provide reasonable notice to persons within any geographic area if the agreement pertains to that area specifically.

#### *Pricing of competitive products*

This bill establishes a flexible system of pricing the Postal Service's competitive products which reduces regulatory burdens and permits more customer- and market-responsive pricing. It does this while establishing appropriate safeguards to ensure that a level playing field is maintained and that the Postal Service does not unfairly compete. The competitive products are defined as priority mail, expedited mail, bulk parcel post, bulk international mail and mailgrams. As appropriate, the Postal Regulatory Commission may adjust the list of competitive products in response to changes in

market conditions such as a significant increase in the number or type of non-postal alternatives for a specific product. In the market for each of these products, substantial private sector competition exists giving customers alternatives to Postal Service products. Unlike market-dominant products, where a lack of competition leads the Committee to specify a rate cap mechanism to ensure that costs and prices are controlled; for the competitive products the Committee believes that the open and fair competition with private sector firms will encourage the cost-effective provision of Postal Service competitive products.

The regulatory structure established by the Postal Reorganization Act does not distinguish between market-dominant and competitive products. See 39 U.S.C. 3622. Regardless of the availability of competitive alternatives to postal products, the same litigious and lengthy postal rate-making process is applied to all products. Under this legislation, the Presidentially-appointed Postal Service Governors are permitted to establish rates and classes for competitive products as needed under a streamlined review process.

To protect both customers and competitors of the Postal Service, this legislation establishes a prior review process to ensure that the Postal Service is not pricing competitive products inappropriately and to ensure that the Postal Regulatory Commission and all interested parties have the opportunity to review the proposed competitive products prices and to determine that the requirements of this act are met. The public notice and concurrent Postal Regulatory Commission review period for competitive product price change is limited to thirty days. As compared to current statute, which allows the Postal Rate Commission up to ten months to review all Postal Service price requests, the limited thirty day review period should substantively increase the ability of the Postal Service to adjust its competitive pricing and products to react to market changes and customer needs. If the Postal Regulatory Commission finds that any proposed competitive product price change does not meet the requirements of the regulatory structure, it is required to notify the Governors of the noncompliance and the Governors are required to respond to this notice by describing the actions to be taken to comply.

The Postal Regulatory Commission is required, within 180 days of enactment, to promulgate regulations that prohibit the cross-subsidization of competitive products by market-dominant products, ensure that each competitive product covers its attributable costs, and that all competitive products collectively cover their share of the Postal Service's institutional costs. These regulations are intended to ensure that the Postal Service competes fairly in the provision of competitive products. However, the Committee feels that the regulation of competitive products should be constructed to result in the minimum possible regulatory burden and to facilitate a short and limited review of proposed competitive product price changes. As a result, established regulations are expected to be clear and easily interpreted to facilitate the short prior review process established by this legislation. The Governors, in turn, are expected to provide a clear and concise explanation of how and why the proposed rate changes meet the established requirements to facilitate Postal Regulatory Commission review. The review process is intended to ensure that the Governors' proposed

competitive price adjustments meet the established requirements, not to serve as an evaluation of the merits of each proposed rate as compared to any other alternative rates.

*Experimental and new products*

The Committee recognizes that, to remain financially viable and to continue to meet the evolving needs of its customers, the Postal Service must innovate and develop new products and services. While this legislation limits the scope of the Postal Service's product offerings to "postal products," we do not intend for this limitation to restrict the Postal Service's ability to develop new postal products. In fact, developing an organizational culture of innovation and market responsiveness, can help the Postal Service to address its financial difficulties by increasing the attractiveness of mail to both new and existing customers. Therefore, this legislation sets out procedures under which the Postal Service can offer experimental and new postal products.

Under the provisions of the Postal Reorganization Act, the Postal Service must request a recommended decision from the Postal Rate Commission prior to offering any new product or service. While the Postal Rate Commission has established rules to expedite consideration of experimental and market test classification requests, the Postal Service and other stakeholders have often observed that the current regulatory structure does not offer sufficient flexibility to innovate and offer new products and services. To increase flexibility and to facilitate a more entrepreneurial approach to product development, the Committee believes that the Postal Service should be granted additional flexibility permitting it to market test experimental products without extensive prior review by the Postal Regulatory Commission. Therefore, for market tests of experimental products for which Postal Service revenues are expected not to exceed \$10 million annually, no prior review will be required. In addition, these market tests will be limited to 24 months in duration. However, if it is necessary to determine the feasibility or desirability of the product being tested, the Postal Regulatory Commission may, upon receiving an application from the Postal Service, extend the revenue limits to \$50 million annually and the duration of the market test for an additional 12 months. The Postal Regulatory Commission shall approve any application to increase the revenue limit or duration of the market test for an experimental product if it determines that the product is likely to benefit the public and meet an expected customer demand, the product is likely to contribute to the financial stability of the Postal Service and the product is not likely to result in unfair or inappropriate competition. The ability to modestly expand the market test revenue and duration limits with Postal Regulatory Commission concurrence, will give the Postal Service additional flexibility if it finds that a more limited test will not provide sufficient information to evaluate the market demand and the financial potential of a product.

To ensure that proper safeguards exist at the outset of a market test of an experimental product, the Postal Service will be required to file with the Postal Regulatory Commission and publish in the Federal Register a notice describing the test's nature and scope and explaining why it believes the experiment should be classified as

a market test. Products eligible for provision as a market test for an experimental product must be sufficiently different from all products offered by the Postal Service in the prior two years, thus protecting against the use of the market test rules to adjust or change the rates charged for existing products outside the rate-making processes established in sections 3622 and 3623. However, this limitation is not intended to foreclose the use of the market tests of experimental products authority for enhancements to existing products. The test used to determine whether the market test provisions can be applied is a judgement that the proposed product is, from the point of view of mail users, different from those offered in the prior two years. These new products could include ancillary services that were not previously offered, product enhancements that provide services of value that differ in some respect to currently offered products, re-introductions of products that had been previously discontinued, and adjustments to product offerings under the experimental rules that change the nature or type of service provided. The intent of the market test rules is not to severely limit the type and scope of products that can be offered under these provisions, it is rather to encourage the Postal Service to expand the scope of its products to maintain the attractiveness of the mails generally.

To protect both customers and competitors of the Postal Service, the Postal Service should not be permitted to offer a product under the market tests of experimental products provisions if it would create an unfair or otherwise inappropriate competitive advantage for either the Postal Service or any mailer, especially small business concerns. In addition, if a market test for an experimental competitive product is undertaken, the protections offered for confidential business information under the new Postal Regulatory Commission subpoena powers will also apply. To ensure consistency and preserve the distinctions made under the rate-making provisions applicable to market-dominant and competitive products, costs and revenues attributable to competitive experimental products will be included in the determination of the Postal Service's compliance with the provisions applicable to competitive products generally. To prevent a potential anomaly that might otherwise permit an enhancement to a competitive product to be classified as a market-dominant product, any product developed under the market test rules that only affects competitive products or provides services ancillary to competitive products will also be classified as a competitive product even if a similar ancillary product is available for one or more market-dominant products. Lastly, as a final safeguard, the Postal Regulatory Commission may order the cancellation of a test or take other appropriate action, if it determines that a market test does not meet the requirements of the section. The Committee established this provision as an ultimate safeguard for customers and competitors of the Postal Service; however, we do not intend this safeguard to result in a de facto prior review of market tests of experimental products through the establishment of rules that institute requirements for provision of extensive information or data before the Postal Service can begin a market test.

While the bill establishes procedures setting out a simplified process allowing the Postal Service to conduct market tests of ex-

perimental products, the Committee does not intend to limit the Postal Service's product development initiatives to small-scale product enhancements. Instead, we strongly encourage the Postal Service to review its product offerings on an ongoing basis to ensure that they continue to meet the needs of the American people including customers of all sizes. Because it is not unlikely that these reviews may result in proposed product changes exceeding the scope of changes permitted under the market test for experimental products provisions, this legislation establishes a process whereby the Postal Service can adjust its product lines and respond to the market place while ensuring that the Postal Regulatory Commission can provide appropriate regulatory oversight.

As has been well demonstrated in public hearings both before this Committee and before the President's Commission on the United States Postal Service, the postal marketplace is changing, perhaps more rapidly than at any time in our nation's history. Therefore, while the Committee divided existing postal products and services into the market-dominant and competitive product groupings in this legislation, over time, we expect that these product groupings will need review and revision as circumstances change. Therefore, the Postal Regulatory Commission is given the authority to change the lists of market-dominant and competitive products by adding or removing products from the lists or by transferring products between the two lists. The Postal Service or users of the mails may request changes in the product lists and the Postal Regulatory Commission may also, upon its own initiative, change the product lists. Under current law, the Postal Service has the sole ability to request changes in the classification schedule, and absent such a request, the Postal Rate Commission has little ability to initiate classification changes even if the change would be beneficial. However, we do not intend for these provisions to result in Postal Regulatory Commission management of the Postal Service's product offerings. The goal of increased flexibility and increased responsiveness to customers' needs requires that the Postal Service manage its product offerings. But, in a changing environment, the Postal Regulatory Commission must be able to make needed alterations to the regulatory structure, including the classification of products as market-dominant or competitive, to ensure that the regulatory structure continues to meet the goals established by Congress. Consequently, any changes to the product listings should be well-reasoned and clearly justified based on changing market conditions.

To guide Postal Regulatory Commission decisions on the classification of products as either market-dominant or competitive, "market-dominant products" have been defined as including each product for which the Postal Service exercises sufficient market power that it can effectively set prices above costs, raise prices significantly, and decrease quality or output without risk of losing substantial business to other firms offering similar products. Because this legislation establishes regulatory limits on, for example, price changes, the evaluation of whether "sufficient market power" exists must recognize the potential for price, quality, or output changes and associated market effects in the absence of established regulatory constraints. All products not defined as market-dominant under these criteria shall be categorized as competitive prod-

ucts. Generally, this definition adopts the Federal Communications Commission definition of a dominant carrier.

Furthermore, in recognition that some customers have no non-Postal Service alternatives because of the Congressionally-established restrictions on the carriage of letters outside the mail, [18 U.S.C. 1696 subject to the same exception set forth in the last sentence of section 409(e)(1)] this legislation requires that any product subject to this monopoly remain within the market-dominant category. In making any decision to transfer products under this section, the Postal Regulatory Commission should give due regard to the availability and nature of services in the private sector engaged in the delivery of the product, the views on the appropriateness of the proposed action of those who use the product and the likely effect on any small business concerns. This will allow for a balanced evaluation of the merits of any proposed transfer of a product between the market-dominant and competitive product categories. Because changes in the market place may not equally affect all of the subclasses or other subordinate units or a class of mail or type of postal service, nothing in this title shall be considered to prevent transfers under this section from being made because they only affect some (but not all) of the subclasses or other subordinate units of a class of mail or type of mail service. To facilitate the effective operation of the regulatory structure, the Postal Service cannot offer any product involving the physical delivery of letters, printed matter or packages unless it has been assigned to the market-dominant or competitive category of mail.

#### *Reporting requirements*

In establishing the postal regulatory structure in the bill, the Committee has attempted to balance the Postal Service's need for additional flexibility with the public and mailing community's need for increased financial transparency and established safeguards to protect against unreasonable use of the Postal Service's statutorily-granted monopoly. We are also establishing reporting requirements for both the Postal Regulatory Commission and the Postal Service to ensure that Congress, the Postal Regulatory Commission and postal stakeholders have sufficient information to determine the ongoing effectiveness of the regulatory structure established in this legislation as well as to provide for ongoing audits of the Postal Service by the Commission. Specifically, the Postal Regulatory Commission is required to report to Congress annually on the operations of the Commission under the provisions of this title including the extent to which regulations are achieving the objectives of the rate-making requirements of sections 3622 (market-dominant products) and section 3623 (competitive products), and the service standard provisions of section 3691.

To facilitate application of the rate-making requirements of this title and to provide a basis for the evaluation of the Postal Service's compliance with these requirements, the Postal Service shall (within 90 days of the end of each year) submit a report to the Postal Regulatory Commission that analyzes costs, revenue, rates, and quality of service in sufficient detail to demonstrate that all products complied with all applicable requirements. In addition, for each market-dominant product provided, this report shall include product information, and measures of service for that product. This

information will allow the Postal Regulatory Commission and all interested parties to evaluate the provision of market-dominant products. To ensure that workshare discounts are appropriately established, the report shall include data on a per-item basis for each workshare discount including the costs-avoided, the percent of the discount that the cost-avoided represents and the contribution made to institutional costs. The Postal Service may provide summary data by service agreement and market test but must report the data that the Postal Regulatory Commission requires. This report shall be audited by the Inspector General. The results of the Inspector General's audit will be submitted with the Postal Service's report.

The Postal Regulatory Commission shall prescribe by regulation the content and form of the Postal Service's report. In doing so the Postal Regulatory Commission must give due consideration to the need to balance the requirements of full and open access to postal information against the need to avoid unnecessary or unwarranted administrative effort and expense on the part of the Postal Service and the importance of protecting the confidentiality of commercially sensitive information. The reporting requirements are intended to provide an opportunity for the Postal Regulatory Commission to review and evaluate the compliance with the rate-making provisions of this title and to evaluate the level of service provided to customers; they are not intended to impose an excessive burden on the Postal Service.

In establishing regulations implementing this section, the Postal Regulatory Commission should carefully weigh the need for and utility of any data it may request against the expected benefit in increased transparency of postal operations and finances. The reporting requirements are not intended to serve as an unlimited opportunity to access any and all Postal Service data including that which may be, at best, tangentially-related to evaluating compliance with the rate and service provisions of this title. However, in recognition that circumstances and data needs may change over time, the Postal Regulatory Commission may (on its own motion or upon request of an interested party) initiate proceedings to improve the quality, accuracy, or completeness of data provided it appears that costs or revenue attribution data or service quality data has become significantly inaccurate or can be significantly improved or if revisions are necessitated by the public interest. If the Postal Service determines that any information provided in a nonpublic annex to a report under this section contains information as described in 39 U.S.C. 410(c) or exempt from disclosure under 5 U.S.C. 552(b) including commercially sensitive information which under good business practice would not be publically disclosed, the Postal Service shall notify the Postal Regulatory Commission of its determinations and describe the documents for which confidentiality is sought and the reasons for this determination. Lastly, to ensure that the Postal Regulatory Commission has access to up-to-date Postal Service data to facilitate its statutory mission, the Postal Service shall also provide copies of its most recent comprehensive statement, strategic plan, performance plan and program performance reports.

After receiving the required annual reports, the Postal Regulatory Commission shall provide an opportunity for public comment

and shall determine within 90 days whether the rates and fees in effect were not in compliance with the applicable provisions of this chapter or whether any service standards were not met. This compliance determination will serve as a check on the Postal Service's rate-setting decisions and provide a safeguard ensuring that the rate-making requirements of this legislation have been met. However, this compliance assessment is not intended to serve as an after-the-fact review of the appropriateness of each individual rate in comparison with any other possible alternative rates; the review is intended to ensure that the rates for market-dominant products meet the requirements of the established rate cap at the time the rates were implemented and that the competitive products meet the rate requirements established to ensure that inappropriate cross-subsidy or competition does not occur. If noncompliance is found, the Postal Regulatory Commission is required to take appropriate remedial action by, for example, ordering that a cross subsidy be ended or that a rate that has exceeded the Commission-established price cap be lowered. To avoid the potential for duplicative review of prior Postal Service and Postal Regulatory Commission decisions, once the Postal Regulatory Commission determines that the Postal Service was in compliance with the applicable standard for any year, this shall establish a rebuttable presumption of compliance by the Postal Service for the purpose of any rate or service complaint.

#### *Rate and service complaints*

Under current statute, rate and service complaints can be filed; however, relatively little recourse is available if the complaint is found to be justified. This legislation strengthens the authority of the Postal Regulatory Commission to act on a complaint and to require the Postal Service to take action if the complaint is found to be justified. Any person who believes that the Postal Service is not operating in conformance with the statute may lodge a complaint with the Postal Regulatory Commission which then is required (within 90 days) to either begin proceedings on the complaint or issue an order dismissing the complaint. If the Postal Regulatory Commission does not act on a complaint in a timely manner it shall be treated as if it were dismissed. If, after open proceedings the Postal Regulatory Commission finds that the complaint is justified, this act gives the Commission broad authority to correct violations by ordering the Postal Service to take whatever steps the Commission considers appropriate. In cases of deliberate non-compliance with the law, the Commission is authorized to levy fines based on the seriousness of the noncompliance. To ensure that customers using market-dominant products are not unfairly penalized, fines resulting from unlawful provision of competitive products must be paid using revenues from the Postal Service's competitive products. All fines will be paid into the U.S. Treasury's General Fund.

#### *Appellate review and enforcement of orders*

The Committee recognizes that persons, including the Postal Service, may be adversely affected or aggrieved by decisions of the Postal Regulatory Commission. If this occurs, within thirty days after a Postal Regulatory Commission decision becomes final, any

person, including the Postal Service may petition for judicial review of a Postal Regulatory Commission decision. These petitions shall be filed in the United States Court of Appeals for the District of Columbia. In addition, the district courts shall have jurisdiction to enforce, and to enjoin and restrain the Postal Service from violating any order issued by the Postal Regulatory Commission.

*Modern service standards*

The bill also requires the Postal Regulatory Commission to establish by regulation a set of modern service standards for the Postal Service's market-dominant products. These regulations, and the revised regulations the Regulatory Commission would be authorized to issue from time to time, would in effect serve as the Regulatory Commission's interpretation of universal service as defined in sections 101(a), 101(b) and 403 of title 39 of the United States Code.

The Committee believes that sections 101(a), 101(b) and 403 of title 39 fully define the universal service obligation. Section 101(a) states that the Postal Service shall "bind the Nation together through the mail" and serve "all patrons" in "all communities." Section 101(b) elaborates on these requirements, stating that "effective and regular postal services" shall be provided to "rural areas, communities, and small towns where post offices are not self-sustaining." Section 403 further elaborates on the requirements of Section 101(a), stating generally that the Postal Service "shall serve as nearly as practicable the entire population of the United States" and "establish and maintain postal facilities of such character and in such locations, that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services." Section 403 states further that the Postal Service shall not "make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user.

The Committee's main intent in giving the Regulatory Commission the authority to interpret universal service through regulation is to ensure that the service the Postal Service provides its customers is consistent with the statutory definition of universal service. The service standards established by the Regulatory Commission, however, should be reasonable. They should not force the Postal Service to charge higher rates or make dramatic changes to its retail and mail processing networks in order to meet them. In establishing and revising such standards, the Regulatory Commission should take into account the level of service the Postal Service provides now and how successfully that service has met the needs of its customers. The Regulatory Commission should also take into account the fact that many Americans now use other forms of communication, such as e-mail, electronic bill pay, and fax machines, to conduct business and keep in touch with friends and family. Over the years, the service standards established by the Regulatory Commission should reflect the fact that more and more Americans are likely to turn to these, and other, electronic forms of communication. They should also reflect the cost to the Postal Service of providing universal service as the number of addresses they must serve grows at the same time that mail volume is declining.

The other major goal in giving the Regulatory Commission the authority to interpret universal service through regulation is to

preserve, and where possible enhance, the value of the various market-dominant products offered by the Postal Service. The Committee believes this is especially important at a time when poor mail volume is having a major impact on postal finances and there may be some temptation to erode service quality in an effort to cut costs. On April 3, 2001 the Postal Service's Board of Governors requested a study from postal management of the cost savings associated with eliminating the Saturday delivery of mail. While the Committee is strongly supportive of any effort on the part of the Postal Service to cut costs, we believe postal management should do all it possibly can to find efficiencies before using cuts in service to find savings. We were pleased, then, when the Board of Governors announced in July 2001 that they would maintain six-day delivery. Making the Regulatory Commission the body responsible for determining the appropriate minimum delivery speed and frequency for market-dominant products as mail volume and the Postal Service's financial condition change will ensure that postal customers receive an appropriate level of service for the rates they pay. It also ensures that those parts of the country with post offices and delivery routes that are not profitable continue to receive a level of service consistent with the definition of universal service contained in sections 101(a), 101(b) and 403 of title 39, even when mail volume and revenues are poor.

The service standards established by the Regulatory Commission should also serve as a benchmark for measuring the Postal Service's performance. The Postal Service should strive to exceed the standards set by the Regulatory Commission, but the Regulatory Commission should regularly measure the Postal Service's performance to ensure that these standards are met. The Regulatory Commission is required to inform Congress in the annual reports required of them under section 204 of the bill whenever the Postal Service has failed to meet any existing service standards. The Committee expects the Postal Service to provide the Regulatory Commission with the data the Regulatory Commission believes necessary to determine whether or not service standards are being met. We also expect the Regulatory Commission to make use of the new information gathering authority made available to them in the bill to collect this data should the Postal Service be unwilling to provide it.

There is some concern that the authority given the Regulatory Commission to establish service standards would allow that body to micromanage the Postal Service and involve itself in product design. This is not the Committee's intent. One of the overarching goals of S. 2468 is to give the Postal Service the flexibility necessary to act more like a private business. The bill, in section 203, gives the Postal Service streamlined authority to introduce new and experimental products. The Committee believes, then, that the Postal Service should be free to innovate and to do what it needs to do to make the products it offers valuable to its customers. We have no intention through the service standards authority given the Regulatory Commission to restrict the Postal Service's commercial freedom, only to ensure that it lives up to its universal service obligation and the obligation it has to its captive customers to give them the service they pay for.

*Processing facilities*

The establishment by the Regulatory Commission of a set of modern service standards for market-dominant products will give the Postal Service a once-in-a-generation opportunity to realign its operations, from its processing and retail facilities to its delivery and transportation network, in a way that allows it to most efficiently carry out its universal service obligation. Section 302 of S. 2468 gives the Postal Service six months from the establishment of the Regulatory Commission's first set of service standards to put its realignment plan in writing through a report to the Regulatory Commission and Congress. The report will be a plan for how the Postal Service intends to meet the service standards and will include performance goals along with discussion of any changes that need to be made to the way the Postal Service operates.

The Committee is particularly interested in learning through this report some key information on any plans the Postal Service has to change its network of processing and retail facilities, a network that currently includes 446 processing facilities and more than 37,000 retail facilities. In its report, the President's Commission on the United States Postal Service found that the Postal Service's facilities network, particularly its network of processing facilities, is outdated and not closely related to its current mission. At one point, the Commissioners argue that "the legacy postal network is not what would be built from scratch if the Postal Service were created in the 21st Century." They go on to say: "Without question, the Postal Service has far more facilities than it needs and those facilities it does require are often not used in the most efficient manner."<sup>4</sup>

In addition, the President's Commission found that productivity often varies from facility to facility. They argue that "much of the Postal Service's legacy network could be retired." Those that remain, they say, could be "standardized, modernized and given a common footprint."<sup>5</sup> While processing facilities should not be closed for the sake of closing them, or simply as a way to cut costs, it will certainly be possible for the Postal Service to close and consolidate some facilities in the coming years without jeopardizing its ability to meet the service standards that will be established by the Regulatory Commission. In fact, as both the number of addresses the Postal Service must serve and the pace of electronic diversion of mail continues to grow, the Committee believes it will no longer be possible for the Postal Service to continue to operate inefficient or unnecessary processing facilities.

The Postal Service appears to recognize the need to modernize its processing network. In the Transformation Plan it submitted to Congress in April 2002, the Postal Service rightly pointed out: "The Postal Service's present financial position coupled with rapid advances in supply chain management technology make this the ideal time to initiate sweeping logistics changes in transportation and distribution processes throughout the organization."<sup>6</sup> In order to seize this opportunity, the Postal Service launched the Network Integration and Alignment (NIA) initiative. According to the Trans-

<sup>4</sup>Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service, 77.

<sup>5</sup>Ibid., 12.

<sup>6</sup>Transformation Plan, 30.

formation Plan, the NIA would be an effort to create a long-term blueprint for operations management at the Postal Service. It was billed as an opportunity to look at future service needs and logistics costs and build a new, more modern processing network. By the Postal Service's own estimates, it would affect \$5 billion in transportation costs and \$20 billion in processing and distribution costs.<sup>7</sup>

In its report, the President's Commission praised the Postal Service for pursuing the NIA.<sup>8</sup> The Transformation Plan stated that the strategy to be used in the NIA would be announced by the Fall of 2002 along with plans for plant consolidations. Nearly two years later, however, no details on the NIA have been forthcoming. The plan the Postal Service will submit pursuant to section 302 will give Congress and the public the information necessary to understand how the NIA, or whatever other facilities realignment strategy the Postal Service intends to use, will work. The Committee does not believe it is necessary for the Postal Service to include in this plan a list of facilities it intends to close. But the report must include the information necessary to understand the strategy the Postal Service will be using in its facilities realignment, the methods that will be used to involve the public and policy makers in the process, and the impact the process will have on the Postal Service's workforce and on other Postal Service initiatives, such as ongoing automation efforts.

The Committee recognizes that closing or consolidating processing facilities will be difficult for the Postal Service to do. No community will want to lose the jobs associated with a large processing facility. No Senator, Member of Congress or local elected official will ever want to have a postal facility in their state or district close on their watch. This is why we believe it is vitally important that the Postal Service go about its facilities realignment in the most transparent manner possible. Transparency will not prevent communities and elected officials from raising concerns about the Postal Service's actions. It will, however, make it possible for those affected by the Postal Service's actions to see the connection between those actions and the need to preserve the vital services the Postal Service provides.

#### *Post Offices*

S. 2468 maintains the current prohibition on closing post offices solely because they operate at a deficit, ensuring that rural and inner-city communities where post offices do not earn a profit continue to have access to retail services. It also in no way makes it any easier for the Postal Service to close a post office for any reason. However, the report the Postal Service will submit pursuant to section 302 should include a detailed discussion of the Postal Service's plans to expand access to alternate retail options, such as vending machines and contract stations.

The President's Commission on the United States Postal Service found that postal customers today can access the products and services offered by the Postal Service at about 5,000 locations, such as grocery stores and banks, where they conduct other necessary

<sup>7</sup> *Ibid.*, 31.

<sup>8</sup> *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service*, 75-76.

business each day. They can also buy stamps, the Commission found, over the Internet, at 17,000 vending machines and from 20,000 private retailers. While the vast majority of postal transactions still take place in post offices, the Commission found that it is substantially cheaper to conduct a postal transaction via alternate retail than at a post office. According to the Commission's report, about eighty percent of stamp sales still occur in the post office. However, the eight percent of sales that occur through Automatic Teller Machines (ATMs) or at grocery stores, drug stores and other large retailers are nearly seven times cheaper to conduct.<sup>9</sup>

The Committee is not suggesting that the Postal Service close post offices and replace them with alternate retail. It is not even clear it would be possible to close a post office and fully replace the services it provides with a vending machine or a window in a private retailer. It is even less clear that postal customers would be pleased with such an effort. Just as with inefficient processing facilities, however, it will no longer be possible for the Postal Service to continue to operate low-activity post offices as both the number of addresses it must serve and the pace of electronic diversion of mail continue to grow. As it found when it examined the Postal Service's processing facilities, the President's Commission found that "many of the nation's post offices are no longer necessary to the fulfillment of its universal service obligation." The Committee, however, believes that most of the nation's post offices are vital parts of their communities and need to remain open for the Postal Service to be able to fulfill its obligations under title 39, and meet the service standards to be established by the Regulatory Commission, to provide all parts of the country reasonable access to essential postal services.

That said, the Committee believes it is vitally important that the Postal Service begin expanding access to alternate retail options. It is equally important, we believe, that the Postal Service also begin to more aggressively market alternate retail options so that more postal customers are aware that they exist and grow more comfortable making use of them. Because transactions conducted in alternate retail settings do appear to be less expensive than transactions conducted in post offices, it is possible that the Internet, vending machines, contract stations and other innovations could be reasonable and efficient replacements for post offices at a time in the future when the demand for postal services is not as great as it is today. It is also possible that alternate retail options could serve as a substitute for a post office, but possibly only a temporary one, in growing communities where it may be necessary to construct additional post offices or expand existing ones at some point. The Committee is certain, however, that the aggressive expansion and marketing of alternate retail will benefit all postal customers, regardless of how accessible postal services are to them right now. The convenience and often 24-hour-a-day, seven-day-a-week access some alternate retail options offer will only make postal services more valuable.

The Committee believes it is also important that the Postal Service consult with stakeholders and its customers when pursuing any initiatives that would change its retail network. The Government

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<sup>9</sup> Ibid., 83.

Accountability Office (GAO) says in a recent report that, despite surveys showing that the vast majority of the Postal Service's customers are generally satisfied with the services it provides, those same customers have expressed concerns about such issues as long lines at post offices and post office closings.<sup>10</sup> Efforts have been made in the past, through a 1976 amendment to the 1971 Postal Reorganization Act and later a set of regulations issued by the Postal Service in 1998, to give customers and local officials more of a role in shaping the Postal Service's retail network. The Postal Service has also taken steps, described in the Transformation Plan, to create new low-cost retail alternatives, to move stamp-only transactions out of post offices and to close redundant or low-activity post offices.<sup>11</sup> Concerns remain, however, about the details of these strategies. It is not clear, according to GAO, if the Postal Service has consulted its customers in developing its retail plans. It is also not clear, GAO points out, how the Postal Service's stated goal of closing redundant or low-activity post offices will work with the existing process for closing post offices.<sup>12</sup> Just as it must do when realigning its processing network, the Postal Service must be as transparent as possible when pursuing its retail strategy and must give customers, local officials and other stakeholders the information they need to fully understand how that strategy will affect their communities.

*Fair competition*

S. 2468 contains a number of provisions the Committee believes are necessary to ensure that the Postal Service competes fairly with the private sector, particularly when offering products and services classified as competitive. The Postal Service, in our view, plays an important role in offering competitive products, even though a number of private sector businesses provide alternative services. We also believe, however, that steps need to be taken to level the playing field between the Postal Service and its competitors in the competitive product market. This is especially important now that this legislation gives the Postal Service significant new commercial flexibilities, particularly in the area of pricing. The language in Title IV ensures that the benefits the Postal Service gets by virtue of its status as a government entity do not give it an opportunity to abuse its new commercial freedom.

As the President's Commission points out in its report, the Postal Service's competitors are not able to borrow from the U.S. Treasury. They do not benefit from a monopoly market that provides a vast majority of their operating revenues. They are not exempt from most taxes and laws imposed on private businesses, as the Postal Service is, and they do not have the rulemaking powers Congress has granted the Postal Service in some areas.<sup>13</sup> The Committee strongly believes that the Postal Service should operate more like a private business but, when competing head to head with a private business, we believe just as strongly that the advan-

<sup>10</sup> Government Accountability Office, USPS Needs to Clearly Communicate How Postal Services May Be Affected by Its Retail Optimization Plan, GAO-04-803 (July 2004), 31-32.

<sup>11</sup> Transformation Plan, 13-18.

<sup>12</sup> GAO-04-803, 36.

<sup>13</sup> Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service, 93.

tages the Postal Service has as a government entity should be blunted.

This legislation provides a clear separation between market-dominant and competitive products by creating a new Postal Service Competitive Products Fund. The Postal Service will deposit in this fund any revenue it earns from its competitive products. The Postal Service will use that revenue to pay all costs related to providing competitive products. Any judgment against the Postal Service or the federal government related to the Postal Service's competitive products will also be paid out of the fund. The Postal Service will be free to invest any surplus revenue deposited in the fund, subject to regulations issued by the Department of the Treasury, and to borrow money against any assets related to competitive products. Receipts into and disbursements from the Postal Service Competitive Products Fund will be treated the same way as receipts and disbursements of the existing Postal Service Fund pursuant to section 2009a of title 39. Like the Postal Service Fund, then, the Postal Service Competitive Products Fund will not be included in either the budget submitted by the President or the congressional budget, will not be factored into the calculation of the federal budget deficit and will be exempt from any statutory budget limitation or deficit control measures.

The legal advantages the Postal Service enjoys over its private sector competitors are also erased in this legislation. The Postal Service will be required to pay an annual "assumed Federal income tax" on income earned by its competitive products. The amount of the tax each year would equal the income tax a corporation would pay if its only activities were those activities conducted by the Postal Service that are related to competitive products. The Postal Service will compute its "assumed Federal income tax" itself and pay it by January 15. Instead of paying the tax to the Treasury, the tax will be deposited into the Postal Service Fund.

This legislation makes clear that the Postal Service is barred from using its rulemaking authority to put itself at a competitive advantage or put another party at a competitive disadvantage. In addition it is put on the same legal ground as its private sector competitors in seven key ways. First, all Postal Service activities are subjected to those provisions in federal laws prohibiting fraudulent business conduct. Second, all Postal Service activities outside the postal monopoly are subjected to federal antitrust laws and all prohibitions on unfair competition. Third, the Postal Service Competitive Products Fund is made a "person" for purposes of federal bankruptcy laws. Fourth, the Postal Service is required to consider local zoning, planning or land use regulations and building codes when constructing new buildings. Fifth, U.S. customs law and any other laws related to the import and export of postal services are applied to the Postal Service's international postal products classified as competitive in the same manner that they apply to items shipped by the Postal Service's private sector competitors. Sixth, the Postal Service's sovereign immunity protection from suits in Federal Court for violations of Federal law is eliminated. Seventh, and finally, the Postal Service is required to represent itself in most legal proceedings permitted under this legislation as well as in cases involving administrative subpoenas issued by the Postal

Regulatory Commission and appeals of decisions by the Commission or the Postal Service's Board of Governors.

The Committee recognizes that the Postal Service may enjoy other advantages in the competitive product market that are not addressed in this legislation. For this reason, we require in section 703 that the Federal Trade Commission submit a report to the President, Congress and the Postal Regulatory Commission within one year of the enactment of this Act identifying any federal and state laws that apply differently to the Postal Service than they do to the Postal Service's private sector competitors. If any discriminatory laws are identified, the Trade Commission's report will include recommendations for either ending the discrimination or accounting for them in some way through the rates the Postal Service charges for its competitive products. The Regulatory Commission will take the Trade Commission's recommendations into account when revising the regulations on rates for competitive products required under section 3633 of title 39.

*Improved accounting*

To make the financial separation between the Postal Service's market-dominant and competitive products even clearer, S. 2468 also calls on the Secretary of the Treasury to develop recommended accounting practices and principles for the Postal Service. The Secretary will consult with the Postal Service and an independent certified public accounting firm in making these recommendations. The recommendations, which will also include guidance on how the Postal Service should determine its "assumed Federal income tax", which will be submitted to the Postal Regulatory Commission within one year of enactment. The Regulatory Commission will then establish a set of rules on accounting and the calculation of the tax after giving the Postal Service and other groups an opportunity to comment.

The goal of this process is to prevent the subsidization of competitive products by market-dominant products by better identifying the costs incurred by the Postal Service in providing competitive products. The President's Commission points out that the Postal Service today is able to attribute less than 60 percent of its costs among its various products. This means that more than 40 percent of costs are labeled as institutional.<sup>14</sup> The Postal Service itself admits that a disproportionate amount of these so-called institutional costs are paid for with revenue generated by First-Class mail, which is covered by the postal monopoly and, under this Act, will be classified as market-dominant. According to the Transformation Plan, First-Class mail comprises roughly half of the Postal Service's mail volume but pays more than two-thirds of the Postal Service's institutional costs.<sup>15</sup> The Committee agrees with the President's Commission when they say that this situation should be improved.<sup>16</sup> The Postal Service should be able to attribute a greater percentage of its costs. If they do this, it is likely that a greater share of costs can be attributed to competitive products and, to the

<sup>14</sup>Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service, 93.

<sup>15</sup>Transformation Plan, 4.

<sup>16</sup>Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service, 93.

extent that they can be, should be reflected in the rates charged for those products.

The fact that the Committee believes the Postal Service can improve on its 60 percent attribution rate does not mean we believe the Postal Service should strive to attribute 100 percent of its costs, or any other arbitrary percentage. We also do not believe that the Postal Service should be forced to attribute such a large percentage of its costs to competitive products that those products will no longer be affordable and will no longer be made available to the customers who need them, particularly those customers living in parts of the country that are not well-served by the Postal Service's private sector competitors. We do believe, however, that Treasury, the Postal Service and the Postal Regulatory Commission should partner with private sector accounting experts and postal stakeholders in an open, transparent and continuous process to improve cost accounting and cost attribution at the Postal Service, especially as it applies to competitive products.

#### *International postal arrangements*

This legislation also makes it clear that the Department of State, not the Postal Service, is the federal agency that will take the lead in formulating U.S. foreign policy related to international postal services. The Secretary of State is given the authority to lead U.S. delegations in intergovernmental meetings devoted to postal matters and is barred from concluding agreements that, with respect to any competitive product, give preference to any entity, including the Postal Service. In carrying out his responsibilities during international postal negotiations, the Secretary is required to maintain appropriate liaison with other federal agencies, with the Postal Service, and with affected members of the public. He or she is also required to establish an advisory committee under the Federal Advisory Committee Act to help perform the necessary coordination and liaison with entities in the public and private sectors as U.S. foreign policy related to international postal services is developed. Before concluding an international agreement establishing a rate or classification for a postal product subject to regulation by the Postal Regulatory Commission, the Secretary will request the Commission to submit views on whether the terms of the agreement are consistent with the rate and classification system they will establish.

This language does nothing to prevent the Postal Service from entering into commercial or operational contracts related to providing international postal services. Any such agreement involving an agency of a foreign government, however, must be solely contractual in nature and must apply only to the Postal Service and those agencies party to the contract. No contracts entered into by the Postal Service will be treated as binding international law.

#### *USPS Board of Governors*

At present, the U.S. Postal Service Board of Governors is comprised of nine Governors who serve with the PMG and Deputy PMG on an 11 member Board of Governors. The Governors are appointed by the President and confirmed by the Senate. They serve staggered nine year terms, and by law, no more than five members may belong to the same political party. The President's Commis-

sion recommended that the Postal Service Board of Governors be comprised of 12 individuals—eight independent members, three Presidential appointees, and the Postmaster General (who would be selected by the 11 other members). The Commission felt strongly that an independent, depoliticized Board is crucial to the future success of the Postal Service.

The President’s Commission proposed that the President appoint the first three members of the Board. Initially, these three appointees would select the first eight independent Board members whose selection would be dependent on the concurrence of the Secretary of the Treasury. Thereafter, independent members would be selected by the Board as a whole.

The Commission further recommended that all Board members be selected based on business acumen and other experience necessary to manage an enterprise of the Postal Service’s size and significance. They recommend three year terms for all members with a mandatory minimum retirement age of seventy.

The Committee felt strongly that the Senate’s role of “advise and consent” must be retained for all nominees to the Board. The Committee also believed that a five year term seemed more practical than a three year term, and would allow Board members to be perceived as less partisan by serving across Presidential terms of office. Finally, the Committee agreed with the President’s Commission that qualifications are appropriate, therefore S. 2468 requires that future Board members be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size.

#### *Private carriage of letters*

This legislation reduces the Postal Service’s monopoly over the carriage of letters by permitting private carriage when the amount paid for the private carriage is at least six times the rate charged for the first-ounce of a single-piece First Class Mail letter or when the letter weighs at least twelve-and-one-half ounces. Under the existing statute, the scope of the postal monopoly is defined by content and may not be readily understood. By establishing a clear price- and weight-based monopoly definition, both customers and competitors will be able easily to determine when a mail piece is subject to monopoly protections.

The Committee adopts the price-weight monopoly definition based, in part, on the recommendation of the President’s Commission.<sup>17</sup> While the Commission recommended a 12 ounce weight limit, the Committee has adopted a twelve-and-one-half ounce weight restriction that is closely correlated with the monopoly definition (350 grams or 12.5 ounces) adopted by the European Union in 1997. Linking the price limit to the first-ounce, First Class Mail stamp rate permits automatic adjustments of the price-based monopoly definition as stamp prices change. In addition, as in the case of the weight limit, the price limit is similar to that established by the European Union in 1997 (five times the stamp rate); but less than the current European Union threshold. While both the weight and price limits are greater than the current limits established by the European Union, the Committee believes that the

<sup>17</sup> *Ibid.*, 23.

higher thresholds are appropriate, and provides significant additional competition in the marketplace. Given the scope and size of the postal marketplace as well as the number of American jobs that depend, directly or indirectly, on the provision of postal services, we are reluctant to move towards a narrower monopoly definition (such as the current European Union definition) without additional experience with a more flexible Postal Service.

In addition, the postal monopoly definition is revised to explicitly incorporate those Postal Service regulations (in effect as of July 1, 2001) which permit the private carriage of letters by suspension of the postal monopoly. Doubt exists as to the Postal Service's current legal authority to suspend the Congressionally-granted postal monopoly; however, under its interpretation of existing law, the Postal Service has voluntarily suspended the private carriage of letters in a number of instances (sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations). The Committee believes that defining the extent of the postal monopoly falls within the purview of Congress, not the Postal Service, and in this legislation strikes current 39 U.S.C. 601(b) (which has been used by the Postal Service to justify unilateral suspensions of restrictions on the private carriage of letters) and replaces it with language codifying the current postal monopoly suspensions thus permitting continued private sector provision of services to these markets. To ensure the consistent and objective application of the postal monopoly, the Postal Regulatory Commission shall promulgate any necessary regulations.

#### *Rulemaking authority*

By revision of 39 U.S.C. 401(2), the Postal Service is granted authority to adopt, amend and repeal rules and regulations that are necessary for the execution of its functions under this title or assigned under any provisions of law outside this title. However, these rules and regulations must not be inconsistent with the provisions of this title. This provision clarifies that the Postal Service's rulemaking authority extend to rules and regulations "necessary" to carry out its statutorily-defined functions not to rules and regulations that the Postal Service, in its judgement, "deems necessary."

#### *Enhanced Regulatory Commission*

Under current law, the Postal Rate Commission has very narrow authority. They issue recommended decisions on mail rates and classifications, and fees for postal services. Their other job is to review changes in postal services that would generally affect service on a nationwide basis and offer advisory opinions. In their final report, the President's Commission concluded that, "The Postal Service's need for oversight today is as broad as the Postal Rate Commission's authority is narrow." On the basis of this assessment, the President's Commission recommended that a Postal Regulatory Board be vested with substantially expanded regulatory authority. The Committee agreed.

S. 2468 requires the new Postal Regulatory Commission to develop—with appropriate input from the postal community—a new, highly streamlined, rate-setting process. This new process should apply rigorous standards to rate-setting, but at the same time, give

postal officials the ability to manage and lead. The process should also proactively encourage the Postal Service to improve productivity and efficiency and not rely solely on rate increases to secure its fiscal health. Although S. 2468 specifies that market dominant products would be subject to a rate cap, the actual design of the rate cap mechanism, including choice of inflator, is left to the Regulatory Commission. The Regulatory Commission would be required to pre-approve any rate increases that exceed the rate ceilings. The legislation also requires the Regulatory Commission to engage in prior review periods for both market-dominant and competitive products. In addition, the Regulatory Commission will ensure that retained earnings are accumulated at an appropriate level, and consistent with the public interest.

S. 2468 places the Regulatory Commission in charge of overseeing Postal Service cost distribution, ensuring that the Service is appropriately allocating costs across its competitive and non-competitive products and services. In addition to verifying that cross-subsidies between products are not occurring, such analysis is necessary for assessing the fairness of the rates the Postal Service is currently charging, or proposes to charge. The Regulatory Commission would also exercise a new form of oversight regarding services the Postal Service provides. It would monitor the types of products and services offered by the Postal Service to ensure it does not exceed its core mission.

S. 2468 grants to the Regulatory Commission the role of ensuring the financial transparency of the Postal Service, obtaining information from the Service—if need be—through the use of subpoena power. The bill also requires strong enforcement of financial transparency by the Regulatory Commission, in part by requiring the Postal Service to report periodically on allocation of costs among mail products and services for auditing purposes.

The President's Commission recommended that the Regulatory Commission be comprised of three members who are appointed by the President and confirmed by the Senate. Members would be selected solely on the basis of their demonstrated experience and professional standing. At present, the Postal Rate Commission is comprised of five presidentially-appointed members who serve six year terms. Given the significantly expanded authority S. 2468 grants to the Regulatory Commission, the Committee felt it was appropriate to maintain the current size of the Commission. The Committee, however, agreed with the President's Commission that the Regulatory Commission would benefit from strengthened qualification requirements. S. 2468 requires that all new Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration.

S. 2468 also changes the manner in which the Postal Rate Commission's annual budget is approved. Under current law, the Commission submits their budget request to the Board of Governors. By unanimous agreement, the Board may adjust the total amount of money requested in the budget. Funding for the PRC's budget comes from the Postal Service Fund, established under title 39 of the U.S. Code. S. 2468 directs the PRC to instead submit their annual budget request to Congress, through the appropriations process. Funding will continue to be paid out of the Postal Service

Fund. The budget, however, will no longer be subject to disapproval by the Governors. This will ensure the financial independence of the new Regulatory Commission.

*USPS retirement and health benefit funding and military pension obligation*

On April 23, 2003, President Bush signed into law the Postal Civil Service Retirement System Funding Reform Act of 2003, P.L. 108–18. The Act was originally introduced by Chairman Collins and Senator Carper. It changed the way the Postal Service funds its Civil Service Retirement System (CSRS) obligation. According to a 2003 GAO report, the Postal Service had overfunded its pension obligation and, without this legislation, was on course to overfund by approximately \$73 billion. This overfunding was due to higher than assumed historical interest earnings and lower than assumed outlays, plus other factors.

The Act also transferred to the Postal Service from the U.S. Treasury the responsibility for funding the costs of CSRS benefits that current and former Postal Service employees have earned through military service. Thus, the Act transferred \$27 billion in cost from U.S. taxpayers to postal ratepayers. The Committee had reservations about making the Postal Service the only agency to bear these costs. The Administration, however, felt differently. In a January 30, 2004 letter to Chairman Collins, OPM Director Kay Coles James described the Administration's reason for making the Postal Service responsible for this military pension cost:

One of the primary goals for the reorganization of the Post Office into the USPS was to ensure that all the costs associated with the organization be paid through stamp revenue and not through taxpayer dollars. Therefore, all pension costs for employees that are attributable to service after the reorganization should be borne by the Postal Service.

The Act provided an opportunity for the Committee to reconsider this transfer by requiring the Postal Service, the Department of the U.S. Treasury and OPM to submit proposals detailing whether and to what extent the Department of the Treasury or the Postal Service should be responsible for the funding of benefits attributable to the military service of current and former employees of the Postal Service. In a September 30, 2003 letter to Chairman Collins, Postmaster General Potter recommended that the responsibility for these costs should be returned to the U.S. Treasury, in part, because the military service had no connection with Postal Service functions or operations. The Postal Service also notes that the funding of these costs has been the responsibility of the Treasury since 1969 and Treasury has already paid the great majority of this \$27 billion in costs. Therefore, charging the Postal Service for these past payments of the U.S. Treasury would be a retroactive cost transfer to postal ratepayers.

The President's Commission reviewed the recommendations made by the Postal Service, the U.S. Treasury Department and OPM. While the Commission understood the stance taken by the Administration, they did not agree with it. In their final report, they concluded:

No other Federal agency is required to pay such costs for its retirees under CSRS. In the Commission's view, it is inappropriate to require the Postal Service, as a self-financing entity that is charged with operating as a business, to fund costs that would not be borne by a private-sector corporation (costs associated with benefits earned while the retiree was employed by another employer). . . . It asks those who use the nation's postal system to subsidize the U.S. military every time they use the mail. . . . The Commission supports returning responsibility for this portion of retiree benefits to the Department of Treasury, where it resided before the recent legislation, and where this liability can be financed through funds generated by taxpayers.<sup>18</sup>

Having had the opportunity to reconsider the issue, the Committee agreed with the President's Commission and included language in S. 2468 to repeal this requirement, thereby returning the military pension obligation to the U.S. Treasury. It is important to point out that over ninety percent of the financial obligation related to military retirees is the result of military service performed before the creation of the Postal Service in 1971. Besides being unrelated to postal operations, the Committee does not believe the Postal Service should be held responsible for paying a component of their employees' military service that was performed before the Postal Service was even created.

P.L. 108-18 placed additional requirements on the Postal Service. Specifically, the Act identified as "savings" the difference between the contributions the Postal Service would have made to the CSRS Fund if the Act had not been enacted and the contributions the Postal Service makes under the Act. In 2003 and 2004, the Act required USPS to use the "savings" to reduce their outstanding debt to the U.S. Treasury. The Committee made clear, through "Sense of Congress" language, that the Postal Service should also use the "savings" to hold postal rates unchanged until at least 2006; to pay some portion of its postretirement health benefit obligation for current and future employees; and that none of the "savings" should be used to pay bonuses to Postal Service executives. It also required the Postal Service to begin making payments into an escrow account beginning in fiscal year 2006 in an amount equal to the annual "savings". The amount of the payments into the escrow account would have to be included in the Postal Service's rate base. Under P.L. 108-18, the Postal Service cannot use the funds in the escrow account unless Congress eliminates the escrow requirement or specifies by law how the escrow funds may be used. The legislation also required the Postal Service to report to Congress by September 30, 2003, on how it proposed to use those pension savings.

The Postal Service provided a report to Congress predicated on the assumption that the Postal Service is relieved of responsibility for military service costs. Specifically, the Postal Service recommended making annual payments to cover one of its major operating costs—postretirement health benefits—for all employees and

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<sup>18</sup>Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service, 125, 126.

retirees, currently estimated at \$47 to \$57 billion. Under this proposal, the Postal Service would be the only federal agency to fully pay all pension and postretirement health benefits for its employees and retirees. S. 2468 sets up within the U.S. Treasury, a “Postal Service Retiree Health Benefits Fund”. This fund shall be administered by OPM. Beginning in fiscal year 2006, the Postal Service will be required to pre-fund its post-retirement health benefits costs for all employees on a current basis and to fund one-fortieth of the unfunded post-retirement health benefits obligations each year through 2031 after which one-fifteenth would be funded each year. Any remaining “savings” will be used to pay down the outstanding debt to Treasury and for operating expenses—thereby holding down rate increases as well.

During the Committee’s eight hearings on postal reform, many disparate voices were heard from—the Postal Service unions and associations; the CEOs of major companies; representatives of the newspaper and direct marketing associations—and the two things they all had in common were the desire to see the escrow account requirement repealed and the return of the military pension obligation to the Treasury Department.

The amount due from postal ratepayers for the first annual escrow payment in FY 2006 will be \$3.2 billion. The cost to fund the military pension obligations will cost postal ratepayers, roughly, another \$2 billion in FY 2006. Should the military pension obligation remain with the Postal Service, and the escrow fund fail to be released, according to the Postal Service, mailers could potentially incur rate increases 5–6 percent higher in 2006 than they otherwise would be—at a time when American businesses can ill afford it.

Based on its impact on postage rates and its effects on the mailing industry, the general public and the economy as a whole, the Committee chose to incorporate into S. 2468 the repeal of the escrow requirement. Though S. 2468 does not specify a percentage of the escrow account that must be used to pay down obligations such as retiree health care benefits, with approximately \$90 billion in unfunded liabilities and obligations, the Committee believes it is critical to the Postal Service’s future viability that it work aggressively to pay down all outstanding liabilities and obligations.

#### *Workers’ compensation reforms*

The Federal Employees’ Compensation Act (FECA), enacted in 1916, is a comprehensive workers’ compensation law designed to provide medical and death benefits, income replacement, and other services to employees with work-related injuries. FECA does not place age or time limitations on an injured worker’s receipt of workers’ compensation benefits. Employees who fully or partially recover from their injuries are expected to return to work.

The President’s Commission found that under FECA, the Postal Service has maintained a broad and effective workers’ compensation program and acknowledged recent efforts that have lowered injury rates considerably. The Commission, however, also concluded that the Service, given its unique status, should be provided relief from FECA provisions that are creating costly unintended consequences. The Commission recommended making the Service’s workers’ compensation program more comparable to State-run pro-

grams in order to control costs, provide adequate benefits, and address the Service's unfunded liability in this area. A similar stance was taken by Postal Service Inspector General David Williams, who wrote in his semi-annual report to Congress that, "Given the Postal Service's current \$7.2 billion liability for workers' compensation, there is an urgent need to reconsider the Postal Service's obligations under FECA."<sup>19</sup>

The Postal Service is self-insured for workers' compensation costs, and these costs have continued to escalate. According to a March 2003 audit by the Postal Service Office of Inspector General, 21 percent (2,819) of the approximately 13,400 postal employees on the periodic workers' compensation roll were classified as totally disabled, and, as a result, not expected to return to work. (Employees on the periodic roll have injuries or disabilities that have lasted or are expected to last for periods over one year.) Approximately 89 percent of those 2,819 employees were age 55 or older as of September 30, 2003 and likely to be, for the most part, retirement-eligible. The Postal Service's rolls include 81 cases that originated 40 to 50 years ago; 778 cases that originated 30 to 39 years ago; and 1,189 cases that originated 20 to 29 years ago.<sup>20</sup> The IG's audit also noted that if an employee dies from a non-work related injury while receiving Workers' Compensation benefits and has not applied for disability with the Office of Personnel Management, their survivors receive no benefits.<sup>21</sup>

With no maximum dollar cap on FECA payments, employees often opt not to retire, staying permanently on the more generous workers' compensation rolls. All State plans, on the other hand, apply either a cap or a maximum limitation, which is usually defined in law as a percentage of the State average weekly wage. In their report, the Commission provided an example of the disparity in pay between those employees who retire and those who choose to stay on the more lucrative workers' compensation rolls:

Over a nine year period, a retirement eligible EAS-13 level postal employee with dependents could earn \$434,000 by not retiring and continuing to collect workers' compensation (75% of pre-injury salary plus COLAs, tax free). If that same employee were to retire, their CSRS retirement net pay over that same period would be \$249,000 (56% of High 3, taxable)—a difference of \$185,000.<sup>22</sup>

S. 2468 converts workers' compensation benefits for total or partial disability to a retirement annuity when the affected employee reaches retirement age as defined by the Social Security Act (SSA). The annuity would equal fifty percent of the monthly pay of the employee. This change reflects the fact that disabled postal employees would likely retire at some point were they not on the rolls of the Office of Workers' Compensation Programs. It will also help to ensure continued benefits for survivors of workers' compensation recipients who may die from a non-work related injury. Enactment

<sup>19</sup> Williams, David C., Inspector General, U.S. Postal Service, Semiannual Report to Congress (April 1, 2004), 28.

<sup>20</sup> U.S. Postal Service Office of Inspector General, Audit Report—Comparison of Retirement Benefits to Workers' Compensation Benefits for Employee on the Periodic Roll (Report No. HM-AR-04-001) (December 12, 2003), 2.

<sup>21</sup> *Ibid.*, 8.

<sup>22</sup> *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service*, 134.

of this provision would change neither the time at which an employee would become eligible for regular or disability retirements benefits under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) nor the amount of the benefit for which he or she would be eligible under CSRS or FERS.

Unlike most State-run plans, FECA also imposes no waiting period before benefits begin. Instead, FECA has a provision that allows employees who sustain disabling job-related traumatic injuries to receive continuation of their regular pay for 45 calendar days after the injuries—a benefit unique to the federal program—with a three-day waiting period at the end of the continuation of pay (COP) period. A primary purpose of the waiting period is to discourage the filing of frivolous claims. According to Elliot Lewis, Assistant Inspector General for Audit at the Department of Labor’s Office of Inspector General, placing the waiting period at the end of the COP period does nothing to discourage frivolous claims.<sup>23</sup> S. 2468, therefore, places the three-day waiting period at the beginning of the COP period.

In addition, S. 2468 allows the three days of annual leave, sick leave, or leave-without-pay used by the injured employee to be reimbursed, should the employee be out of work due to injury for a period no less than 15 days (beginning on day one of the injury). This “qualifying period” is standard practice in State workers’ compensation plans. The average qualifying period for State plans is between 14 and 16 days.

Both the President’s Commission and the Postal Service recommended that any changes to FECA should be made on a prospective basis. The Committee agreed. By lowering the workers’ compensation payments for retirement-eligible employees (as defined by the SSA), the Congressional Budget Office estimates the Postal Service will save \$50 million over the 2005–2014 period.

*Report on universal service and the postal monopoly*

The President’s Commission believed that the Regulatory Commission would be the appropriate body to regularly review, and refine if necessary, the Postal Service’s universal service obligation. (The “universal service obligation” refers, in general, to regular delivery at uniform rates across the country.) With steadily declining volumes of First Class mail, it is clear that the nation’s correspondence needs are changing. The President’s Commission recommended, therefore, that an independent entity—the Regulatory Commission—be charged with, “refining key aspects of universal service as circumstances require/permit.”<sup>24</sup> Similarly, the President’s Commission recommended that the Regulatory Commission be granted the authority to refine the scope of the mail monopoly [generally believed to cover all First Class and Standard (mostly advertising) Mail], noting that,

. . . the nation’s postal monopoly law predates not only the computer, e-mail and the fax machine, but also the radio, the telephone and the electric light bulb. . . Sev-

<sup>23</sup> Lewis, Elliot P., Assistant Inspector General for Audit, Office of Inspector General, U.S. Department of Labor, before the Subcommittee on Workforce Protections, Committee on Education and the Workforce, U.S. House of Representatives (May 13, 2004), 5.

<sup>24</sup> Embracing the Future: Making Tough Choices to Preserve Universal Services, 63.

eral years into the nation's Information Revolution, it is clear that these archaic laws should be clarified and modernized.<sup>25</sup>

From the perspective of the Committee, both the postal monopoly and universal service are issues of broad public policy—not regulatory issues. For that reason, the Committee decided that the power to refine either the monopoly or the universal service obligation should remain in the hands of Congress. However, the Committee thought it would be helpful to hear from the Regulatory Commission what potential changes to either the monopoly or the universal service obligation they believed made sense. Congress would then have the option to enact any of the Regulatory Commission's recommendations with which they agreed. Therefore, S. 2468 requires that the Regulatory Commission, at least every three years, submit a report to Congress detailing any recommended changes to universal service and the postal monopoly they consider appropriate, with estimated effects of the recommendations on the service, financial condition, rates, and security of mail provided by the Postal Service.

#### *Bulk fuel program*

The Committee notes that the U.S. Postal Service has instituted a program to require vendors to purchase fuel from designated sources. To insure that the program is generating the maximum possible savings and is not burdening contractors with unfair costs, the Committee expects the Postal Service to periodically re-examine the Bulk Fuel program it has instituted for Highway Contract Route (HCR) contracts under Section 5005 of title 39. The Committee suggests that the Postal Service confer with the GAO when conducting these periodic reviews.

### III. LEGISLATIVE HISTORY

S. 2468 was introduced on May 20, 2004 by Chairman Collins and Senator Carper. Senators Lieberman, Stevens, Akaka, Voinovich, Durbin and Sununu were original cosponsors. S. 2468 was referred to the Committee on Governmental Affairs. On June 2, 2004, the Committee took up S. 2468.

A manager's amendment in the nature of a substitute, offered by Chairman Collins, was adopted by voice vote. The manager's amendment provided for the following: (1) established an Officer of the Postal Regulatory Commission to represent the general public in proceedings; (2) required reporting on postal workplace safety and workplace-related injuries to ensure that postal employees' health and personal safety are protected while they serve the nation's postal customers; (3) provided for employment of postal police officers in connection with the protection of property owned or occupied by the Postal Service; (4) expanded Postal Service transportation contracting authority to permit the Postal Service to better manage costs; (5) provided for payments for the first three days following an injury for those employees who are on leave due to injury for a minimum of 14 days; and (6) established as an objective of the new ratemaking system, that interested parties be afforded

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<sup>25</sup> Ibid., 22.

a reasonable opportunity to participate in the new process designed by the Postal Regulatory Commission.

By a vote of 9–8, the Committee voted to pass a worksharing amendment by Senator Lieberman. The Lieberman amendment limited to four years workshare discounts that exceed costs avoided when associated with a new postal service or with a change to an existing postal service that is necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service. The amendment also struck language from S. 2468 that granted the Postal Regulatory Commission the authority to approve discounts in excess of avoided costs for situations outside of the following four exceptions: (1) any discount associated with a new postal service or with a change to an existing postal service that is necessary to induce mailer behavior that furthers the economically efficient operation of the Postal Service; (2) if a reduction in the discount would (i) lead to a loss in volume of the affected category of mail and reduce the aggregate contribution to institutional costs, (ii) result in a further increase in rates paid by mailers not able to take advantage of the discount, or (iii) impede the efficient operation of the Postal Service; (3) if the amount above the costs avoided (i) is necessary to mitigate rate shock, and (ii) will be phased out over time; and (4) if the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value.

Yeas: Lieberman, Levin, Akaka, Durbin, Carper, Dayton, Lautenberg, Pryor, Specter.

Nays: Collins, Stevens, Voinovich, Coleman, Bennett, Fitzgerald, Sununu, Shelby.

The Committee adopted by voice vote an amendment offered by Senator Durbin that calls for a study by GAO and submission of a report, including recommendations for legislative action and administrative action, to Congress, the Postal Service Board of Governors, and the Postal Regulatory Commission. The report will address the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper, what initiatives the Postal Service has undertaken during the past five years to use recycled paper and other products and to provide for recycling of undeliverable and discarded mail, including revenue generated and savings achieved as a result, and what additional opportunities may be available for enhanced recycling of paper and other products and the projected costs and revenues of such opportunities. The report is due within one year of enactment of the Act.

Senators present were Collins, Voinovich, Coleman, Bennett, Fitzgerald, Sununu, Lieberman, Levin, Akaka, Durbin, Carper, Lautenberg and Pryor.

The Committee also adopted by voice vote an amendment offered by Senator Sununu. The Sununu amendment requires the Secretary of the U.S. Treasury, in consultation with the Postal Service, a certified public accounting firm, and other advisors, to develop recommendations regarding the accounting practices and principles that should be followed by the Postal Service when doing the following: (1) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing competitive products; and (2) preventing the cross-subsidization of competitive

products by market-dominant products. The Treasury Department would also consult with the Postal Service on the rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income. Treasury will submit their final recommendations to the Postal Regulatory Commission. After hearing from all interested parties, the Regulatory Commission shall make a final decision as to which rules the Postal Service will be required to incorporate into their current accounting practices.

Senators present were Collins, Voinovich, Coleman, Bennett, Fitzgerald, Sununu, Lieberman, Levin, Akaka, Durbin, Carper, Lautenberg and Pryor.

The Committee then ordered the bill reported by voice vote, with no members present dissenting. Senators present were Collins, Voinovich, Coleman, Bennett, Fitzgerald, Sununu, Lieberman, Levin, Akaka, Durbin, Carper and Lautenberg.

#### IV. SECTION BY SECTION ANALYSIS

##### TITLE I—DEFINITIONS; POSTAL SERVICES

###### *Section 101—Definitions*

Section 101 proposes, for the first time, a clear definition of "postal services." A "postal service" is defined as "the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, and other services ancillary thereto." This definition clarifies the jurisdiction of the Postal Rate Commission (renamed the "Postal Regulatory Commission") and the scope of commercial activities that the Postal Service is authorized to pursue. In addition, the term "product" is defined to mean "any postal service with a distinct cost or market characteristic" which thus encompasses all classes, subclasses, and rate categories that comprise the mail classification system. Section 101 further defines "market-dominant product" to refer to "a product subject to subchapter I of chapter 36" and "competitive product" to refer to "a product subject to subchapter II of chapter 36."

###### *Section 102—Postal Services*

Section 102 limits the Postal Service to offering "postal services." If the Postal Service unlawfully offers a non-postal service or product, the Postal Regulatory Commission may order that the Postal Service cease providing the product under the complaint procedures outlined in section 202 of the bill.

##### TITLE II—MODERN RATE REGULATION

In the new regulatory regime proposed in the bill, the classes of mail and services are classified as either market-dominant or competitive products. In general, Title II requires the Postal Regulatory Commission to design, within 12 months, a new rate cap system of rate regulation for market-dominant products. With respect to competitive products, the Postal Service is given pricing flexibility comparable to that exercised by private competitors.

To prevent abuse, the new regulatory regime proposed in the bill substantially enhances the authority of the Regulatory Commission

to define, audit, and remedy cross-subsidization of competitive products from revenues earned from market-dominant products.

*Section 201—Provisions relating to market-dominant products*

Section 201 of the bill establishes a new, modern system for regulation of market-dominant products. In the current title 39, chapter 36 deals with regulation of postal rates. The bill re-designates subchapter I of chapter 36 (establishing the Postal Regulatory Commission) as chapter 5 (see section 501, below). Section 201 revises subchapter II, which currently sets out the process of rate regulation, and re-designates it as subchapter I. As amended, subchapter I relates only to the regulation of market-dominant products. Section 201(a) adds three new provisions to title 39, sections 3621, 3622 and 3623, as follows.

*Section 3621—Applicability; definitions*

Section 3621 lists the postal products to be regulated as market-dominant products immediately after enactment: First-Class Mail Letters, First-Class Mail Cards, Periodicals, Standard Mail, single-piece Parcel Post, media mail, bound printed matter, library mail, special services and single-piece international mail. After enactment, the Commission may revise the list of market dominant products under new section 3642 set out in section 203 of the bill.

*Section 3622—Modern rate regulation*

Subsection 3622(a) requires the Commission to design, within 12 months of enactment, a modern system for regulating postage rates and classes for market-dominant products.

Subsection 3622(b) provides that the objectives of the new system shall be: (1) to reduce the administrative burden of the ratemaking process; (2) to create predictability and stability in rates; (3) to maximize incentives to reduce costs and increase efficiency; (4) to enhance mail security and deter terrorism by promoting secure, sender-identified mail; (5) to allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent and encourage increased mail volume during non-peak periods; (6) to assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards the Regulatory Commission will establish under section 301 of the bill; and (7) to allocate institutional costs equitably.

Subsection 3622(c) requires that the Commission consider the rate and classification factors found in sections 3622 and 3623 of current law in addition to other factors when developing the new system.

Subsection 3622(d) requires the Postal Regulatory Commission to establish a rate cap system setting annual limitations, based on measures of inflation as chosen by the Commission, on percentage changes in rates. The rate-setting system should establish a schedule whereby rates, when necessary and appropriate, would increase at regular intervals by predictable amounts. In addition, this subsection establishes a 45-day Postal Regulatory Commission review and approval process for rate changes for market-dominant products. If the Postal Regulatory Commission notifies the Postal Service of any noncompliance with the established rate cap mechanism, the Postal Service shall respond to the notice and describe the ac-

tions to be taken to comply with the rate cap mechanism. Lastly, the Postal Regulatory Commission shall establish procedures whereby rates may be adjusted on an expedited basis due to unexpected or extraordinary circumstances such as the September 11, 2001 terrorist attacks or the use of the mails to transmit anthrax.

Subsection 3622(e) defines a “workshare discount” as a rate discount provided to mailers for presorting, prebarcoding, handling, or transportation of mail. These are activities that would ordinarily be performed by the Postal Service. The Postal Regulatory Commission is required to establish rules for workshare discounts that ensure that these discounts do not exceed the cost that the Postal Service avoids as a result of the worksharing activities performed by the mailers, subject only to four exceptions. Those exceptions authorize workshare discounts that exceed the costs avoided—(1) when a discount is associated with a new or changed postal product and is needed, for up to 4 years, to induce mailer behavior that furthers the economically efficient operation of the Postal Service; (2) if a reduction in the discount would—(i) lead to a loss in volume in the affected category of mail and thereby reduce the aggregate contribution to institutional costs, (ii) result in a further increase in rates paid by mailers not able to take advantage of the discount, or (iii) impede the efficient operation of the Postal Service; (3) if the discount is necessary to mitigate rate shock and will be phased out over time; or (4) if the discounts are provided in connection with subclasses of mail consisting exclusively of material having educational, cultural, or scientific value. Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit a report to the Postal Regulatory Commission explaining the reasons for establishing or maintaining the rate and setting forth the data, economic analyses and other information relied on by the Postal Service to justify the rate.

Subsection 3622(f) provides that, until regulations under this section take effect, the rate making and classification provisions of current law shall remain in effect.

*Section 3623—Service agreements for market-dominant products*

Section 3623(a) authorizes the Postal Service to negotiate service agreements with individual mailers or groups of mailers of market-dominant products. Service agreements authorized under this section could involve the contracting mailer performing additional functions, such as the preparation, processing, and transportation of the mail; the Postal Service performing additional mail preparation, processing, transportation, or other functions; or other terms and conditions that meet the requirements of this section.

Subsection 3623(b) requires that the revenues generated under any service agreement: (1) cover all costs attributable to the postal services covered by the agreement and result in no less contribution to the institutional costs of the Postal Service; (2) not result in higher rates or fees for other mailers; (3) pertain exclusively to market-dominant products; and (4) not preclude or hinder any similarly-situated mailer from entering into an agreement with the Postal Service.

Subsection 3623(c) limits the service agreements to no more than three years in duration and makes any service agreement subject to the cancellation authority of the Commission.

Subsection 3623(d) requires that the Postal Service notify the Regulatory Commission at least 30 days prior to a service agreement taking effect and publish the terms of the agreement in the Federal Register. This notice shall include a description of the agreement, the rates and fees payable by the customer under the agreement, and sufficient information to demonstrate the basis for the Postal Service's view that the agreement meets the requirements of sections 3623(b). If the agreement is less-than-national in scope, this information shall also be published in a manner designed to afford reasonable notice to persons within that geographic area.

Subsection 3623(e) requires the Postal Service to make any service agreement available to similarly-situated mailers on functionally-equivalent terms and conditions provided that any distinctions based on mailer profiles would not render the agreement uneconomic or impractical.

Subsection 3623(f) permits persons who believe that a service agreement is not in compliance with the requirements of this section to file a complaint with the Postal Regulatory Commission under section 3662.

Subsection 3623(g) defines the Postal Regulatory Commission's role with respect to service agreements. The Postal Regulatory Commission may promulgate regulations regarding service agreements. In addition, the Postal Regulatory Commission may review any agreement under section 3623, and may suspend or cancel any service agreement that does not meet the requirements of this section.

Subsection 3623(h) requires that the determination of whether a service agreement meets the requirements of subsection (b) be based, to the extent practicable, on the actual contribution of the mail involved, not on the average contribution of the mail classification most similar to the services performed under the agreement. If mailer-specific data is not available, the Postal Service shall provide the bases for the determination that the revenue generated will meet the requirements of subsection (b) and shall discuss the suitability of the data used to make this determination in accordance with regulations established by the Postal Rate Commission.

Section 201(b) repeals §§ 3624, 3625, and 3628 of title 39 United States Code.

Section 201(c) redesignates Chapter 36 of title 39 United States Code as by striking the heading for Subchapter II and inserting "Subchapter I—Provisions relating to market-dominant products"

*Section 202—Provisions relating to competitive products*

Section 202 of the bill adds a new subchapter II to chapter 36 of title 39. Subchapter II establishes a flexible system for regulation of competitive products. Section 202 adds three new sections to title 39, as follows.

*Section 3631—Applicability; definitions and updates*

Section 3631 lists the postal products to be regulated as competitive products immediately after enactment: Priority Mail, Expedited Mail, bulk parcel post, bulk international mail, and mailgrams. After enactment, the Regulatory Commission may revise the list of competitive products under new section 3642 set out in section 203 of the bill.

*Section 3632—Action of the Governors*

Subsection 3632(a) provides that the Governors of the Postal Service may establish rates and classes for all products in the competitive category of mail.

Subsection 3632(b) requires the Governors to give notice in the Federal Register of changes in competitive products rates and classes no later than 30 days before implementation and to provide an opportunity for review by the Postal Regulatory Commission. Following this notice, the Postal Regulatory Commission shall notify the Governors of any noncompliance with requirements of section 3633 and the Governors shall respond to the notice describing the actions to be taken to comply with section 3633.

Subsection 3632(c) provides that, until regulations under section 3633 take effect, the rate making and classification provisions of current law shall remain in effect.

*Section 3633—Provisions applicable to rates for competitive products*

Section 3633 requires the Commission to promulgate regulations within 180 days of enactment prohibiting subsidization of competitive products by market-dominant products; ensuring that each competitive product covers its attributable costs; and ensuring that all competitive products collectively cover their share of the institutional costs of the Postal Service.

*Section 203—Provisions relating to experimental and new products*

Section 203 of the bill adds a new subchapter III to chapter 36 of title 39. Subchapter III provides rules for market tests of experimental products and for transferring products between the market-dominant and competitive product categories. The new subchapter III replaces, and thus repeals, the current subchapter III dealing with temporary rates and classes. Section 203 adds two new provisions to title 39 as follows.

*Section 3641—Market tests of experimental products*

Section 3641 authorizes the Postal Service to conduct limited market tests that are exempt from most specific pricing requirements. Market tests under this section can last no longer than two years and must earn less than \$10 million annually.

Subsection 3641(b) states that, a market test must involve a product “significantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test” and may not be conducted under this section if it will “create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns.” In addition, the Postal Service must identify the product as either market-dominant or competitive. Any product

that solely affects competitive products or only provides services ancillary to competitive products shall be presumed to be competitive even if a similar product exists within the market-dominant category.

Subsection 3641(c) requires that the Postal Service notify the Regulatory Commission at least 30 days prior to the start of a test and publish the details of the test in the Federal Register including the basis for the Postal Service's determination that it meets the requirements of this section.

Paragraph 3641(c)(2) extends the right the Postal Service currently has to protect certain commercially sensitive information to any competitive product tested this section.

Subsection 3641(d) limits tests to two years in duration but permits the Postal Service to seek a 12-month extension. Subsection 3641(e) requires that the test result in additional annual revenue of no more than \$10 million. The Commission shall raise the earnings limit to \$50 million upon the Postal Service's request and upon a determination that the product is (1) likely to benefit the public and meet an expected demand; (2) likely to contribute to the financial stability of the Postal Service; and, (3) not likely to result in unfair or inappropriate competition.

Subsection 3641(f) provides that the Postal Regulatory Commission may order the cancellation of a test at any time if it does not meet the requirements of this section. Subsection 3641(g) provides that the dollar amounts contained in this section be adjusted for the changes in the Consumer Price Index. Subsection 3641(h) defines a small business concern for the purposes of this section. Subsection 3641(i) establishes that market tests under this subchapter may be conducted in any year beginning with the first year in which the Postal Service's first report under section 3652(a) to the Postal Regulatory Commission occurs.

*Section 3642—New products and transfers of products between the market-dominant and competitive categories of mail*

Subsection 3642(a) authorizes the Regulatory Commission to classify new products as either market-dominant or competitive and to transfer existing products between the two categories upon the request of the Postal Service, users of the mails or upon its own initiative.

Subsection 3642(b) adopts criteria for the two categories that reflect the Federal Communications Commission's (FCC) approach to defining "dominant" carriers for the purpose of regulation. Paragraph 3642(b)(1) provides that: "The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output without risk of losing business to other firms offering similar products. The competitive category of products shall embrace all postal products not in the market-dominant category." Paragraph 3642(b)(2) states that the products covered by the postal monopoly may not be transferred to the competitive category. Paragraph 3642(b)(3) requires the Postal Regulatory Commission to consider three other factors when deciding whether a product should be classified as market-dominant or competitive: (1) the availability of private sector alter-

natives to the product in question; (2) the views of those who use the product; and (3) the impact the decision will have on small businesses.

Subsection 3642(c) permits the transfer of some but not all of the subclasses or “subordinate units” of a class of mail.

Subsection 3642(d) requires that any change in the lists of products in the market-dominant and competitive categories requested by the Postal Service be published in the Federal Register and that the Postal Regulatory Commission, whenever it changes the list of products in the market-dominant or competitive category, publish new lists in the Federal Register.

Subsection 3642(e) prohibits the Postal Service from offering any product involving the physical delivery of letters, printed matter, or packages until it is categorized as either a market-dominant or a competitive product.

*Section 204—Reporting requirements and related provisions*

Section 204 of the bill adds a new subchapter IV to chapter 36 of title 39. In general, subchapter IV provides for annual audits of Postal Service operations by the Commission to ensure compliance with the ratemaking criteria of the act. Section 204 adds three new provisions to title 39 as follows.

*Section 3651—Annual reports by the Commission*

Section 3651 requires the Regulatory Commission to submit a report to the President and Congress each year detailing its activities and the extent to which regulations are achieving the objectives set forth for the new rate and classification system to be established under section 201 and the service standards to be established under section 301. Section 3651 also requires that the Postal Service provide the Commission any information that the Commission, in its judgment, believes it needs to prepare its report.

*Section 3652—Annual reports to the Commission*

Subsection 3652(a) requires the Postal Service to submit information to the Commission no later than three months after the last day of each fiscal year demonstrating that the rates in effect for all products during the year are in compliance with the requirements of this title and that established service standards are being met. The report will include information on mail volume, service quality and customer satisfaction and must be audited by the Inspector General. Subsection 3652(b) requires annual reporting on the extent of cost savings reflected in worksharing discounts. Subsection 3652(c) requires that the Postal Service provide in its annual report such data as the Commission requires on service agreements and market tests.

Subsection 3652(d) requires that the Commission have access to all the working papers and supporting materials of the Postal Service and the Inspector General in connection with the required reports. Subsection 3652(e) requires that the Commission, in developing regulations prescribing the content and form of the required annual reports, consider the need to provide the public with adequate information to justify the lawfulness of rates charged, the need to avoid unnecessary or unwarranted administrative effort or expense on the part of the Postal Service, and the need to protect

the confidentiality of commercially sensitive information. As a result, the section authorizes the Commission to specify what information will be provided as either public reports or to accommodate the confidentiality protections in subsection 3652 (f), which allows the Postal Service to obtain confidential treatment for commercially sensitive information that is protected from disclosure under current law, in accordance with provisions outlined in sections 502 and 504 of the bill. Subsection 3652 (d) also allows the Commission, on its own motion or at the request of an interested party, to initiate a proceeding to improve the quality, accuracy, or completeness of Postal Service data.

Subsection 3652(g) requires the Postal Service to provide the Commission, as part of the information to be examined in the annual audit, specific reports that are submitted to Congress, including the comprehensive statement required under section 2401 and the performance plan and program reports required under the Government Performance and Results Act. The Postal Service is also required to provide reports detailing the operations of the Competitive Products Fund created in section 301 of the bill.

*Section 3653—Annual determination of compliance*

Section 3653 requires the Commission to provide an opportunity for public comment after receiving annual reports from the Postal Service. The Commission will then, within 90 days, make a written determination as to whether any rates or fees were not in compliance with the law or whether any service standards were not met. If noncompliance is found, the Commission is required to take appropriate action under the revised complaint procedure in new section 3662 laid out in section 205 of the bill. A determination of compliance creates a rebuttable presumption of compliance in any complaint proceeding.

*Section 205—Rate and service complaints*

Section 402 of the bill revises the complaint and appellate review provisions set out in subchapter V of chapter 36, title 39 as re-designated by the bill. In general, the bill strengthens the authority of the Regulatory Commission to act on a complaint in lieu of the current reliance on Rate Commission review of postage rates prior to implementation. Section 205 repeals current sections 3662 and 3663 and adds three sections to title 39 as follows.

*Section 3662—Rate and service complaints*

Section 3662 provides the Regulatory Commission with enhanced authority to respond to complaints of pricing, service, or other actions by the Postal Service in violation of law. As revised, this section requires the Commission to investigate or dismiss complaints within 90 days. Subsection 3662(c) gives the Commission broad authority to correct violations by ordering the Postal Service to take whatever steps the Commission considers appropriate. For instance, the Commission may order the Postal Service to adjust the rates of competitive products to lawful levels if they are set below attributable costs. The current Rate Commission has no such authority under current law. In cases of deliberate noncompliance with the law, the Commission is authorized to levy fines based on the seriousness of the noncompliance. Fines resulting from unlaw-

ful provision of competitive products must be paid out of the Competitive Products Fund. All fines will be paid into the U.S. Treasury.

*Section 3663—Appellate review*

Section 3663 provides for appeals of any order or decision by the Commission to the United States Court of Appeals for the District of Columbia Circuit in accordance with chapter 706 of title 5 and chapter 158 and section 2112 of title 28.

*Section 3664—Enforcement of orders*

Section 3664 gives any United States District Court the authority to enforce orders from the Commission.

*Section 206—Clerical amendment*

Section 206 of the bill revises the analysis of chapter 36, title 39, in accordance with the changes made by the bill.

TITLE III—MODERN SERVICE STANDARDS

Title II of the bill requires the Postal Regulatory Commission to design, within 12 months, a new system of rate regulation for market-dominant products. Title III requires the Commission to establish, within 12 months, a set of service standards for market-dominant products. The Postal Service currently sets its own service standards. Title III also requires the Postal Service to submit a plan for how it will meet the new standards established by the Commission. The Postal Service's plan will include a list of facilities that can be closed and consolidated without hindering their ability to meet the new service standards. Title III maintains the universal service requirements included in sections 101(a), 101(b) and 403 of title 39 and the post office closing procedures in section 404(b) of title 39.

*Section 301—Establishment of modern service standards*

Section 301 creates a new section 3691 in title 39. Section 3691 requires the Regulatory Commission to design, within 12 months, a set of new service standards for market-dominant products. The new standards shall be consistent with the requirements in sections 101(a), 101(b), and 403 of title 39 requiring that the Postal Service "bind the Nation together through the mail" and serve all parts of the country in a non-discriminatory fashion. Subsection 3691(b) provides that the objectives of the new system shall be: (1) to increase the value of postal services to both senders and recipients; (2) to provide a benchmark for Postal Service performance goals; and (3) to guarantee Postal Service customers delivery speed and frequency consistent with reasonable rates and best business practices.

Subsection 3691(c) requires that, as they develop the new service standards, the Commission take into consideration: (1) actual level of service under any service standards previously established by the Postal Service; (2) customer satisfaction with Postal Service performance; (3) mail volume and revenues projected in future years; (4) the projected growth in the number of addresses the Postal Service will be required to serve in future years; (5) the current and projected future cost of serving Postal Service customers;

(6) the effect of changes in technology, demographics and population distribution on the efficient and reliable operation of the postal delivery system; and, (7) the policies of this title and such other factors as the Commission determines appropriate.

*Section 302—Postal Service plan*

Section 302 requires the Postal Service to submit to Congress, within 6 months of the establishment of the new service standards for market-dominant products, a plan for meeting the new standards. The Postal Service will develop the plan in consultation with the Regulatory Commission. Subsection 302 (b) requires that the plan: (1) establish performance goals; (2) describe any changes to the Postal Service’s processing, transportation, delivery and retail networks necessary to allow the Postal Service to meet the new performance goals; and (3) describe any changes to planning and performance documents previously submitted to Congress to reflect the new performance goals.

Subsection 302(c) requires that the Postal Service’s plan also include a description of its long-term vision for rationalizing its infrastructure and workforce and its plan for implementing that vision, including (1) a strategy for how it intends to rationalize the postal facilities network and remove excess processing capacity and space from the network, (2) an update on how postal decisions related to mail changes, security, automation initiatives, worksharing, information technology systems and other areas will affect network rationalization plans; (3) a discussion of what impact any facility changes may have on the postal workforce and whether the Postal Service has sufficient flexibility to make needed workforce changes; and, (4) an identification of anticipated costs, cost savings and other benefits associated with the infrastructure rationalization alternatives discussed in the plan.

Subsection 302(d) requires that the Postal Service include plans to provide retail postal services by other means, including vending machines, the Internet and retail facilities in which overhead costs can be shared with private businesses and other government agencies. Subsection 302(e) requires that the Postal Service include plans to provide re-employment assistance or early retirement benefits to employees displaced as a result of automation or the closing and consolidation of facilities.

Subsection 302(f) requires that the Postal Service’s plan be submitted to the Postal Service Inspector General for study before it is submitted to Congress. The Inspector General will then issue a report detailing the extent to which the plan is consistent with the Postal Service’s obligations under title 39 and the degree to which the plan allows them to meet the new service standards.

TITLE IV—PROVISIONS RELATED TO FAIR COMPETITION

*Section 401—Postal Service Competitive Products Fund*

Section 401 adds a new section 2011 to title 39. Section 2011 establishes an off-budget fund within the Treasury for revenues and expenditures associated with competitive products. The “Competitive Products Fund” is in addition to the current Postal Service Fund. The intent of this section is to level the playing field for the Postal Service and its competitors in the competitive product mar-

ket by requiring the Postal Service to keep separate financial accounts for market-dominant and competitive products. Separation of accounts also protects taxpayers and the interests of postal consumers in the market-dominant category.

*Section 2011—Provisions relating to competitive products*

Section 2011 establishes the rules under which the Postal Service will manage the Competitive Products Fund. The Postal Service may invest money from the new fund in accordance with rules that the Secretary of Treasury shall prescribe within 12 months after the date of enactment. The Postal Service may also borrow against any assets related to its competitive products. The Postal Service must regularly report to the Secretary of the Treasury and the Postal Regulatory Commission on the operation of the Fund. The Secretary of the Treasury in consultation with the Postal Service, and independent, certified public accounting firm and other appropriate advisors shall, within 12 months of enactment, develop recommendations regarding the accounting practices and principles to be used by the Postal Service with the intent of preventing cross-subsidy of market-dominant products by competitive products. In addition, the Secretary of the Treasury shall develop recommendations for the computation of the Postal Service's assumed Federal income tax on competitive products income. The Postal Regulatory Commission shall review these recommendations and following consideration of recommendations of interested parties, shall issue rules on the Postal Service's accounting practices and principles and the method of computing the assumed Federal income tax.

*Section 402—Assumed Federal income tax on competitive products income*

Section 402 adds a new section 3634 to title 39. Section 3634 requires the Postal Service to compute an assumed Federal income tax on income from competitive products each year and to transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

*Section 403—Unfair competition prohibited*

Section 403 adds a new section 404(a) to title 39. The new section 404(a) prohibits the Postal Service from: (1) establishing rules or regulations which preclude competition or give the Postal Service an unfair competitive advantage; (2) compelling disclosure, transfer, or licensing of intellectual property; or (3) offering any product or service that makes use of information obtained from a person that provides or seeks to provide a product to the Postal Service unless the person has consented to such use or the information can be obtained from another source. The Regulatory Commission is required to prescribe regulations to carry out the purposes of this section, and the prohibitions will be enforced through the Commission's strengthened complaint process and remedies, which include ordering rescission of any regulation.

*Section 404—Suits by and against the Postal Service*

Section 404 amends section 409 of title 39 to make the Postal Service subject to other laws regulating the conduct of commercial activities. First, the amendment subjects all Postal Service activi-

ties to federal laws prohibiting the conduct of business in a fraudulent manner. Second, the amendment subjects all Postal Service activities outside the postal monopoly to federal antitrust laws and unfair competition prohibitions and eliminates sovereign immunity protection from suits in Federal Court for violations of Federal law. Third, the amendment makes the Postal Service's Competitive Products Fund a "person" for purposes of federal bankruptcy laws. Fourth, the amendment requires the Postal Service to consider local zoning, planning, environmental, or land use regulations and building codes when constructing new buildings.

Section 409 as amended further requires the Postal Service to represent itself in most legal proceedings permitted by the amendment as well as in cases involving administrative subpoenas issued by the Regulatory Commission and appeals of decisions by the Commission or the Governors. The amendment requires that judgments arising out of violations of law involving competitive products be paid out of revenues earned from competitive products.

*Section 405—International postal arrangements*

Section 405 amends section 407 of title 39, United States Code. Paragraph 407(a) states that it is the policy of the United States to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes; to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services except where provision of those services by private companies may be prohibited by U.S. law; to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services; and to participate in multilateral and bilateral agreements with other countries to accomplish the objective.

Paragraph 407(b) provides that the Secretary of State shall be responsible for the formulation, coordination, and oversight of foreign policy related to international postal services. However, the Secretary cannot conclude any postal treaty or convention that would grant an undue or unreasonable preference for the Postal Service with respect to any competitive product. The Secretary of State shall coordinate with other agencies having authority vested by law such as the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative. In addition, the Secretary shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery issues; the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives; and the Postal Service and representatives of users and private providers of international postal and delivery services.

Paragraph 407(c) requires that, before concluding any treaty or convention that establishes a rate or classification for a market-dominant product, the Secretary of State shall request that the Postal Regulatory Commission submit its views on whether such a rate is consistent with section 3622.

Paragraph 407(d) states that the Postal Service can enter into commercial or operational contracts related to international postal

services as long as they are solely contractual and do not purport to be binding under international law. A copy of each contract shall be forwarded to the Secretary of State and the Postal Regulatory Commission.

Paragraph 407(e) requires that the customs laws of the United States be applied in the same manner to both shipments of the Postal Service and private companies and that to the extent practicable, the Secretary of State shall encourage governments of other countries to make available a range of nondiscriminatory customs procedures.

Subsection 405(b) permits the Postal Service to establish postage rates for international mail until regulations under section 3622 and 3633 are promulgated by the Postal Regulatory Commission for market-dominant products and competitive products respectively.

#### TITLE V—GENERAL PROVISIONS

##### *Section 501—Qualification requirements for Governors*

Section 501 amends section 202 of title 39. As revised, section 202 provides that the nine members of the Board of Governors shall represent the public interest generally. The amendment also adds a requirement that the Governors shall be selected by the President based solely on their demonstrated ability in managing large organizations or corporations, in either the public or the private sector. The amendment requires the President to consult with the Speaker and minority leader of the House and the majority and minority leaders of the Senate in selecting individuals to nominate to the Board. The term of office for Governor is five years instead of nine. Those Governors serving under an appointment made prior to enactment will not be affected, however, when that office becomes vacant, the appointment of any person to fill that office shall be made in accordance with this amendment. This section also establishes transition rules for vacancies occurring in terms of Governors incumbent as of the date of enactment.

##### *Section 502—Obligations*

Section 502 amends section 2005 of title 39 to delete specified limits on borrowing for capital improvements and for operational expense by the Postal Service. The Postal Service Fund's \$2 billion annual cap on borrowing for capital investments and \$1 billion annual cap on borrowing for operational expenses is modified to a \$3 billion total annual combined cap for both purposes.

##### *Section 503—Private carriage of letters*

Section 503 amends section 601 of title 39 to provide limited additional statutory exemptions to the postal monopoly. Subsection 503(b) provides that a letter may be carried outside the mail under three new circumstances: (1) when the amount paid to a private carrier is at least 6 times the rate then currently charged for the first ounce of a single-piece first-class letter; (2) when the letter weighs at least 12 and one-half ounces; and (3) when private carriage is within the scope of current Postal Service regulations that purport to suspend the operation of current law. By setting the limit at 6 times the first-class stamp price, the amended section

601 provides that the price limit on the postal monopoly will rise as the stamp price increases.

Section 601 as amended also codifies the exemptions to the postal monopoly referenced in subsection 503(b)(3) that have been administratively adopted by the Postal Service and widely used by private carriers and the public even though they are based on a questionable interpretation of current law. Entities in both the government and the private sector have testified that the Postal Service has misinterpreted the suspension power found in section 601(b) of current law. Since 1974, the Postal Service has, under color of section 601(b), issued regulations that, in effect, suspend the postal monopoly. Subsection 601(b), however, is derived from section 7 of an 1864 postal act. This provision was originally intended to authorize the Postmaster General to suspend the exception to the postal monopoly now found in section 601(a), which allows private carriage of letters if postage is paid by applying and canceling postage stamps. There is no evidence that Congress intended to grant the Postal Service authority to suspend the postal monopoly itself. The proposed amendment would repeal the Postal Service's authority to suspend the postal monopoly exception for stamped letters—an antiquated and never used authority—and to codify the exemptions to the postal monopoly that the Postal Service has adopted to date in apparent misinterpretation of the suspension provision. The intent of this provision to continue to allow private carriage under those circumstances in which private carriage is purportedly permitted by current Postal Service “suspensions” of the monopoly but not to continue provisions in the Postal Service regulations that purport to condition or limit use of such “suspensions,” e.g., a requirement that customers of private carriers must permit otherwise unauthorized inspections by postal inspectors.

The Regulatory Commission is authorized to adopt regulations necessary to carry out the exceptions to the postal monopoly set out in section 601 as amended. This amendment does not take effect until the Postal Regulatory Commission promulgates regulations for the competitive pricing system under section 3633.

*Section 504—Rulemaking authority*

Section 504 amends section 401(2) of title 39 to clarify the rulemaking function of the Postal Service. Amended section 401(2) authorizes the Postal Service “to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title.” This amendment is intended to make clear that the Postal Service is not empowered to adopt regulations implementing other parts of the U.S. Code unless explicitly authorized to do so by Congress. This amendment is modeled on the Federal Communications Commission's rulemaking authority in 47 U.S.C. 154(i). The amendment recognizes that the rulemaking authority of the Postal Service is affected by its obligations under title 5 and certain other limited provisions of law outside title 39.

*Section 505—Noninterference with collective bargaining agreements*

Section 505 revises the current procedures regarding collective bargaining with unions representing postal employees. It eliminates the fact-finding process in current law and provides for the appointment of a mediator to try to resolve collective bargaining disputes. Subsection 505(a) amends section 1207 of title 39 to state that if there is a collective bargaining agreement in effect, no party shall terminate or modify such agreement unless they serve no less than 90 days notice on the other party. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days of such notice. If no agreement is reached, the Director of the Federal Mediation and Conciliation Service shall, within 10 days, appoint a mediator. If no agreement is reached within 60 days after the expiration or termination of the agreement or if the parties decide upon arbitration but do not agree upon the arbitration procedures, then a three member arbitration panel shall be established with one member selected by the Postal Service, one member selected by the bargaining representative of the employees and the third jointly selected. Decisions of the arbitration board shall be binding and final and the costs shall be shared by both parties. In the case of a bargaining unit whose recognized representative does not have an agreement with the Postal Service, if the parties fail to reach agreement within 90 days of the commencement of collective bargaining, a mediator shall be appointed. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration.

Subsection 505(b) states that except as provided in subsection (a), nothing in this act shall restrict, expand or otherwise affect any of the rights, privileges, or benefits of either employees or of labor organizations representing employees of the Postal Service.

Subsection 505(c) provides that nothing in the bill will affect free mail as currently provided by law for: (1) correspondence of members of the diplomatic corps and consuls of the countries of the Postal Union of Americas and Spain; (2) the blind and the disabled; and (3) mailing of balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.

TITLE VI—ENHANCED REGULATORY COMMISSION

*Section 601—Reorganization and modification of certain provisions relating to the Postal Regulatory Commission*

Section 601 creates a new chapter 5 in title 39 to establish the Postal Regulatory Commission, which will replace the current Postal Rate Commission. It recognizes the Regulatory Commission's enhanced responsibilities by establishing it in provisions set out in a chapter located in part I of title 39, dealing with general matters, rather than, as in current law, provisions set out in a subchapter of chapter 36, dealing with rate regulation. In addition, this section establishes qualification requirements for Postal Regulatory Commissioners. Lastly, it directs the Postal Regulatory Commission to designate an officer of the Postal Regulatory Commission in all public proceedings to represent the interests of the general public.

*Section 602—Authority of the Postal Regulatory Commission to issue subpoenas*

Section 602 amends section 504 of title 39, i.e., section 3604 of current law as re-designated by section 601 of the bill. Section 504, as amended, provides that Commissioners, any administrative law judge appointed by the Commission, and any designated employee of the Commission may administer oaths, examine witnesses, take depositions, and receive evidence. In addition, the Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission may subpoena officers, employees, contractors, and agents of the Postal Service to require attendance, presentation of testimony, production of documents or to order depositions and responses to written interrogatories. Any subpoena requires the written concurrence of a majority of Commissioners then holding office in advance of its issuance. The Commission may seek an order enforcing the subpoena in U.S. District Court in the event of a failure to comply. Failure to obey the court's order is punishable as a contempt of court.

The amendment also provides for the handling of proprietary information requested from the Postal Service by the Commission. Section 504, as amended, provides that, if the Postal Service determines requested information is proprietary and so notifies the Commission in writing, the Commission may use the information only for the purpose for which it is supplied and must restrict access to the information to Commission officials. The amendment further provides for the possibility of discovery of such information by private parties in proceedings under sections 556 and 557 of title 5 and requires the Commission to adopt rules to protect the confidentiality of such information similar to the rules that govern protective orders issued by the federal courts under the Federal Rules of Civil Procedure.

*Section 603—Appropriations for the Postal Regulatory Commission*

Section 603 further amends section 504 of title 39 to ensure the financial independence of the Postal Regulatory Commission. Under the amendment, funding for the Commission will be paid out of the Postal Service Fund, as under current law, but the budget of the Commission will no longer be subject to disapproval by the Governors.

*Section 604—Redesignation of the Postal Regulatory Commission*

Section 604 changes the name of the "Postal Rate Commission" to the "Postal Regulatory Commission" in various statutes.

*Section 605—Financial transparency*

Section 605 amends section 101 of title 39 by including a requirement that the Postal Service shall be subject to "a high degree of transparency to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products."

## TITLE VII—EVALUATIONS

*Section 701—Assessments of ratemaking, classification and other provisions*

Section 701 requires the Regulatory Commission to report to the President and the Congress at least every 3 years, in conjunction with the Postal Service, on the operation of the amendments made by this bill, with recommendations for any legislative or other measures necessary to improve the effectiveness or efficiency of the nation's postal laws.

*Section 702—Report on universal postal service and the postal monopoly.*

Section 702(a) requires the Postal Regulatory Commission, no later than 12 months after enactment, to submit a report to the President and Congress on the universal postal service and the postal monopoly including the monopoly on the delivery of mail and access to mailboxes. The report shall include (1) a comprehensive review of the history and development of universal service and the postal monopoly; (2) the scope and standards of universal service and the postal monopoly under current law; (3) a description of any geographic areas or communities that are not currently covered by universal service or that are covered but that are receiving deficient services; and (4) the scope and standards of universal service and the postal monopoly likely to be required in the future to meet the needs and expectations of the public. Section 702(b) requires the Postal Regulatory Commission to include in the report any recommended changes to universal service and the postal monopoly as the Commission considers appropriate and an estimate of the costs and likely benefits of the obligation to provide universal service. The Regulatory Commission will update the report in each report submitted to the President and Congress pursuant to section 701.

*Section 703—Study on equal application of laws to competitive products.*

Section 703 requires the Federal Trade Commission (FTC) to prepare and submit to the President, Congress and the Postal Regulatory Commission within one year after enactment a comprehensive report identifying Federal and State laws that apply differently to the Postal Service with respect to the competitive category of mail and similar products provided by private companies, including recommendations as it considers appropriate to bring such legal discrimination to an end. In preparing the report, the FTC shall consult with the Postal Service, the Postal Regulatory Commission and other federal agencies, mailers, private delivery companies and the general public and append any comments to its report. The Postal Regulatory Commission shall take the FTC's recommendations into account in establishing regulations for competitive products under section 3633 of title 39.

*Section 704—Report on postal workplace safety and workplace-related injuries*

Subsection 704(a) directs the Inspector General of the United States Postal Service, not later than six months after enactment, to submit a report to Congress and the Postal Service that details

and assesses any progress the Postal Service has made in improving workplace safety and reducing workplace-related injuries nationwide and identifies opportunities for improvement. This report shall: discuss any injury reduction goals established by the Postal Service; describe actions that the Postal Service has taken to improve workplace safety and reduce injuries; identify areas where the Postal Service has failed to meet its injury reduction goals; explain the reasons why these goals were not met; and identify opportunities for making further progress in meeting these goals.

Subsection 704(b) requires the Postal Service, no later than 6 months after receiving the report under Subsection 704(a), to submit a report to Congress detailing how it plans to improve workplace safety and reduce workplace-related injuries, including goals and metrics. The Postal Service's report shall also include plans developed in conjunction with the Inspector General and employee representatives, including representatives of each postal labor union and management association, for addressing the problem areas identified by the Inspector General.

*Section 705—Study on recycled paper*

Subsection 705(a) directs the Government Accountability Office (GAO), within 12 months of enactment, to submit to the Congress, the Board of Governors of the Postal Service and the Postal Regulatory Commission a report concerning the economic and environmental efficacy of establishing rate incentives for mailers linked to the use of recycled paper. The GAO report shall also include a description of the Postal Service's accomplishments in each of the preceding 5 years involving recycling activities, including the amount of revenue generated and savings achieved by the Postal Service as a result of its use of recycled paper and other recycled products. Finally, the GAO report shall discuss the Postal Service's efforts to recycle undeliverable mail and other material and additional opportunities that may be available for the Postal Service to engage in recycling initiatives, including the projected costs and revenues associated with undertaking such opportunities.

Subsection 705(b) specifies that the report under Subsection 705(a) shall include recommendations for any appropriate administrative or legislative actions.

TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS  
FUNDING

*Section 801—Short title*

Section 801 provides that title VIII may be cited as the "Postal Civil Service Retirement and Health Benefits Funding Amendments of 2004".

*Section 802—Civil Service Retirement System*

In general, section 802 provides for transfer of the costs of providing military service credit under the Civil Service Retirement System (CSRS) from the Postal Service to the U.S. Treasury. It also modifies the existing provisions for funding CSRS benefits for Postal employees. Paragraph (a)(1) eliminates the current requirement that the Postal Service make a contribution to the Retirement Fund based upon a percentage of the salaries of Postal Serv-

ice employees. Paragraph (a)(2) amends the existing provisions of 5 U.S.C. § 8348(h).

As amended, § 8348(h)(1) defines “Postal surplus or supplemental liability” as the estimated difference, as determined by the Office of Personnel Management (OPM), between the actuarial present value of future CSRS retirement benefits attributable to civilian employment with the United States Postal Service, and the sum of the actuarial present value of future Postal Service CSRS deductions from the salaries of current Postal employees plus the net portion of the Fund balance attributable to Postal civilian employment (taking into account contributions, payments and earnings); plus any other appropriate amount, as determined by OPM in accordance with generally accepted actuarial practices and principles.

As amended, § 8348(h)(2)(A) provides that by June 30, 2006, OPM will determine the Postal surplus or supplemental liability, as of September 30, 2005. Any surplus will be transferred to the Postal Service Retiree Health Benefit Fund established by the new 5 U.S.C. § 8909a. If there is a supplemental liability, OPM will establish an amortization schedule providing for the liquidation of the liability by September 30, 2043.

As amended, § 8348(h)(2)(B) provides that OPM will each year thereafter through FY 2038 recompute whether there is a Postal surplus or supplemental liability. Any surplus will remain in the Fund until transfers are authorized under subparagraph (C). If there is a liability, OPM will establish a new amortization schedule providing for the liquidation of the liability by September 30, 2043, and superceding earlier amortization schedules.

As amended, § 8348(h)(2)(C) provides that if there is a surplus at the end of FY’s 2015, 2025, 2035, and 2039, it shall be transferred to the Postal Service Retiree Health Benefits Fund, terminating any prior amortization schedules.

As amended, § 8348(h)(2)(D) and (E) provide that the amortization schedules shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the CSRS, with Postal payments due not later than the date scheduled by OPM.

As amended, § 8348(h)(3) provides that in computing payments under any other subsection of § 8348 based upon unfunded liability, OPM will compute those payments taking into account payments under the amended § 8348(h).

Section 802(b) provides that since the amounts paid in FY’s 2003 through 2005 by the Postal Service for CSRS military service costs will be recredited to the Postal Service towards its civilian CSRS obligations, the Treasury shall make the contributions for those years.

### *Section 803—Health insurance*

Section 803(a)(1) also amends 5 U.S.C. § 8906(g)(2)(A) to provide that future payments for the employer share of health benefits premiums for retired Postal employees shall be made from the Postal Service Retiree Health Benefit Fund established by the new 5 U.S.C. § 8909a up to the amount in the Fund, with any additional amount contributed by the Postal Service.

Section 803(a)(1) also adds a new 5 U.S.C. § 8909a establishing a Postal Service Retiree Health Benefit Fund, administered by OPM.

New § 8909a(c) provides that the new Fund shall be invested in the same manner as the Retirement Fund.

New § 8909a(d)(1) provides that at the end of 2006 and each year thereafter, OPM will compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.

New § 8909a(d)(2)(A) provides that at the end of 2006 and each year thereafter, OPM will compute the net present value of the unfunded liability for future payments required by 5 U.S.C. § 8906(g)(2)(A), taking into account the Fund balance and the amount computed under § 8909a(d)(1) that will be paid by the Postal Service.

New § 8909a(d)(2)(B) provides that at the end of 2006 OPM will compute, and each year thereafter recompute, an amortization schedule providing for the liquidation by January 31, 2046, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.

New § 8909a(d)(3) provides that at the end of 2006 and each year thereafter, the Postal service will pay into the Postal Service Retiree Health Benefit Fund the amounts computed under §§ 8909a(d)(1) and (2)(B).

New § 8909a(d)(4) provides that computations under subsection (d) will be made consistent with the assumptions and methodology used by OPM for financial reporting under the Chief Financial Officers Act of 1990.

New § 8909a(d)(4) provides that any necessary regulations shall be promulgated by OPM after consultation with the Postal Service.

#### *Section 804—Repeal of disposition of savings provision*

Section 804 repeals section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003, Public Law 108–18, which made provision for disposition of savings under the provisions of that Act.

#### *Section 805—Effective dates*

Section 805(a) provides that title VIII generally takes effect on October 1, 2005.

Section 805(b) provides that paragraph (1) of section 802(a), providing for the elimination of the Postal Service contributions to the Retirement Fund based on a percentage of employee salary, takes effect on the first day of the first pay period beginning on or after October 1, 2005.

### TITLE IX—COMPENSATION FOR WORK INJURIES

#### *Section 901—Temporary disability; continuation of pay*

Section 901 amends section 8117 of title 5 to put into place a three-day waiting period before an employee of the Postal Service injured on the first day of the first pay period beginning on or after October 1, 2005 is eligible to receive 45 days of continuation of pay.

The affected postal employee may use annual leave, sick leave, or leave without pay during this period. If the disability exceeds 14 days or is followed by permanent disability, the employee may have any annual leave or sick leave used reinstated or may receive pay for the time spent on leave without pay.

*Section 902—Disability retirement for postal employees*

Section 902 amends sections 8105 and 8106 of title 5 by converting compensation benefits for total or partial disability to a retirement annuity when an affected postal employee injured on the first day of the first pay period beginning on or after October 1, 2005 reaches an appropriate retirement age as defined by section 216(l) of the Social Security Act. This change would reflect the fact that disabled postal employees would likely retire at some point were they not on the rolls of the Office of Workers' Compensation Programs.

The compensation entitlement for partial disability is converted to 50 percent of the difference between an employee's monthly pay and his or her monthly wage earning capacity after the beginning of partial disability when the injured employee reaches his or her "retirement age" as defined in section 216 of the Social Security Act.

The compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee when the injured employee reaches his or her "retirement age" as defined in section 216 of the Social Security Act.

Under current law, employees with dependents are eligible for 75 percent of their pre-injury salary plus cost-of-living adjustments (COLAs), tax-free. Employees with no dependents receive 66 $\frac{2}{3}$  percent of their pre-injury salary plus COLAs, tax-free. There is no maximum dollar cap on workers' compensation payments.

TITLE X—MISCELLANEOUS

*Section 1001—Employment of Postal Police Officers*

Section 1001 amends section 404 of title 39, United States Code to permit the Postal Service to employ guards for buildings owned and operated by the Postal Service or under the charge and control of the Postal Service. The Postal Service may give such guards with respect to this property the powers of special policemen provided under section 1315 of title 40. The Postmaster General or his or her designee may take any action that the Secretary of Homeland Security may take under section 1315 of title 40 with respect to that property.

*Section 1002—Expanded contracting authority*

Subsection 1002(a) amends 39 U.S.C 5402(d) to provide that the Postal Service may contract with any air carrier for transportation of mail in interstate air transportation, including the rates therefor, through negotiations or competitive bidding. The Postal Service may contract with any air carrier or foreign air carrier for transportation of mail in foreign air transportation, including the rates therefor, through negotiations or competitive bidding except that (1) any such contract may be awarded only to an air carrier holding a certificate required by section 41101 of title 49 or an exemption

therefrom issued by the Secretary of Transportation, or any such contract may be awarded only to a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or a combination of such air carriers and foreign air carriers; (2) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or any certificate, permit, or corresponding authority issued by the Secretary of Transportation; (3) every contract awarded to a foreign air carrier shall be subject to the requirement that air carriers shall be provided the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier; (4) the Postmaster General shall consult with the Secretary of Defense concerning actions that affect the carriage of military mail in foreign air transportation.

Section 1002(b) amends section 41901(a) of title 49 to permit the Postal Service to provide for the transportation of mail by aircraft in air transportation and deletes restrictions on the foreign air transportation of mail and prices for foreign transportation of mail.

#### V. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate the regulatory impact that would be incurred in carrying out the bill.

S. 2468 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

#### VI. ESTIMATED COST OF LEGISLATION

Section 11(a) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill include an estimate of the costs which would be incurred in carrying out such bill. The following estimate was prepared by the Congressional Budget Office:

##### *S. 2468—Postal Accountability and Enhancement Act*

Summary: S. 2468 would change the laws that govern the operation of the United States Postal Service (USPS), particularly those regarding the cost of pensions and health care benefits of retired workers and the requirement to hold certain funds in escrow. CBO estimates that enacting this legislation would result in on-budget savings of \$20.2 billion and off-budget costs of \$35.8 billion over the 2005–2014 period. (The net expenditures of the USPS are classified as “off-budget.”) Thus, CBO estimates the net cost to the unified budget would be \$15.7 billion over the 2005–2014 period. Those costs would constitute direct spending. (The bill would not affect revenues.) In addition, we estimate that implementing S. 2468 would cost about \$90 million (less than \$10 million a year) over the 2005–2014 period, assuming appropriation of the necessary amounts.

Enacting S. 2468 would not affect how much the federal government spends on pension or health care benefits for USPS retirees. By increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow account require-

ments, however, the bill would increase future budget deficits as measured by the unified federal budget. Eliminating the escrow account requirement for the USPS would allow that agency to increase spending for capital improvements or other projects, pay down its outstanding debt, postpone or diminish future rate increases, or some combination of these options. Enacting the bill also would reduce direct spending by making the costs of the Postal Rate Commission subject to appropriation and by reducing payments made by the Postal Service for workers' compensation.

S. 2468 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Major provisions of S. 2468 would:

- Eliminate a requirement in Public Law 108–18 (P.L. 108–18), the Postal Civil Service Retirement Funding Reform Act of 2003, that the Postal Service place savings from reduced pension contributions in escrow.

- Transfer from the Postal Service to the Department of the Treasury responsibility for paying pension costs associated with military service credits.

- Replace direct payments the Postal Service is making for retiree health care costs with payments designed to prefund the health care costs of current employees when they retire.

- Revise the procedure for raising postal rates.

- Strengthen the USPS Board of Governors and the Postal Rate Commission, which would be redesignated the Postal Regulatory Commission (PRC).

- Make other changes designed to increase the Postal Service's competitiveness with private industry.

**Estimated cost to the Federal Government:** The estimated budgetary impact of S. 2468 is shown in Table 1. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 550 (health), 900 (net interest), and 950 (undistributed off-setting receipts).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF S. 2468

	By fiscal year, in billions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>CHANGES IN DIRECT SPENDING</b>										
<b>On-Budget Effects:</b>										
Estimated Budget Authority	0.0	2.4	-2.3	-2.4	-2.5	-2.7	-2.9	-3.1	-3.3	-3.5
Estimated Outlays .....	0.0	2.4	-2.3	-2.4	-2.5	-2.7	-2.9	-3.1	-3.3	-3.5
<b>Off-Budget Effects:</b>										
Estimated Budget Authority	*	2.9	3.2	3.5	3.6	3.9	4.2	4.4	4.8	5.2
Estimated Outlays .....	*	2.9	3.2	3.5	3.6	3.9	4.2	4.4	4.8	5.2
<b>Total Unified Budget Effect:</b>										
Estimated Budget Authority	*	5.4	0.9	1.1	1.1	1.2	1.4	1.4	1.6	1.7
Estimated Outlays .....	*	5.4	0.9	1.1	1.1	1.2	1.4	1.4	1.6	1.7

<sup>1</sup> Implementing the bill also would affect discretionary spending, subject to the availability of appropriated funds. CBO estimates that those discretionary costs would be less than \$10 million a year.

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

\* = savings of less than \$50 million.

**Basis of estimate:** For this estimate, CBO assumes that S. 2468 will be enacted near the start of fiscal year 2005. CBO estimates that enacting the bill would result in on-budget savings of \$20.2 billion and off-budget costs of \$35.8 billion over the 2005–2014 pe-

riod, for a net cost to the unified budget of \$15.7 billion over the 10-year period. In addition, we estimate that implementing S. 2468 would cost about \$90 million over the 2005–2014 period, assuming appropriation of the necessary amounts, mostly to fund the PRC.

### *Background*

The following paragraphs present background information relating to the major provisions of S. 2468, mostly for postal finances affected by the bill.

**Budgetary Treatment of USPS.** Although the Postal Service is a federal agency, its financial operations are classified as off-budget. Despite this treatment, federal budget documents present the net income (gross income minus expenses) of the agency in the unified budgetary totals for the federal government. The Postal Service is required by law to set postage rates to cover its full costs, although from year to year its net income may be positive or negative. In fiscal year 2003, the Postal Service generated \$69.5 billion in collections, mostly from postage and user fees, and had \$64.2 billion in expenses, for a net cash surplus of \$5.3 billion in that year.

**USPS and Federal Retirement Plans.** Postal Service employees participate in the federal government's two main defined benefit pension programs. Those workers initially hired prior to 1984 are covered by the Civil Service Retirement System (CSRS) while those initially hired after 1983, as well as former CSRS workers who elected to change federal retirement plans in 1987 or 1998, participate in the Federal Employees' Retirement System (FERS). In 2003, about 30 percent of the USPS workforce was covered by CSRS, and the rest were under FERS.

The Postal Service and its employees each make payroll contributions toward the civilian retirement system (CSRS and FERS). Unlike other agencies, the agency contribution rate for most CSRS employees is 17.4 percent of basic pay (most other agencies contribute 7 percent), while the employee contribution rate is 7 percent.<sup>1</sup> For FERS employees, the agency contribution rate for most employees is 10.7 percent, while the employee rate is 0.8 percent, plus Social Security payroll taxes on both employers and employees. Workers in CSRS receive generally higher benefits than those in FERS, but unlike FERS, those in CSRS do not participate in Social Security and do not receive agency contributions toward the Thrift Savings Plan. In addition to its payroll contributions, the Postal Service also makes annual amortization payments toward an unfunded liability within CSRS. In 2003, that payment was about \$300 million.

**USPS and Federal Health Benefits.** The Postal Service also pays a portion of health care premiums for currently retired USPS employees who are eligible to participate in the Federal Employees Health Benefits (FEHB) program. Currently, there are over 400,000 Postal Service retirees who participate in the FEHB program. On average, the Postal Service currently pays about 45 percent of the health care premiums for its retirees. Retirees pay

<sup>1</sup> P.L. 108–18 increased the contribution rate the Postal Service pays for its CSRS employees from 7 percent to 17.4 percent. That legislation also eliminated a series of amortization payments the Postal Service was required to make for unfunded CSRS liabilities. For more details, see CBO's cost estimates of the Postal Civil Service Retirement System Funding Reform Act of 2003 (S. 380 and H.R. 735 from the 108th Congress). These estimates are posted on [www.cbo.gov](http://www.cbo.gov).

about 30 percent of their FEHB premiums with general revenues accounting for the remaining amount, roughly 25 percent. In 2003, the Postal Service paid \$1.1 billion to FEHB for premiums for current retirees.

USPS Escrow Fund. Starting in October 2006, the Postal Service will be required under current law to begin holding funds in an escrow account equal to the difference between what the Postal Service currently pays toward CSRS and what it would have paid for CSRS benefits prior to the enactment P.L. 108–18. Under current law, CBO estimates the Postal Service will need to hold in escrow nearly \$3 billion in 2006 and \$36 billion over the 2006–2014 period. S. 2468 would eliminate the requirement that USPS collect and hold these funds in escrow.

#### *Effects on the Unified Budget*

S. 2468 would not affect how much the federal government spends on pension or health benefits for USPS retirees. However, by increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow requirements, the bill would increase future budget deficits as measured by the unified federal budget.

Off-budget payments made by the Postal Service for CSRS and FEHB are transfers to on-budget federal accounts, and are counted as offsetting receipts (a credit against direct spending). Eliminating the USPS transfer to CSRS for military service credits would reduce on-budget offsetting receipts by \$13.5 billion over the 2005–2014 period. Under the bill, that reduction would be offset by a \$33.6 billion net increase in on-budget offsetting receipts paid by the Postal Service for the new health benefits fund. Taken together, those provisions would increase on-budget offsetting receipts by \$20.2 billion over the 2005–2014 period.

The collection of funds to be held in escrow by the Postal Service is recorded as an off-budget offsetting receipt. Eliminating the requirement to fund the escrow account would allow the USPS to pay down debt, increase spending for capital improvements or other projects, postpone or diminish future rate increases, or some combination of these activities. CBO estimates that this provision would increase net off-budget spending by \$36 billion over the 2006–2014 period. (Much of that spending would be to fund the new health benefits payments mentioned above as on-budget offsetting receipts.) Making the costs of the PRC subject to appropriation would reduce direct spending by the Postal Service by about \$90 million over the next 10 years. Furthermore, reducing USPS costs for workers' compensation could reduce direct spending by an additional \$50 million over the 2005–2014 period.

The combined effect of the \$20.2 billion increase in on-budget receipts, the \$36 billion reduction in off-budget offsetting receipts, and a \$140 million reduction in USPS direct spending would produce a \$15.7 billion cost to the unified budget deficit over the 2005–2014 period. Those effects are presented in Table 2 and explained in more detail below.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING FOR S. 2468

	By fiscal year, outlays in billions of dollars—									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
On-Budget Effects										
Civil Service Retirement System	0	2.0	1.9	1.8	1.7	1.5	1.4	1.2	1.1	0.9
Postal Service Retiree Health Benefits Fund net of retiree premium payments to FEHB <sup>1</sup>	0	0.4	-4.2	-4.2	-4.2	-4.2	-4.3	-4.3	-4.3	-4.4
<b>Total On-Budget Effects</b>	<b>0</b>	<b>2.4</b>	<b>-2.3</b>	<b>-2.4</b>	<b>-2.5</b>	<b>-2.7</b>	<b>-2.9</b>	<b>-3.1</b>	<b>-3.3</b>	<b>-3.5</b>
Off-Budget Effects										
Eliminate Escrow Account .....	0	2.9	3.2	3.5	3.7	3.9	4.3	4.5	4.8	5.2
Funding for PRC Costs Subject to Appropriation and Workers' Compensation Savings .....	*	*	*	*	*	*	*	*	*	*
<b>Total Off-Budget Effects</b>	<b>*</b>	<b>2.9</b>	<b>3.2</b>	<b>3.5</b>	<b>3.6</b>	<b>3.9</b>	<b>4.2</b>	<b>4.4</b>	<b>4.8</b>	<b>5.2</b>
<b>Total Unified Budget Effects</b>	<b>*</b>	<b>5.4</b>	<b>0.9</b>	<b>1.1</b>	<b>1.1</b>	<b>1.2</b>	<b>1.4</b>	<b>1.4</b>	<b>1.6</b>	<b>1.7</b>
MEMORANDUM										
Payments from the Postal Service received by PSRHBF .....	0	0	-5.9	-6.1	-6.4	-6.6	-6.8	-7.1	-7.4	-7.8
FEHB premiums paid from PSRHBF .....	0	0.4	1.8	2.0	2.2	2.4	2.6	2.8	3.1	3.4
<b>Net outlays of PSRHBF ..</b>	<b>0</b>	<b>0.4</b>	<b>-4.2</b>	<b>-4.2</b>	<b>-4.2</b>	<b>-4.2</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.3</b>	<b>-4.4</b>

<sup>1</sup> Starting in July 2006, CBO assumes that payments of FEHB premiums for Postal Service retirees would be paid out of the Postal Service Retiree Health Benefits Fund instead of being paid directly by the Postal Service as under current law. S. 2468 would require the first payment prefunding and amortization amounts to be made by January 31, 2007. The bill would have no effect on spending by the FEHB program for health benefits for Postal Service annuitants.

Notes.—FEHB = Federal Employees Health Benefits program; PSRHBF = Postal Service Retiree Health Benefits Fund; PRC = Postal Regulatory Commission; USPS = United States Postal Service.

\* = savings of less than \$50 million.

Components may not add to totals because of rounding.

Amounts in the table represent net changes in offsetting receipts, which are recorded in the budget as changes in direct spending. A positive sign indicates lower offsetting receipts, thus an increase in outlays; negative numbers represent increased offsetting receipts, or a reduction in net outlays.

### *On-Budget Effects (Direct Spending)*

CBO estimates the total on-budget effect of the pension and health care provisions in S. 2468 would be a decrease in offsetting receipts of \$2.4 billion in 2006, an increase of \$4.8 billion over the 2006–2009 period, and \$20.2 billion over the 2006–2014 period. That increase in on-budget collections would come from increased transfers (off-budget outlays) coming from the USPS. (The off-budget effects are discussed in the following section.)

**Civil Service Retirement Contributions.** S. 2468 would change the way the Postal Service finances retirement benefits for current and retired employees. Starting in October 2005, the bill would transfer financial responsibility for military service credits earned by Postal Service employees and retirees participating in CSRS from the Postal Service to the Department of Treasury. Military service credits represent time served in the U.S. military that is credited toward benefits under the civilian retirement system. Most federal agencies are not responsible for the cost to the pension system of the military service credits incurred by their CSRS employees, but P.L. 108–18 transferred responsibility for military service credits from the Treasury to the Postal Service beginning in June 2004.

The Office of Personnel Management (OPM) estimates that transferring responsibility for military service credits from the Postal Service back to the Treasury would cause the Postal Service to have overfunded its obligation to CSRS by about \$19.4 billion through September 2005.<sup>2</sup> Consequently, under S. 2468 the Postal Service would no longer be obligated to make either agency contributions or any further annual amortization payments for CSRS. (Employee contributions would continue at 7 percent of basic pay and retirement benefits under CSRS would not change.)

Spending by the Postal Service—including amounts paid into other federal accounts—is considered off-budget spending. However, the Civil Service Retirement and Disability Fund (CSRDF) is an on-budget account, so the amounts the CSRDF collects from the Postal Service are on-budget offsetting receipts. Reducing payments the Postal Service makes to the CSRDF would result in a reduction in off-budget spending and a reduction in on-budget offsetting receipts. CBO estimates transferring responsibility for military service credits, and the attendant reduction in CSRS contributions such a change would bring, would reduce on-budget receipts by \$2 billion in 2006 and \$13.5 billion over the 2006–2014 period. Although the Treasury Department would then be responsible for the costs associated with those pension liabilities under the bill, the Treasury payment and receipt by CSRDF are both on-budget intragovernmental transactions. That is, the bill would replace one intragovernmental transfer with another. Instead of a transfer from the off-budget Postal Service to the on-budget CSRDF, there would be a transfer from the Treasury to the CSRDF.

Postal Service Retiree Health Benefits Fund. S. 2468 also would change the way the Postal Service finances its share of the cost of providing health care to retirees. Instead of directly paying a portion of the health premiums incurred by current retirees each year, the USPS would begin paying for estimated costs of retiree health care as such costs are accrued by current workers. Starting in 2007, S. 2468 would require the USPS to make payments equal to the annual increase in retiree health care liabilities accrued by current employees. These payments would be deposited into a new on-budget account, the Postal Service Retiree Health Benefits Fund (PSRHBF), which would earn interest at the same rate as the CSRDF. The Postal Service's share of health care premiums for current retirees would be paid out of the PSRHBF as soon as adequate funds are available in the account to do so.

Under S. 2468, any overfunding toward CSRS liabilities (after financial responsibility for military service credits reverts to the Treasury) would be transferred from the CSRDF to the PSRHBF by June 30, 2006. Based on information provided by OPM, CBO anticipates that the transfer to the new fund would total \$20.2 billion and would occur in June 2006. (This amount reflects the \$19.4 billion in estimated CSRS overfunding plus interest that would accrue between the end of the valuation period in September 2005 and

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<sup>2</sup>This overfunding, which is calculated on a net-present-value basis, represents an estimate of the total amount of money the Postal Service will have contributed toward CSRS from 1971 through September 30, 2005, minus the agency's CSRS liabilities if USPS bears not financial responsibility for the pension costs associated with military service credits. The projected overfunding is due primarily to larger-than-expected returns on assets held in the CSRDF.

when CBO assumes the asset transfer would take place in June 2006.)

Under the bill, the Postal Service also would make annual amortization payments toward the unfunded liabilities for health care costs of both current and future retirees. The unfunded liability would be the difference between the assets held in the PSRHBFB and the net present value of accrued liabilities projected for retiree health care. The bill would direct OPM to compute the required prefunding and amortization payments consistent with assumptions and methodologies for financial reporting used by OPM under current law. The bill specifies that payment would be made by January 31st of each year, starting in 2007, for the prior fiscal year. (CBO assumes those payments would include interest accrued between the end of the valuation period and the payment date each year.) Based on information provided by OPM, CBO anticipates the net present value of the unfunded liability for the health care costs of retirees would amount to \$43.2 billion at the end of 2006 and would shrink to \$39.9 billion by the end of 2014. CBO estimates that payments by the Postal Service for prefunding health care costs of retirees and amortization payments for the remaining unfunded liability would be \$5.9 billion in 2007, \$18.4 billion over the 2007–2009 period, and \$54.2 billion over the 2007–2014 period.

CBO expects that the transfer of \$20.2 billion from the CSRDF to the PSRHBFB resulting from the shift in responsibility for military service credits would occur in June 2006.

Therefore, the Postal Service would cease making payments under current law for its share of FEHB premiums for annuitants beginning in July 2006; with those premium payments instead being drawn from the PSRHBFB. CBO estimates that change in the funding mechanism for retiree health benefits would reduce off-budget payments by the Postal Service for FEHB premiums by \$0.4 billion in 2006 (which reflects premium payments, under current law, for the last three months of 2006), \$6.3 billion over the 2006–2009 period, and \$20.5 billion over the 2006–2014 period. On-budget payments for those amounts would then be transferred from the PSRHBFB to the FEHB and any payments that would be made into the new PSRHBFB would be considered on-budget offsetting receipts. CBO estimates the increase in on-budget receipts as a result of changes in how the Postal Service finances its health care obligations would be \$4.2 billion in 2007, \$12.2 billion over the 2007–2009 period, and \$33.6 billion over the 2007–2014 period.

#### *Off-Budget Effects (Direct Spending)*

CBO estimates that enacting S. 2468 would result in net off-budget costs of \$2.9 billion in fiscal year 2006, \$13.2 billion over the 2005–2009 period, and \$35.8 billion over the 2005–2014 period because it would eliminate the requirement to fund the escrow account, allowing the Postal Service to increase other spending, reduce postal rates, or some combination of these actions. The bill also would make the costs of the PRC subject to appropriation, thus reducing direct spending by about \$90 million over the next 10 years. In addition, S. 2468 would reduce USPS payments for workers' compensation, which would reduce direct spending by \$50 million over the next 10 years. The bill contains many other provisions that could affect USPS cash flows in each year, but we esti-

mate they would not have a significant net effect on the USPS over the long term.

**Elimination of Escrow Fund.** P.L. 108–18 permanently reduced payments by the USPS to the CSRDF. As a result of that act, USPS payments to the CSRDF declined by \$2.5 billion to \$5 billion annually, beginning in 2003. For fiscal years starting in 2006, P.L. 108–18 requires that savings resulting from reduced payments to the CSRDF be considered an operating expense of the Postal Service and held in escrow, remaining unavailable for obligation unless authorized by subsequent legislation.

S. 2468 would amend P.L. 108–18 to eliminate the escrow fund requirement. As a result of this provision, the Postal Service could lower rates and thus reduce its revenues, or maintain rates and increase spending, or some combination of these actions. The net outlays of the Postal Service would increase because collections would not be deposited in escrow. CBO estimates that eliminating the escrow requirement would increase net spending by about \$2.9 billion in 2006, \$13.3 billion over the 2006–2009 period, and \$36 billion over the 2006–2014 period. Much of the spending would go toward making new payments to the on-budget account for health care costs.

**Make Cost of PRC Subject to Appropriation.** Under current law, the PRC is funded from the Postal Service Fund without annual Congressional appropriation. This office spent about \$8 million in 2003. S. 2468 would authorize the appropriation of such sums as may be necessary from the Postal Service Fund for the PRC. Thus, enacting this legislation would reduce direct spending—and therefore, increase spending subject to appropriation—by about \$8 million annually beginning in fiscal year 2005.

**Workers' Compensation Costs.** The bill would lower workers' compensation payments made by the USPS by reducing an injured postal worker's long-term disability payments when the individual reaches retirement age as defined by the Social Security Act. Based on information provided by the USPS, CBO estimates that these savings would total roughly \$50 million over the 2005–2014 period. In addition, CBO estimates that there would be a negligible net savings to the Department of Labor's workers' compensation account, which is on-budget.

**Changes to USPS Rate-Setting Procedures.** Under the bill the Postal Service would be directed to define the cost basis for the different products and services it supplies. These products and services would broadly be categorized as market-dominant products and competitive products. Different rate-setting procedures would apply to these different categories of products and services.

**Market-Dominant Products.** Under S. 2468, market-dominant products would include: first-class mail, special services, periodicals, standard mail, media mail, library mail, bound printed matter, single-piece parcel post, and single-piece international mail.

S. 2468 would require the PRC to establish, within one year of enactment, a new system for regulating postage rates for market-dominant products. This new system would include annual limitations on the percentage changes in rates based on inflation-related indices, such as the Consumer Price Index, the Employment Cost Index, or similar measures. Under the legislation, however, these

annual limits could be exceeded under extraordinary circumstances.

Later this year we expect the Postal Service to begin preparations for a rate case in 2006. Assuming the PRC would need the full year that the bill would provide to establish the new system for regulating rates for market dominant products, we assume that the new rate setting system would not be effective until after 2006.

Since 1970, increases in postage rates have largely tracked the rate of inflation. Over the past 10 years, rates were increased in 1995, 1999, 2001, and 2002 as a result of rate cases. After 2006, we expect that the Postal Service would increase rates for market-dominant mail services more frequently than under current law, but by smaller increments (as defined by the annual limitation). Over the long term, CBO does not expect that enacting S. 2468 would significantly change the revenues from market-dominant products that the Postal Service would be expected to receive under current law.

**Competitive Products.** Under S. 2468, competitive products would include the following: priority mail, express mail, mailgrams, bulk international mail, and bulk parcel post. Competitive products currently contribute less than 15 percent of total postal revenues.

S. 2468 would direct the PRC to prohibit subsidizing competitive products by market-dominant products, ensure that each competitive product covers its attributable costs, and ensure that all competitive products collectively cover their share of the institutional costs of the Postal Service. After these requirements have been implemented, the USPS could change rates for competitive products as long as the cost coverage requirements are met and the PRC has reviewed the proposed changes. In addition, the Postal Service would have to provide public notice and justification of changes in rates.

In addition, S. 2468 would require the Postal Service to establish a new off-budget fund, the Competitive Products Fund, solely for revenues and expenditures associated with competitive products. We expect that it could be difficult to differentiate postal expenses related only to competitive products, as USPS uses the same employees and facilities to handle both market dominant and competitive products.

CBO cannot predict the bill's effect on Postal Service revenues from competitive products because the agency could set and change prices with few restrictions, although we would expect that yearly cash flows under the bill would differ from those estimated under current law. CBO also cannot predict how successfully the Postal Service might compete in the open market. However, the highly competitive nature of the mailing industry would tend to keep prices and revenues down, while the labor-intensive cost structure of the USPS would maintain upward pressure on expenses. Thus, over the long term under this legislation, CBO expects the Postal Service to attempt to recover its costs and break even as it did before the enactment of P.L. 108-18.

**Other Off-Budget Effects.** S. 2468 would make many other changes to the laws governing the Postal Service, the PRC, and the delivery of mail and other postal products. Some of these provisions, such as the expansion of USPS contracting authority for the interstate air transportation of mail, would yield savings. Other

provisions, including the requirement for numerous additional USPS reports, would increase costs. In total, CBO does not expect the net effects of these provisions to be significant.

*Spending subject to appropriation*

S. 2468 would authorize the appropriation of such sums as may be necessary, out of the Postal Service Fund, for the PRC. (Currently, the Postal Rate Commission is funded out of the Postal Service Fund without Congressional action.) Beginning in 2005, this provision would entail about \$8 million a year in spending, subject to appropriation of the necessary amounts. Enacting the bill would reduce direct spending by about the same amount. Spending on this activity would likely still be considered off-budget, since funds would come from the Postal Service Fund.

In addition, S. 2468 would require OPM to make actuarial computations related to the CSRS and PSRHBFB trust funds and would increase OPM's administrative workload to comply with the requirements under the bill. CBO estimates that such activities would cost less than \$500,000 annually, assuming the availability of appropriated funds.

Intergovernmental and private-sector impact: S. 2468 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On June 23, 2004, CBO transmitted a revised cost estimate for H.R. 4341, the Postal Accountability and Enhancement Act, as ordered reported by the House Committee on Government Reform on May 12, 2004. CBO estimates that enacting that legislation would result in on-budget savings of \$25.7 billion and off-budget costs of \$34.5 billion over the 2005–2014 period, for a net cost to the unified budget of \$8.7 billion over that period.

A key difference between S. 2468 and H.R. 4341 concerns how the Postal Service would finance the health care costs of retirees. Both of the bills would require payments to prefund the costs associated with the annual retiree health liabilities accrued by current employees although the proposed payment schedules would differ. H.R. 4341 would require payments for prefunding and interest to be made at the end of each fiscal year, starting in fiscal year 2006. The first payment under S. 2468, however, would be made in fiscal year 2007, and annual payments made in January of each year would reflect estimated costs for the prior fiscal year.

Another important difference between these bills concerns how they address the unfunded liabilities for the health care costs of current and future retirees. H.R. 4341 would require the Postal Service to pay annual interest costs on the unfunded liability, while S. 2468 would require USPS to make amortization payments toward that liability. Also, H.R. 4341 would require a minimum level of prefunding by the Postal Service, net of premium disbursement from the PSRHBFB. S. 2468 does not include a similar provision.

H.R. 4341 also would authorize the appropriation of such sums as may be necessary for the USPS Office of Inspector General. Thus, CBO estimated that implementing H.R. 4341 would cost about \$1.6 billion over the 2005–2014 period, assuming appropriation of the necessary amounts, and an equivalent amount of off-budget direct spending savings over that period.

In addition, H.R. 4341 did not reduce USPS costs for workers' compensation, and the cost estimates reflect that difference.

Estimate prepared by: Federal Costs: Mark Grabowicz for USPS, Geoffrey Gerhardt for retirement costs, and Julia Christensen for health care costs; Impact on State, Local, and Tribal Governments: Sarah Puro; and Impact on the Private Sector: Paige Piper/Bach.

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

## ADDITIONAL VIEWS

In total, we are pleased with the outcome of the legislation reported by the Committee. However, we are concerned about the specific issue of negotiated service agreements (NSA). This issue was raised during Committee consideration of the bill and a number of Senators expressed their concerns with the specific language addressing NSA's. Similar concerns were raised during hearings on the legislation. We are troubled by the inclusion of report language that appears to endorse the NSA language that was ultimately stricken from the bill. To that end, we do not believe that the report accurately reflect the views expressed during Committee consideration nor does it appropriately reflect the legislative history.

We believe that the report should have pointed out that while the existing regulatory system allows for negotiated service agreements, if certain conditions are met, some mailers in the committee's hearings expressed concerns that this type of private sector pricing mechanism may not be appropriate for a governmental organization such as the Postal Service. During mark-up of the legislation, committee members expressed reservations about the appropriateness of negotiated service agreements, articulating concerns that service agreements for individual mailers could result in discriminatory rates that favor one mailer over other mailers, and thereby unfairly distort the downstream markets in which those mailers compete.

This information, coupled with that which was included in the underlying report more accurately reflect the views of the Committee as a whole and more fairly represent the legislative history of the issue. We appreciate the hard work of the Chairman and Ranking Member of the Committee to complete this important legislation and believe that the reforms included herein are vital to the future of the United States Postal Service.

RICHARD SHELBY.  
JOHN E. SUNUNU.  
GEORGE V. VOINOVICH.

## VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of the Standing Rules of the Senate, changes in existing law made by S. 2468, as reported, are shown as follows: existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

**TITLE 39, POSTAL SERVICE****PART I—GENERAL****CHAPTER 1.—POSTAL POLICY AND DEFINITIONS****§ 101. Postal policy**

(a) The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people. The Postal Service shall have as its basic function the obligation to provide postal services to bind the Nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal services to all communities. The costs of establishing and maintaining the Postal Service shall not be apportioned to impair the overall value of such service to the people.

(b) The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.

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

*(d) As an independent establishment of the executive branch of the Government of the United States, the Postal Service shall be subject to a high degree of transparency to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.*

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

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

[(f)] (g) In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail and shall make a fair and equitable distribution

of mail business to carriers providing similar modes of transportation services to the Postal Service. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation to the destination of important letter mail to all parts of the Nation shall be a primary goal of postal operations.

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

### § 102. Definitions

As used in this title—

(1) “Postal Service” means the United States Postal Service established by section 201 of this title;

(2) “Board of Governors,” and “Board,” unless the context otherwise requires, mean the Board of Governors established under section 202 of this title;

(3) “Governors” means the 9 members of the Board of Governors appointed by the President, by and with the advice and consent of the Senate, under section 202(a) of this title; [and]

(4) “Inspector General” means the Inspector General appointed under section 202(e) of this title[.];

(5) “postal service” refers to the physical delivery of letters, printed matter, or packages weighing up to 70 pounds, including physical acceptance, collection, sorting, transportation, or other services ancillary thereto;

(6) “product” means a postal service with a distinct cost or market characteristic for which a rate or rates are applied;

(7) “rates”, as used with respect to products, includes fees for postal services;

(8) “market-dominant product” or “product in the market-dominant category of mail” means a product subject to subchapter I of chapter 36; and

(9) “competitive product” or “product in the competitive category of mail” means a product subject to subchapter II of chapter 36; and

(10) “year”, as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.

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## CHAPTER 2.—ORGANIZATION

### § 202. Board of Governors

[(a)] (a)(1) The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 11 members appointed in accordance with this section. Nine of the members, to be known as Governors, shall be appointed by the President, by and with the advice and consent of the Senate, not more than 5 of whom may be adherents of the same political party. The Governors shall elect a Chairman from among the members of the Board. [The Governors shall be chosen to represent the public interest

generally, and shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.] *The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.* Each Governor shall receive a salary of \$30,000 a year plus \$300 a day for not more than 42 days of meetings each year and shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board. Nothing in the preceding sentence shall be construed to limit the number of days of meetings each year to 42 days.

(2) *In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.*

(b)(1) The terms of the 9 Governors shall be **[9 years]** *5 years*, except that the terms of the 9 Governors first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 9 years, following the appointment of the first of them. Any Governor appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term. A Governor may continue to serve after the expiration of his term until his successor has qualified, but not to exceed one year.

(2) *No person may serve more than 3 terms as a Governor.*

\* \* \* \* \*

**CHAPTER 4—GENERAL AUTHORITY**

**§ 401. General powers of the Postal Service**

**[The]** *Subject to the provisions of section 404a, the Postal Service shall have the following general powers:*

(1) to sue and be sued in its official name;

**[(2) to adopt, amend, and repeal such rules and regulations as it deems necessary to accomplish the objectives of this title;]**

*(2) to adopt, amend, and repeal such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title;*

\* \* \* \* \*

**§ 404. Specific powers**

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

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

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

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

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

(5) to provide philatelic services;

[(6)] to provide, establish, change, or abolish special nonpostal or similar services;]

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

[(8)] (7) to offer and pay rewards for information and services in connection with violations of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues, or property, to the person informing for the same, and to pay the other one-half into the Postal Service Fund; and

[(9)] (8) to authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service.

\* \* \* \* \*

(c) *Except as provided in section 411, nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services.*

(d) *The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen provided under section 1315 of title 40. The Postmaster General, or the designee of the Postmaster General, may take any action that the Secretary of Homeland Security may take under section 1315 of title 40, with respect to that property.*

#### **§404a. Specific limitations**

(a) *Except as specifically authorized by law, the Postal Service may not—*

(1) *establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;*

(2) *compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or*

(3) *obtain information from a person that provides (or seeks to provide) any product, and then offer any postal service that*

*uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).*

*(b) The Postal Regulatory Commission shall prescribe regulations to carry out this section.*

*(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.*

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#### **§ 407. International postal arrangements**

[(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

[(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

[(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

[(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

[(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

[(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

[(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other persons as the Secretary or the Postal Service considers appropriate.]

*(a) It is the policy of the United States—*

*(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;*

*(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of*

*such services by private companies may be prohibited by law of the United States;*

*(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services; and*

*(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.*

*(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and shall have the power to conclude postal treaties and conventions, except that the Secretary may not conclude any postal treaty or convention if such treaty or convention would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal services, or any other person.*

*(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—*

*(A) shall coordinate with other agencies as appropriate, and in particular, should consider the authority vested by law or Executive order in the Postal Regulatory Commission, the Department of Commerce, the Department of Transportation, and the Office of the United States Trade Representative in this area;*

*(B) shall maintain continuing liaison with other executive branch agencies concerned with postal and delivery services;*

*(C) shall maintain continuing liaison with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives;*

*(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and*

*(E) shall assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other executive branch agencies in connection with international postal services and international delivery services.*

*(3) The Secretary of State shall establish an advisory committee (within the meaning of the Federal Advisory Committee Act) to perform such functions as the Secretary considers appropriate in connection with carrying out subparagraphs (A) through (D) of paragraph (2).*

*(c) Before concluding any postal treaty or convention that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit its views on whether such rate or clas-*

sification is consistent with the standards and criteria established by the Commission under section 3622.

(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services as it deems appropriate, except that—

(1) any such contract made with an agency of a foreign government (whether under authority of this subsection or otherwise) shall be solely contractual in nature and may not purport to be binding under international law; and

(2) a copy of each such contract between the Postal Service and an agency of a foreign government shall be transmitted to the Secretary of State and the Postal Regulatory Commission not later than the effective date of such contract.

(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Customs Service and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

(2) In exercising the authority under subsection (b) to conclude new postal treaties and conventions related to international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph.

(3) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Customs Service may determine in writing.

\* \* \* \* \*

#### **§ 409. Suits by and against the Postal Service**

(a) [Except as provided in section 3628 of this title] Except as otherwise provided in this title, the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed to the appropriate United States district court under the provisions of chapter 89 of title 28 [1. 28 USCS §§ 1441 et seq.].

(b) Unless otherwise provided in this title, the provisions of title 28 relating to service of process, venue, and limitations of time for bringing action in suits in which the United States, its officers, or employees are parties, and the rules of procedure adopted under title 28 for suits in which the United States, its officers, or employees are parties, shall apply in like manner to suits in which the Postal Service, its officers, or employees are parties.

(c) The provisions of chapter 171 [28 USCS §§2671 et seq.] and all other provisions of title 28 relating to tort claims shall apply to tort claims arising out of activities of the Postal Service.

[(d) The Department of Justice shall furnish, under section 411 of this title, the Postal Service such legal representation as it may require, but with the prior consent of the Attorney General the Postal Service may employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.]

[(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.]

*(d)(1) For purposes of the provisions of law cited in paragraphs (2)(A) and (2)(B), respectively, the Postal Service—*

*(A) shall be considered to be a “person”, as used in the provisions of law involved; and*

*(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.*

*(2) This subsection applies with respect to—*

*(A) the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946” (15 U.S.C. 1051 and following)); and*

*(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.*

*(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any product which is not reserved to the United States under section 1696 of title 18, the Postal Service or other Federal agency (as the case may be)—*

*(A) shall not be immune under any doctrine of sovereign immunity from suit in Federal court by any person for any violation of Federal law by such agency or any officer or employee thereof; and*

*(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—*

*(i) the antitrust laws (as defined in such subsection); and*

*(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.*

*For purposes of the preceding sentence, any private carriage of mail allowable by virtue of section 601 shall not be considered a service reserved to the United States under section 1696 of title 18.*

*(2) No damages, interest on damages, costs or attorney’s fees may be recovered, and no criminal liability may be imposed, under the antitrust laws (as so defined) from any officer or employee of the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, acting in an official capacity.*

*(3) This subsection shall not apply with respect to conduct occurring before the date of the enactment of this subsection.*

(f) *To the extent that the Postal Service engages in conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the Federal bankruptcy laws.*

(g)(1) *Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with 1 of the nationally recognized model building codes and with other applicable nationally recognized codes.*

(2) *Each building constructed or altered by the postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements ) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.*

(3) *For purposes of meeting the requirements of paragraphs (1) and (2) with respect to a building, the Postal Service shall—*

(A) *in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;*

(B) *upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and*

(C) *permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Postal Service—*

(i) *a copy of such schedule before construction of the building begins; and*

(ii) *reasonable notice of their intention to conduct any inspection before conducting such inspection.*

*Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under the preceding sentence, nor shall anything in this subsection require the Postal Service or any of its contractors to pay for any action taken by a State or political subdivision to carry out this subsection (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).*

(4) *Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.*

(5) *In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.*

(6) *For purposes of this subsection, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.*

(h)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

(A) Subsection (d) or (e) of this section.

(B) Subsection (f) or (g) of section 504 (relating to administrative subpoenas by the Postal Regulatory Commission).

(C) Section 3663 (relating to appellate review). The Postal Service may, by contract or otherwise, employ attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice under this paragraph.

(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own and as of right.

(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

(i) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service, subject to the restriction specified in section 2011(g).

\* \* \* \* \*

## **CHAPTER 5—POSTAL REGULATORY COMMISSION**

### **§ 501. Establishment**

The Postal Regulatory Commission is an independent establishment of the executive branch of the Government of the United States.

### **§ 502. Commissioners**

(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability

and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

(b) No Commissioners shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.

(c) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

(d) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

(e) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

(f) The Commissioners shall serve for terms of 6 years.

### **§ 503. Rules; regulations; procedures**

The Postal Regulatory Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5 [5 USCS §§ 501 et seq. and 701 et seq.], and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter [9 USCS §§ 3601 et seq.]. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service.

### **§ 504. Administration**

(a) The Chairman of the Postal Regulatory Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

(b) In carrying out any of his functions under this section, the Chairman shall be governed by the general policies of the Commission.

(c) The Chairman may obtain such facilities and supplies as may be necessary to permit the Commission to carry out its functions. Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title [39 USCS §§ 1001 et seq. or 1201 et seq.], as appropriate.

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

penses, including expenses for facilities, supplies, compensation, and employee benefits.

(e) *The provisions of section 410 and chapter 10 of this title [39 USCS §§ 410 and 1001 et seq.] shall apply to the Commission, as appropriate.*

(f)(1) *Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.*

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

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

(B) *order the taking of depositions and responses to written interrogatories by a covered person. The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.*

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

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

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

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

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

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

(3)(A) *Paragraph (2) shall not prohibit the Commission from publicly disclosing relevant information in furtherance of its duties under this title, provided that the Commission has adopted regula-*

tions under section 553 of title 5, that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest in maintaining the financial transparency of a government establishment competing in commercial markets.

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

**§505. Officer of the Postal Regulatory Commission representing the general public**

The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings who shall represent the interests of the general public.

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**CHAPTER 6—PRIVATE CARRIAGE OF LETTERS**

**§ 601. Letters carried out of the mail**

(a) A letter may be carried out of the mails when—

- (1) it is enclosed in an envelope;
- (2) the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope;
- (3) the envelope is properly addressed;
- (4) the envelope is so sealed that the letter cannot be taken from it without defacing the envelope;
- (5) any stamps on the envelope are canceled in ink by the sender; and
- (6) the date of the letter, of its transmission or receipt by the carrier is endorsed on the envelope in ink.

【(b) The Postal Service may suspend the operation of any part of this section upon any mail route where the public interest requires the suspension.】

(b) A letter may also be carried out of the mails when—

- (1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the rate then currently charged for the 1st ounce of a single-piece first class letter;
- (2) the letter weighs at least 12<sup>1</sup>/<sub>2</sub> ounces; or
- (3) such carriage is within the scope of services described by regulations of the United States Postal Service (as in effect on July 1, 2001) that permit private carriage by suspension of the operation of this section (as then in effect).

(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.

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## PART II—PERSONNEL

### CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS

#### § 1207. Labor disputes

(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days of such notice, if no agreement has been reached by that time.

(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall **direct the establishment of a factfinding panel consisting of 3 persons. For this purpose, he shall submit to the parties a list of not less than 15 names, from which list each party, within 10 days, shall select 1 person. The 2 so selected shall then choose from the list a third person who shall serve as chairman of the factfinding panel. If either of the parties fails to select a person or if the 2 members are unable to agree on the third person within 3 days, the selection shall be made by the Director. The factfinding panel shall issue after due investigation a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.** *within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.*

(c)(1) If no agreement is reached within **[90]** 60 days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefor, an arbitration board shall be established consisting of 3 members, **[not members of the factfinding panel,]** 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made *from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.* **[If the parties do not agree on the framing of the issues to be submitted, the factfinding**

panel shall frame the issues and submit them to the arbitration board.】

(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

(3) Costs of the arbitration board and 【factfinding panel】 *mediation* shall be shared equally by the Postal Service and the bargaining representative.

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

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**PART III—MODERNIZATION AND FISCAL ADMINISTRATION**

**CHAPTER 20—FINANCE**

**§ 2001. Definitions**

As used in this chapter [39 USCS §§ 2001 et seq.]—

(1) “Fund” means the Postal Service Fund established by section 2003 of this chapter; 【and】

(2) “*Competitive Products Fund*” means the Postal Service *Competitive Products Fund* established by section 2011; and

【(2)】 (3) “Obligations,” when referring to debt instruments issued by the Postal Service, means notes, bonds, debentures, mortgages, and any other evidence of indebtedness.

**§ 2002. Capital of the Postal Service**

(a) The initial capital of the Postal Service shall consist of the equity, as reflected in the budget of the President, of the Government of the United States in the former Post Office Department. The value of assets and the amount of liabilities transferred to the Postal Service upon the commencement of operations of the Postal Service shall be determined by the Postal Service subject to the approval of the Comptroller General, in accordance with the following guidelines:

\* \* \* \* \*

(b) The capital of the Postal Service at any time shall consist of its assets, including the balance in the **[Fund]** *Fund and the balance in the Competitive Products Fund*, less its liabilities.

\* \* \* \* \*

**§ 2003. The Postal Service Fund**

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

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

- (1) revenues from postal [and nonpostal] services rendered by the Postal Service;
- (2) amounts received from obligations issued by the Postal Service;
- (3) amounts appropriated for the use of the Postal Service;
- (4) interest which may be earned on investments of the Fund;
- (5) any other receipts of the Postal Service;
- (6) the balance in the Post Office Department Fund established under former section 2202 of title 39 as of the commencement of operations of the Postal Service;
- (7) amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service; and
- (8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes.

\* \* \* \* \*

(e)(1) **[The Fund shall be available for the payment of all expenses incurred by the Postal Service in carrying out its functions as provided by law and, subject to the provisions of section 3604 of this title, all of the expenses of the Postal Rate Commission.]** *The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of the Inspector General, subject to the availability of amounts appropriated under section 8G(f) of the Inspector General Act of 1978. The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service. Neither the Fund nor*

any of the funds credited to it shall be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31 [31 USCS §§ 1511 et seq.].

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

\* \* \* \* \*

### § 2005. Obligations

(a)(1) The Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this [title] *title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.* The aggregate amount of any such obligations outstanding at any one time shall not exceed the maximum amount then allowable under paragraph (2) of this subsection. [In any one fiscal year the net increase in the amount of obligations outstanding issued for the purpose of capital improvements shall not exceed \$2,000,000,000, and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed \$1,000,000,000.]

(2) The maximum amount allowable under this paragraph is—

- (A) \$10,000,000,000 for fiscal year 1990;
- (B) \$12,500,000,000 for fiscal year 1991; and
- (C) \$15,000,000,000 for fiscal year 1992 and each fiscal year thereafter.

[(b)](b)(1) The Postal Service may pledge the assets of the Postal Service and pledge and use its revenues and receipts for the payment of the principal of or interest on [such obligations] *obligations issued by the Postal Service under this section,* for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it deems necessary or desirable. The Postal Service is authorized to enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to the establishment of reserve, sinking, and other funds, application and use of revenues and receipts of the Postal Service, stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service and such other matters as the Postal Service deems necessary or desirable to enhance the marketability of such obligations.

(2) *Notwithstanding any other provision of this section—*

- (A) *the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products*

*(as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and*

*(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.*

\* \* \* \* \*

**§ 2006. Relationship between the Treasury and Postal Service**

\* \* \* \* \*

(b) Subject to the conditions of subsection (a) of this section, the Postal Service may require the Secretary of the Treasury to purchase obligations of the Postal Service in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed \$2,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Postal Service in excess of such amount. *Nothing in this chapter shall be considered to permit or require the Secretary of the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005.*

(c) Notwithstanding section 2005(d)(5) of this title, obligations issued by the Postal Service *under section 2005* shall be obligations of the Government of the United States, and payment of principal and interest thereon shall be fully guaranteed by the Government of the United States, such guaranty being expressed on the face thereof, if and to the extent that—

(1) the Postal Service requests the Secretary of the Treasury to pledge the full faith and credit of the Government of the United States for the payment of principal and interest thereon; and

(2) the Secretary, in his discretion, determines that it would be in the public interest to do so.

\* \* \* \* \*

**§ 2009. Annual budget**

The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Service may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fis-

cal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings. **【**The budget program shall also include separate statements of the amounts which the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401 of this title.**】** *The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8G(f) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.* The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.

**§ 2010. Restrictions on agreements**

The Postal Service shall promote modern and efficient operations and should refrain from expending any funds, engaging in any practice, or entering into any agreement or contract, other than an agreement or contract under chapter 12 of this title [39 USCS §§ 1201 et seq.], which restricts the use of new equipment or devices which may reduce the cost or improve the quality of postal services, except where such restriction is necessary to insure safe and healthful employment conditions.

**§ 2011. Provisions relating to competitive products**

*(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—*

- (1) costs attributable to the competitive products; and*
- (2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.*

*For purposes of this subsection, the term “costs attributable” has the meaning given such term by section 3631.*

*(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—*

- (1) revenues from competitive products;*
- (2) amounts received from obligations issued by the Postal Service under subsection (e);*
- (3) interest and dividends earned on investments of the Competitive Products Fund; and*
- (4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.*

*(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in accordance with regu-*

lations which the Secretary of the Treasury shall prescribe within 12 months after the date of enactment of the Postal Accountability and Enhancement Act.

(d) The Postal Service may, in its sole discretion, provide that the moneys of the Competitive Products Fund be deposited in a Federal Reserve bank or a depository for public funds.

(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as the Postal Service determines necessary or desirable.

(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

(A) the establishment of reserve, sinking, and other funds;

(B) application and use of revenues and receipts of the Competitive Products Fund;

(C) stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service; and

(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

(3) Obligations issued by the Postal Service under this subsection—

(A) may not be purchased by the Secretary of the Treasury;

(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

(4)(A) This paragraph applies with respect to the period beginning on the date of the enactment of this paragraph and ending at the

close of the 5-year period which begins on the date on which the Postal Service makes its submission under subsection (h)(1).

(B) During the period described in subparagraph (A), nothing in subparagraph (A) or (D) of paragraph (3) or the last sentence of section 2006(b) shall, with respect to any obligations sought to be issued by the Postal Service under this subsection, be considered to affect such obligations' eligibility for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable securities of comparable maturity issued by entities with the same credit rating as the rating then most recently obtained by the Postal Service under subparagraph (D), as determined by the Bank.

(D) In order to be eligible to borrow under this paragraph, the Postal Service shall first obtain a credit rating from a nationally recognized credit rating organization. Such rating—

(i) shall be determined taking into account only those assets and activities of the Postal Service which are described in section 3634(a)(2) (relating to the Postal Service's assumed taxable income from competitive products); and

(ii) may, before final rules of the Postal Regulatory Commission under subsection (h) are issued (or deemed to have been issued), be based on the best information available from the Postal Service, including the audited statements required by section 2008(e).

(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary treatment as is accorded to receipts and disbursements of the Postal Service fund under section 2009a.

(g) A judgment against the Postal Service or the Government of the United States (or settlement of a claim) shall, to the extent that it arises out of activities of the Postal Service in the provision of competitive products, be paid out of the Competitive Products Fund.

(h)(1) The Secretary of the Treasury, in consultation with the Postal Service, an independent, certified public accounting firm, and such other advisers as the Secretary considers appropriate, shall develop recommendations regarding—

(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of—

(i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the postal Service in providing, competitive products; and

(ii) preventing the subsidization of such products by market-dominant products; and

(B) the substantive and procedural rules that should be followed in determining the Postal Service's assumed Federal income tax on competitive products income for any year (within the meaning of section 3634).

Such recommendations shall be submitted to the Postal Regulatory Commission not earlier than 6 months, and not later than 12 months, after the effective date of this section.

(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and (iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as agreed to by the Commission and the Postal Service). The Commission is authorized to promulgate regulations revising such rules.

(C) Reports described in subparagraph (B)(iii) shall be submitted at such time, in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

(i) the quality of the information furnished in those reports has become significantly inaccurate or can be significantly improved; or

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

(D) A copy of each report described in subparagraph (B)(iii) shall also be transmitted by the Postal Service to the Secretary of the Treasury and the Inspector General of the United States Postal Service.

(i) The Postal Service shall render an annual report to the Secretary of the Treasury concerning the operation of the Competitive Products Fund, in which it shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of its then most recent report under this subsection shall be included with any other submission that it is required to make to the Postal Regulatory Commission under section 3652(g).

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## PART IV—MAIL MATTER

### CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES [SUBCHAPTER I—POSTAL RATE COMMISSION]

#### **【§ 3601. Establishment**

【(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

【(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

【(c) One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

【(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.】

#### **【§ 3602. Terms of office**

【The Commissioners of the Postal Rate Commission shall serve for terms of 6 years except that—

【(1) the terms of the Commissioners first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 2 years, 2 at the end of 4 years, and 2 at the end of 6 years, following the appointment of the first of them; and

【(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

#### **【§ 3603. Rules; regulations; procedures**

【The Postal Rate Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5 [5 USCS §§ 501 et seq. and 701 et seq.], and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter [9 USCS §§ 3601 et seq.]. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service.】

#### **【§ 3604. Administration**

【(a) The Chairman of the Postal Rate Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of

major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

[(b) In carrying out any of his functions under this section, the Chairman shall be governed by the general policies of the Commission.]

[(c) The Chairman may obtain such facilities and supplies as may be necessary to permit the Commission to carry out its functions. Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title [39 USCS §§ 1001 et seq. or 1201 et seq.], as appropriate.]

[(d) (1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

[(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

[(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget. Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.]

[(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service fund established under section 2003 of this title.]

[(e) The provisions of section 410 and chapter 10 of this title [39 USCS §§ 410 and 1001 et seq.] shall apply to the Commission, as appropriate.]

## **CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

### ***Subchapter II—Permanent Rates and Classes of Mail***

#### **§ 3621. Authority to fix rates and classes**

【Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of this chapter [39 USCS §§ 3601 et seq.]. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service. For purposes of this section, “total estimated costs” shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and ex-

pense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.】

**§ 3621. Applicability; definitions**

(a) *Applicability.*—*This subchapter shall apply with respect to—*

- (1) *first-class mail letters and sealed parcels;*
- (2) *first-class mail cards;*
- (3) *periodicals;*
- (4) *standard mail;*
- (5) *single-piece parcel post;*
- (6) *media mail;*
- (7) *bound printed matter;*
- (8) *library mail;*
- (9) *special services; and*
- (10) *single-piece international mail, subject to any changes the Postal Regulatory Commission may make under section 3642.*

(b) *RULE OF CONSTRUCTION.*—*Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.*

**【§ 3622. Rates and fees**

【(a) From time to time the Postal Service shall request the Postal Rate Commission to submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in public interest and in accordance with the policies of this title. The Postal Service may submit such suggestions for rate adjustments as it deems suitable.

【(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees in each class of mail or type of service in accordance with the policies of this title and the following factors:

【(1) the establishment and maintenance of a fair and equitable schedule;

【(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

【(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

【(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

【(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

【(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

[(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

[(8) the educational, cultural, scientific, and informational value to the recipient of mail matter; and

[(9) such other factors as the Commission deems appropriate.

[(c) Regular rates for each class or subclass of mail that includes 1 or more special rate categories for mail under former section 4358(d) or (e), 4452(b) or (c), or 4554(b) or (c) of this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the corresponding special rate categories authorized by former section 4358(d) or (e), 4452(b) or (c), or 4554(b) or (c) of this title.

[(d) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.】

### **§ 3622. Modern rate regulation**

(a) *AUTHORITY GENERALLY.*—*The Postal Regulatory Commission shall, within 12 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.*

(b) *OBJECTIVES.*—*Such system shall be designed to achieve the following objectives:*

(1) *To reduce the administrative burden and increase the transparency of the ratemaking process while affording reasonable opportunities for interested parties to participate in that process.*

(2) *To create predictability and stability in rates.*

(3) *To maximize incentives to reduce costs and increase efficiency.*

(4) *To enhance mail security and deter terrorism by promoting secure, sender-identified mail.*

(5) *To allow the Postal Service pricing flexibility, including the ability to use pricing to promote intelligent mail and encourage increased mail volume during nonpeak periods.*

(6) *To assure adequate revenues, including retained earnings, to maintain financial stability and meet the service standards established under section 3691.*

(7) *To allocate the total institutional costs of the Postal Service equitably between market-dominant and competitive products.*

(c) *FACTORS.*—*In establishing or revising such system, the Postal Regulatory Commission shall take into account—*

(1) *the establishment and maintenance of a fair and equitable schedule for rates and classification system;*

(2) *the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;*

(3) *the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;*

(4) *the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;*

(5) *the available alternative means of sending and receiving letters and other mail matter at reasonable costs;*

(6) *the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;*

(7) *simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;*

(8) *the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;*

(9) *the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;*

(10) *the desirability of special classifications from the point of view of both the user and of the Postal Service;*

(11) *the educational, cultural, scientific, and informational value to the recipient of mail matter; and*

(12) *the policies of this title as well as such other factors as the Commission deems appropriate.*

(d) *REQUIREMENTS.—The system for regulating rates and classes for market-dominant products shall—*

(1) *require the Postal Regulatory Commission to set annual limitations on the percentage changes in rates based on inflation using indices, such as the Consumer Price Index, the Employment Cost Index, the Gross Domestic Product Price Index, or any similar measure as the Postal Regulatory Commission may prescribe;*

(2) *establish a schedule whereby rates, when necessary and appropriate, would change at regular intervals by predictable amounts;*

(3) *not later than 45 days before the implementation of any adjustment in rates under this section—*

(A) *require the Postal Service to provide public notice of the adjustment;*

(B) *provide an opportunity for review by the Postal Regulatory Commission;*

(C) *provide for the Postal Regulatory Commission to notify the Postal Service of any noncompliance of the adjustment with the limitation under paragraph (1); and*

(D) *require the Postal Service to respond to the notice provided under subparagraph (C) and describe the actions to be taken to comply with the limitation under paragraph (1).*

(4) notwithstanding any limitation set under paragraphs (1) and (3), establish procedures whereby rates may be adjusted on an expedited basis due to the unexpected and extraordinary circumstances.

(e) **WORKSHARE DISCOUNTS.**—

(1) **DEFINITION.**—In this subsection, the term “workshare discount” refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under subsection (a).

(2) **REGULATIONS.**—As part of the regulations established under subsection (a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as a result of workshare activity, unless—

(A) the discount is—

(i) associated with a new postal service or with a change to an existing postal service; and

(ii) necessary, over a period of time not to exceed 4 years, to induce mailer behavior that furthers the economically efficient operation of the Postal Service;

(B) a reduction in the discount would—

(i) lead to a loss of volume in the affected category of mail and reduce the aggregate contribution to institutional costs of the Postal Service from the mail matter subject to the discount below what it otherwise would have been if the discount had not been reduced to costs avoided;

(ii) result in a further increase in the rates paid by mailers not able to take advantage of the discount; or

(iii) impede the efficient operation of the Postal Service;

(C) the amount of the discount above costs avoided—

(i) is necessary to mitigate rate shock; and

(ii) will be phased out over time; or

(D) the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value.

(3) **REPORT.**—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, submit to the Postal Regulatory Commission a detailed report and explanation of the Postal Service’s reasons for establishing or maintaining the rate, setting forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate.

(f) **TRANSITION RULE.**—Until regulations under this section first take effect, rates and classes for market-dominant products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were last in effect before the date of the enactment of this section.

**§ 3623. Mail classification**

[(a) Within 2 years after the effective date of this subchapter [effective Jan. 20, 1971], the Postal Service shall request the Postal Rate Commission to make a recommended decision on establishing a mail classification schedule in accordance with the provisions of this section.

[(b) Following the establishment of the mail classification schedule requested under subsection (a) of this section, the Postal Service may from time to time request that the Commission submit, or the Commission may submit to the Governors on its own initiative, a recommended decision on changes in the mail classification schedule.

[(c) The Commission shall make a recommended decision on establishing or changing the schedule in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable classification system for all mail;

[(2) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

[(3) the importance of providing classifications with extremely high degrees of reliability and speed of delivery;

[(4) the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery;

[(5) the desirability of special classifications from the point of view of both the user and of the Postal Service; and

[(6) such other factors as the Commission may deem appropriate.

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

**§ 3623. Service agreements for market-dominant products**

(a) *IN GENERAL.*—

(1) *AUTHORITY.*—*The Postal Service may enter into service agreements with a customer or group of customers that provide for the provision of postal services under terms, conditions, or service standards that differ from those that would apply under the otherwise applicable classification of market-dominant mail.*

(2) *AGREEMENTS.*—*An agreement under this section may involve—*

(A) *performance by the contracting mail user of mail preparation, processing, transportation, or other functions;*

(B) performance by the Postal Service of additional mail preparation, processing, transportation, or other functions;  
or

(C) other terms and conditions that meet the requirements of subsections (b) and (c).

(b) **REQUIREMENTS.**—A service agreement under this section may be entered into only if each of the following conditions is met:

(1) The total revenue generated under the agreement—

(A) will cover all Postal Service costs attributable to the postal services covered by the agreement; and

(B) will result in no less contribution to the institutional costs of the Postal Service than would have been generated had the agreement not been entered into.

(2) Rates or fees for other mailers will not increase as a result of the agreement.

(3) The agreement pertains exclusively to products in the market-dominant category of mail.

(4) The agreement will not preclude or materially hinder similarly situated mail users from entering into agreements with the Postal Service on the same, or substantially the same terms or conditions, and the Postal Service remains willing and able to enter into such.

(c) **LIMITATIONS.**—A service agreement under this section shall—

(1) be for a term not to exceed 3 years; and

(2) provide that such agreement shall be subject to the cancellation authority of the Commission under section 3662.

(d) **NOTICE REQUIREMENTS.**—

(1) **IN GENERAL.**—At least 30 days before a service agreement under this section is to take effect, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register the following information with respect to such agreement:

(A) A description of the postal services the agreement involves.

(B) A description of the functions the customer is to perform under the agreement.

(C) A description of the functions the Postal Service is to perform under the agreement.

(D) The rates and fees payable by the customer during the term of the agreement.

(E) With respect to each condition under subsection (b), information sufficient to demonstrate the bases for the view of the Postal Service that such condition would be met.

(2) **AGREEMENTS LESS THAN NATIONAL IN SCOPE.**—In the case of a service agreement under this section that is less than national in scope, the information described under paragraph (1) shall also be published by the Postal Service in a manner designed to afford reasonable notice to persons within any geographic area to which such agreement (or any amendment to that agreement) pertains.

(e) **EQUAL TREATMENT REQUIRED.**—If the Postal Service enters into a service agreement with a mailer under this section, the Postal Service shall make such agreement available to similarly situated mailers on functionally equivalent terms and conditions consistent

*with the regulatory system established under section 3622 without unreasonable distinctions based on mailer profiles, provided that such distinctions, if ignored, would not render any subsequent agreement uneconomic or impractical.*

*(f) COMPLAINTS.—Any person who believes that a service agreement under this section is not in conformance with the requirements of this section, or who is aggrieved by a decision of the Postal Service not to enter into an agreement under this section, may file a complaint with the Postal Regulatory Commission in accordance with section 3662.*

*(g) POSTAL REGULATORY COMMISSION ROLE.—*

*(1) REGULATIONS.—The Postal Regulatory Commission may promulgate such regulations regarding service agreements as the Commission determines necessary to implement the requirements of this section.*

*(2) REVIEW.—The Postal Regulatory Commission may review any agreement or proposed agreement under this section and may suspend, cancel, or prevent such agreement if the Commission finds that the agreement does not meet the requirements of this section.*

*(h) INTERPRETATION.—The determination of whether the revenue generated under the agreement meets the requirements of subsection (b)(1)(B) shall be based, to the extent practicable, on the actual contribution of the mail involved, not on the average contribution made by the mail classification most similar to the services performed under the agreement. If mailer-specific data is not available, the bases for the determination used shall be provided and shall include a discussion of the suitability of the data used, in accordance with regulations established by the Postal Regulatory Commission.*

### **§ 3624. Recommended decisions of Commission**

[(a) The Postal Rate Commission shall promptly consider a request made under section 3622 or 3623 of this title, except that the Commission shall not recommend a decision until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public.

[(b) In order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties, the Commission may (without limitation) adopt rules which provide for—

[(1) the advance submission of written direct testimony;

[(2) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;

[(3) discovery both from the Postal Service and the parties to the proceedings;

[(4) limitation of testimony; and

[(5) the conduct of the entire proceedings off the record with the consent of the parties.

[(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision

to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

[(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.

[(d) The Commission shall transmit its recommended decision in a rate, fee, or classification matter to the Governors. The recommended decision shall include a statement specifically responsive to the criteria established under section 3622 or 3623, as the case may be.]

### **[(§ 3625. Action of the Governors**

[(a) Upon receiving a recommended decision from the Postal Rate Commission, the Governors may approve, allow under protest, reject, or modify that decision in accordance with the provisions of this section.

[(b) The Governors may approve the recommended decision and order the decision placed in effect.

[(c) The Governors may, under protest, allow a recommended decision of the Commission to take effect and (1) seek judicial review thereof under section 3628 of this title, or (2) return the recommended decision to the Commission for reconsideration and a further recommended decision, which shall be acted upon under this section and subject to review in accordance with section 3628 of this title.

[(d) The Governors may reject the recommended decision of the Commission and the Postal Service may resubmit its request to the Commission for reconsideration. Upon resubmission, the request shall be reconsidered, and a further recommended decision of the Commission shall be acted upon under this section and subject to review in accordance with section 3628 of this title. However, with the unanimous written concurrence of all of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission under this subsection if the Governors expressly find that (1) such modification is in accord with the record and the policies of this chapter [39 USCS §§ 3601 et seq.], and (2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.

[(e) The decision of the Governors to approve, allow under protest, reject, or modify a recommended decision of the Commission shall be in writing and shall include an estimate of anticipated revenue and a statement of explanation and justification. The decision, the record of the Commission's hearings, and the Commission's recommended decision shall be made generally available at the time the decision is issued and shall be printed and made available for sale by the Public Printer within 10 days following the day the decision is issued.

[(f) The Board shall determine the date on which the new rates, fees, the mail classification schedule, and changes in such schedule under this subchapter [39 USCS §§ 3621 et seq.] shall become effective.]

\* \* \* \* \*

**[§ 3628. Appellate review**

[A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 [28 USCS §§ 2341 et seq.] and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission and the Governors. The court may affirm the decision or order that the entire matter be returned for further consideration, but the court may not modify the decision. The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision made by the Commission or Governors under this chapter [39 USCS §§ 3601 et seq.] except as provided in this section.]

**CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**[Subchapter II—Permanent Rates and Classes of Mail]**

***Subchapter I—Provisions Relating to Market-Dominant Products***

**§ 3629. *Reduced rates for voter registration purposes [Caution: For effective date of section, see § 13 of Act May 20, 1993, P.L. 103–31, which appears as a note to this section]***

The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1993.

***Subchapter II—Provisions Relating to Competitive Products***

**§ 3631. *Applicability; definitions and updates***

- (a) *APPLICABILITY.*—*This subchapter shall apply with respect to—*
- (1) *priority mail;*
  - (2) *expedited mail;*
  - (3) *bulk parcel post;*
  - (4) *bulk international mail; and*
  - (5) *mailgrams; subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642.*

(b) *DEFINITION.*—For purposes of this subchapter, the term “costs attributable”, as used with respect to a product, means the direct and indirect postal costs attributable to such product.

(c) *RULE OF CONSTRUCTION.*—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such mail matter under the mail classification schedule.

(d) *LIMITATION.*—Notwithstanding any other provision of this section, nothing in this subchapter shall be considered to apply with respect to any product then currently in the market-dominant category of mail.

### **§ 3632. Action of the Governors**

(a) *AUTHORITY TO ESTABLISH RATES AND CLASSES.*—The Governors, with the written concurrence of a majority of all of the Governors then holding office, shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

(b) *PROCEDURES.*—

(1) *IN GENERAL.*—Rates and classes shall be established in writing, complete with a statement of explanation and justification, and the date as of which each such rate or class takes effect.

(2) *PUBLIC NOTICE; REVIEW; AND COMPLIANCE.*—Not later than 30 days before the date of implementation of any adjustment in rates under this section—

(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;

(B) the Postal Regulatory Commission shall notify the Governors of any noncompliance of the adjustment with section 3633; and

(C) the Governors shall respond to the notice provided under subparagraph (B) and describe the actions to be taken to comply with section 3633.

(c) *TRANSITION RULE.*—Until regulations under section 3633 first take effect, rates and classes for competitive products shall remain subject to modification in accordance with the provisions of this chapter and section 407, as such provisions were as last in effect before the date of the enactment of this section.

### **§ 3633. Provisions applicable to rates for competitive products**

The Postal Regulatory Commission shall, within 180 days after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations to—

(1) prohibit the subsidization of competitive products by market-dominant products;

(2) ensure that each competitive product covers its costs attributable; and

(3) ensure that all competitive products collectively cover their share of institutional costs of the Postal Service.

**§ 3634. Assumed Federal income tax on competitive products income**

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

(1) *the term “assumed Federal income tax on competitive products income” means the net income tax that would be imposed by chapter 1 of the Internal Revenue code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and*

(2) *the term “assumed taxable income from competitive products”, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—*

(A) *the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and*

(B) *the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.*

(b) *COMPUTATION AND TRANSFER REQUIREMENTS.*—*The Postal Service shall, for each year beginning with the year in which occurs the deadline for the Postal Service’s first report to the Postal Regulatory Commission under section 3652(a)—*

(1) *compute its assumed Federal income tax on competitive products income for such year; and*

(2) *transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.*

(c) *DEADLINE FOR TRANSFERS.*—*Any transfer required to be made under this section for a year shall be due on or before the January 15th next occurring after the close of such year.*

**CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**[Subchapter III—Temporary Rates and Classes]**

***Subchapter III—Provisions Relating to Experimental and New Products***

**【§ 3641. Temporary changes in rates and classes**

【(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days’ notice in the Federal Register.

【(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated income, including appropriations, of the Postal Service shall, to the

extent practicable, be equal to the total estimated costs of the Postal Service.

[(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

[(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commission transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

[(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

[(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.]

### **§ 3641. Market tests of experimental products**

(a) *AUTHORITY.*—

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

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

(b) *CONDITIONS.*—*A product may not be tested under this section unless it satisfies each of the following;*

(1) *SIGNIFICANTLY DIFFERENT PRODUCT.*—*The product is, from the viewpoint of the mail users, significantly different from all products offered by the Postal Service within the 2 year period preceding the start of the test.*

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

(3) *CORRECT CATEGORIZATION.*—*The Postal Service identifies the product, for the purpose of a test under this section, as either market-dominant or competitive, consistent with the cri-*

teria under section 3642(b)(1). Costs and revenue attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively). Any test that solely affects products currently classified as competitive, or which provides services ancillary to only competitive products, shall be presumed to be in the competitive product category without regard to whether a similar ancillary product exists for market-dominant products.

(c) NOTICE.—

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

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

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

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

(d) DURATION.—

(1) *IN GENERAL.*—A market test of a product under this section may be conducted over a period of not to exceed 24 months.

(2) *EXTENSION AUTHORITY.*—If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.

(e) DOLLAR-AMOUNT LIMITATION.—

(1) *IN GENERAL.*—A product may only be tested under this section if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$10,000,000 in any year, subject to paragraph (2) and subsection (g).

(2) *EXEMPTION AUTHORITY.*—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

(A) the product is likely to benefit the public and meet an expected demand;

(B) *the product is likely to contribute to the financial stability of the Postal Service; and*

(C) *the product is not likely to result in unfair or otherwise inappropriate competition.*

(f) *CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails to meet 1 or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.*

(g) *ADJUSTMENT FOR INFLATION.—For purposes of each year following the year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a), each dollar amount contained in this section shall be adjusted by the change in the Consumer Price Index for such year (as determined under regulations of the Commission.)*

(h) *DEFINITION OF A SMALL BUSINESS CONCERN.—The criteria used in defining small business concerns or otherwise categorizing business concerns as small business concerns shall, for purposes of this section, be established by the Postal Regulatory Commission in conformance with the requirements of section 3 of the Small Business Act.*

(i) *EFFECTIVE DATE.—Market tests under this subchapter may be conducted in any year beginning with the first year in which occurs the deadline for the Postal Service's first report to the Postal Regulatory Commission under section 3652(a).*

**§3642. *New products and transfers of products between the market-dominant and competitive categories of mail***

(a) *IN GENERAL.—Upon request of the Postal Service or users of the mails, or upon its own initiative, the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.*

(b) *CRITERIA.—All determinations by the Postal Regulatory Commission under subsection (a) shall be made in accordance with the following criteria:*

(1) *The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing substantial business to other firms offering similar products. The competitive category of products shall consist of all other products.*

(2) *EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term “product covered by the postal monopoly” means any product the conveyance or transmission of which is reserved to the*

*United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).*

(3) *ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—*

*(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;*

*(B) the views of those who use the product involved on the appropriateness of the proposed action; and*

*(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).*

(c) *TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.— Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone.)*

(d) *NOTIFICATION AND PUBLICATION REQUIREMENTS.—*

*(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission under section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.*

*(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.*

(e) *PROHIBITION.—Except as provided in section 3641, no product that involves the physical delivery of letters, printed matter, or packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—*

*(1) under this subchapter; or*

*(2) by or under any other provision of law.*

**CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**[Subchapter IV—Postal Services and Complaints]**

***Subchapter V—Postal Services, Complaints, and Judicial Review***

**CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**[Subchapter V—General]**

***Subchapter VI—General***

***Subchapter IV—Reporting Requirements and Related Provisions***

**§ 3651. Annual reports by the Commission**

(a) *IN GENERAL.*—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.

(b) *INFORMATION FROM POSTAL SERVICE.*—The Postal Service shall provide the Postal Regulatory Commission with such information as may, in the judgment of the Commission, be necessary in order for the Commission to prepare its reports under this section.

**§ 3652. Annual reports to the Commission**

(a) *COSTS, REVENUES, RATES, AND SERVICE.*—Except as provided in subsection (c), the Postal Service shall, no later than 90 days after the end of each year, prepare and submit to the Postal Regulatory Commission a report (together with such nonpublic annex to the report as the Commission may require under subsection (e))—

(1) which shall analyze costs, revenues, rates, and quality of service in sufficient detail to demonstrate that all products during such year complied with all applicable requirements of this title; and

(2) which shall, for each market-dominant product provided in such year, provide—

(A) product information, including mail volumes; and

(B) measures of the service afforded by the Postal Service in connection with such product, including—

(i) the level of service (described in terms of speed of delivery and reliability) provided; and

(ii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex to the report and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

(b) *INFORMATION RELATING TO WORKSHARE DISCOUNTS.*—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product

for which a workshare discount was in effect during the period covered by such report:

(1) The per-item cost avoided by the Postal Service by virtue of such discount.

(2) The percentage of such per-item cost avoided that the per-item workshare discount represents.

(3) The per-item contribution made to institutional costs.

(c) *SERVICE AGREEMENTS AND MARKET TESTS.*—In carrying out subsections (a) and (b) with respect to service agreements (including service agreements entered into under section 3623) and experimental products offered through market tests under section 3641 in a year, the Postal Service—

(1) may report summary data on the costs, revenues, and quality of service by service agreement and market test; and

(2) shall report such data as the Postal Regulatory Commission requires.

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

(e) *CONTENT AND FORM OF REPORTS.*—

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

(A) providing the public with timely, adequate information to assess the lawfulness of rates charged;

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

(C) protecting the confidentiality of commercially sensitive information.

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

(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

(f) *CONFIDENTIAL INFORMATION.*—

(1) *IN GENERAL.*—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or under subsection (d) contains information which is described in section 410(c) of this title, or ex-

*empt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.*

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

*(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that the Postal Service is required to make under this section in a year, copies of its then most recent—*

- (1) comprehensive statement under section 2401(e);*
- (2) strategic plan under section 2802;*
- (3) performance plan under section 2803; and*
- (4) program performance reports under section 2804.*

**§ 3653. Annual determination of compliance**

*(a) OPPORTUNITY FOR PUBLIC COMMENT.—After receiving the reports required under section 3652 for any year, the Postal Regulatory Commission shall promptly provide an opportunity for comment on such reports by users of the mails, affected parties, and an officer of the Commission who shall be required to represent the interests of the general public.*

*(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—*

- (1) whether any rates or fees in effect during such year (for products individually or collectively) were not in compliance with applicable provisions of this chapter (or regulations promulgated thereunder); or*
- (2) whether any service standards in effect during such year were not met.*

*If, with respect to a year, no instance of noncompliance is found under this subsection to have occurred in such year, the written determination shall be to that effect.*

*(c) IN ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take any appropriate remedial action authorized by section 3662(c).*

*(d) REBUTTABLE PRESUMPTION.—A timely written determination described in the last sentence of subsection (b) shall, for purposes of any proceeding under section 3662, create a rebuttable presumption of compliance by the Postal Service (with regard to the matters described in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.*

\* \* \* \* \*

**[§ 3662. Rate and service complaints**

[Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Postal Rate Commission in such form and in such manner as it may prescribe. The Commission may in its discretion hold hearings on such complaint. If the Commission, in a matter covered by subchapter II of this chapter [39 USCS §§ 3621 et seq.], determines the complaint to be justified, it shall, after proceedings in conformity with section 3624 of this title, issue a recommended decision which shall be acted upon in accordance with the provisions of section 3625 of this title and subject to review in accordance with the provisions of section 3628 of this title. If a matter not covered by subchapter II of this chapter [39 USCS §§ 3621 et seq.] is involved, and the Commission after hearing finds the complaint to be justified, it shall render a public report thereon to the Postal Service which shall take such action as it deems appropriate.]

**§ 3662. Rate and service complaints**

(a) *IN GENERAL.*—Any person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

(b) *PROMPT RESPONSE REQUIRED.*—

(1) *IN GENERAL.*—The Postal Regulatory Commission shall, within 90 days after receiving a complaint under subsection (a), either—

(A) begin proceedings on such complaint; or

(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

(2) *TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.*—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed under an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

(c) *ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.*—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance including ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, and requiring the Postal Service to make up for revenue shortfalls in competitive products.

(d) *AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.*—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Reg-

*ulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.*

**【§ 3663. Annual report on international services**

[(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

[(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.】

**§ 3663. Appellate review**

*A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission.*

**§ 3664. Enforcement of orders**

*The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.*

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**CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

***Subchapter VII—Modern Service Standards***

**§ 3691. Establishment of modern service standards**

(a) *AUTHORITY GENERALLY.*—*The Postal Regulatory Commission shall, within 12 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a set of service standards for market-dominant products consistent with sections 101 (a) and (b) and 403.*

(b) *OBJECTIVES.*—*Such standards shall be designed to achieve the following objectives:*

(1) *To enhance and preserve the value of postal services to both senders and recipients.*

(2) *To provide a system of objective external performance measurements for each market-dominant product as a basis for measurement of Postal Service performance.*

(3) *To guarantee Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices.*

(c) **FACTORS.**—*In establishing or revising such standards, the Postal Regulatory Commission shall take into account—*

(1) *the actual level of service that Postal Service customers receive under any service guidelines previously established by the Postal Service or service standards established under this section;*

(2) *the degree of customer satisfaction with Postal Service performance in the acceptance, processing and delivery of mail;*

(3) *mail volume and revenues projected for future years;*

(4) *the projected growth in the number of addresses the Postal Service will be required to serve in future years;*

(5) *the current and projected future cost of serving Postal Service customers;*

(6) *the effect of changes in technology, demographics and population distribution on the efficient and reliable operation of the postal delivery system; and*

(7) *the policies of this title as well as such other factors as the Commission determines appropriate.*

\* \* \* \* \*

**PART V—TRANSPORTATION OF MAIL**

**CHAPTER 54—TRANSPORTATION OF MAIL BY AIR**

**§ 5402. Contracts for transportation of mail by air**

\* \* \* \* \*

[(d) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points in foreign air transportation is not adequate for its purposes, it may contract for a period of not more than 4 years, without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate, with any air taxi operator or combination thereof for such air transportation service. Contracts made under this subsection may be renewed at the existing rate by mutual agreement between the holder and the Postal Service. The Postal Service, with the consent of the air taxi operator, may adjust the compensation under such contracts for increased or decreased costs occasioned by changed conditions occurring during the contract term. The Postal Service shall cancel such a contract when the Secretary of transportation authorizes an additional certificated carrier or carriers to provide service between any pair or pairs of points covered by the contract, and such carrier or carriers inaugurate schedules adequate for its purposes.]

(d)(1) *The Postal Service may contract with any air carrier for the transportation of mail by aircraft in interstate air transportation, including the rates therefor, either through negotiations or competitive bidding.*

(2) *Notwithstanding subsections (a) through (c), the Postal Service may contract with any air carrier or foreign air carrier for the transportation of mail by aircraft in foreign air transportation, including the rates therefor, either through negotiations or competitive bidding, except that—*

*(A) any such contract may be awarded only to (i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation, (ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or (iii) a combination of such air carriers or foreign air carriers (or both);*

*(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;*

*(C) every contract that the Postal Service awards to a foreign air carrier under this paragraph shall be subject to the continuing requirement that air carriers shall be afforded the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier, if different, as the Postal Service has afforded the foreign air carrier; and*

*(D) the Postmaster General shall consult with the Secretary of Defense concerning actions that affect the carriage of military mail transported in foreign air transportation.*

*(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.*

**[(e)**

**[(1) The Postal Service may determine rates and contract with any air carrier for the transportation of mail by aircraft in interstate air transportation either through negotiations or competitive bidding.**

**[(2)(A) In the exercise of its authority under paragraph (1), the Postal Service may require any air carrier to accept as mail shipments of day-old poultry, honeybees, and such other live animals as postal regulations allow to be transmitted as mail matter. The authority of the Postal Service under this subparagraph shall not apply in the case of any air carrier who commonly and regularly refuses to accept any live animals as cargo.**

**[(B) Notwithstanding any other provision of law, the Postal Service is authorized to assess, as postage to be paid by the mailers of any shipments covered by subparagraph (A), a reasonable surcharge that the Postal Service determines in its discretion to be adequate to compensate air carriers for any necessary additional expense incurred in handling such shipments.]**

*(e) For purposes of this section, the terms “air carrier”, “air transportation”, “foreign air carrier”, “foreign air transportation”, “inter-*

*state air transportation”, and “mail” shall have the meanings given such terms in section 40102 of title 49.*

\* \* \* \* \*

## **TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES**

### **PART I—THE AGENCIES GENERALLY**

#### **CHAPTER 1—ORGANIZATION**

##### **§ 104. Independent establishment**

For the purpose of this title [5 USCS §§ 101 et seq.], “independent establishment” means—

- (1) an establishment in the executive branch (other than the United States Postal Service or the [Postal Rate Commission] *Postal Regulatory Commission*) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and
- (2) the General Accounting Office.

\* \* \* \* \*

#### **CHAPTER 3—POWERS**

##### **§ 306. Strategic plans**

\* \* \* \* \*

(f) For purposes of this section the term “agency” means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the [Postal Rate Commission.] *Postal Regulatory Commission*.

\* \* \* \* \*

### **PART III—EMPLOYEES**

#### **Subpart A—General Provisions**

##### **Chapter 21—DEFINITIONS**

##### **§ 2104. Officer**

\* \* \* \* \*

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the [Postal Rate Commission] *Postal Regulatory Commission* is deemed not an officer for purposes of this title.

\* \* \* \* \*

**Subpart B—Employment and Retention**

**CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT**

**Subchapter VI—Assignments to and from States**

**§ 3371. Definitions**

For the purpose of this subchapter [5 USCS §§ 3371 et seq.]—

\* \* \* \* \*

(3) “Federal agency” means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the [Postal Rate Commission] *Postal Regulatory Commission*, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management; and

\* \* \* \* \*

**Subpart D—Pay and Allowances**

**CHAPTER 53—PAY RATES AND SYSTEMS**

**Subchapter II—Executive Schedule Pay Rates**

**§ 5314. Positions at level III**

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2 [2 USCS §§ 351 et seq.], as adjusted by section 5318 of this title:

\* \* \* \* \*

Chairman, [Postal Rate Commission] *Postal Regulatory Commission*.

\* \* \* \* \*

**§ 5315. Positions at level IV**

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2 [1. 2 USCS §§351 et seq.], as adjusted by section 5318 of this title:

\* \* \* \* \*

Members, [Postal Rate Commissions] *Postal Regulatory Commission* (4).

\* \* \* \* \*

**CHAPTER 55—PAY ADMINISTRATION**

**Subchapter II—Withholding Pay**

**§ 5514. Installment deduction for indebtedness to the United States**

\* \* \* \* \*

(5) For purposes of this subsection—

(A) “disposable pay” means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

(B) “agency” includes executive departments and agencies, the United States Postal Service, the [Postal Rate Commission] *Postal Regulatory Commission*, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

\* \* \* \* \*

**Subpart F—Labor-Management and Employee Relations**

**CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT**

**Subchapter IV—Foreign Gifts and Decorations**

**§ 7342. Receipt and disposition of foreign gifts and decorations**

(a) For the purpose of this section—

(1) “employee” means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the [Postal Rate Commission] *Postal Regulatory Commission*;

\* \* \* \* \*

**CHAPTER 75—ADVERSE ACTIONS**

**Subchapter II—Removal, Suspension for More Than 14 Days, Reduction in Grade or Pay, or Furlough for 30 Days or Less**

**§ 7511. Definitions; application**

(a) For the purpose of this subchapter [5 USCS §§ 7511 et seq.]—

(1) “employee” means—

(A) an individual in the competitive service—

(i) who is not serving a probationary or trial period under an initial appointment; or

(ii) who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;

(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

- (i) in an Executive agency; or
- (ii) in the United States Postal Service or [Postal Rate Commission] *Postal Regulatory Commission*; and

\* \* \* \* \*

**CHAPTER 81—COMPENSATION FOR WORK INJURIES**

**Subchapter I—Generally**

**§ 8105. Total disability**

(a) If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66 2/3 percent of his monthly pay, which is known as his basic compensation for total disability. *This section applies to a Postal Service employee, except as provided under subsection (c).*

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

(c)(1) *In this subsection, the term “retirement age” has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).*

(2) *Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of the Postal Accountability and Enhancement Act, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for total disability is converted to 50 percent of the monthly pay of the employee on the later of—*

(A) *the date on which the injured employee reaches retirement age; or*

\* \* \* \* \*

(B) *1 year after the employee begins receiving compensation.*

\* \* \* \* \*

**§ 8106. Partial disability**

(a) If the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66 2/3 percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability. *This section applies to a Postal Service employee, except as provided under subsection (d).*

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

- (1) fails to make an affidavit or report when required; or

(2) knowingly omits or understates any part of his earnings;  
 forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.

- (c) A partially disabled employee who—  
 (1) refuses to seek suitable work; or  
 (2) refuses or neglects to work after suitable work is offered to, procured by, or secured for him; is not entitled to compensation.

(d)(1) *In this subsection, the term “retirement age” has the meaning given under section 216(l)(1) of the Social Security Act (42 U.S.C. 416(l)(1)).*

(2) *Notwithstanding any other provision of law, for any injury occurring on or after the date of enactment of this subsection, and for any new claim for a period of disability commencing on or after that date, the compensation entitlement for partial disability is converted to 50 percent of the difference between the monthly pay of an employee and the monthly wage earning capacity of the employee after the beginning of partial disability on the later of—*

- (A) *the date on which the injured employee reaches retirement age; or*  
 (B) *1 year after the employee begins receiving compensation.*

\* \* \* \* \*

## **Subpart G—Insurance and Annuities**

### **CHAPTER 81—COMPENSATION FOR WORK INJURIES**

#### **Subchapter I—Generally**

#### **§ 8117. Time of accrual of right**

**[An employee]** (a) *An employee other than a Postal Service employee is not entitled to compensation for the first 3 days of temporary disability, except—*

- (1) *when the disability exceeds 14 days;*  
 (2) *when the disability is followed by permanent disability;*

*or*

- (3) *as provided by sections 8103 and 8104 of this title.*

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

\* \* \* \* \*

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

(a) The United States shall authorize the continuation of pay of an employee, as defined in section 8101(1) of this title (other than those referred to in clause (B) or (E)), who has filed a claim for a period of wage loss due to a traumatic injury with his immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.

(b) Continuation of pay under this subchapter [1. 5 USCS §§ 8101 et seq.] shall be furnished—

【(1) without a break in time unless controverted under regulations of the Secretary;】

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

2. (2) for a period not to exceed 45 days; and

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

\* \* \* \* \*

**Subpart G—Insurance and Annuities**

**CHAPTER 83—RETIREMENT**

**Subchapter III—Civil Service Retirement**

**§ 8334. Deductions, contributions, and deposits**

(a)(1)(A) The employing agency shall deduct and withhold from the basic pay of an employee, Member, Congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate, Court of Federal Claims judge, member of the Capitol Police, member of the Supreme Court Police, or nuclear materials courier, as the case may be, the percentage of basic pay applicable under subsection (c).

(B)(i) Except as provided in clause (ii), an equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

【(ii) In the case of an employee of the United States Postal Service, the amount to be contributed under this subparagraph shall (instead of the amount described in clause (i)) be equal to the product derived by multiplying the employee's basic pay by the percentage equal to—

(I) the normal-cost percentage for the applicable employee category listed in subparagraph (A), minus

(II) the percentage deduction rate that applies with respect to such employee under subparagraph (A).】

*(ii) In the case of an employee of the United States Postal Service, no amount shall be contributed under this subparagraph.*

\* \* \* \* \*

**§ 8348. Civil Service Retirement and Disability Fund**

\* \* \* \* \*

[(h)(1)(A) For purposes of this subsection, “Postal supplemental liability” means the estimated excess, as determined by the Office, of—

[(i) the actuarial present value of all future benefits payable from the Fund under this subchapter [5 USCS §§ 8331 et seq.] attributable to the service of current or former employees of the United States Postal Service, over

[(ii) the sum of—

[(I) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter [5 USCS §§ 8331 et seq.] pursuant to section 8334;

[(II) the actuarial present value of the future contributions to be made pursuant to section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter [5 USCS §§ 8331 et seq.];

[(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, including earnings on those payments; and

[(IV) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

[(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

[(ii) Military service so included shall not be included in the computation of any amount under subsection (g)(2).

[(2)(A) Not later than June 30, 2004, the Office shall determine the Postal supplemental liability as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.

[(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

[(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning

after September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.

[(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent dynamic actuarial valuation of the Civil Service Retirement System.

[(E) The United States Postal Service shall pay the amounts so determined to the Office, with payments due not later than the date scheduled by the Office.

[(F) An amortization schedule established under subparagraph (B) or (C) shall supersede any amortization schedule previously established under this paragraph.

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

[(4) Notwithstanding any other provision of this subsection, any determination or redetermination made by the Office under this subsection shall, upon request of the Postal Service, be subject to reconsideration and review (including adjustment by the Board of Actuaries of the Civil Service Retirement System) to the same extent and in the same manner as provided under section 8423(c).]

*(h)(1) In this subsection, the term "Postal surplus or supplemental liability" means the estimated difference, as determined by the Office, between—*

*(A) the actuarial present value of all future benefits payable from the Fund under this subchapter to current or former employees of the United States Postal Service and attributable to civilian employment with the United States Postal Service; and*

*(B) the sum of—*

*(i) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;*

*(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, minus benefit payments attributable to civilian employment with the United States Postal Service, plus the earnings on such amounts while in the Fund; and*

*(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.*

*(2)(A) Not later than June 30, 2006, the Office shall determine the Postal surplus or supplemental liability, as of September 30, 2005. If that result is a surplus, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under section 8909a. If the result is a supplemental liability, the Of-*

*Office shall establish an amortization schedule, including a series of annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.*

*(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, through the fiscal year ending September 30, 2038. If the result is a surplus, that amount shall remain in the Fund until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall be terminated. If the result is a supplemental liability, the Office shall establish a new amortization schedule, including a series of annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.*

*(C) As of the close of the fiscal years ending September 30, 2015, 2025, 2035, and 2039, if the result is a surplus, that amount shall be transferred to the Postal Service Retiree Health Benefits Fund, and any prior amortization schedule for payments shall be terminated.*

*(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.*

*(E) The United States Postal Service shall pay the amounts so determined to the Office, with payments due not later than the date scheduled by the Office.*

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

\* \* \* \* \*

**Subpart G—Insurance and Annuities**

**CHAPTER 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM**

**Subchapter I—General Provisions**

**§ 8402. Federal Employees’ Retirement System; exclusions**

\* \* \* \* \*

(c)(1) The Office may exclude from the operation of this chapter [5 USCS §§8401 et seq.] an employee or group of employees in or under an Executive agency, the United States Postal Service, or the [Postal Rate Commission] *Postal Regulatory Commission*, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).

\* \* \* \* \*

**Subchapter II—Basic Annuity**

\* \* \* \* \*

**§ 8423. Government contributions**

\* \* \* \* \*

(b)

(1) The Office shall compute—

(A) the amount of the supplemental liability of the Fund with respect to individuals other than those to whom subparagraph (B) relates, and

(B) the amount of the supplemental liability of the Fund with respect to current or former employees of the United States Postal Service (and the [Postal Rate Commission] *Postal Regulatory Commission*) and their survivors;

\* \* \* \* \*

**Subpart G—Insurance and Annuities**

**Chapter 84—FEDERAL EMPLOYEES’ RETIREMENT SYSTEM**

**Subchapter VII—Federal Retirement Thrift Investment Management System**

**§ 8474. Executive Director**

\* \* \* \* \*

(c) The Executive Director may—

(1) prescribe such regulations as may be necessary to carry out the responsibilities of the Executive Director under this section, other than regulations relating to fiduciary responsibilities;

(2) appoint such personnel as may be necessary to carry out the provisions of this subchapter and subchapter III of this chapter [5 USCS §§ 8471 et seq., 8431 et seq.];

(3) subject to approval by the Board, procure the services of experts and consultants under section 3109 of this title;

(4) secure directly from an Executive agency, the United States Postal Service, or the [Postal Rate Commission] *Postal Regulatory Commission* any information necessary to carry out the provisions of this subchapter or subchapter III of this chapter [5 USCS §§ 8471 et seq., 8431 et seq.] and policies of the Board;

\* \* \* \* \*

**CHAPTER 89—HEALTH INSURANCE**

**§ 8906. Contribution**

\* \* \* \* \*

(g)

(1) Except as provided in paragraphs (2) and (3), the Government contributions authorized by this section for health benefits for an annuitant shall be paid from annual appropriations

which are authorized to be made for that purpose and which may be made available until expended.

(2)(A) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971 while employed by the United States Postal Service, **[shall be paid by the United States Postal Service.]** *shall be paid first from the Postal Service Retiree Health Benefit Fund up to the amount contained in the Fund, with any remaining amount paid by the United States Postal Service.*

(B) In determining any amount for which the Postal Service is liable under this paragraph, the amount of the liability shall be prorated to reflect only that portion of total service which is attributable to civilian service performed (by the former postal employee or by the deceased individual referred to in subparagraph (A), as the case may be) after June 30, 1971, as estimated by the Office of Personnel Management.

(3) The Government contribution for persons enrolled in a health benefits plan as part of the demonstration project under section 1108 of title 10 shall be paid as provided in subsection (i) of that section.

\* \* \* \* \*

#### **§ 8909. Employees Health Benefits Fund**

(a) There is in the Treasury of the United States an Employees Health Benefits Fund which is administered by the Office of Personnel Management. The contributions of enrollees and the Government described by section 8906 of this title shall be paid into the Fund. The Fund is available—

(1) without fiscal year limitation for all payments to approved health benefits plans; and (2) to pay expenses for administering this chapter [5 USCS §§8901 et seq.] within the limitations that may be specified annually by Congress.

\* \* \* \* \*

(g) The fund described in subsection (a) is available to pay costs that the Office incurs for activities associated with implementation of the demonstration project under section 1108 of title 10.

#### **§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

(c) *The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.*

*(d)(1) Not later than December 31, 2006, and by December 31 of each succeeding year, the Office shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year.*

*(2)(A) Not later than December 31, 2006, the Office shall compute, and by December 31 of each succeeding year, the Office shall recompute the difference between—*

*(i) the net present value of the excess of future payments required under section 8906(g)(2)(A) for current and future United States Postal Service annuitants as of the end of the fiscal year ending on September 30 of that year; and*

*(ii)(I) the value of the assets of the Postal Retiree Health Benefits Fund as of the end of the fiscal year ending on September 30 of that year; and*

*(II) the net present value computed under paragraph (1).*

*(B) Not later than December 31, 2006, the Office shall compute, and by December 31 of each succeeding year shall recompute, an amortization schedule including a series of annual installments which provide for the liquidation by January 31, 2046, or within 15 years, whichever is later, of the net present value determined under subparagraph (A), including interest at the rate used in that computation.*

*(3) Not later than January 31, 2007, and by January 31 of each succeeding year, the United States Postal Service shall pay into such Fund—*

*(A) the net present value computed under paragraph (1); and*

*(B) the annual installment computed under paragraph (2)(B).*

*(4) Computations under this subsection shall be made consistent with the assumptions and methodology used by the Office for financial reporting under subchapter II of chapter 35 of title 31.*

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

\* \* \* \* \*

**TITLE 5—APPENDIX**

**ETHICS IN GOVERNMENT ACT OF 1978**

**TITLE I, FINANCIAL DISCLOSURE REQUIREMENTS OF FEDERAL PERSONNEL**

**§ 101. Persons required to file**

\* \* \* \* \*

*(f) The officers and employees referred to in subsections (a), (d), and (e) are—*

\* \* \* \* \*

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or [Postal Rate Commission] *Postal Regulatory Commission* who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule;

\* \* \* \* \*

**TITLE 29, LABOR**

**CHAPTER 16—VOCATIONAL REHABILITATION AND OTHER REHABILITATION SERVICES RIGHTS AND ADVOCACY**

**§ 791. Employment of individuals with disabilities**

\* \* \* \* \*

(b) Federal agencies; affirmative action program plans. Each department, agency, and instrumentality (including the United States Postal Service and the [Postal Rate Commission] *Postal Regulatory Commission*) in the executive branch and the Smithsonian Institution shall, with one hundred and eighty days after the date of enactment of this Act [enacted Sept. 26, 1973], submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

\* \* \* \* \*

**TITLE 42, THE PUBLIC HEALTH AND WELFARE**

**CHAPTER 112—VICTIM COMPENSATION AND ASSISTANCE**

**§ 10601. Crime Victims Fund**

(a) Establishment. There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the “Fund”).

(b) Fines deposited in Fund; penalties; forfeited appearance bonds. Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) fines available for use by the Secretary of the Treasury pursuant to—

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section **[404(a)(8)] 404(a)(7)** of such title 39;

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

\* \* \* \* \*

## TITLE 44, PUBLIC PRINTING AND DOCUMENTS

### CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

#### Subchapter I—Federal Information Policy

#### § 3502. Definitions

As used in this subchapter [44 USCS §§ 3501 et seq.]—

\* \* \* \* \*

(5) the term “independent regulatory agency” means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the **[Postal Rate Commission]** *Postal Regulatory Commission*, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

\* \* \* \* \*

**TITLE 49, TRANSPORTATION**  
**Subtitle VII—Aviation Programs**  
**PART A—AIR COMMERCE AND SAFETY**  
**Subpart II—Economic Regulation**  
**CHAPTER 411—AIR CARRIER CERTIFICATES**

**§ 41107. Transportation of mail**

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft [in foreign air transportation or] between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

\* \* \* \* \*

**CHAPTER 419—TRANSPORTATION OF MAIL**

**§ 41901. General authority**

[(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(e) and (f) of title 39.]

(a) *TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in air transportation under this chapter and under chapter 54 of title 39.*

(b) Authority to prescribe prices. Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft [in foreign air transportation or] between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

(2) the methods used, whether by aircraft-mile, pound-mile, weight, space, or a combination of those or other methods, to determine the prices for each air carrier or class of air carriers; and

(3) the effective date of the prices.

\* \* \* \* \*

**§ 41902. Schedules for certain transportation of mail**

(a) REQUIREMENT.—Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft [in foreign air transportation or] between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

- (1) the places between which the carrier is authorized to provide foreign air transportation (other than foreign air transportation of mail);
- (2) the places between which the carrier is authorized to transport mail in Alaska;
- (3) every schedule of aircraft regularly operated by the carrier between places described in clauses (1) and (2) of this subsection and every change in each schedule; and
- (4) for each schedule, the places served by the carrier and the time of arrival at, and departure from, each place.

\* \* \* \* \*

**§ 41903. Duty to provide certain transportation of mail**

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft [in foreign air transportation or] between places in Alaska shall—

- (1) provide facilities and services necessary and adequate to provide that transportation; and
- (2) transport mail between the places authorized in the certificate for transportation of mail when required, and under regulations prescribed, by the United States Postal Service.

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft [in foreign air transportation or] between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

\* \* \* \* \*

**§ 41907. Prices for foreign transportation of mail**

[(a) LIMITATIONS.]—When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title [49 USCS §§ 41101 et seq.] and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a price for transporting mail by aircraft between the United States and the

foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a price for transporting the mail that is higher than the price—

(1) the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the price the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an intermediate country on the route of the air carrier between the foreign country and the United States.

[(b) CHANGES.—The Secretary of Transportation shall act expeditiously on proposed changes in prices for transporting mail by aircraft in foreign air transportation. When prescribing those prices, the Secretary shall consider—

[(1) the prices paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

[(2) the price-making elements used by the Universal Postal Union in prescribing its airmail prices; and

[(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union prices for transporting United States mail and national origin mail of their own countries.]

# Calendar No. 674

108TH CONGRESS  
2D SESSION

# S. 2468

[Report No. 108-318]

To reform the postal laws of the United States.

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## IN THE SENATE OF THE UNITED STATES

MAY 20, 2004

Ms. COLLINS (for herself, Mr. CARPER, Mr. STEVENS, Mr. VOINOVICH, Mr. SUNUNU, Mr. LIEBERMAN, Mr. AKAKA, Mr. DURBIN, Mr. LAUTENBERG, Mr. COLEMAN, Mr. BURNS, Mr. ALLEN, Mr. DODD, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

AUGUST 25, 2004

Reported, under authority of the order of the Senate of July 22, 2004, by  
Ms. COLLINS, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

---

## A BILL

To reform the postal laws of the United States.

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; TABLE OF CONTENTS.**

4 (a) ~~SHORT TITLE.—This Act may be cited as the~~  
5 ~~“Postal Accountability and Enhancement Act”.~~

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

Sec. 1. Short title; table of contents.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

#### TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.

Sec. 202. Provisions relating to competitive products.

Sec. 203. Provisions relating to experimental and new products.

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Clerical amendment.

#### TITLE III—MODERN SERVICE STANDARDS

Sec. 301. Establishment of modern service standards.

Sec. 302. Postal service plan.

#### TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 401. Postal Service Competitive Products Fund.

Sec. 402. Assumed Federal income tax on competitive products income.

Sec. 403. Unfair competition prohibited.

Sec. 404. Suits by and against the Postal Service.

#### TITLE V—GENERAL PROVISIONS

Sec. 501. Qualification and term requirements for Governors.

Sec. 502. Obligations.

Sec. 503. Private carriage of letters.

Sec. 504. Rulemaking authority.

Sec. 505. Noninterference with collective bargaining agreements.

#### TITLE VI—ENHANCED REGULATORY COMMISSION

Sec. 601. Reorganization and modification of certain provisions relating to the  
 Postal Regulatory Commission.

Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 603. Appropriations for the Postal Regulatory Commission.

Sec. 604. Redesignation of the Postal Rate Commission.

Sec. 605. Financial transparency.

#### TITLE VII—EVALUATIONS

Sec. 701. Assessments of ratemaking, classification, and other provisions.

Sec. 702. Report on universal postal service and the postal monopoly.

Sec. 703. Study on equal application of laws to competitive products.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

Sec. 801. Short title.

Sec. 802. Civil Service Retirement System.  
 Sec. 803. Health insurance.  
 Sec. 804. Repeal of disposition of savings provision.  
 Sec. 805. Effective dates.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

Sec. 901. Temporary disability; continuation of pay.  
 Sec. 902. Disability retirement for postal employees.

## 1 **TITLE I—DEFINITIONS; POSTAL** 2 **SERVICES**

### 3 **SEC. 101. DEFINITIONS.**

4 Section 102 of title 39, United States Code, is  
 5 amended by striking “and” at the end of paragraph (3),  
 6 by striking the period at the end of paragraph (4) and  
 7 inserting a semicolon, and by adding at the end the fol-  
 8 lowing:

9 “(5) ‘postal service’ refers to the physical deliv-  
 10 ery of letters, printed matter, or packages weighing  
 11 up to 70 pounds, including physical acceptance, col-  
 12 lection, sorting, transportation, or other services an-  
 13 cillary thereto;

14 “(6) ‘product’ means a postal service with a  
 15 distinct cost or market characteristic for which a  
 16 rate is applied;

17 “(7) ‘rates’, as used with respect to products,  
 18 includes fees for postal services;

19 “(8) ‘market-dominant product’ or ‘product in  
 20 the market-dominant category of mail’ means a  
 21 product subject to subchapter I of chapter 36;

1           “(9) ‘competitive product’ or ‘product in the  
2           competitive category of mail’ means a product sub-  
3           ject to subchapter H of chapter 36; and

4           “(10) ‘year’, as used in chapter 36 (other than  
5           subchapters I and VI thereof), means a fiscal year.”.

6 **SEC. 102. POSTAL SERVICES.**

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

9           (1) in subsection (a), by striking paragraph (6)  
10           and by redesignating paragraphs (7) through (9) as  
11           paragraphs (6) through (8), respectively; and

12           (2) by adding at the end the following:

13           “(c) Nothing in this title shall be considered to permit  
14           or require that the Postal Service provide any special non-  
15           postal or similar services.”.

16           (b) **CONFORMING AMENDMENTS.**—(1) Section  
17 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98  
18 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by  
19 striking “404(a)(8)” and inserting “404(a)(7)”.

20           (2) Section 2003(b)(1) of title 39, United States  
21 Code, is amended by striking “and nonpostal”.

1           **TITLE II—MODERN RATE**  
 2                           **REGULATION**

3   **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT**  
 4                           **PRODUCTS.**

5           (a) **IN GENERAL.**—Chapter 36 of title 39, United  
 6 States Code, is amended by striking sections 3621, 3622,  
 7 and 3623 and inserting the following:

8   **“§ 3621. Applicability; definitions**

9           “(a) **APPLICABILITY.**—This subchapter shall apply  
 10 with respect to—

- 11                   “(1) first-class mail letters;  
 12                   “(2) first-class mail cards;  
 13                   “(3) periodicals;  
 14                   “(4) standard mail;  
 15                   “(5) single-piece parcel post;  
 16                   “(6) media mail;  
 17                   “(7) bound printed matter;  
 18                   “(8) library mail;  
 19                   “(9) special services; and  
 20                   “(10) single-piece international mail;

21 subject to any changes the Postal Regulatory Commission  
 22 may make under section 3642.

23           “(b) **RULE OF CONSTRUCTION.**—Mail matter re-  
 24 ferred to in subsection (a) shall, for purposes of this sub-

1 chapter, be considered to have the meaning given to such  
2 mail matter under the mail classification schedule.

3 **“§ 3622. Modern rate regulation**

4 “(a) **AUTHORITY GENERALLY.**—The Postal Regu-  
5 latory Commission shall, within 12 months after the date  
6 of the enactment of this section, by regulation establish  
7 (and may from time to time thereafter by regulation re-  
8 vise) a modern system for regulating rates and classes for  
9 market-dominant products.

10 “(b) **OBJECTIVES.**—Such system shall be designed to  
11 achieve the following objectives:

12 “(1) To reduce the administrative burden and  
13 increase the transparency of the ratemaking process.

14 “(2) To create predictability and stability in  
15 rates.

16 “(3) To maximize incentives to reduce costs  
17 and increase efficiency.

18 “(4) To enhance mail security and deter ter-  
19 rorism by promoting secure, sender-identified mail.

20 “(5) To allow the Postal Service pricing flexi-  
21 bility, including the ability to use pricing to promote  
22 intelligent mail and encourage increased mail volume  
23 during nonpeak periods.

24 “(6) To assure adequate revenues, including re-  
25 tained earnings, to maintain financial stability and

1 meet the service standards established under section  
2 3691.

3 “(7) To allocate the total institutional costs of  
4 the Postal Service equitably between market-domi-  
5 nant and competitive products.

6 “(e) FACTORS.—In establishing or revising such sys-  
7 tem, the Postal Regulatory Commission shall take into ac-  
8 count—

9 “(1) the establishment and maintenance of a  
10 fair and equitable schedule for rates and classifica-  
11 tion system;

12 “(2) the value of the mail service actually pro-  
13 vided each class or type of mail service to both the  
14 sender and the recipient, including but not limited to  
15 the collection, mode of transportation, and priority  
16 of delivery;

17 “(3) the direct and indirect postal costs attrib-  
18 utable to each class or type of mail service plus that  
19 portion of all other costs of the Postal Service rea-  
20 sonably assignable to such class or type;

21 “(4) the effect of rate increases upon the gen-  
22 eral public, business mail users, and enterprises in  
23 the private sector of the economy engaged in the de-  
24 livery of mail matter other than letters;

1           “(5) the available alternative means of sending  
2           and receiving letters and other mail matter at rea-  
3           sonable costs;

4           “(6) the degree of preparation of mail for deliv-  
5           ery into the postal system performed by the mailer  
6           and its effect upon reducing costs to the Postal  
7           Service;

8           “(7) simplicity of structure for the entire sched-  
9           ule and simple, identifiable relationships between the  
10          rates or fees charged the various classes of mail for  
11          postal services;

12          “(8) the relative value to the people of the  
13          kinds of mail matter entered into the postal system  
14          and the desirability and justification for special clas-  
15          sifications and services of mail;

16          “(9) the importance of providing classifications  
17          with extremely high degrees of reliability and speed  
18          of delivery and of providing those that do not re-  
19          quire high degrees of reliability and speed of deliv-  
20          ery;

21          “(10) the desirability of special classifications  
22          from the point of view of both the user and of the  
23          Postal Service;

1           “(11) the educational, cultural, scientific, and  
2           informational value to the recipient of mail matter;  
3           and

4           “(12) the policies of this title as well as such  
5           other factors as the Commission deems appropriate.

6           “(d) REQUIREMENTS.—The system for regulating  
7           rates and classes for market-dominant products shall—

8           “(1) require the Postal Rate Commission to set  
9           annual limitations on the percentage changes in  
10          rates based on inflation using indices, such as the  
11          Consumer Price Index, the Employment Cost Index,  
12          the Gross Domestic Product Price Index, or any  
13          similar measure as the Postal Rate Commission may  
14          prescribe;

15          “(2) establish a schedule whereby rates, when  
16          necessary and appropriate, would increase at regular  
17          intervals by predictable amounts;

18          “(3) not later than 45 days before the imple-  
19          mentation of any adjustment in rates under this sec-  
20          tion—

21                  “(A) require the Postal Service to provide  
22                  public notice of the adjustment;

23                  “(B) provide an opportunity for review by  
24                  the Postal Rate Commission;

1           “(C) provide for the Postal Rate Commis-  
2           sion to notify the Postal Service of any non-  
3           compliance of the adjustment with the limita-  
4           tion under paragraph (1); and

5           “(D) require the Postal Service to respond  
6           to the notice provided under subparagraph (C)  
7           and describe the actions to be taken to comply  
8           with the limitation under paragraph (1);

9           “(4) notwithstanding any limitation set under  
10          paragraphs (1) and (3), establish procedures where-  
11          by rates may be adjusted on an expedited basis due  
12          to unexpected and extraordinary circumstances.

13          “(e) WORKSHARE DISCOUNTS.—

14                 “(1) DEFINITION.—In this subsection, the term  
15                 ‘workshare discount’ refers to rate discounts pro-  
16                 vided to mailers for the presorting, prebarcoding,  
17                 handling, or transportation of mail, as further de-  
18                 fined by the Postal Regulatory Commission under  
19                 subsection (a).

20                 “(2) REGULATIONS.—As part of the regulations  
21                 established under subsection (a), the Postal Regu-  
22                 latory Commission shall establish rules for  
23                 workshare discounts that ensure that such discounts  
24                 do not exceed the cost that the Postal Service avoids  
25                 as a result of workshare activity, unless—

1           “(A) the discount is—

2                   “(i) associated with a new postal serv-  
3           ice or with a change to an existing postal  
4           service; and

5                   “(ii) necessary to induce mailer behav-  
6           ior that furthers the economically efficient  
7           operation of the Postal Service;

8           “(B) a reduction in the discount would—

9                   “(i) lead to a loss of volume in the af-  
10          fected category of mail and reduce the ag-  
11          gregate contribution to institutional costs  
12          of the Postal Service from the mail matter  
13          subject to the discount below what it other-  
14          wise would have been if the discount had  
15          not been reduced to costs avoided;

16                  “(ii) result in a further increase in the  
17          rates paid by mailers not able to take ad-  
18          vantage of the discount; or

19                  “(iii) impede the efficient operation of  
20          the Postal Service;

21           “(C) the amount of the discount above  
22          costs avoided—

23                   “(i) is necessary to mitigate rate  
24          shock; and

25                   “(ii) will be phased out over time;

1           “(D) the workshare discount is provided in  
2           connection with subclasses of mail consisting  
3           exclusively of mail matter of educational, cul-  
4           tural, or scientific value; or

5           “(E) the Postal Regulatory Commission  
6           determines that such discounts are reasonable  
7           and equitable and consistent with the objectives  
8           and factors taken into account under sub-  
9           sections (b) and (c).

10          “(3) REPORT.—Whenever the Postal Service es-  
11          tablishes or maintains a workshare discount, the  
12          Postal Service shall, at the time it publishes the  
13          workshare discount rate, submit to the Postal Regu-  
14          latory Commission a detailed report and explanation  
15          of the Postal Service’s reasons for establishing or  
16          maintaining the rate, setting forth the data, eco-  
17          nomic analyses, and other information relied on by  
18          the Postal Service to justify the rate.

19          “(f) TRANSITION RULE.—Until regulations under  
20          this section first take effect, rates and classes for market-  
21          dominant products shall remain subject to modification in  
22          accordance with the provisions of this chapter and section  
23          407, as such provisions were last in effect before the date  
24          of the enactment of this section.

1 **“§ 3623. Service agreements for market-dominant**  
2 **products**

3 “(a) IN GENERAL.—

4 “(1) AUTHORITY.—The Postal Service may  
5 enter into service agreements with a customer or  
6 group of customers that provide for the provision of  
7 postal services under terms, conditions, or service  
8 standards that differ from those that would apply  
9 under the otherwise applicable classification of mar-  
10 ket-dominant mail.

11 “(2) AGREEMENTS.—An agreement under this  
12 section may involve—

13 “(A) performance by the contracting mail  
14 user of mail preparation, processing, transpor-  
15 tation, or other functions;

16 “(B) performance by the Postal Service of  
17 additional mail preparation, processing, trans-  
18 portation, or other functions; or

19 “(C) other terms and conditions that meet  
20 the requirements of subsections (b) and (c).

21 “(b) REQUIREMENTS.—A service agreement under  
22 this section may be entered into only if each of the fol-  
23 lowing conditions is met:

24 “(1) The total revenue generated under the  
25 agreement—

1           “(A) will cover all Postal Service costs at-  
2           tributable to the postal services covered by the  
3           agreement; and

4           “(B) will result in no less contribution to  
5           the institutional costs of the Postal Service than  
6           would have been generated had the agreement  
7           not been entered into.

8           “(2) Rates or fees for other mailers will not in-  
9           crease as a result of the agreement.

10          “(3) The agreement pertains exclusively to  
11          products in the market-dominant category of mail.

12          “(4) The agreement will not preclude or materi-  
13          ally hinder similarly situated mail users from enter-  
14          ing into agreements with the Postal Service on the  
15          same, or substantially the same terms or conditions,  
16          and the Postal Service remains willing and able to  
17          enter into such.

18          “(e) LIMITATIONS.—A service agreement under this  
19          section shall—

20                 “(1) be for a term not to exceed 3 years; and

21                 “(2) provide that such agreement shall be sub-  
22          ject to the cancellation authority of the Commission  
23          under section 3662.

24          “(d) NOTICE REQUIREMENTS.—

1           “(1) IN GENERAL.—At least 30 days before a  
2 service agreement under this section is to take ef-  
3 fect, the Postal Service shall file with the Postal  
4 Regulatory Commission and publish in the Federal  
5 Register the following information with respect to  
6 such agreement:

7           “(A) A description of the postal services  
8 the agreement involves.

9           “(B) A description of the functions the  
10 customer is to perform under the agreement.

11           “(C) A description of the functions the  
12 Postal Service is to perform under the agree-  
13 ment.

14           “(D) The rates and fees payable by the  
15 customer during the term of the agreement.

16           “(E) With respect to each condition under  
17 subsection (b), information sufficient to dem-  
18 onstrate the bases for the view of the Postal  
19 Service that such condition would be met.

20           “(2) AGREEMENTS LESS THAN NATIONAL IN  
21 SCOPE.—In the case of a service agreement under  
22 this section that is less than national in scope, the  
23 information described under paragraph (1) shall also  
24 be published by the Postal Service in a manner de-  
25 signed to afford reasonable notice to persons within

1 any geographic area to which such agreement (or  
2 any amendment to that agreement) pertains.

3 “(e) EQUAL TREATMENT REQUIRED.—If the Postal  
4 Service enters into a service agreement with a mailer  
5 under this section, the Postal Service shall make such  
6 agreement available to similarly situated mailers on func-  
7 tionally equivalent terms and conditions consistent with  
8 the regulatory system established under section 3622  
9 without unreasonable distinctions based on mailer profiles,  
10 provided that such distinctions, if ignored, would not  
11 render any subsequent agreement uneconomic or imprae-  
12 tical.

13 “(f) COMPLAINTS.—Any person who believes that a  
14 service agreement under this section is not in conformance  
15 with the requirements of this section, or who is aggrieved  
16 by a decision of the Postal Service not to enter into an  
17 agreement under this section, may file a complaint with  
18 the Postal Regulatory Commission in accordance with sec-  
19 tion 3662.

20 “(g) POSTAL REGULATORY COMMISSION ROLE.—

21 “(1) REGULATIONS.—The Postal Regulatory  
22 Commission may promulgate such regulations re-  
23 garding service agreements as the Commission de-  
24 termines necessary to implement the requirements of  
25 this section.

1           “(2) REVIEW.—The Postal Regulatory Commis-  
2           sion may review any agreement or proposed agree-  
3           ment under this section and may suspend, cancel, or  
4           prevent such agreement if the Commission finds that  
5           the agreement does not meet the requirements of  
6           this section.

7           “(h) INTERPRETATION.—The determination of  
8           whether the revenue generated under the agreement meets  
9           the requirements of subsection (b)(1)(B) shall be based,  
10          to the extent practicable, on the actual contribution of the  
11          mail involved, not on the average contribution made by  
12          the mail classification most similar to the services per-  
13          formed under the agreement. If mailer-specific data is not  
14          available, the bases for the determination used shall be  
15          provided and shall include a discussion of the suitability  
16          of the data used, in accordance with regulations estab-  
17          lished by the Postal Regulatory Commission.”.

18          (b) REPEALED SECTIONS.—Sections 3624, 3625,  
19          and 3628 of title 39, United States Code, are repealed.

20          (c) REDESIGNATION.—Chapter 36 of title 39, United  
21          States Code (as in effect after the amendment made by  
22          section 601, but before the amendment made by section  
23          202) is amended by striking the heading for subchapter  
24          II and inserting the following:

1     “SUBCHAPTER I—PROVISIONS RELATING TO  
2             MARKET-DOMINANT PRODUCTS”.

3     **SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-**  
4             **UCTS.**

5             Chapter 36 of title 39, United States Code, is amend-  
6     ed by inserting after section 3629 the following:

7     “SUBCHAPTER II—PROVISIONS RELATING TO  
8             COMPETITIVE PRODUCTS

9     “§ 3631. **Applicability; definitions and updates**

10           “(a) **APPLICABILITY.**—This subchapter shall apply  
11     with respect to—

12                 “(1) priority mail;

13                 “(2) expedited mail;

14                 “(3) bulk parcel post;

15                 “(4) bulk international mail; and

16                 “(5) mailgrams;

17     subject to subsection (d) and any changes the Postal Reg-  
18     ulatory Commission may make under section 3642.

19           “(b) **DEFINITION.**—For purposes of this subchapter,  
20     the term ‘costs attributable’, as used with respect to a  
21     product, means the direct and indirect postal costs attrib-  
22     utable to such product.

23           “(c) **RULE OF CONSTRUCTION.**—Mail matter re-  
24     ferred to in subsection (a) shall, for purposes of this sub-

1 chapter, be considered to have the meaning given to such  
2 mail matter under the mail classification schedule.

3 “(d) **LIMITATION.**—Notwithstanding any other provi-  
4 sion of this section, nothing in this subchapter shall be  
5 considered to apply with respect to any product then cur-  
6 rently in the market-dominant category of mail.

7 **“§ 3632. Action of the Governors**

8 “(a) **AUTHORITY TO ESTABLISH RATES AND CLASS-**  
9 **ES.**—The Governors, with the written concurrence of a  
10 majority of all of the Governors then holding office, shall  
11 establish rates and classes for products in the competitive  
12 category of mail in accordance with the requirements of  
13 this subchapter and regulations promulgated under sec-  
14 tion ~~3633~~.

15 “(b) **PROCEDURES.**—

16 “(1) **IN GENERAL.**—Rates and classes shall be  
17 established in writing, complete with a statement of  
18 explanation and justification, and the date as of  
19 which each such rate or class takes effect.

20 “(2) **PUBLIC NOTICE, REVIEW, AND COMPLI-**  
21 **ANCE.**—Not later than 30 days before the date of  
22 implementation of any adjustment in rates under  
23 this section—



1           “(2) ensure that each competitive product cov-  
2           ers its costs attributable; and

3           “(3) ensure that all competitive products collec-  
4           tively cover their share of the institutional costs of  
5           the Postal Service.”.

6 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**  
7           **NEW PRODUCTS.**

8           Subchapter III of chapter 36 of title 39, United  
9 States Code, is amended to read as follows:

10   “SUBCHAPTER III—PROVISIONS RELATING TO  
11           EXPERIMENTAL AND NEW PRODUCTS

12   “§ 3641. Market tests of experimental products

13           “(a) AUTHORITY.—

14           “(1) IN GENERAL.—The Postal Service may  
15           conduct market tests of experimental products in ac-  
16           cordance with this section.

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

22           “(b) CONDITIONS.—A product may not be tested  
23           under this section unless it satisfies each of the following:

24           “(1) SIGNIFICANTLY DIFFERENT PRODUCT.—

25           The product is, from the viewpoint of the mail users,

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

4 “(2) MARKET DISRUPTION.—The introduction  
5 or continued offering of the product will not create  
6 an unfair or otherwise inappropriate competitive ad-  
7 vantage for the Postal Service or any mailer, par-  
8 ticularly in regard to small business concerns (as de-  
9 fined under subsection (h)).

10 “(3) CORRECT CATEGORIZATION.—The Postal  
11 Service identifies the product, for the purpose of a  
12 test under this section, as either market-dominant or  
13 competitive, consistent with the criteria under sec-  
14 tion 3642(b)(1). Costs and revenues attributable to  
15 a product identified as competitive shall be included  
16 in any determination under section 3633(3)(relating  
17 to provisions applicable to competitive products col-  
18 lectively). Any test that solely affects products cur-  
19 rently classified as competitive, or which provides  
20 services ancillary to only competitive products, shall  
21 be presumed to be in the competitive product cat-  
22 egory without regard to whether a similar ancillary  
23 product exists for market-dominant products.

24 “(e) NOTICE.—

1           “(1) IN GENERAL.—At least 30 days before ini-  
2           tiating a market test under this section, the Postal  
3           Service shall file with the Postal Regulatory Com-  
4           mission and publish in the Federal Register a no-  
5           tice—

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

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

11          “(2) SAFEGUARDS.—For a competitive experi-  
12          mental product, the provisions of section 504(g)  
13          shall be available with respect to any information re-  
14          quired to be filed under paragraph (1) to the same  
15          extent and in the same manner as in the case of any  
16          matter described in section 504(g)(1). Nothing in  
17          paragraph (1) shall be considered to permit or re-  
18          quire the publication of any information as to which  
19          confidential treatment is accorded under the pre-  
20          ceding sentence (subject to the same exception as set  
21          forth in section 504(g)(3)).

22          “(d) DURATION.—

23                   “(1) IN GENERAL.—A market test of a product  
24          under this section may be conducted over a period  
25          of not to exceed 24 months.

1           “(2) EXTENSION AUTHORITY.—If necessary in  
2 order to determine the feasibility or desirability of a  
3 product being tested under this section, the Postal  
4 Regulatory Commission may, upon written applica-  
5 tion of the Postal Service (filed not later than 60  
6 days before the date as of which the testing of such  
7 product would otherwise be scheduled to terminate  
8 under paragraph (1)), extend the testing of such  
9 product for not to exceed an additional 12 months.

10          “(c) DOLLAR-AMOUNT LIMITATION.—

11           “(1) IN GENERAL.—A product may only be  
12 tested under this section if the total revenues that  
13 are anticipated, or in fact received, by the Postal  
14 Service from such product do not exceed  
15 \$10,000,000 in any year, subject to paragraph (2)  
16 and subsection (g).

17           “(2) EXEMPTION AUTHORITY.—The Postal  
18 Regulatory Commission may, upon written applica-  
19 tion of the Postal Service, exempt the market test  
20 from the limit in paragraph (1) if the total revenues  
21 that are anticipated, or in fact received, by the Post-  
22 al Service from such product do not exceed  
23 \$50,000,000 in any year, subject to subsection (g).  
24 In reviewing an application under this paragraph,

1 the Postal Regulatory Commission shall approve  
2 such application if it determines that—

3 “(A) the product is likely to benefit the  
4 public and meet an expected demand;

5 “(B) the product is likely to contribute to  
6 the financial stability of the Postal Service; and

7 “(C) the product is not likely to result in  
8 unfair or otherwise inappropriate competition.

9 “(f) CANCELLATION.—If the Postal Regulatory Com-  
10 mission at any time determines that a market test under  
11 this section fails to meet 1 or more of the requirements  
12 of this section, it may order the cancellation of the test  
13 involved or take such other action as it considers appro-  
14 priate. A determination under this subsection shall be  
15 made in accordance with such procedures as the Commis-  
16 sion shall by regulation prescribe.

17 “(g) ADJUSTMENT FOR INFLATION.—For purposes  
18 of each year following the year in which occurs the dead-  
19 line for the Postal Service’s first report to the Postal Reg-  
20 ulatory Commission under section 3652(a), each dollar  
21 amount contained in this section shall be adjusted by the  
22 change in the Consumer Price Index for such year (as de-  
23 termined under regulations of the Commission).

24 “(h) DEFINITION OF A SMALL BUSINESS CON-  
25 CERN.—The criteria used in defining small business con-

cerns or otherwise categorizing business concerns as small  
 business concerns shall, for purposes of this section, be  
 established by the Postal Regulatory Commission in con-  
 formance with the requirements of section 3 of the Small  
 Business Act.

“(i) EFFECTIVE DATE.—Market tests under this  
 subchapter may be conducted in any year beginning with  
 the first year in which occurs the deadline for the Postal  
 Service’s first report to the Postal Regulatory Commission  
 under section 3652(a).

**“§ 3642. New products and transfers of products be-  
 tween the market-dominant and competi-  
 tive categories of mail**

“(a) IN GENERAL.—Upon request of the Postal Serv-  
 ice or users of the mails, or upon its own initiative, the  
 Postal Regulatory Commission may change the list of  
 market-dominant products under section 3621 and the list  
 of competitive products under section 3631 by adding new  
 products to the lists, removing products from the lists, or  
 transferring products between the lists.

“(b) CRITERIA.—All determinations by the Postal  
 Regulatory Commission under subsection (a) shall be  
 made in accordance with the following criteria:

“(1) The market-dominant category of products  
 shall consist of each product in the sale of which the

1 Postal Service exercises sufficient market power that  
2 it can effectively set the price of such product sub-  
3 stantially above costs, raise prices significantly, de-  
4 crease quality, or decrease output, without risk of  
5 losing substantial business to other firms offering  
6 similar products. The competitive category of prod-  
7 ucts shall consist of all other products.

8 “(2) EXCLUSION OF PRODUCTS COVERED BY  
9 POSTAL MONOPOLY.—A product covered by the post-  
10 al monopoly shall not be subject to transfer under  
11 this section from the market-dominant category of  
12 mail. For purposes of the preceding sentence, the  
13 term ‘product covered by the postal monopoly’  
14 means any product the conveyance or transmission  
15 of which is reserved to the United States under sec-  
16 tion 1696 of title 18, subject to the same exception  
17 as set forth in the last sentence of section 409(e)(1).

18 “(3) ADDITIONAL CONSIDERATIONS.—In mak-  
19 ing any decision under this section, due regard shall  
20 be given to—

21 “(A) the availability and nature of enter-  
22 prises in the private sector engaged in the deliv-  
23 ery of the product involved;

1           “(B) the views of those who use the prod-  
 2           uct involved on the appropriateness of the pro-  
 3           posed action; and

4           “(C) the likely impact of the proposed ac-  
 5           tion on small business concerns (within the  
 6           meaning of section 3641(h)).

7           “(e) TRANSFERS OF SUBCLASSES AND OTHER SUB-  
 8           ORDINATE UNITS ALLOWABLE.—Nothing in this title  
 9           shall be considered to prevent transfers under this section  
 10          from being made by reason of the fact that they would  
 11          involve only some (but not all) of the subclasses or other  
 12          subordinate units of the class of mail or type of postal  
 13          service involved (without regard to satisfaction of min-  
 14          imum quantity requirements standing alone).

15          “(d) NOTIFICATION AND PUBLICATION REQUIRE-  
 16          MENTS.—

17                 “(1) NOTIFICATION REQUIREMENT.—The Post-  
 18                 al Service shall, whenever it requests to add a prod-  
 19                 uct or transfer a product to a different category, file  
 20                 with the Postal Regulatory Commission and publish  
 21                 in the Federal Register a notice setting out the basis  
 22                 for its determination that the product satisfies the  
 23                 criteria under subsection (b) and, in the case of a  
 24                 request to add a product or transfer a product to  
 25                 the competitive category of mail, that the product

1 meets the regulations promulgated by the Postal  
 2 Regulatory Commission under section 3633. The  
 3 provisions of section 504(g) shall be available with  
 4 respect to any information required to be filed.

5 “(2) PUBLICATION REQUIREMENT.—The Postal  
 6 Regulatory Commission shall, whenever it changes  
 7 the list of products in the market-dominant or com-  
 8 petitive category of mail, prescribe new lists of prod-  
 9 ucts. The revised lists shall indicate how and when  
 10 any previous lists (including the lists under sections  
 11 3621 and 3631) are superseded, and shall be pub-  
 12 lished in the Federal Register.

13 “(e) PROHIBITION.—Except as provided in section  
 14 3641, no product that involves the physical delivery of let-  
 15 ters, printed matter, or packages may be offered by the  
 16 Postal Service unless it has been assigned to the market-  
 17 dominant or competitive category of mail (as appropriate)  
 18 either—

19 “(1) under this subchapter, or

20 “(2) by or under any other provision of law.”.

21 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**  
 22 **VISIONS.**

23 (a) REDESIGNATION.—Chapter 36 of title 39, United  
 24 States Code (as in effect before the amendment made by  
 25 subsection (b)) is amended—

1           (1) by striking the heading for subchapter IV  
2           and inserting the following:

3           “SUBCHAPTER V—POSTAL SERVICES,  
4           COMPLAINTS, AND JUDICIAL REVIEW”; and

5           (2) by striking the heading for subchapter V  
6           and inserting the following:

7           “SUBCHAPTER VI—GENERAL”.

8           (b) REPORTS AND COMPLIANCE.—Chapter 36 of title  
9           39, United States Code, is amended by inserting after sub-  
10          chapter III the following:

11           “SUBCHAPTER IV—REPORTING  
12          REQUIREMENTS AND RELATED PROVISIONS

13          “§ 3651. Annual reports by the Commission

14           “(a) IN GENERAL.—The Postal Regulatory Commis-  
15          sion shall submit an annual report to the President and  
16          the Congress concerning the operations of the Commission  
17          under this title, including the extent to which regulations  
18          are achieving the objectives under sections 3622, 3633,  
19          and 3691.

20           “(b) INFORMATION FROM POSTAL SERVICE.—The  
21          Postal Service shall provide the Postal Regulatory Com-  
22          mission with such information as may, in the judgment  
23          of the Commission, be necessary in order for the Commis-  
24          sion to prepare its reports under this section.

1 **“§ 3652. Annual reports to the Commission**

2       “(a) COSTS, REVENUES, RATES, AND SERVICE.—Ex-  
3 cept as provided in subsection (e), the Postal Service shall,  
4 no later than 90 days after the end of each year, prepare  
5 and submit to the Postal Regulatory Commission a report  
6 (together with such nonpublic annex to the report as the  
7 Commission may require under subsection (e))—

8               “(1) which shall analyze costs, revenues, rates,  
9 and quality of service in sufficient detail to dem-  
10 onstrate that all products during such year complied  
11 with all applicable requirements of this title; and

12               “(2) which shall, for each market-dominant  
13 product provided in such year, provide—

14                       “(A) product information, including mail  
15 volumes; and

16                       “(B) measures of the service afforded by  
17 the Postal Service in connection with such prod-  
18 uct, including—

19                               “(i) the level of service (described in  
20 terms of speed of delivery and reliability)  
21 provided; and

22                               “(ii) the degree of customer satisfac-  
23 tion with the service provided.

24 Before submitting a report under this subsection (includ-  
25 ing any annex to the report and the information required  
26 under subsection (b)), the Postal Service shall have the

1 information contained in such report (and annex) audited  
 2 by the Inspector General. The results of any such audit  
 3 shall be submitted along with the report to which it per-  
 4 tains.

5       “(b) INFORMATION RELATING TO WORKSHARE DIS-  
 6 COUNTS.—The Postal Service shall include, in each report  
 7 under subsection (a), the following information with re-  
 8 spect to each market-dominant product for which a  
 9 workshare discount was in effect during the period covered  
 10 by such report:

11           “(1) The per-item cost avoided by the Postal  
 12 Service by virtue of such discount.

13           “(2) The percentage of such per-item cost  
 14 avoided that the per-item workshare discount rep-  
 15 resents.

16           “(3) The per-item contribution made to institu-  
 17 tional costs.

18       “(c) SERVICE AGREEMENTS AND MARKET TESTS.—  
 19 In carrying out subsections (a) and (b) with respect to  
 20 service agreements (including service agreements entered  
 21 into under section 3623) and experimental products of-  
 22 fered through market tests under section 3641 in a year,  
 23 the Postal Service—

1           “(1) may report summary data on the costs,  
2           revenues, and quality of service by service agreement  
3           and market test; and

4           “(2) shall report such data as the Postal Regu-  
5           latory Commission requires.

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

12          “(e) CONTENT AND FORM OF REPORTS.—

13                 “(1) IN GENERAL.—The Postal Regulatory  
14                 Commission shall, by regulation, prescribe the con-  
15                 tent and form of the public reports (and any non-  
16                 public annex and supporting matter relating to the  
17                 report) to be provided by the Postal Service under  
18                 this section. In carrying out this subsection, the  
19                 Commission shall give due consideration to—

20                         “(A) providing the public with timely, ade-  
21                         quate information to assess the lawfulness of  
22                         rates charged;

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

1           “(C) protecting the confidentiality of com-  
2           mercially sensitive information.

3           ~~“(2) REVISED REQUIREMENTS.—The Commis-~~  
4           ~~sion may, on its own motion or on request of an in-~~  
5           ~~terested party, initiate proceedings (to be conducted~~  
6           ~~in accordance with regulations that the Commission~~  
7           ~~shall prescribe) to improve the quality, accuracy, or~~  
8           ~~completeness of Postal Service data required by the~~  
9           ~~Commission under this subsection whenever it shall~~  
10          ~~appear that—~~

11           ~~“(A) the attribution of costs or revenues to~~  
12           ~~products has become significantly inaccurate or~~  
13           ~~can be significantly improved;~~

14           ~~“(B) the quality of service data has be-~~  
15           ~~come significantly inaccurate or can be signifi-~~  
16           ~~cantly improved; or~~

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

20          ~~“(f) CONFIDENTIAL INFORMATION.—~~

21           ~~“(1) IN GENERAL.—If the Postal Service deter-~~  
22           ~~mines that any document or portion of a document,~~  
23           ~~or other matter, which it provides to the Postal Reg-~~  
24           ~~ulatory Commission in a nonpublic annex under this~~  
25           ~~section or under subsection (d) contains information~~

1 which is described in section 410(c) of this title, or  
2 exempt from public disclosure under section 552(b)  
3 of title 5, the Postal Service shall, at the time of  
4 providing such matter to the Commission, notify the  
5 Commission of its determination, in writing, and de-  
6 scribe with particularity the documents (or portions  
7 of documents) or other matter for which confiden-  
8 tiality is sought and the reasons therefor.

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

16 “(g) OTHER REPORTS.—The Postal Service shall  
17 submit to the Postal Regulatory Commission, together  
18 with any other submission that the Postal Service is re-  
19 quired to make under this section in a year, copies of its  
20 then most recent—

21 “(1) comprehensive statement under section  
22 2401(e);

23 “(2) strategic plan under section 2802;

24 “(3) performance plan under section 2803; and

1           “(4) program performance reports under sec-  
2           tion 2804.

3   **“§ 3653. Annual determination of compliance**

4           “(a) OPPORTUNITY FOR PUBLIC COMMENT.—After  
5 receiving the reports required under section 3652 for any  
6 year, the Postal Regulatory Commission shall promptly  
7 provide an opportunity for comment on such reports by  
8 users of the mails, affected parties, and an officer of the  
9 Commission who shall be required to represent the inter-  
10 ests of the general public.

11          “(b) DETERMINATION OF COMPLIANCE OR NON-  
12 COMPLIANCE.—Not later than 90 days after receiving the  
13 submissions required under section 3652 with respect to  
14 a year, the Postal Regulatory Commission shall make a  
15 written determination as to—

16           “(1) whether any rates or fees in effect during  
17 such year (for products individually or collectively)  
18 were not in compliance with applicable provisions of  
19 this chapter (or regulations promulgated there-  
20 under); or

21           “(2) whether any service standards in effect  
22 during such year were not met.

23 If, with respect to a year, no instance of noncompliance  
24 is found under this subsection to have occurred in such  
25 year, the written determination shall be to that effect.

1       “(c) ~~IF ANY NONCOMPLIANCE IS FOUND.~~—If, for a  
 2 year, a timely written determination of noncompliance is  
 3 made under subsection (b), the Postal Regulatory Com-  
 4 mission shall take any appropriate remedial action author-  
 5 ized by section 3662(e).

6       “(d) ~~REBUTTABLE PRESUMPTION.~~—A timely written  
 7 determination described in the last sentence of subsection  
 8 (b) shall, for purposes of any proceeding under section  
 9 3662, create a rebuttable presumption of compliance by  
 10 the Postal Service (with regard to the matters described  
 11 in paragraphs (1) through (3) of subsection (b)) during  
 12 the year to which such determination relates.”.

13 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND EN-**  
 14 **FORCEMENT.**

15       Chapter 36 of title 39, United States Code, is amend-  
 16 ed by striking sections 3662 and 3663 and inserting the  
 17 following:

18 **“§ 3662. Rate and service complaints**

19       “(a) ~~IN GENERAL.~~—Interested persons (including an  
 20 officer of the Postal Regulatory Commission representing  
 21 the interests of the general public) who believe the Postal  
 22 Service is not operating in conformance with the require-  
 23 ments of chapter 1, 4, or 6, or this chapter (or regulations  
 24 promulgated under any of those chapters) may lodge a

1 complaint with the Postal Regulatory Commission in such  
2 form and manner as the Commission may prescribe.

3 “(b) PROMPT RESPONSE REQUIRED.—

4 “(1) IN GENERAL.—The Postal Regulatory  
5 Commission shall, within 90 days after receiving a  
6 complaint under subsection (a), either—

7 “(A) begin proceedings on such complaint;

8 or

9 “(B) issue an order dismissing the com-  
10 plaint (together with a statement of the reasons  
11 therefor).

12 “(2) TREATMENT OF COMPLAINTS NOT TIMELY  
13 ACTED ON.—For purposes of section 3663, any com-  
14 plaint under subsection (a) on which the Commis-  
15 sion fails to act in the time and manner required by  
16 paragraph (1) shall be treated in the same way as  
17 if it had been dismissed under an order issued by  
18 the Commission on the last day allowable for the  
19 issuance of such order under paragraph (1).

20 “(c) ACTION REQUIRED IF COMPLAINT FOUND TO  
21 BE JUSTIFIED.—If the Postal Regulatory Commission  
22 finds the complaint to be justified, it shall order that the  
23 Postal Service take such action as the Commission con-  
24 sidered appropriate in order to achieve compliance with the  
25 applicable requirements and to remedy the effects of any

1 noncompliance including ordering unlawful rates to be ad-  
 2 justed to lawful levels; ordering the cancellation of market  
 3 tests; ordering the Postal Service to discontinue providing  
 4 loss-making products; and requiring the Postal Service to  
 5 make up for revenue shortfalls in competitive products.

6       “(d) **AUTHORITY TO ORDER FINES IN CASES OF DE-**  
 7 **LIBERATE NONCOMPLIANCE.**—In addition, in cases of de-  
 8 liberate noncompliance by the Postal Service with the re-  
 9 quirements of this title, the Postal Regulatory Commission  
 10 may order, based on the nature, circumstances, extent,  
 11 and seriousness of the noncompliance, a fine (in the  
 12 amount specified by the Commission in its order) for each  
 13 incidence of noncompliance. Fines resulting from the pro-  
 14 vision of competitive products shall be paid out of the  
 15 Competitive Products Fund established in section 2011.  
 16 All receipts from fines imposed under this subsection shall  
 17 be deposited in the general fund of the Treasury of the  
 18 United States.

19 **“§ 3663. Appellate review**

20       “A person, including the Postal Service, adversely af-  
 21 fected or aggrieved by a final order or decision of the Post-  
 22 al Regulatory Commission may, within 30 days after such  
 23 order or decision becomes final, institute proceedings for  
 24 review thereof by filing a petition in the United States  
 25 Court of Appeals for the District of Columbia. The court

1 shall review the order or decision in accordance with sec-  
 2 tion 706 of title 5, and chapter 158 and section 2112 of  
 3 title 28, on the basis of the record before the Commission.

4 **“§ 3664. Enforcement of orders**

5 “The several district courts have jurisdiction specifi-  
 6 cally to enforce, and to enjoin and restrain the Postal  
 7 Service from violating, any order issued by the Postal Reg-  
 8 ulatory Commission.”.

9 **SEC. 206. CLERICAL AMENDMENT.**

10 Chapter 36 of title 39, United States Code, is amend-  
 11 ed by striking the heading and analysis for such chapter  
 12 and inserting the following:

**“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT  
 PRODUCTS**

“Sec.

“3621. Applicability, definitions.

“3622. Modern rate regulation.

“3623. Service agreements for market-dominant products.

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

**“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE  
 PRODUCTS**

“3631. Applicability, definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL  
 AND NEW PRODUCTS**

“3641. Market tests of experimental products.

“3642. New products and transfers of products between the market-dominant  
 and competitive categories of mail.



1 (and may from time to time thereafter by regulation re-  
2 vise) a set of service standards for market-dominant prod-  
3 ucts consistent with sections 101 (a) and (b) and 403.

4 “(b) OBJECTIVES.—Such standards shall be designed  
5 to achieve the following objectives:

6 “(1) To enhance and preserve the value of post-  
7 al services to both senders and recipients.

8 “(2) To provide a system of objective external  
9 performance measurements for each market-domi-  
10 nant product as a basis for measurement of Postal  
11 Service performance.

12 “(3) To guarantee Postal Service customers de-  
13 livery reliability, speed and frequency consistent with  
14 reasonable rates and best business practices.

15 “(c) FACTORS.—In establishing or revising such  
16 standards, the Postal Regulatory Commission shall take  
17 into account—

18 “(1) the actual level of service that Postal Serv-  
19 ice customers receive under any service guidelines  
20 previously established by the Postal Service or serv-  
21 ice standards established under this section;

22 “(2) the degree of customer satisfaction with  
23 Postal Service performance in the acceptance, proe-  
24 essing and delivery of mail;

1           ~~“(3) mail volume and revenues projected for fu-~~  
2           ~~ture years;~~

3           ~~“(4) the projected growth in the number of ad-~~  
4           ~~dresses the Postal Service will be required to serve~~  
5           ~~in future years;~~

6           ~~“(5) the current and projected future cost of~~  
7           ~~servicing Postal Service customers;~~

8           ~~“(6) the effect of changes in technology, demo-~~  
9           ~~graphics and population distribution on the efficient~~  
10          ~~and reliable operation of the postal delivery system;~~  
11          ~~and~~

12          ~~“(7) the policies of this title as well as such~~  
13          ~~other factors as the Commission determines appro-~~  
14          ~~priate.”.~~

15   **SEC. 302. POSTAL SERVICE PLAN.**

16          (a) ~~IN GENERAL.~~—Within 6 months after the estab-  
17          ~~lishment of the service standards under section 3691 of~~  
18          ~~title 39, United States Code, as added by this Act, the~~  
19          ~~Postal Service shall, in consultation with the Postal Regu-~~  
20          ~~latory Commission, develop and submit to Congress a plan~~  
21          ~~for meeting those standards.~~

22          (b) ~~CONTENT.~~—The plan under this section shall—

23                  (1) establish performance goals;

24                  (2) describe any changes to the Postal Service’s  
25          ~~processing, transportation, delivery, and retail net-~~

1 works necessary to allow the Postal Service to meet  
2 the performance goals; and

3 ~~(3)~~ describe any changes to planning and per-  
4 formance management documents previously sub-  
5 mitted to Congress to reflect new performance goals.

6 ~~(c)~~ ~~POSTAL FACILITIES~~.—The Postal Service plan  
7 shall include a description of its long-term vision for  
8 rationalizing its infrastructure and workforce and how it  
9 intends to implement that vision, including—

10 (1) a strategy for how it intends to rationalize  
11 the postal facilities network and remove excess pro-  
12 cessing capacity and space from the network, includ-  
13 ing estimated timeframes, criteria and processes to  
14 be used for making changes to the facilities network,  
15 and the process for engaging policy makers and the  
16 public in related decisions;

17 (2) an update on how postal decisions related to  
18 mail changes, security, automation initiatives,  
19 worksharing, information technology systems, and  
20 other areas will impact network rationalization  
21 plans;

22 ~~(3)~~ a discussion of what impact any facility  
23 changes may have on the postal workforce and  
24 whether the Postal Service has sufficient flexibility  
25 to make needed workforce changes; and

1           (4) an identification of anticipated costs, cost  
2           savings, and other benefits associated with the infra-  
3           structure rationalization alternatives discussed in the  
4           plan.

5           (d) ALTERNATE RETAIL OPTIONS.—The Postal Serv-  
6           ice plan shall include plans to expand and market retail  
7           access to postal services, in addition to post offices, includ-  
8           ing—

9           (1) vending machines;

10           (2) the Internet;

11           (3) Postal Service employees on delivery routes;

12           and

13           (4) retail facilities in which overhead costs are  
14           shared with private businesses and other government  
15           agencies.

16           (e) REEMPLOYMENT ASSISTANCE AND RETIREMENT  
17           BENEFITS.—The Postal Service plan shall include—

18           (1) a plan under which reemployment assist-  
19           ance shall be afforded to employees displaced as a  
20           result of the automation or privatization of any of  
21           its functions or the closing and consolidation of any  
22           of its facilities; and

23           (2) a plan, developed in consultation with the  
24           Office of Personnel Management, to offer early re-  
25           tirement benefits.

1 (f) INSPECTOR GENERAL REPORT.—

2 (1) IN GENERAL.—Before submitting the plan  
3 under this section to Congress, the Postal Service  
4 shall submit the plan to the Inspector General of the  
5 United States Postal Service in a timely manner to  
6 carry out this subsection.

7 (2) REPORT.—The Inspector General shall pre-  
8 pare a report describing the extent to which the  
9 Postal Service plan—

10 (A) is consistent with the continuing obli-  
11 gations of the Postal Service under title 39,  
12 United States Code; and

13 (B) provides for the Postal Service to meet  
14 the service standards established under section  
15 3691.

16 (3) SUBMISSION OF REPORT.—The Postal Serv-  
17 ice shall submit the report of the Inspector General  
18 under this subsection with the plan submitted to  
19 Congress under subsection (a).

1 **TITLE IV—PROVISIONS RELAT-**  
 2 **ING TO FAIR COMPETITION**

3 **SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS**  
 4 **FUND.**

5 (a) PROVISIONS RELATING TO POSTAL SERVICE  
 6 COMPETITIVE PRODUCTS FUND AND RELATED MAT-  
 7 TERS.—

8 (1) IN GENERAL.—Chapter 20 of title 39,  
 9 United States Code, is amended by adding at the  
 10 end the following:

11 **“§ 2011. Provisions relating to competitive products**

12 “(a) There is established in the Treasury of the  
 13 United States a revolving fund, to be called the Postal  
 14 Service Competitive Products Fund, which shall be avail-  
 15 able to the Postal Service without fiscal year limitation  
 16 for the payment of—

17 “(1) costs attributable to competitive products;  
 18 and

19 “(2) all other costs incurred by the Postal Serv-  
 20 ice, to the extent allocable to competitive products.

21 For purposes of this subsection, the term ‘costs attrib-  
 22 utable’ has the meaning given such term by section 3631.

23 “(b) There shall be deposited in the Competitive  
 24 Products Fund, subject to withdrawal by the Postal Serv-  
 25 ice—

1           ~~“(1) revenues from competitive products;~~

2           ~~“(2) amounts received from obligations issued~~  
3           ~~by the Postal Service under subsection (c);~~

4           ~~“(3) interest and dividends earned on invest-~~  
5           ~~ments of the Competitive Products Fund; and~~

6           ~~“(4) any other receipts of the Postal Service~~  
7           ~~(including from the sale of assets); to the extent al-~~  
8           ~~locable to competitive products.~~

9           ~~“(e) If the Postal Service determines that the moneys~~  
10          ~~of the Competitive Products Fund are in excess of current~~  
11          ~~needs, it may invest such amounts as it considers appro-~~  
12          ~~priate in accordance with regulations which the Secretary~~  
13          ~~of the Treasury shall prescribe within 12 months after the~~  
14          ~~date of enactment of the Postal Accountability and En-~~  
15          ~~hancement Act.~~

16          ~~“(d) The Postal Service may, in its sole discretion,~~  
17          ~~provide that moneys of the Competitive Products Fund be~~  
18          ~~deposited in a Federal Reserve bank or a depository for~~  
19          ~~public funds.~~

20          ~~“(e)(1) Subject to the limitations specified in section~~  
21          ~~2005(a), the Postal Service is authorized to borrow money~~  
22          ~~and to issue and sell such obligations as it determines nec-~~  
23          ~~essary to provide for competitive products and deposit~~  
24          ~~such amounts in the Competitive Products Fund, except~~  
25          ~~that the Postal Service may pledge only assets related to~~

1 the provision of competitive products (as determined  
2 under subsection (h) or, for purposes of any period before  
3 accounting practices and principles under subsection (h)  
4 have been established and applied, the best information  
5 available from the Postal Service, including the audited  
6 statements required by section 2008(e)), and the revenues  
7 and receipts from such products, for the payment of the  
8 principal of or interest on such obligations, for the pur-  
9 chase or redemption thereof, and for other purposes inci-  
10 dental thereto, including creation of reserve, sinking, and  
11 other funds which may be similarly pledged and used, to  
12 such extent and in such manner as the Postal Service de-  
13 termines necessary or desirable.

14       “(2) The Postal Service may enter into binding cov-  
15 enants with the holders of such obligations, and with the  
16 trustee, if any, under any agreement entered into in con-  
17 nection with the issuance thereof with respect to—

18               “(A) the establishment of reserve, sinking, and  
19       other funds;

20               “(B) application and use of revenues and re-  
21       ceipts of the Competitive Products Fund;

22               “(C) stipulations concerning the subsequent  
23       issuance of obligations or the execution of leases or  
24       lease purchases relating to properties of the Postal  
25       Service; and

1           ~~“(D) such other matters as the Postal Service~~  
2           ~~considers necessary or desirable to enhance the mar-~~  
3           ~~ketability of such obligations.~~

4           ~~“(3) Obligations issued by the Postal Service under~~  
5           ~~this subsection—~~

6           ~~“(A) may not be purchased by the Secretary of~~  
7           ~~the Treasury;~~

8           ~~“(B) shall not be exempt either as to principal~~  
9           ~~or interest from any taxation now or hereafter im-~~  
10          ~~posed by any State or local taxing authority;~~

11          ~~“(C) shall not be obligations of, nor shall pay-~~  
12          ~~ment of the principal thereof or interest thereon be~~  
13          ~~guaranteed by, the Government of the United~~  
14          ~~States, and the obligations shall so plainly state; and~~

15          ~~“(D) notwithstanding the provisions of the Fed-~~  
16          ~~eral Financing Bank Act of 1973 or any other provi-~~  
17          ~~sion of law (except as specifically provided by ref-~~  
18          ~~erence to this subparagraph in a law enacted after~~  
19          ~~this subparagraph takes effect); shall not be eligible~~  
20          ~~for purchase by, commitment to purchase by, or sale~~  
21          ~~or issuance to, the Federal Financing Bank.~~

22          ~~“(4)(A) This paragraph applies with respect to the~~  
23          ~~period beginning on the date of the enactment of this~~  
24          ~~paragraph and ending at the close of the 5-year period~~

1 which begins on the date on which the Postal Service  
2 makes its submission under subsection (h)(1).

3       ~~“(B) During the period described in subparagraph~~  
4 ~~(A), nothing in subparagraph (A) or (D) of paragraph (3)~~  
5 ~~or the last sentence of section 2006(b) shall, with respect~~  
6 ~~to any obligations sought to be issued by the Postal Serv-~~  
7 ~~ice under this subsection, be considered to affect such obli-~~  
8 ~~gations’ eligibility for purchase by, commitment to pur-~~  
9 ~~chase by, or sale or issuance to, the Federal Financing~~  
10 ~~Bank.~~

11       ~~“(C) The Federal Financing Bank may elect to pur-~~  
12 ~~chase such obligations under such terms, including rates~~  
13 ~~of interest, as the Bank and the Postal Service may agree,~~  
14 ~~but at a rate of yield no less than the prevailing yield on~~  
15 ~~outstanding marketable securities of comparable maturity~~  
16 ~~issued by entities with the same credit rating as the rating~~  
17 ~~then most recently obtained by the Postal Service under~~  
18 ~~subparagraph (D), as determined by the Bank.~~

19       ~~“(D) In order to be eligible to borrow under this~~  
20 ~~paragraph, the Postal Service shall first obtain a credit~~  
21 ~~rating from a nationally recognized credit rating organiza-~~  
22 ~~tion. Such rating—~~

23               ~~“(i) shall be determined taking into account~~  
24               ~~only those assets and activities of the Postal Service~~  
25               ~~which are described in section 3634(a)(2) (relating~~

1 to the Postal Service's assumed taxable income from  
2 competitive products); and

3 “(ii) may, before final rules of the Postal Regu-  
4 latory Commission under subsection (h) are issued  
5 (or deemed to have been issued), be based on the  
6 best information available from the Postal Service,  
7 including the audited statements required by section  
8 2008(e).

9 “(f) The receipts and disbursements of the Competi-  
10 tive Products Fund shall be accorded the same budgetary  
11 treatment as is accorded to receipts and disbursements of  
12 the Postal Service Fund under section 2009a.

13 “(g) A judgment against the Postal Service or the  
14 Government of the United States (or settlement of a  
15 claim) shall, to the extent that it arises out of activities  
16 of the Postal Service in the provision of competitive prod-  
17 ucts, be paid out of the Competitive Products Fund.

18 “(h)(1) The Postal Service, in consultation with an  
19 independent, certified public accounting firm and such  
20 other advisors as it considers appropriate, shall develop  
21 recommendations regarding—

22 “(A) the accounting practices and principles  
23 that should be followed by the Postal Service with  
24 the objectives of identifying the capital and oper-  
25 ating costs incurred by the Postal Service in pro-

1       viding competitive products, and preventing the  
2       cross-subsidization of such products by market-domi-  
3       nant products; and

4               “(B) the substantive and procedural rules that  
5       should be followed in determining the Postal Serv-  
6       ice’s assumed Federal income tax on competitive  
7       products income for any year (within the meaning of  
8       section 3634).

9       Such recommendations shall be submitted to the Postal  
10      Regulatory Commission no later than 12 months after the  
11      effective date of this section.

12           “(2)(A) Upon receiving the recommendations of the  
13      Postal Service under paragraph (1), the Commission shall  
14      give interested parties, including the Postal Service, enter-  
15      prises in the private sector of the economy engaged in the  
16      delivery of mail matter other than letters, users of the  
17      mails, and an officer of the Commission who shall be re-  
18      quired to represent the interests of the general public, an  
19      opportunity to present their views on those recommenda-  
20      tions through submission of written data, views, or argu-  
21      ments with or without opportunity for oral presentation,  
22      or in such other manner as the Commission considers ap-  
23      propriate.

1       “(B) After due consideration of the views and other  
2 information received under subparagraph (A), the Com-  
3 mission shall by rule—

4           “(i) provide for the establishment and applica-  
5 tion of the accounting practices and principles which  
6 shall be followed by the Postal Service;

7           “(ii) provide for the establishment and applica-  
8 tion of the substantive and procedural rules de-  
9 scribed in paragraph (1)(B); and

10          “(iii) provide for the submission by the Postal  
11 Service to the Postal Regulatory Commission of an-  
12 nual and other periodic reports setting forth such in-  
13 formation as the Commission may require.

14 Final rules under this subparagraph shall be issued not  
15 later than 12 months after the date on which the Postal  
16 Service makes its submission to the Commission under  
17 paragraph (1) (or by such later date as the Commission  
18 and the Postal Service may agree to). If final rules are  
19 not issued by the Commission by the deadline under the  
20 preceding sentence, the recommendations submitted by  
21 the Postal Service under paragraph (1) shall be treated  
22 as the final rules. The Commission is authorized to pro-  
23 mulgate regulations revising such rules.

24          “(C) Reports described in subparagraph (B)(iii) shall  
25 be submitted at such time and in such form, and shall

1 include such information, as the Commission by rule re-  
2 quires. The Commission may, on its own motion or on re-  
3 quest of an interested party, initiate proceedings (to be  
4 conducted in accordance with such rules as the Commis-  
5 sion shall prescribe) to improve the quality, accuracy, or  
6 completeness of Postal Service data under such subpara-  
7 graph whenever it shall appear that—

8           “(i) the quality of the information furnished in  
9           those reports has become significantly inaccurate or  
10          can be significantly improved; or

11          “(ii) such revisions are, in the judgment of the  
12          Commission, otherwise necessitated by the public in-  
13          terest.

14          “(D) A copy of each report described in subpara-  
15          graph (B)(iii) shall also be transmitted by the Postal Serv-  
16          ice to the Secretary of the Treasury and the Inspector  
17          General of the United States Postal Service.

18          “(i) The Postal Service shall render an annual report  
19          to the Secretary of the Treasury concerning the operation  
20          of the Competitive Products Fund, in which it shall ad-  
21          dress such matters as risk limitations, reserve balances,  
22          allocation or distribution of moneys, liquidity require-  
23          ments, and measures to safeguard against losses. A copy  
24          of its then most recent report under this subsection shall  
25          be included with any other submission that it is required

1 to make to the Postal Regulatory Commission under sec-  
 2 tion 3652(g).”.

3           (2) CLERICAL AMENDMENT.—The analysis for  
 4 chapter 20 of title 39, United States Code, is  
 5 amended by adding after the item relating to section  
 6 2010 the following:

“2011. Provisions relating to competitive products.”.

7           (b) TECHNICAL AND CONFORMING AMENDMENTS.—

8           (1) DEFINITION.—Section 2001 of title 39,  
 9 United States Code, is amended by striking “and”  
 10 at the end of paragraph (1), by redesignating para-  
 11 graph (2) as paragraph (3), and by inserting after  
 12 paragraph (1) the following:

13           “(2) ‘Competitive Products Fund’ means the  
 14 Postal Service Competitive Products Fund estab-  
 15 lished by section 2011; and”.

16           (2) CAPITAL OF THE POSTAL SERVICE.—Sec-  
 17 tion 2002(b) of title 39, United States Code, is  
 18 amended by striking “Fund,” and inserting “Fund  
 19 and the balance in the Competitive Products  
 20 Fund.”.

21           (3) POSTAL SERVICE FUND.—

22           (A) PURPOSES FOR WHICH AVAILABLE.—

23           Section 2003(a) of title 39, United States Code,  
 24 is amended by striking “title.” and inserting  
 25 “title (other than any of the purposes, func-

1 tions, or powers for which the Competitive  
2 Products Fund is available).”.

3 (B) DEPOSITS.—Section 2003(b) of title  
4 39, United States Code, is amended by striking  
5 “There” and inserting “Except as otherwise  
6 provided in section 2011, there”.

7 (4) RELATIONSHIP BETWEEN THE TREASURY  
8 AND THE POSTAL SERVICE.—Section 2006 of title  
9 39, United States Code, is amended—

10 (A) in subsection (b), by adding at the end  
11 the following: “Nothing in this chapter shall be  
12 considered to permit or require the Secretary of  
13 the Treasury to purchase any obligations of the  
14 Postal Service other than those issued under  
15 section 2005.”; and

16 (B) in subsection (c), by inserting “under  
17 section 2005” before “shall be obligations”.

18 **SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE**  
19 **PRODUCTS INCOME.**

20 Subchapter II of chapter 36 of title 39, United States  
21 Code, as amended by section 202, is amended by adding  
22 at the end the following:

23 **“§ 3634. Assumed Federal income tax on competitive**  
24 **products income**

25 **“(a) DEFINITIONS.—For purposes of this section—**

1           “(1) the term ‘assumed Federal income tax on  
2 competitive products income’ means the net income  
3 tax that would be imposed by chapter 1 of the Inter-  
4 nal Revenue Code of 1986 on the Postal Service’s  
5 assumed taxable income from competitive products  
6 for the year; and

7           “(2) the term ‘assumed taxable income from  
8 competitive products’, with respect to a year, refers  
9 to the amount representing what would be the tax-  
10 able income of a corporation under the Internal Rev-  
11 enue Code of 1986 for the year, if—

12           “(A) the only activities of such corporation  
13 were the activities of the Postal Service allo-  
14 cable under section 2011(h) to competitive  
15 products; and

16           “(B) the only assets held by such corpora-  
17 tion were the assets of the Postal Service allo-  
18 cable under section 2011(h) to such activities.

19           “(b) COMPUTATION AND TRANSFER REQUIRE-  
20 MENTS.—The Postal Service shall, for each year beginning  
21 with the year in which occurs the deadline for the Postal  
22 Service’s first report to the Postal Regulatory Commission  
23 under section 3652(a)—

24           “(1) compute its assumed Federal income tax  
25 on competitive products income for such year; and

1           “(2) transfer from the Competitive Products  
2           Fund to the Postal Service Fund the amount of that  
3           assumed tax.

4           “(c) DEADLINE FOR TRANSFERS.—Any transfer re-  
5           quired to be made under this section for a year shall be  
6           due on or before the January 15th next occurring after  
7           the close of such year.”.

8           **SEC. 403. UNFAIR COMPETITION PROHIBITED.**

9           (a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39,  
10          United States Code, is amended by adding after section  
11          404 the following:

12         **“§ 404a. Specific limitations**

13           “(a) Except as specifically authorized by law, the  
14          Postal Service may not:

15                 “(1) establish any rule or regulation (including  
16                 any standard) the effect of which is to preclude com-  
17                 petition or establish the terms of competition unless  
18                 the Postal Service demonstrates that the regulation  
19                 does not create an unfair competitive advantage for  
20                 itself or any entity funded (in whole or in part) by  
21                 the Postal Service;

22                 “(2) compel the disclosure, transfer, or licens-  
23                 ing of intellectual property to any third party (such  
24                 as patents, copyrights, trademarks, trade secrets,  
25                 and proprietary information); or

1           ~~“(3) obtain information from a person that pro-~~  
2           ~~vides (or seeks to provide) any product, and then~~  
3           ~~offer any postal service that uses or is based in~~  
4           ~~whole or in part on such information, without the~~  
5           ~~consent of the person providing that information,~~  
6           ~~unless substantially the same information is obtained~~  
7           ~~(or obtainable) from an independent source or is~~  
8           ~~otherwise obtained (or obtainable).~~

9           ~~“(b) The Postal Regulatory Commission shall pre-~~  
10          ~~scribe regulations to carry out this section.~~

11          ~~“(c) Any party (including an officer of the Commis-~~  
12          ~~sion representing the interests of the general public) who~~  
13          ~~believes that the Postal Service has violated this section~~  
14          ~~may bring a complaint in accordance with section 3662.”.~~

15          ~~(b) CONFORMING AMENDMENTS.—~~

16                 ~~(1) GENERAL POWERS.—Section 401 of title~~  
17                 ~~39, United States Code, is amended by striking~~  
18                 ~~“The” and inserting “Subject to the provisions of~~  
19                 ~~section 404a, the”.~~

20                 ~~(2) SPECIFIC POWERS.—Section 404(a) of title~~  
21                 ~~39, United States Code, is amended by striking~~  
22                 ~~“Without” and inserting “Subject to the provisions~~  
23                 ~~of section 404a, but otherwise without”.~~

1       (e) CLERICAL AMENDMENT.—The analysis for chap-  
 2 ter 4 of title 39, United States Code, is amended by insert-  
 3 ing after the item relating to section 404 the following:  
 “404a. Specific limitations.”.

4 **SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

5       (a) IN GENERAL.—Section 409 of title 39, United  
 6 States Code, is amended by striking subsections (d) and  
 7 (e) and inserting the following:

8       “(d)(1) For purposes of the provisions of law cited  
 9 in paragraphs (2)(A) and (2)(B), respectively, the Postal  
 10 Service—

11           “(A) shall be considered to be a ‘person’, as  
 12 used in the provisions of law involved; and

13           “(B) shall not be immune under any other doc-  
 14 trine of sovereign immunity from suit in Federal  
 15 court by any person for any violation of any of those  
 16 provisions of law by any officer or employee of the  
 17 Postal Service.

18       “(2) This subsection applies with respect to—

19           “(A) the Act of July 5, 1946 (commonly re-  
 20 ferred to as the ‘Trademark Act of 1946’ (15 U.S.C.  
 21 1051 and following)); and

22           “(B) the provisions of section 5 of the Federal  
 23 Trade Commission Act to the extent that such sec-  
 24 tion 5 applies to unfair or deceptive acts or prac-  
 25 tices.

1       “(c)(1) To the extent that the Postal Service, or other  
2 Federal agency acting on behalf of or in concert with the  
3 Postal Service, engages in conduct with respect to any  
4 product which is not reserved to the United States under  
5 section 1696 of title 18, the Postal Service or other Fed-  
6 eral agency (as the case may be)—

7               “(A) shall not be immune under any doctrine of  
8 sovereign immunity from suit in Federal court by  
9 any person for any violation of Federal law by such  
10 agency or any officer or employee thereof; and

11               “(B) shall be considered to be a person (as de-  
12 fined in subsection (a) of the first section of the  
13 Clayton Act) for purposes of—

14                       “(i) the antitrust laws (as defined in such  
15 subsection); and

16                       “(ii) section 5 of the Federal Trade Com-  
17 mission Act to the extent that such section 5  
18 applies to unfair methods of competition.

19 For purposes of the preceding sentence, any private car-  
20 riage of mail allowable by virtue of section 601 shall not  
21 be considered a service reserved to the United States  
22 under section 1696 of title 18.

23       “(2) No damages, interest on damages, costs or at-  
24 torney’s fees may be recovered under the antitrust laws  
25 (as so defined) from the Postal Service or any officer or

1 employee thereof acting in an official capacity for any con-  
2 duct with respect to a product in the market-dominant  
3 category of mail.

4       “(3) This subsection shall not apply with respect to  
5 conduct occurring before the date of the enactment of this  
6 subsection.

7       “(f) To the extent that the Postal Service engages  
8 in conduct with respect to the provision of competitive  
9 products, it shall be considered a person for the purposes  
10 of the Federal bankruptcy laws.

11       “(g)(1) Each building constructed or altered by the  
12 Postal Service shall be constructed or altered, to the max-  
13 imum extent feasible as determined by the Postal Service,  
14 in compliance with 1 of the nationally recognized model  
15 building codes and with other applicable nationally recog-  
16 nized codes.

17       “(2) Each building constructed or altered by the  
18 Postal Service shall be constructed or altered only after  
19 consideration of all requirements (other than procedural  
20 requirements) of zoning laws, land use laws, and applica-  
21 ble environmental laws of a State or subdivision of a State  
22 which would apply to the building if it were not a building  
23 constructed or altered by an establishment of the Govern-  
24 ment of the United States.

1       “(3) For purposes of meeting the requirements of  
2 paragraphs (1) and (2) with respect to a building, the  
3 Postal Service shall—

4           “(A) in preparing plans for the building, con-  
5 sult with appropriate officials of the State or polit-  
6 ical subdivision, or both, in which the building will  
7 be located;

8           “(B) upon request, submit such plans in a  
9 timely manner to such officials for review by such  
10 officials for a reasonable period of time not exceed-  
11 ing 30 days; and

12           “(C) permit inspection by such officials during  
13 construction or alteration of the building, in accord-  
14 ance with the customary schedule of inspections for  
15 construction or alteration of buildings in the locality,  
16 if such officials provide to the Postal Service—

17           “(i) a copy of such schedule before con-  
18 struction of the building is begun; and

19           “(ii) reasonable notice of their intention to  
20 conduct any inspection before conducting such  
21 inspection.

22 Nothing in this subsection shall impose an obligation on  
23 any State or political subdivision to take any action under  
24 the preceding sentence, nor shall anything in this sub-  
25 section require the Postal Service or any of its contractors

1 to pay for any action taken by a State or political subdivi-  
2 sion to carry out this subsection (including reviewing  
3 plans, carrying out on-site inspections, issuing building  
4 permits, and making recommendations).

5       “(4) Appropriate officials of a State or a political  
6 subdivision of a State may make recommendations to the  
7 Postal Service concerning measures necessary to meet the  
8 requirements of paragraphs (1) and (2). Such officials  
9 may also make recommendations to the Postal Service  
10 concerning measures which should be taken in the con-  
11 struction or alteration of the building to take into account  
12 local conditions. The Postal Service shall give due consid-  
13 eration to any such recommendations.

14       “(5) In addition to consulting with local and State  
15 officials under paragraph (3), the Postal Service shall es-  
16 tablish procedures for soliciting, assessing, and incor-  
17 porating local community input on real property and land  
18 use decisions.

19       “(6) For purposes of this subsection, the term ‘State’  
20 includes the District of Columbia, the Commonwealth of  
21 Puerto Rico, and a territory or possession of the United  
22 States.

23       “(h)(1) Notwithstanding any other provision of law,  
24 legal representation may not be furnished by the Depart-  
25 ment of Justice to the Postal Service in any action, suit,

1 or proceeding arising, in whole or in part, under any of  
2 the following:

3           ~~“(A) Subsection (d) or (e) of this section.~~

4           ~~“(B) Subsection (f) or (g) of section 504 (relat-~~  
5           ~~ing to administrative subpoenas by the Postal Regu-~~  
6           ~~latory Commission).~~

7           ~~“(C) Section 3663 (relating to appellate re-~~  
8           ~~view).~~

9 The Postal Service may, by contract or otherwise, employ  
10 attorneys to obtain any legal representation that it is pre-  
11 eluded from obtaining from the Department of Justice  
12 under this paragraph.

13           ~~“(2) In any circumstance not covered by paragraph~~  
14 ~~(1), the Department of Justice shall, under section 411,~~  
15 ~~furnish the Postal Service such legal representation as it~~  
16 ~~may require, except that, with the prior consent of the~~  
17 ~~Attorney General, the Postal Service may, in any such cir-~~  
18 ~~cumstance, employ attorneys by contract or otherwise to~~  
19 ~~conduct litigation brought by or against the Postal Service~~  
20 ~~or its officers or employees in matters affecting the Postal~~  
21 ~~Service.~~

22           ~~“(3)(A) In any action, suit, or proceeding in a court~~  
23 ~~of the United States arising in whole or in part under any~~  
24 ~~of the provisions of law referred to in subparagraph (B)~~  
25 ~~or (C) of paragraph (1), and to which the Commission~~

1 is not otherwise a party, the Commission shall be per-  
 2 mitted to appear as a party on its own motion and as  
 3 of right.

4 “(B) The Department of Justice shall, under such  
 5 terms and conditions as the Commission and the Attorney  
 6 General shall consider appropriate, furnish the Commis-  
 7 sion such legal representation as it may require in connec-  
 8 tion with any such action, suit, or proceeding, except that,  
 9 with the prior consent of the Attorney General, the Com-  
 10 mission may employ attorneys by contract or otherwise for  
 11 that purpose.

12 “(i) A judgment against the Government of the  
 13 United States arising out of activities of the Postal Service  
 14 shall be paid by the Postal Service out of any funds avail-  
 15 able to the Postal Service, subject to the restriction speci-  
 16 fied in section 2011(g).”.

17 (b) TECHNICAL AMENDMENT.—Section 409(a) of  
 18 title 39, United States Code, is amended by striking “Ex-  
 19 cept as provided in section 3628 of this title,” and insert-  
 20 ing “Except as otherwise provided in this title,”.

## 21 **TITLE V—GENERAL PROVISIONS**

### 22 **SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR** 23 **GOVERNORS.**

24 (a) QUALIFICATIONS.—

1           (1) IN GENERAL.—Section 202(a) of title 39,  
2           United States Code, is amended by striking “(a)”  
3           and inserting “(a)(1)” and by striking the fourth  
4           sentence and inserting the following: “The Gov-  
5           ernors shall represent the public interest generally,  
6           and shall be chosen solely on the basis of their dem-  
7           onstrated ability in managing organizations or cor-  
8           porations (in either the public or private sector) of  
9           substantial size. The Governors shall not be rep-  
10          resentatives of specific interests using the Postal  
11          Service, and may be removed only for cause.”.

12          (2) APPLICABILITY.—The amendment made by  
13          paragraph (1) shall not affect the appointment or  
14          tenure of any person serving as a Governor of the  
15          United States Postal Service under an appointment  
16          made before the date of the enactment of this Act;  
17          however, when any such office becomes vacant, the  
18          appointment of any person to fill that office shall be  
19          made in accordance with such amendment. The re-  
20          quirement set forth in the fourth sentence of section  
21          202(a)(1) of title 39, United States Code (as amend-  
22          ed by subsection (a)) shall be met beginning not  
23          later than 9 years after the date of the enactment  
24          of this Act.

1       (b) CONSULTATION REQUIREMENT.—Section 202(a)  
 2 of title 39, United States Code, is amended by adding at  
 3 the end the following:

4       “(2) In selecting the individuals described in para-  
 5 graph (1) for nomination for appointment to the position  
 6 of Governor, the President should consult with the Speak-  
 7 er of the House of Representatives, the minority leader  
 8 of the House of Representatives, the majority leader of  
 9 the Senate, and the minority leader of the Senate.”.

10       (c) 5-YEAR TERMS.—

11           (1) IN GENERAL.—Section 202(b) of title 39,  
 12 United States Code, is amended in the first sentence  
 13 by striking “9 years” and inserting “5 years”.

14           (2) APPLICABILITY.—

15           (A) CONTINUATION BY INCUMBENTS.—

16           The amendment made by paragraph (1) shall  
 17 not affect the tenure of any person serving as  
 18 a Governor of the United States Postal Service  
 19 on the date of enactment of this Act and such  
 20 person may continue to serve the remainder of  
 21 the applicable term.

22           (B) VACANCY BY INCUMBENT BEFORE 5  
 23 YEARS OF SERVICE.—If a person who is serving  
 24 as a Governor of the United States Postal Serv-  
 25 ice on the date of enactment of this Act resigns,

1 is removed, or dies before the expiration of the  
2 9-year term of that Governor, and that Gov-  
3 ernor has served less than 5 years of that term,  
4 the resulting vacancy in office shall be treated  
5 as a vacancy in a 5-year term.

6 (C) VACANCY BY INCUMBENT AFTER 5  
7 YEARS OF SERVICE.—If a person who is serving  
8 as a Governor of the United States Postal Serv-  
9 ice on the date of enactment of this Act resigns,  
10 is removed, or dies before the expiration of the  
11 9-year term of that Governor, and that Gov-  
12 ernor has served 5 years or more of that term,  
13 that term shall be deemed to have been a 5-year  
14 term beginning on its commencement date for  
15 purposes of determining vacancies in office. Any  
16 appointment to the vacant office shall be for a  
17 5-year term beginning at the end of the original  
18 9-year term determined without regard to the  
19 deeming under the preceding sentence. Nothing  
20 in this subparagraph shall be construed to af-  
21 fect any action or authority of any Governor or  
22 the Board of Governors during any portion of  
23 a 9-year term deemed to be a 5-year term  
24 under this subparagraph.

25 (d) TERM LIMITATION.—

1           (1) IN GENERAL.—Section 202(b) of title 39,  
2 United States Code, is amended—

3                   (A) by inserting “(1)” after “(b)”; and

4                   (B) by adding at the end the following:

5                   “(2) No person may serve more than 3 terms  
6 as a Governor.”.

7           (2) APPLICABILITY.—The amendments made  
8 by paragraph (1) shall not affect the tenure of any  
9 person serving as a Governor of the United States  
10 Postal Service on the date of enactment of this Act  
11 with respect to the term which that person is serving  
12 on that date. Such person may continue to serve the  
13 remainder of the applicable term, after which the  
14 amendments made by paragraph (1) shall apply.

15 **SEC. 502. OBLIGATIONS.**

16           (a) PURPOSES FOR WHICH OBLIGATIONS MAY BE  
17 ISSUED.—The first sentence of section 2005(a)(1) of title  
18 39, United States Code, is amended by striking “title.”  
19 and inserting “title, other than any of the purposes for  
20 which the corresponding authority is available to the Post-  
21 al Service under section 2011.”.

22           (b) INCREASE RELATING TO OBLIGATIONS ISSUED  
23 FOR CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of  
24 title 39, United States Code, is amended by striking the  
25 third sentence.

1 (c) AMOUNTS WHICH MAY BE PLEDGED.—

2 (1) OBLIGATIONS TO WHICH PROVISIONS  
3 APPLY.—The first sentence of section 2005(b) of  
4 title 39, United States Code, is amended by striking  
5 “such obligations,” and inserting “obligations issued  
6 by the Postal Service under this section,”.

7 (2) ASSETS, REVENUES, AND RECEIPTS TO  
8 WHICH PROVISIONS APPLY.—Subsection (b) of sec-  
9 tion 2005 of title 39, United States Code, is amend-  
10 ed by striking “(b)” and inserting “(b)(1)”, and by  
11 adding at the end the following:

12 “(2) Notwithstanding any other provision of this sec-  
13 tion—

14 “(A) the authority to pledge assets of the Post-  
15 al Service under this subsection shall be available  
16 only to the extent that such assets are not related  
17 to the provision of competitive products (as deter-  
18 mined under section 2011(h) or, for purposes of any  
19 period before accounting practices and principles  
20 under section 2011(h) have been established and ap-  
21 plied, the best information available from the Postal  
22 Service, including the audited statements required  
23 by section 2008(e)); and

24 “(B) any authority under this subsection relat-  
25 ing to the pledging or other use of revenues or re-

1 receipts of the Postal Service shall be available only to  
2 the extent that they are not revenues or receipts of  
3 the Competitive Products Fund.”.

4 **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

5 (a) IN GENERAL.—Section 601 of title 39, United  
6 States Code, is amended by striking subsection (b) and  
7 inserting the following:

8 “(b) A letter may also be carried out of the mails  
9 when—

10 “(1) the amount paid for the private carriage of  
11 the letter is at least the amount equal to 6 times the  
12 rate then currently charged for the 1st ounce of a  
13 single-piece first class letter;

14 “(2) the letter weighs at least 12½ ounces; or

15 “(3) such carriage is within the scope of serv-  
16 ices described by regulations of the United States  
17 Postal Service (as in effect on July 1, 2001) that  
18 purport to permit private carriage by suspension of  
19 the operation of this section (as then in effect).

20 “(c) Any regulations necessary to carry out this sec-  
21 tion shall be promulgated by the Postal Regulatory Com-  
22 mission.”.

23 (b) EFFECTIVE DATE.—This section shall take effect  
24 on the date as of which the regulations promulgated under

1 section 3633 of title 39, United States Code (as amended  
2 by section 202) take effect.

3 **SEC. 504. RULEMAKING AUTHORITY.**

4 Paragraph (2) of section 401 of title 39, United  
5 States Code, is amended to read as follows:

6 “(2) to adopt, amend, and repeal such rules  
7 and regulations, not inconsistent with this title, as  
8 may be necessary in the execution of its functions  
9 under this title and such other functions as may be  
10 assigned to the Postal Service under any provisions  
11 of law outside of this title;”.

12 **SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-**  
13 **GAINING AGREEMENTS.**

14 (a) **LABOR DISPUTES.**—Section 1207 of title 39,  
15 United States Code, is amended to read as follows:

16 **“§ 1207. Labor disputes**

17 “(a) If there is a collective-bargaining agreement in  
18 effect, no party to such agreement shall terminate or mod-  
19 ify such agreement unless the party desiring such termi-  
20 nation or modification serves written notice upon the other  
21 party to the agreement of the proposed termination or  
22 modification not less than 90 days prior to the expiration  
23 date thereof, or not less than 90 days prior to the time  
24 it is proposed to make such termination or modification.  
25 The party serving such notice shall notify the Federal Me-

1 diation and Conciliation Service of the existence of a dis-  
2 pute within 45 days of such notice, if no agreement has  
3 been reached by that time.

4       “(b) If the parties fail to reach agreement or to adopt  
5 a procedure providing for a binding resolution of a dispute  
6 by the expiration date of the agreement in effect, or the  
7 date of the proposed termination or modification, the Di-  
8 rector of the Federal Mediation and Conciliation Service  
9 shall within 10 days appoint a mediator of nationwide rep-  
10 utation and professional stature, and who is also a mem-  
11 ber of the National Academy of Arbitrators. The parties  
12 shall cooperate with the mediator in an effort to reach an  
13 agreement and shall meet and negotiate in good faith at  
14 such times and places that the mediator, in consultation  
15 with the parties, shall direct.

16       “(c)(1) If no agreement is reached within 60 days  
17 after the expiration or termination of the agreement or  
18 the date on which the agreement became subject to modi-  
19 fication under subsection (a) of this section, or if the par-  
20 ties decide upon arbitration but do not agree upon the pro-  
21 cedures therefore, an arbitration board shall be established  
22 consisting of 3 members, 1 of whom shall be selected by  
23 the Postal Service, 1 by the bargaining representative of  
24 the employees, and the third by the 2 thus selected. If  
25 either of the parties fails to select a member, or if the

1 members chosen by the parties fail to agree on the third  
2 person within 5 days after their first meeting, the selection  
3 shall be made from a list of names provided by the Direc-  
4 tor. This list shall consist of not less than 9 names of arbi-  
5 trators of nationwide reputation and professional nature,  
6 who are also members of the National Academy of Arbi-  
7 trators, and whom the Director has determined are avail-  
8 able and willing to serve.

9       “(2) The arbitration board shall give the parties a  
10 full and fair hearing, including an opportunity to present  
11 evidence in support of their claims, and an opportunity  
12 to present their case in person, by counsel or by other rep-  
13 resentative as they may elect. Decisions of the arbitration  
14 board shall be conclusive and binding upon the parties.  
15 The arbitration board shall render its decision within 45  
16 days after its appointment.

17       “(3) Costs of the arbitration board and mediation  
18 shall be shared equally by the Postal Service and the bar-  
19 gaining representative.

20       “(d) In the case of a bargaining unit whose recog-  
21 nized collective-bargaining representative does not have an  
22 agreement with the Postal Service, if the parties fail to  
23 reach the agreement within 90 days of the commencement  
24 of collective bargaining, a mediator shall be appointed in  
25 accordance with the terms in subsection (b) of this section;

1 unless the parties have previously agreed to another proce-  
2 dure for a binding resolution of their differences. If the  
3 parties fail to reach agreement within 180 days of the  
4 commencement of collective bargaining, and if they have  
5 not agreed to another procedure for binding resolution, an  
6 arbitration board shall be established to provide conclusive  
7 and binding arbitration in accordance with the terms of  
8 subsection (c) of this section.”.

9 (b) NONINTERFERENCE WITH COLLECTIVE BAR-  
10 GAINING AGREEMENTS.—Except as otherwise provided by  
11 the amendment made by subsection (a), nothing in this  
12 Act shall restrict, expand, or otherwise affect any of the  
13 rights, privileges, or benefits of either employees of or  
14 labor organizations representing employees of the United  
15 States Postal Service under chapter 12 of title 39, United  
16 States Code, the National Labor Relations Act, any hand-  
17 book or manual affecting employee labor relations within  
18 the United States Postal Service, or any collective bar-  
19 gaining agreement.

20 (c) FREE MAILING PRIVILEGES CONTINUE UN-  
21 CHANGED.—Nothing in this Act or any amendment made  
22 by this Act shall affect any free mailing privileges ac-  
23 corded under section 3217 or sections 3403 through 3406  
24 of title 39, United States Code.

1                   **TITLE VI—ENHANCED**  
 2                   **REGULATORY COMMISSION**

3 **SEC. 601. REORGANIZATION AND MODIFICATION OF CER-**  
 4                   **TAIN PROVISIONS RELATING TO THE POSTAL**  
 5                   **REGULATORY COMMISSION.**

6           (a) **TRANSFER AND REDESIGNATION.**—Title 39,  
 7 United States Code, is amended—

8                   (1) by inserting after chapter 4 the following:

9                   **“CHAPTER 5—POSTAL REGULATORY**  
 10                   **COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

11 **“§ 501. Establishment**

12           “The Postal Regulatory Commission is an inde-  
 13 pendent establishment of the executive branch of the Gov-  
 14 ernment of the United States.

15 **“§ 502. Commissioners**

16           “(a) The Postal Regulatory Commission is composed  
 17 of 5 Commissioners, appointed by the President, by and  
 18 with the advice and consent of the Senate. The Commis-  
 19 sioners shall be chosen solely on the basis of their technical  
 20 qualifications, professional standing, and demonstrated  
 21 expertise in economics, accounting, law, or public adminis-  
 22 tration, and may be removed by the President only for

1 cause. Each individual appointed to the Commission shall  
2 have the qualifications and expertise necessary to carry  
3 out the enhanced responsibilities accorded Commissioners  
4 under the Postal Accountability and Enhancement Act.  
5 Not more than 3 of the Commissioners may be adherents  
6 of the same political party.

7       “(b) No Commissioner shall be financially interested  
8 in any enterprise in the private sector of the economy en-  
9 gaged in the delivery of mail matter.

10       “(c) A Commissioner may continue to serve after the  
11 expiration of his term until his successor has qualified,  
12 except that a Commissioner may not so continue to serve  
13 for more than 1 year after the date upon which his term  
14 otherwise would expire under subsection (f).

15       “(d) One of the Commissioners shall be designated  
16 as Chairman by, and shall serve in the position of Chair-  
17 man at the pleasure of, the President.

18       “(e) The Commissioners shall by majority vote des-  
19 ignate a Vice Chairman of the Commission. The Vice  
20 Chairman shall act as Chairman of the Commission in the  
21 absence of the Chairman.

22       “(f) The Commissioners shall serve for terms of 6  
23 years.”;

24               (2) by striking, in subchapter I of chapter 36  
25       (as in effect before the amendment made by section

1 201(c)), the heading for such subchapter I and all  
2 that follows through section 3602; and

3 (3) by redesignating sections 3603 and 3604 as  
4 sections 503 and 504, respectively, and transferring  
5 such sections to the end of chapter 5 (as inserted by  
6 paragraph (1)).

7 (b) APPLICABILITY.—The amendment made by sub-  
8 section (a)(1) shall not affect the appointment or tenure  
9 of any person serving as a Commissioner on the Postal  
10 Regulatory Commission (as so redesignated by section  
11 604) under an appointment made before the date of the  
12 enactment of this Act or any nomination made before that  
13 date, but, when any such office becomes vacant, the ap-  
14 pointment of any person to fill that office shall be made  
15 in accordance with such amendment.

16 (c) CLERICAL AMENDMENT.—The analysis for part  
17 I of title 39, United States Code, is amended by inserting  
18 after the item relating to chapter 4 the following:

**“5. Postal Regulatory Commission ..... 501”.**

19 **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-**  
20 **SION TO ISSUE SUBPOENAS.**

21 Section 504 of title 39, United States Code (as so  
22 redesignated by section 601) is amended by adding at the  
23 end the following:

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

1 the Commission under section 3105 of title 5, and any  
2 employee of the Commission designated by the Commis-  
3 sion may administer oaths, examine witnesses, take depo-  
4 sitions, and receive evidence.

5       “(2) The Chairman of the Commission, any Commis-  
6 sioner designated by the Chairman, and any administra-  
7 tive law judge appointed by the Commission under section  
8 3105 of title 5 may, with respect to any proceeding con-  
9 ducted by the Commission under this title—

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

14           “(B) order the taking of depositions and re-  
15 sponses to written interrogatories by a covered per-  
16 son.

17 The written concurrence of a majority of the Commis-  
18 sioners then holding office shall, with respect to each sub-  
19 poena under subparagraph (A), be required in advance of  
20 its issuance.

21       “(3) In the case of contumacy or failure to obey a  
22 subpoena issued under this subsection, upon application  
23 by the Commission, the district court of the United States  
24 for the district in which the person to whom the subpoena  
25 is addressed resides or is served may issue an order requir-

1 ing such person to appear at any designated place to tes-  
2 tify or produce documentary or other evidence. Any failure  
3 to obey the order of the court may be punished by the  
4 court as a contempt thereof.

5       “(4) For purposes of this subsection, the term ‘cov-  
6 ered person’ means an officer, employee, agent, or con-  
7 tractor of the Postal Service.

8       “(g)(1) If the Postal Service determines that any doc-  
9 ument or other matter it provides to the Postal Regulatory  
10 Commission under a subpoena issued under subsection (f),  
11 or otherwise at the request of the Commission in connec-  
12 tion with any proceeding or other purpose under this title,  
13 contains information which is described in section 410(e)  
14 of this title, or exempt from public disclosure under sec-  
15 tion 552(b) of title 5, the Postal Service shall, at the time  
16 of providing such matter to the Commission, notify the  
17 Commission, in writing, of its determination (and the rea-  
18 sons therefor).

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

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

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

4           ~~“(3)(A) Paragraph (2) shall not prohibit the~~  
5           ~~Commission from publicly disclosing relevant infor-~~  
6           ~~mation in furtherance of its duties under this title,~~  
7           ~~provided that the Commission has adopted regula-~~  
8           ~~tions under section 553 of title 5, that establish a~~  
9           ~~procedure for according appropriate confidentiality~~  
10          ~~to information identified by the Postal Service under~~  
11          ~~paragraph (1). In determining the appropriate de-~~  
12          ~~gree of confidentiality to be accorded information~~  
13          ~~identified by the Postal Service under paragraph (1),~~  
14          ~~the Commission shall balance the nature and extent~~  
15          ~~of the likely commercial injury to the Postal Service~~  
16          ~~against the public interest in maintaining the finan-~~  
17          ~~cial transparency of a government establishment~~  
18          ~~competing in commercial markets.~~

19          ~~“(B) Paragraph (2) shall not prevent the Com-~~  
20          ~~mission from requiring production of information in~~  
21          ~~the course of any discovery procedure established in~~  
22          ~~connection with a proceeding under this title. The~~  
23          ~~Commission shall, by regulations based on rule 26(e)~~  
24          ~~of the Federal Rules of Civil Procedure, establish~~

1 procedures for ensuring appropriate confidentiality  
2 for information furnished to any party.”.

3 **SEC. 603. APPROPRIATIONS FOR THE POSTAL REGU-**  
4 **LATORY COMMISSION.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-  
6 section (d) of section 504 of title 39, United States Code  
7 (as so redesignated by section 601) is amended to read  
8 as follows:

9 “(d) There are authorized to be appropriated, out of  
10 the Postal Service Fund, such sums as may be necessary  
11 for the Postal Regulatory Commission. In requesting an  
12 appropriation under this subsection for a fiscal year, the  
13 Commission shall prepare and submit to the Congress  
14 under section 2009 a budget of the Commission’s ex-  
15 penses, including expenses for facilities, supplies, com-  
16 pensation, and employee benefits.”.

17 (b) BUDGET PROGRAM.—

18 (1) IN GENERAL.—The next to last sentence of  
19 section 2009 of title 39, United States Code, is  
20 amended to read as follows: “The budget program  
21 shall also include separate statements of the  
22 amounts which (1) the Postal Service requests to be  
23 appropriated under subsections (b) and (c) of section  
24 2401, (2) the Office of Inspector General of the  
25 United States Postal Service requests to be appro-

1        appropriated, out of the Postal Service Fund, under sec-  
 2        tion 8G(f) of the Inspector General Act of 1978, and  
 3        ~~(3) the Postal Regulatory Commission requests to be~~  
 4        appropriated, out of the Postal Service Fund, under  
 5        section 504(d) of this title.”.

6            ~~(2) CONFORMING AMENDMENT.~~—Section  
 7        ~~2003(e)(1)~~ of title ~~39~~, United States Code, is  
 8        amended by striking the first sentence and inserting  
 9        the following: “The Fund shall be available for the  
 10       payment of ~~(A)~~ all expenses incurred by the Postal  
 11       Service in carrying out its functions as provided by  
 12       law, subject to the same limitation as set forth in  
 13       the parenthetical matter under subsection ~~(a)~~; ~~(B)~~  
 14       all expenses of the Postal Regulatory Commission,  
 15       subject to the availability of amounts appropriated  
 16       under section 504(d); and ~~(C)~~ all expenses of the  
 17       Office of Inspector General, subject to the avail-  
 18       ability of amounts appropriated under section 8G(f)  
 19       of the Inspector General Act of 1978.”.

20        ~~(c) EFFECTIVE DATE.~~—

21            ~~(1) IN GENERAL.~~—The amendments made by  
 22        this section shall apply with respect to fiscal years  
 23        beginning on or after October 1, 2002.

24            ~~(2) SAVINGS PROVISION.~~—The provisions of  
 25        title ~~39~~, United States Code, that are amended by



1 “Postal Rate Commission” and inserting “Postal Regu-  
2 latory Commission”.

3 (d) AMENDMENT TO THE REHABILITATION ACT OF  
4 1973.—Section 501(b) of the Rehabilitation Act of 1973  
5 (29 U.S.C. 791(b)) is amended by striking “Postal Rate  
6 Office” and inserting “Postal Regulatory Commission”.

7 (e) AMENDMENT TO TITLE 44, UNITED STATES  
8 CODE.—Section 3502(5) of title 44, United States Code,  
9 is amended by striking “Postal Rate Commission” and in-  
10 serting “Postal Regulatory Commission”.

11 (f) OTHER REFERENCES.—Whenever a reference is  
12 made in any provision of law (other than this Act or a  
13 provision of law amended by this Act), regulation, rule,  
14 document, or other record of the United States to the  
15 Postal Rate Commission, such reference shall be consid-  
16 ered a reference to the Postal Regulatory Commission.

17 **SEC. 605. FINANCIAL TRANSPARENCY.**

18 Section 101 of title 39, United States Code, is  
19 amended—

20 (1) by redesignating subsections (d) through (g)  
21 as subsections (e) through (h), respectively; and

22 (2) by inserting after subsection (e) the fol-  
23 lowing:

24 “(d) As an independent establishment of the execu-  
25 tive branch of the Government of the United States, the

1 Postal Service shall be subject to a high degree of trans-  
 2 parency to ensure fair treatment of customers of the Post-  
 3 al Service's market-dominant products and companies  
 4 competing with the Postal Service's competitive prod-  
 5 ucts.".

## 6 **TITLE VII—EVALUATIONS**

### 7 **SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICA-** 8 **TION, AND OTHER PROVISIONS.**

9 (a) IN GENERAL.—The Postal Regulatory Commis-  
 10 sion shall, at least every 3 years, submit a report to the  
 11 President and Congress concerning—

12 (1) the operation of the amendments made by  
 13 this Act; and

14 (2) recommendations for any legislation or  
 15 other measures necessary to improve the effective-  
 16 ness or efficiency of the postal laws of the United  
 17 States.

18 (b) POSTAL SERVICE VIEWS.—A report under this  
 19 section shall be submitted only after reasonable oppor-  
 20 tunity has been afforded to the Postal Service to review  
 21 the report and to submit written comments on the report.  
 22 Any comments timely received from the Postal Service  
 23 under the preceding sentence shall be attached to the re-  
 24 port submitted under subsection (a).

1 **SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND**  
2 **THE POSTAL MONOPOLY.**

3 (a) **REPORT BY THE POSTAL SERVICE.—**

4 (1) **IN GENERAL.**—Not later than 12 months  
5 after the date of enactment of this Act, the Postal  
6 Regulatory Commission shall submit a report to the  
7 President and Congress on universal postal service  
8 and the postal monopoly in the United States (in  
9 this section referred to as “universal service and the  
10 postal monopoly”), including the monopoly on the  
11 delivery of mail and on access to mailboxes.

12 (2) **CONTENTS.**—The report under this sub-  
13 section shall include—

14 (A) a comprehensive review of the history  
15 and development of universal service and the  
16 postal monopoly, including how the scope and  
17 standards of universal service and the postal  
18 monopoly have evolved over time for the Nation  
19 and its urban and rural areas;

20 (B) the scope and standards of universal  
21 service and the postal monopoly provided under  
22 current law (including sections 101 and 403 of  
23 title 39, United States Code); and current  
24 rules, regulations, policy statements, and prac-  
25 tices of the Postal Service;

1           (C) a description of any geographic areas,  
2           populations, communities (including both urban  
3           and rural communities); organizations, or other  
4           groups or entities not currently covered by uni-  
5           versal service or that are covered but that are  
6           receiving services deficient in scope or quality  
7           or both; and

8           (D) the scope and standards of universal  
9           service and the postal monopoly likely to be re-  
10          quired in the future in order to meet the needs  
11          and expectations of the United States public,  
12          including all types of mail users; based on dis-  
13          cussion of such assumptions; alternative sets of  
14          assumptions; and analyses as the Postal Service  
15          considers plausible.

16          (b) ~~RECOMMENDED CHANGES TO UNIVERSAL SERV-~~  
17 ~~ICE AND THE MONOPOLY.~~—The Postal Regulatory Com-  
18 ~~mission shall include in the report under subsection (a);~~  
19 ~~and in all reports submitted under section 701 of this~~  
20 ~~Act—~~

21           (1) any recommended changes to universal serv-  
22          ice and the postal monopoly as the Commission con-  
23          siders appropriate; including changes that the Com-  
24          mission may implement under current law and  
25          changes that would require changes to current law;

1 with estimated effects of the recommendations on  
2 the service, financial condition, rates, and security of  
3 mail provided by the Postal Service;

4 (2) with respect to each recommended change  
5 described under paragraph (1)—

6 (A) an estimate of the costs of the Postal  
7 Service attributable to the obligation to provide  
8 universal service under current law; and

9 (B) an analysis of the likely benefit of the  
10 current postal monopoly to the ability of the  
11 Postal Service to sustain the current scope and  
12 standards of universal service, including esti-  
13 mates of the financial benefit of the postal mo-  
14 nopoly to the extent practicable, under current  
15 law; and

16 (3) such additional topics and recommendations  
17 as the Commission considers appropriate, with esti-  
18 mated effects of the recommendations on the service,  
19 financial condition, rates, and the security of mail  
20 provided by the Postal Service.

21 **SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO**  
22 **COMPETITIVE PRODUCTS.**

23 (a) IN GENERAL.—The Federal Trade Commission  
24 shall prepare and submit to the President and Congress,  
25 and to the Postal Regulatory Commission, within 1 year

1 after the date of the enactment of this Act, a comprehen-  
2 sive report identifying Federal and State laws that apply  
3 differently to the United States Postal Service with re-  
4 spect to the competitive category of mail (within the mean-  
5 ing of section 102 of title 39, United States Code, as  
6 amended by section 101) and similar products provided  
7 by private companies.

8 (b) RECOMMENDATIONS.—The Federal Trade Com-  
9 mission shall include such recommendations as it con-  
10 siders appropriate for bringing such legal discrimination  
11 to an end, and in the interim, to account under section  
12 3633 of title 39, United States Code (as added by this  
13 Act), for the net economic advantages provided by those  
14 laws.

15 (c) CONSULTATION.—In preparing its report, the  
16 Federal Trade Commission shall consult with the United  
17 States Postal Service, the Postal Regulatory Commission,  
18 other Federal agencies, mailers, private companies that  
19 provide delivery services, and the general public, and shall  
20 append to such report any written comments received  
21 under this subsection.

22 (d) COMPETITIVE PRODUCT REGULATION.—The  
23 Postal Regulatory Commission shall take into account the  
24 recommendations of the Federal Trade Commission in

1 promulgating or revising the regulations required under  
2 section 3633 of title 39, United States Code.

3 **TITLE VIII—POSTAL SERVICE**  
4 **RETIREMENT AND HEALTH**  
5 **BENEFITS FUNDING**

6 **SEC. 801. SHORT TITLE.**

7 This title may be cited as the “Postal Civil Service  
8 Retirement and Health Benefits Funding Amendments of  
9 2004”.

10 **SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

11 (a) IN GENERAL.—Chapter 83 of title 5, United  
12 States Code, is amended—

13 (1) in section 8334(a)(1)(B), by striking clause

14 (ii) and inserting the following:

15 “(ii) In the case of an employee of the United States  
16 Postal Service, no amount shall be contributed under this  
17 subparagraph.”; and

18 (2) by amending section 8348(h) to read as fol-

19 lows:

20 “(h)(1) In this subsection, the term ‘Postal surplus  
21 or supplemental liability’ means the estimated difference,  
22 as determined by the Office, between—

23 “(A) the actuarial present value of all future  
24 benefits payable from the Fund under this sub-  
25 chapter to current or former employees of the

1 United States Postal Service and attributable to ci-  
2 vilian employment with the United States Postal  
3 Service; and

4 “(B) the sum of—

5 “(i) the actuarial present value of dedue-  
6 tions to be withheld from the future basic pay  
7 of employees of the United States Postal Serv-  
8 ice currently subject to this subchapter under  
9 section 8334;

10 “(ii) that portion of the Fund balance, as  
11 of the date the Postal surplus or supplemental  
12 liability is determined, attributable to payments  
13 to the Fund by the United States Postal Serv-  
14 ice and its employees, minus benefit payments  
15 attributable to civilian employment with the  
16 United States Postal Service, plus the earnings  
17 on such amounts while in the Fund; and

18 “(iii) any other appropriate amount, as de-  
19 termined by the Office in accordance with gen-  
20 erally accepted actuarial practices and prin-  
21 ciples.

22 “(2)(A) Not later than June 30, 2006, the Office  
23 shall determine the Postal surplus or supplemental liabil-  
24 ity, as of September 30, 2005. If that result is a surplus,  
25 the amount of the surplus shall be transferred to the Post-

1 al Service Retiree Health Benefits Fund established under  
2 section 8909a. If the result is a supplemental liability, the  
3 Office shall establish an amortization schedule, including  
4 a series of annual installments commencing September 30,  
5 2006, which provides for the liquidation of such liability  
6 by September 30, 2043.

7 “(B) The Office shall redetermine the Postal surplus  
8 or supplemental liability as of the close of the fiscal year,  
9 for each fiscal year beginning after September 30, 2006,  
10 through the fiscal year ending September 30, 2038. If the  
11 result is a surplus, that amount shall remain in the Fund  
12 until distribution is authorized under subparagraph (C),  
13 and any prior amortization schedule for payments shall  
14 be terminated. If the result is a supplemental liability, the  
15 Office shall establish a new amortization schedule, includ-  
16 ing a series of annual installments commencing on Sep-  
17 tember 30 of the subsequent fiscal year, which provides  
18 for the liquidation of such liability by September 30, 2043.

19 “(C) As of the close of the fiscal years ending Sep-  
20 tember 30, 2015, 2025, 2035, and 2039, if the result is  
21 a surplus, that amount shall be transferred to the Postal  
22 Service Retiree Health Benefits Fund, and any prior am-  
23 ortization schedule for payments shall be terminated.

24 “(D) Amortization schedules established under this  
25 paragraph shall be set in accordance with generally accept-

1 ed actuarial practices and principles, with interest com-  
2 puted at the rate used in the most recent valuation of the  
3 Civil Service Retirement System.

4 “(E) The United States Postal Service shall pay the  
5 amounts so determined to the Office, with payments due  
6 not later than the date scheduled by the Office.

7 “(3) Notwithstanding any other provision of law, in  
8 computing the amount of any payment under any other  
9 subsection of this section that is based upon the amount  
10 of the unfunded liability, such payment shall be computed  
11 disregarding that portion of the unfunded liability that the  
12 Office determines will be liquidated by payments under  
13 this subsection.”

14 (b) CREDIT ALLOWED FOR MILITARY SERVICE.—In  
15 the application of section 8348(g)(2) of title 5, United  
16 States Code, for the fiscal year 2006, the Office of Per-  
17 sonnel Management shall include, in addition to the  
18 amount otherwise computed under that paragraph, the  
19 amounts that would have been included for the fiscal years  
20 2003 through 2005 with respect to credit for military serv-  
21 ice of former employees of the United States Postal Serv-  
22 ice as though the Postal Civil Service Retirement System  
23 Funding Reform Act of 2003 (Public Law 108–18) had  
24 not been enacted, and the Secretary of the Treasury shall

1 make the required transfer to the Civil Service Retirement  
2 and Disability Fund based on that amount.

3 **SEC. 803. HEALTH INSURANCE.**

4 (a) IN GENERAL.—Chapter 89 of title 5, United  
5 States Code, is amended—

6 (1) in section 8906(g)(2)(A), by striking “shall  
7 be paid by the United States Postal Service.” and  
8 inserting “shall be paid first from the Postal Service  
9 Retiree Health Benefits Fund up to the amount con-  
10 tained in the Fund, with any remaining amount paid  
11 by the United States Postal Service.”; and

12 (2) by inserting after section 8909 the fol-  
13 lowing:

14 **“§ 8909a. Postal Service Retiree Health Benefits Fund**

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

18 “(b) The Fund is available without fiscal year limita-  
19 tion for payments required under section 8906(g)(2)(A).

20 “(c) The Secretary of the Treasury shall immediately  
21 invest, in interest-bearing securities of the United States  
22 such currently available portions of the Fund as are not  
23 immediately required for payments from the Fund. Such  
24 investments shall be made in the same manner as invest-

1 ments for the Civil Service Retirement and Disability  
2 Fund under section 8348.

3       “(d)(1) Not later than December 31, 2006, and by  
4 December 31 of each succeeding year, the Office shall  
5 compute the net present value of the future payments re-  
6 quired under section 8906(g)(2)(A) and attributable to  
7 the service of Postal Service employees during the most  
8 recently ended fiscal year.

9       “(2)(A) Not later than December 31, 2006, the Of-  
10 fice shall compute, and by December 31 of each suc-  
11 ceeding year, the Office shall recompute the difference be-  
12 tween—

13           “(i) the net present value of the excess of fu-  
14 ture payments required under section 8906(g)(2)(A)  
15 for current and future United States Postal Service  
16 annuitants as of the end of the fiscal year ending on  
17 September 30 of that year; and

18           “(ii)(I) the value of the assets of the Postal Re-  
19 tiree Health Benefits Fund as of the end of the fis-  
20 cal year ending on September 30 of that year; and

21           “(II) the net present value computed under  
22 paragraph (1).

23       “(B) Not later than December 31, 2006, the Office  
24 shall compute, and by December 31 of each succeeding  
25 year shall recompute, an amortization schedule including

1 a series of annual installments which provide for the liq-  
 2 uidation by January 31, 2046, or within 15 years, which-  
 3 ever is later, of the net present value determined under  
 4 subparagraph (A), including interest at the rate used in  
 5 that computation.

6 “(3) Not later than January 31, 2007, and by Janu-  
 7 ary 31 of each succeeding year, the United States Postal  
 8 Service shall pay into such Fund—

9 “(A) the net present value computed under  
 10 paragraph (1); and

11 “(B) the annual installment computed under  
 12 paragraph (2)(B).

13 “(4) Computations under this subsection shall be  
 14 made consistent with the assumptions and methodology  
 15 used by the Office for financial reporting under sub-  
 16 chapter H of chapter 35 of title 31.

17 “(5) After consultation with the United States Postal  
 18 Service, the Office shall promulgate any regulations the  
 19 Office determines necessary under this subsection.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 21 The table of sections for chapter 89 of title 5, United  
 22 States Code, is amended by inserting after the item relat-  
 23 ing to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

1 **SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

2 Section 3 of the Postal Civil Service Retirement Sys-  
 3 tem Funding Reform Act of 2003 (Public Law 108-18)  
 4 is repealed.

5 **SEC. 805. EFFECTIVE DATES.**

6 (a) **IN GENERAL.**—Except as provided under sub-  
 7 section (b), this title shall take effect on October 1, 2005.

8 (b) **TERMINATION OF EMPLOYER CONTRIBUTION.**—  
 9 The amendment made by paragraph (1) of section 802(a)  
 10 shall take effect on the first day of the first pay period  
 11 beginning on or after October 1, 2005.

12 **TITLE IX—COMPENSATION FOR**  
 13 **WORK INJURIES**

14 **SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

15 (a) **TIME OF ACCRUAL OF RIGHT.**—Section 8117 of  
 16 title 5, United States Code, is amended—

17 (1) by striking “An employee” and inserting  
 18 “(a) An employee other than a Postal Service em-  
 19 ployee”; and

20 (2) by adding at the end the following:

21 “(b) A Postal Service employee is not entitled to com-  
 22 pensation or continuation of pay for the first 3 days of  
 23 temporary disability. A Postal Service employee may use  
 24 annual leave, sick leave, or leave without pay during that  
 25 3-day period.”

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 2 Section 8118(b)(1) of title 5, United States Code, is  
 3 amended to read as follows:

4 “(1) without a break in time, except as pro-  
 5 vided under section 8117;”.

6 **SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-**  
 7 **EES.**

8 (a) TOTAL DISABILITY.—Section 8105 of title 5,  
 9 United States Code, is amended—

10 (1) in subsection (a), by adding at the end the  
 11 following: “This section applies to a Postal Service  
 12 employee, except as provided under subsection (e).”;  
 13 and

14 (2) by adding at the end the following:

15 “(e)(1) In this subsection, the term ‘retirement age’  
 16 has the meaning given under section 216(l)(1) of the So-  
 17 cial Security Act (42 U.S.C. 416(l)(1)).

18 “(2) Notwithstanding any other provision of law, for  
 19 any injury occurring on or after the date of enactment  
 20 of the Postal Accountability and Enhancement Act, and  
 21 for any new claim for a period of disability commencing  
 22 on or after that date, the compensation entitlement for  
 23 total disability is converted to 50 percent of the monthly  
 24 pay of the employee on the later of—

1           “(A) the date on which the injured employee  
2 reaches retirement age; or

3           “(B) 1 year after the employee begins receiving  
4 compensation.”.

5       (b) PARTIAL DISABILITY.—Section 8106 of title 5,  
6 United States Code, is amended—

7           (1) in subsection (a), by adding at the end the  
8 following: “This section applies to a Postal Service  
9 employee, except as provided under subsection (d).”;  
10 and

11           (2) by adding at the end the following:

12           “(d)(1) In this subsection, the term ‘retirement age’  
13 has the meaning given under section 216(l)(1) of the So-  
14 cial Security Act (42 U.S.C. 416(l)(1)).

15           “(2) Notwithstanding any other provision of  
16 law, for any injury occurring on or after the date of  
17 enactment of this subsection, and for any new claim  
18 for a period of disability commencing on or after  
19 that date, the compensation entitlement for partial  
20 disability is converted to 50 percent of the difference  
21 between the monthly pay of an employee and the  
22 monthly wage earning capacity of the employee after  
23 the beginning of partial disability on the later of—

24           “(A) the date on which the injured em-  
25 ployee reaches retirement age; or

1                   “~~(B)~~ 1 year after the employee begins re-  
2                   ceiving compensation.”.

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4           (a) *SHORT TITLE.*—*This Act may be cited as the*  
5 *“Postal Accountability and Enhancement Act”.*

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

*Sec. 1. Short title; table of contents.*

*TITLE I—DEFINITIONS; POSTAL SERVICES*

*Sec. 101. Definitions.*

*Sec. 102. Postal services.*

*TITLE II—MODERN RATE REGULATION*

*Sec. 201. Provisions relating to market-dominant products.*

*Sec. 202. Provisions relating to competitive products.*

*Sec. 203. Provisions relating to experimental and new products.*

*Sec. 204. Reporting requirements and related provisions.*

*Sec. 205. Complaints; appellate review and enforcement.*

*Sec. 206. Clerical amendment.*

*TITLE III—MODERN SERVICE STANDARDS*

*Sec. 301. Establishment of modern service standards.*

*Sec. 302. Postal service plan.*

*TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION*

*Sec. 401. Postal Service Competitive Products Fund.*

*Sec. 402. Assumed Federal income tax on competitive products income.*

*Sec. 403. Unfair competition prohibited.*

*Sec. 404. Suits by and against the Postal Service.*

*Sec. 405. International postal arrangements.*

*TITLE V—GENERAL PROVISIONS*

*Sec. 501. Qualification and term requirements for Governors.*

*Sec. 502. Obligations.*

*Sec. 503. Private carriage of letters.*

*Sec. 504. Rulemaking authority.*

*Sec. 505. Noninterference with collective bargaining agreements.*

*TITLE VI—ENHANCED REGULATORY COMMISSION*

*Sec. 601. Reorganization and modification of certain provisions relating to the*  
*Postal Regulatory Commission.*

*Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.*

*Sec. 603. Appropriations for the Postal Regulatory Commission.*



1           “(6) ‘product’ means a postal service with a dis-  
2           tinct cost or market characteristic for which a rate or  
3           rates are applied;

4           “(7) ‘rates’, as used with respect to products, in-  
5           cludes fees for postal services;

6           “(8) ‘market-dominant product’ or ‘product in  
7           the market-dominant category of mail’ means a prod-  
8           uct subject to subchapter I of chapter 36; and

9           “(9) ‘competitive product’ or ‘product in the  
10          competitive category of mail’ means a product subject  
11          to subchapter II of chapter 36; and

12          “(10) ‘year’, as used in chapter 36 (other than  
13          subchapters I and VI thereof), means a fiscal year.”.

14 **SEC. 102. POSTAL SERVICES.**

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

17                  (1) in subsection (a), by striking paragraph (6)  
18                  and by redesignating paragraphs (7) through (9) as  
19                  paragraphs (6) through (8), respectively; and

20                  (2) by adding at the end the following:

21                  “(c) Except as provided in section 411, nothing in this  
22          title shall be considered to permit or require that the Postal  
23          Service provide any special nonpostal or similar services.”.

24          (b) *CONFORMING AMENDMENTS.*—(1) Section  
25          1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98

1 *Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)* is amended by  
2 striking “404(a)(8)” and inserting “404(a)(7)”.

3 (2) Section 2003(b)(1) of title 39, United States Code,  
4 is amended by striking “and nonpostal”.

5 **TITLE II—MODERN RATE**  
6 **REGULATION**

7 **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT**  
8 **PRODUCTS.**

9 (a) *IN GENERAL.*—Chapter 36 of title 39, United  
10 States Code, is amended by striking sections 3621, 3622,  
11 and 3623 and inserting the following:

12 **“§ 3621. Applicability; definitions**

13 “(a) *APPLICABILITY.*—This subchapter shall apply  
14 with respect to—

15 “(1) first-class mail letters and sealed parcels;

16 “(2) first-class mail cards;

17 “(3) periodicals;

18 “(4) standard mail;

19 “(5) single-piece parcel post;

20 “(6) media mail;

21 “(7) bound printed matter;

22 “(8) library mail;

23 “(9) special services; and

24 “(10) single-piece international mail,

1 *subject to any changes the Postal Regulatory Commission*  
2 *may make under section 3642.*

3 “(b) *RULE OF CONSTRUCTION.*—*Mail matter referred*  
4 *to in subsection (a) shall, for purposes of this subchapter,*  
5 *be considered to have the meaning given to such mail matter*  
6 *under the mail classification schedule.*

7 “§ 3622. **Modern rate regulation**

8 “(a) *AUTHORITY GENERALLY.*—*The Postal Regulatory*  
9 *Commission shall, within 12 months after the date of the*  
10 *enactment of this section, by regulation establish (and may*  
11 *from time to time thereafter by regulation revise) a modern*  
12 *system for regulating rates and classes for market-dominant*  
13 *products.*

14 “(b) *OBJECTIVES.*—*Such system shall be designed to*  
15 *achieve the following objectives:*

16 “(1) *To reduce the administrative burden and*  
17 *increase the transparency of the ratemaking process*  
18 *while affording reasonable opportunities for interested*  
19 *parties to participate in that process.*

20 “(2) *To create predictability and stability in*  
21 *rates.*

22 “(3) *To maximize incentives to reduce costs and*  
23 *increase efficiency.*

24 “(4) *To enhance mail security and deter ter-*  
25 *rorism by promoting secure, sender-identified mail.*

1           “(5) *To allow the Postal Service pricing flexi-*  
2           *bility, including the ability to use pricing to promote*  
3           *intelligent mail and encourage increased mail volume*  
4           *during nonpeak periods.*

5           “(6) *To assure adequate revenues, including re-*  
6           *tained earnings, to maintain financial stability and*  
7           *meet the service standards established under section*  
8           *3691.*

9           “(7) *To allocate the total institutional costs of*  
10          *the Postal Service equitably between market-dominant*  
11          *and competitive products.*

12          “(c) *FACTORS.—In establishing or revising such sys-*  
13          *tem, the Postal Regulatory Commission shall take into ac-*  
14          *count—*

15                 “(1) *the establishment and maintenance of a fair*  
16                 *and equitable schedule for rates and classification sys-*  
17                 *tem;*

18                 “(2) *the value of the mail service actually pro-*  
19                 *vided each class or type of mail service to both the*  
20                 *sender and the recipient, including but not limited to*  
21                 *the collection, mode of transportation, and priority of*  
22                 *delivery;*

23                 “(3) *the requirement that each class of mail or*  
24                 *type of mail service bear the direct and indirect post-*  
25                 *al costs attributable to each class or type of mail serv-*

1        *ice plus that portion of all other costs of the Postal*  
2        *Service reasonably assignable to such class or type;*

3            *“(4) the effect of rate increases upon the general*  
4        *public, business mail users, and enterprises in the*  
5        *private sector of the economy engaged in the delivery*  
6        *of mail matter other than letters;*

7            *“(5) the available alternative means of sending*  
8        *and receiving letters and other mail matter at reason-*  
9        *able costs;*

10           *“(6) the degree of preparation of mail for deliv-*  
11        *ery into the postal system performed by the mailer*  
12        *and its effect upon reducing costs to the Postal Serv-*  
13        *ice;*

14           *“(7) simplicity of structure for the entire sched-*  
15        *ule and simple, identifiable relationships between the*  
16        *rates or fees charged the various classes of mail for*  
17        *postal services;*

18           *“(8) the relative value to the people of the kinds*  
19        *of mail matter entered into the postal system and the*  
20        *desirability and justification for special classifica-*  
21        *tions and services of mail;*

22           *“(9) the importance of providing classifications*  
23        *with extremely high degrees of reliability and speed of*  
24        *delivery and of providing those that do not require*  
25        *high degrees of reliability and speed of delivery;*

1           “(10) the desirability of special classifications  
2           from the point of view of both the user and of the  
3           Postal Service;

4           “(11) the educational, cultural, scientific, and  
5           informational value to the recipient of mail matter;  
6           and

7           “(12) the policies of this title as well as such  
8           other factors as the Commission deems appropriate.

9           “(d) *REQUIREMENTS.*—The system for regulating rates  
10          and classes for market-dominant products shall—

11           “(1) require the Postal Regulatory Commission  
12           to set annual limitations on the percentage changes in  
13           rates based on inflation using indices, such as the  
14           Consumer Price Index, the Employment Cost Index,  
15           the Gross Domestic Product Price Index, or any simi-  
16           lar measure as the Postal Regulatory Commission  
17           may prescribe;

18           “(2) establish a schedule whereby rates, when  
19           necessary and appropriate, would change at regular  
20           intervals by predictable amounts;

21           “(3) not later than 45 days before the implemen-  
22           tation of any adjustment in rates under this sec-  
23           tion—

24           “(A) require the Postal Service to provide  
25           public notice of the adjustment;

1           “(B) provide an opportunity for review by  
2           the Postal Regulatory Commission;

3           “(C) provide for the Postal Regulatory  
4           Commission to notify the Postal Service of any  
5           noncompliance of the adjustment with the limi-  
6           tation under paragraph (1); and

7           “(D) require the Postal Service to respond  
8           to the notice provided under subparagraph (C)  
9           and describe the actions to be taken to comply  
10          with the limitation under paragraph (1).

11          “(4) notwithstanding any limitation set under  
12          paragraphs (1) and (3), establish procedures whereby  
13          rates may be adjusted on an expedited basis due to  
14          unexpected and extraordinary circumstances.

15          “(e) WORKSHARE DISCOUNTS.—

16                 “(1) DEFINITION.—In this subsection, the term  
17                 ‘workshare discount’ refers to rate discounts provided  
18                 to mailers for the presorting, prebarcoding, handling,  
19                 or transportation of mail, as further defined by the  
20                 Postal Regulatory Commission under subsection (a).

21                 “(2) REGULATIONS.—As part of the regulations  
22                 established under subsection (a), the Postal Regu-  
23                 latory Commission shall establish rules for workshare  
24                 discounts that ensure that such discounts do not ex-

1 *ceed the cost that the Postal Service avoids as a result*  
2 *of workshare activity, unless—*

3 *“(A) the discount is—*

4 *“(i) associated with a new postal serv-*  
5 *ice or with a change to an existing postal*  
6 *service; and*

7 *“(ii) necessary, over a period of time*  
8 *not to exceed 4 years, to induce mailer be-*  
9 *havior that furthers the economically effi-*  
10 *cient operation of the Postal Service;*

11 *“(B) a reduction in the discount would—*

12 *“(i) lead to a loss of volume in the af-*  
13 *ected category of mail and reduce the ag-*  
14 *gregate contribution to institutional costs of*  
15 *the Postal Service from the mail matter*  
16 *subject to the discount below what it other-*  
17 *wise would have been if the discount had*  
18 *not been reduced to costs avoided;*

19 *“(ii) result in a further increase in the*  
20 *rates paid by mailers not able to take ad-*  
21 *vantage of the discount; or*

22 *“(iii) impede the efficient operation of*  
23 *the Postal Service;*

24 *“(C) the amount of the discount above costs*  
25 *avoided—*



1           “(1) *AUTHORITY.*—*The Postal Service may enter*  
2           *into service agreements with a customer or group of*  
3           *customers that provide for the provision of postal*  
4           *services under terms, conditions, or service standards*  
5           *that differ from those that would apply under the oth-*  
6           *erwise applicable classification of market-dominant*  
7           *mail.*

8           “(2) *AGREEMENTS.*—*An agreement under this*  
9           *section may involve—*

10                   “(A) *performance by the contracting mail*  
11                   *user of mail preparation, processing, transpor-*  
12                   *tation, or other functions;*

13                   “(B) *performance by the Postal Service of*  
14                   *additional mail preparation, processing, trans-*  
15                   *portation, or other functions; or*

16                   “(C) *other terms and conditions that meet*  
17                   *the requirements of subsections (b) and (c).*

18           “(b) *REQUIREMENTS.*—*A service agreement under this*  
19           *section may be entered into only if each of the following*  
20           *conditions is met:*

21                   “(1) *The total revenue generated under the agree-*  
22                   *ment—*

23                   “(A) *will cover all Postal Service costs at-*  
24                   *tributable to the postal services covered by the*  
25                   *agreement; and*

1           “(B) will result in no less contribution to  
2           the institutional costs of the Postal Service than  
3           would have been generated had the agreement not  
4           been entered into.

5           “(2) Rates or fees for other mailers will not in-  
6           crease as a result of the agreement.

7           “(3) The agreement pertains exclusively to prod-  
8           ucts in the market-dominant category of mail.

9           “(4) The agreement will not preclude or materi-  
10          ally hinder similarly situated mail users from enter-  
11          ing into agreements with the Postal Service on the  
12          same, or substantially the same terms or conditions,  
13          and the Postal Service remains willing and able to  
14          enter into such.

15          “(c) *LIMITATIONS.*—A service agreement under this  
16          section shall—

17                 “(1) be for a term not to exceed 3 years; and

18                 “(2) provide that such agreement shall be subject  
19          to the cancellation authority of the Commission under  
20          section 3662.

21          “(d) *NOTICE REQUIREMENTS.*—

22                 “(1) *IN GENERAL.*—At least 30 days before a  
23          service agreement under this section is to take effect,  
24          the Postal Service shall file with the Postal Regu-  
25          latory Commission and publish in the Federal Reg-

1 *ister the following information with respect to such*  
2 *agreement:*

3 *“(A) A description of the postal services the*  
4 *agreement involves.*

5 *“(B) A description of the functions the cus-*  
6 *tomer is to perform under the agreement.*

7 *“(C) A description of the functions the Post-*  
8 *al Service is to perform under the agreement.*

9 *“(D) The rates and fees payable by the cus-*  
10 *tomer during the term of the agreement.*

11 *“(E) With respect to each condition under*  
12 *subsection (b), information sufficient to dem-*  
13 *onstrate the bases for the view of the Postal Serv-*  
14 *ice that such condition would be met.*

15 *“(2) AGREEMENTS LESS THAN NATIONAL IN*  
16 *SCOPE.—In the case of a service agreement under this*  
17 *section that is less than national in scope, the infor-*  
18 *mation described under paragraph (1) shall also be*  
19 *published by the Postal Service in a manner designed*  
20 *to afford reasonable notice to persons within any geo-*  
21 *graphic area to which such agreement (or any amend-*  
22 *ment to that agreement) pertains.*

23 *“(e) EQUAL TREATMENT REQUIRED.—If the Postal*  
24 *Service enters into a service agreement with a mailer under*  
25 *this section, the Postal Service shall make such agreement*

1 *available to similarly situated mailers on functionally*  
2 *equivalent terms and conditions consistent with the regu-*  
3 *latory system established under section 3622 without unrea-*  
4 *sonable distinctions based on mailer profiles, provided that*  
5 *such distinctions, if ignored, would not render any subse-*  
6 *quent agreement uneconomic or impractical.*

7       “(f) *COMPLAINTS.—Any person who believes that a*  
8 *service agreement under this section is not in conformance*  
9 *with the requirements of this section, or who is aggrieved*  
10 *by a decision of the Postal Service not to enter into an*  
11 *agreement under this section, may file a complaint with*  
12 *the Postal Regulatory Commission in accordance with sec-*  
13 *tion 3662.*

14       “(g) *POSTAL REGULATORY COMMISSION ROLE.—*

15               “(1) *REGULATIONS.—The Postal Regulatory*  
16 *Commission may promulgate such regulations regard-*  
17 *ing service agreements as the Commission determines*  
18 *necessary to implement the requirements of this sec-*  
19 *tion.*

20               “(2) *REVIEW.—The Postal Regulatory Commis-*  
21 *sion may review any agreement or proposed agree-*  
22 *ment under this section and may suspend, cancel, or*  
23 *prevent such agreement if the Commission finds that*  
24 *the agreement does not meet the requirements of this*  
25 *section.*

1       “(h) *INTERPRETATION.*—*The determination of whether*  
 2 *the revenue generated under the agreement meets the re-*  
 3 *quirements of subsection (b)(1)(B) shall be based, to the ex-*  
 4 *tent practicable, on the actual contribution of the mail in-*  
 5 *volved, not on the average contribution made by the mail*  
 6 *classification most similar to the services performed under*  
 7 *the agreement. If mailer-specific data is not available, the*  
 8 *bases for the determination used shall be provided and shall*  
 9 *include a discussion of the suitability of the data used, in*  
 10 *accordance with regulations established by the Postal Regu-*  
 11 *latory Commission.*”.

12       (b) *REPEALED SECTIONS.*—*Sections 3624, 3625, and*  
 13 *3628 of title 39, United States Code, are repealed.*

14       (c) *REDESIGNATION.*—*Chapter 36 of title 39, United*  
 15 *States Code (as in effect after the amendment made by sec-*  
 16 *tion 601, but before the amendment made by section 202)*  
 17 *is amended by striking the heading for subchapter II and*  
 18 *inserting the following:*

19       “*SUBCHAPTER I—PROVISIONS RELATING TO*  
 20                *MARKET-DOMINANT PRODUCTS*”.

21       ***SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-***  
 22                ***UCTS.***

23       *Chapter 36 of title 39, United States Code, is amended*  
 24 *by inserting after section 3629 the following:*



1 **“§ 3632. Action of the Governors**

2       “(a) *AUTHORITY TO ESTABLISH RATES AND CLASS-*  
3 *ES.—The Governors, with the written concurrence of a ma-*  
4 *jority of all of the Governors then holding office, shall estab-*  
5 *lish rates and classes for products in the competitive cat-*  
6 *egory of mail in accordance with the requirements of this*  
7 *subchapter and regulations promulgated under section*  
8 *3633.*

9       “(b) *PROCEDURES.—*

10           “(1) *IN GENERAL.—Rates and classes shall be es-*  
11 *tablished in writing, complete with a statement of ex-*  
12 *planation and justification, and the date as of which*  
13 *each such rate or class takes effect.*

14           “(2) *PUBLIC NOTICE; REVIEW; AND COMPLI-*  
15 *ANCE.—Not later than 30 days before the date of im-*  
16 *plementation of any adjustment in rates under this*  
17 *section—*

18                   “(A) *the Governors shall provide public no-*  
19 *tice of the adjustment and an opportunity for re-*  
20 *view by the Postal Regulatory Commission;*

21                   “(B) *the Postal Regulatory Commission*  
22 *shall notify the Governors of any noncompliance*  
23 *of the adjustment with section 3633; and*

24                   “(C) *the Governors shall respond to the no-*  
25 *tice provided under subparagraph (B) and de-*

1           *scribe the actions to be taken to comply with sec-*  
 2           *tion 3633.*

3           “(c) *TRANSITION RULE.—Until regulations under sec-*  
 4           *tion 3633 first take effect, rates and classes for competitive*  
 5           *products shall remain subject to modification in accordance*  
 6           *with the provisions of this chapter and section 407, as such*  
 7           *provisions were as last in effect before the date of the enact-*  
 8           *ment of this section.*

9           **“§3633. Provisions applicable to rates for competitive**  
 10           ***products***

11           *“The Postal Regulatory Commission shall, within 180*  
 12           *days after the date of the enactment of this section, promul-*  
 13           *gate (and may from time to time thereafter revise) regula-*  
 14           *tions to—*

15           *“(1) prohibit the subsidization of competitive*  
 16           *products by market-dominant products;*

17           *“(2) ensure that each competitive product covers*  
 18           *its costs attributable; and*

19           *“(3) ensure that all competitive products collec-*  
 20           *tively cover their share of the institutional costs of the*  
 21           *Postal Service.”.*

22           **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**  
 23           ***NEW PRODUCTS.***

24           *Subchapter III of chapter 36 of title 39, United States*  
 25           *Code, is amended to read as follows:*

1 “SUBCHAPTER III—PROVISIONS RELATING TO  
2 EXPERIMENTAL AND NEW PRODUCTS

3 “§ 3641. *Market tests of experimental products*

4 “(a) *AUTHORITY.*—

5 “(1) *IN GENERAL.*—*The Postal Service may con-*  
6 *duct market tests of experimental products in accord-*  
7 *ance with this section.*

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

12 “(b) *CONDITIONS.*—*A product may not be tested under*  
13 *this section unless it satisfies each of the following:*

14 “(1) *SIGNIFICANTLY DIFFERENT PRODUCT.*—*The*  
15 *product is, from the viewpoint of the mail users, sig-*  
16 *nificantly different from all products offered by the*  
17 *Postal Service within the 2-year period preceding the*  
18 *start of the test.*

19 “(2) *MARKET DISRUPTION.*—*The introduction or*  
20 *continued offering of the product will not create an*  
21 *unfair or otherwise inappropriate competitive advan-*  
22 *tage for the Postal Service or any mailer, particularly*  
23 *in regard to small business concerns (as defined under*  
24 *subsection (h)).*

1           “(3) *CORRECT CATEGORIZATION.*—*The Postal*  
2           *Service identifies the product, for the purpose of a test*  
3           *under this section, as either market-dominant or com-*  
4           *petitive, consistent with the criteria under section*  
5           *3642(b)(1). Costs and revenues attributable to a prod-*  
6           *uct identified as competitive shall be included in any*  
7           *determination under section 3633(3)(relating to pro-*  
8           *visions applicable to competitive products collec-*  
9           *tively). Any test that solely affects products currently*  
10           *classified as competitive, or which provides services*  
11           *ancillary to only competitive products, shall be pre-*  
12           *sumed to be in the competitive product category with-*  
13           *out regard to whether a similar ancillary product ex-*  
14           *ists for market-dominant products.*

15           “(c) *NOTICE.*—

16           “(1) *IN GENERAL.*—*At least 30 days before initi-*  
17           *ating a market test under this section, the Postal*  
18           *Service shall file with the Postal Regulatory Commis-*  
19           *sion and publish in the Federal Register a notice—*

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

23                   “(B) *describing the nature and scope of the*  
24                   *market test.*

1           “(2) *SAFEGUARDS.*—*For a competitive experi-*  
2           *mental product, the provisions of section 504(g) shall*  
3           *be available with respect to any information required*  
4           *to be filed under paragraph (1) to the same extent*  
5           *and in the same manner as in the case of any matter*  
6           *described in section 504(g)(1). Nothing in paragraph*  
7           *(1) shall be considered to permit or require the publi-*  
8           *cation of any information as to which confidential*  
9           *treatment is accorded under the preceding sentence*  
10           *(subject to the same exception as set forth in section*  
11           *504(g)(3)).*

12           “(d) *DURATION.*—

13           “(1) *IN GENERAL.*—*A market test of a product*  
14           *under this section may be conducted over a period of*  
15           *not to exceed 24 months.*

16           “(2) *EXTENSION AUTHORITY.*—*If necessary in*  
17           *order to determine the feasibility or desirability of a*  
18           *product being tested under this section, the Postal*  
19           *Regulatory Commission may, upon written applica-*  
20           *tion of the Postal Service (filed not later than 60 days*  
21           *before the date as of which the testing of such product*  
22           *would otherwise be scheduled to terminate under*  
23           *paragraph (1)), extend the testing of such product for*  
24           *not to exceed an additional 12 months.*

25           “(e) *DOLLAR-AMOUNT LIMITATION.*—

1           “(1) *IN GENERAL.*—A product may only be test-  
2           *ed under this section if the total revenues that are an-*  
3           *ticipated, or in fact received, by the Postal Service*  
4           *from such product do not exceed \$10,000,000 in any*  
5           *year, subject to paragraph (2) and subsection (g).*

6           “(2) *EXEMPTION AUTHORITY.*—The Postal Regu-  
7           *latory Commission may, upon written application of*  
8           *the Postal Service, exempt the market test from the*  
9           *limit in paragraph (1) if the total revenues that are*  
10          *anticipated, or in fact received, by the Postal Service*  
11          *from such product do not exceed \$50,000,000 in any*  
12          *year, subject to subsection (g). In reviewing an appli-*  
13          *cation under this paragraph, the Postal Regulatory*  
14          *Commission shall approve such application if it de-*  
15          *termines that—*

16                 “(A) *the product is likely to benefit the pub-*  
17                 *lic and meet an expected demand;*

18                 “(B) *the product is likely to contribute to*  
19                 *the financial stability of the Postal Service; and*

20                 “(C) *the product is not likely to result in*  
21                 *unfair or otherwise inappropriate competition.*

22           “(f) *CANCELLATION.*—If the Postal Regulatory Com-  
23           *mission at any time determines that a market test under*  
24           *this section fails to meet 1 or more of the requirements of*  
25           *this section, it may order the cancellation of the test in-*

1 *involved or take such other action as it considers appropriate.*  
2 *A determination under this subsection shall be made in ac-*  
3 *cordance with such procedures as the Commission shall by*  
4 *regulation prescribe.*

5       “(g) *ADJUSTMENT FOR INFLATION.*—*For purposes of*  
6 *each year following the year in which occurs the deadline*  
7 *for the Postal Service’s first report to the Postal Regulatory*  
8 *Commission under section 3652(a), each dollar amount con-*  
9 *tained in this section shall be adjusted by the change in*  
10 *the Consumer Price Index for such year (as determined*  
11 *under regulations of the Commission).*

12       “(h) *DEFINITION OF A SMALL BUSINESS CONCERN.*—  
13 *The criteria used in defining small business concerns or oth-*  
14 *erwise categorizing business concerns as small business con-*  
15 *cerns shall, for purposes of this section, be established by*  
16 *the Postal Regulatory Commission in conformance with the*  
17 *requirements of section 3 of the Small Business Act.*

18       “(i) *EFFECTIVE DATE.*—*Market tests under this sub-*  
19 *chapter may be conducted in any year beginning with the*  
20 *first year in which occurs the deadline for the Postal Serv-*  
21 *ice’s first report to the Postal Regulatory Commission under*  
22 *section 3652(a).*

1 **“§ 3642. *New products and transfers of products be-***  
2 ***tween the market-dominant and competi-***  
3 ***tive categories of mail***

4 “(a) *IN GENERAL.*—Upon request of the Postal Service  
5 or users of the mails, or upon its own initiative, the Postal  
6 Regulatory Commission may change the list of market-dom-  
7 inant products under section 3621 and the list of competi-  
8 tive products under section 3631 by adding new products  
9 to the lists, removing products from the lists, or transferring  
10 products between the lists.

11 “(b) *CRITERIA.*—All determinations by the Postal Reg-  
12 ulatory Commission under subsection (a) shall be made in  
13 accordance with the following criteria:

14 “(1) *The market-dominant category of products*  
15 *shall consist of each product in the sale of which the*  
16 *Postal Service exercises sufficient market power that*  
17 *it can effectively set the price of such product substan-*  
18 *tially above costs, raise prices significantly, decrease*  
19 *quality, or decrease output, without risk of losing sub-*  
20 *stantial business to other firms offering similar prod-*  
21 *ucts. The competitive category of products shall con-*  
22 *sist of all other products.*

23 “(2) *EXCLUSION OF PRODUCTS COVERED BY*  
24 *POSTAL MONOPOLY.*—A product covered by the postal  
25 monopoly shall not be subject to transfer under this  
26 section from the market-dominant category of mail.

1     *For purposes of the preceding sentence, the term*  
2     *‘product covered by the postal monopoly’ means any*  
3     *product the conveyance or transmission of which is*  
4     *reserved to the United States under section 1696 of*  
5     *title 18, subject to the same exception as set forth in*  
6     *the last sentence of section 409(e)(1).*

7             “(3) *ADDITIONAL CONSIDERATIONS.—In making*  
8     *any decision under this section, due regard shall be*  
9     *given to—*

10                 “(A) *the availability and nature of enter-*  
11     *prises in the private sector engaged in the deliv-*  
12     *ery of the product involved;*

13                 “(B) *the views of those who use the product*  
14     *involved on the appropriateness of the proposed*  
15     *action; and*

16                 “(C) *the likely impact of the proposed ac-*  
17     *tion on small business concerns (within the*  
18     *meaning of section 3641(h)).*

19             “(c) *TRANSFERS OF SUBCLASSES AND OTHER SUBOR-*  
20     *DINATE UNITS ALLOWABLE.—Nothing in this title shall be*  
21     *considered to prevent transfers under this section from being*  
22     *made by reason of the fact that they would involve only*  
23     *some (but not all) of the subclasses or other subordinate*  
24     *units of the class of mail or type of postal service involved*

1 *(without regard to satisfaction of minimum quantity re-*  
2 *quirements standing alone).*

3 “(d) *NOTIFICATION AND PUBLICATION REQUIRE-*  
4 *MENTS.—*

5 “(1) *NOTIFICATION REQUIREMENT.—The Postal*  
6 *Service shall, whenever it requests to add a product*  
7 *or transfer a product to a different category, file with*  
8 *the Postal Regulatory Commission and publish in the*  
9 *Federal Register a notice setting out the basis for its*  
10 *determination that the product satisfies the criteria*  
11 *under subsection (b) and, in the case of a request to*  
12 *add a product or transfer a product to the competi-*  
13 *tive category of mail, that the product meets the regu-*  
14 *lations promulgated by the Postal Regulatory Com-*  
15 *mission under section 3633. The provisions of section*  
16 *504(g) shall be available with respect to any informa-*  
17 *tion required to be filed.*

18 “(2) *PUBLICATION REQUIREMENT.—The Postal*  
19 *Regulatory Commission shall, whenever it changes the*  
20 *list of products in the market-dominant or competi-*  
21 *tive category of mail, prescribe new lists of products.*  
22 *The revised lists shall indicate how and when any*  
23 *previous lists (including the lists under sections 3621*  
24 *and 3631) are superseded, and shall be published in*  
25 *the Federal Register.*



1    “SUBCHAPTER IV—REPORTING REQUIREMENTS  
2                                    AND RELATED PROVISIONS

3    **“§ 3651. Annual reports by the Commission**

4           “(a) *IN GENERAL.*—The Postal Regulatory Commis-  
5 sion shall submit an annual report to the President and  
6 the Congress concerning the operations of the Commission  
7 under this title, including the extent to which regulations  
8 are achieving the objectives under sections 3622, 3633, and  
9 3691.

10          “(b) *INFORMATION FROM POSTAL SERVICE.*—The  
11 Postal Service shall provide the Postal Regulatory Commis-  
12 sion with such information as may, in the judgment of the  
13 Commission, be necessary in order for the Commission to  
14 prepare its reports under this section.

15    **“§ 3652. Annual reports to the Commission**

16          “(a) *COSTS, REVENUES, RATES, AND SERVICE.*—*Ex-*  
17 *cept as provided in subsection (c), the Postal Service shall,*  
18 *no later than 90 days after the end of each year, prepare*  
19 *and submit to the Postal Regulatory Commission a report*  
20 *(together with such nonpublic annex to the report as the*  
21 *Commission may require under subsection (e))—*

22                 “(1) *which shall analyze costs, revenues, rates,*  
23 *and quality of service in sufficient detail to dem-*  
24 *onstrate that all products during such year complied*  
25 *with all applicable requirements of this title; and*

1           “(2) which shall, for each market-dominant  
2           product provided in such year, provide—

3                   “(A) product information, including mail  
4                   volumes; and

5                   “(B) measures of the service afforded by the  
6                   Postal Service in connection with such product,  
7                   including—

8                           “(i) the level of service (described in  
9                           terms of speed of delivery and reliability)  
10                          provided; and

11                           “(ii) the degree of customer satisfaction  
12                          with the service provided.

13   *Before submitting a report under this subsection (including*  
14   *any annex to the report and the information required under*  
15   *subsection (b)), the Postal Service shall have the informa-*  
16   *tion contained in such report (and annex) audited by the*  
17   *Inspector General. The results of any such audit shall be*  
18   *submitted along with the report to which it pertains.*

19           “(b) *INFORMATION RELATING TO WORKSHARE DIS-*  
20    *COUNTS.—The Postal Service shall include, in each report*  
21    *under subsection (a), the following information with respect*  
22    *to each market-dominant product for which a workshare*  
23    *discount was in effect during the period covered by such*  
24    *report:*

1           “(1) *The per-item cost avoided by the Postal*  
2           *Service by virtue of such discount.*

3           “(2) *The percentage of such per-item cost avoided*  
4           *that the per-item workshare discount represents.*

5           “(3) *The per-item contribution made to institu-*  
6           *tional costs.*

7           “(c) *SERVICE AGREEMENTS AND MARKET TESTS.—In*  
8           *carrying out subsections (a) and (b) with respect to service*  
9           *agreements (including service agreements entered into*  
10           *under section 3623) and experimental products offered*  
11           *through market tests under section 3641 in a year, the Post-*  
12           *al Service—*

13           “(1) *may report summary data on the costs, rev-*  
14           *enues, and quality of service by service agreement and*  
15           *market test; and*

16           “(2) *shall report such data as the Postal Regu-*  
17           *latory Commission requires.*

18           “(d) *SUPPORTING MATTER.—The Postal Regulatory*  
19           *Commission shall have access, in accordance with such reg-*  
20           *ulations as the Commission shall prescribe, to the working*  
21           *papers and any other supporting matter of the Postal Serv-*  
22           *ice and the Inspector General in connection with any infor-*  
23           *mation submitted under this section.*

24           “(e) *CONTENT AND FORM OF REPORTS.—*

1           “(1) *IN GENERAL.*—*The Postal Regulatory Com-*  
2           *mission shall, by regulation, prescribe the content and*  
3           *form of the public reports (and any nonpublic annex*  
4           *and supporting matter relating to the report) to be*  
5           *provided by the Postal Service under this section. In*  
6           *carrying out this subsection, the Commission shall*  
7           *give due consideration to—*

8                   “(A) *providing the public with timely, ade-*  
9                   *quate information to assess the lawfulness of*  
10                   *rates charged;*

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

14                   “(C) *protecting the confidentiality of com-*  
15                   *mercially sensitive information.*

16           “(2) *REVISED REQUIREMENTS.*—*The Commis-*  
17           *sion may, on its own motion or on request of an in-*  
18           *terested party, initiate proceedings (to be conducted*  
19           *in accordance with regulations that the Commission*  
20           *shall prescribe) to improve the quality, accuracy, or*  
21           *completeness of Postal Service data required by the*  
22           *Commission under this subsection whenever it shall*  
23           *appear that—*

1           “(A) *the attribution of costs or revenues to*  
2           *products has become significantly inaccurate or*  
3           *can be significantly improved;*

4           “(B) *the quality of service data has become*  
5           *significantly inaccurate or can be significantly*  
6           *improved; or*

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

10          “(f) *CONFIDENTIAL INFORMATION.—*

11           “(1) *IN GENERAL.—If the Postal Service deter-*  
12           *mines that any document or portion of a document,*  
13           *or other matter, which it provides to the Postal Regu-*  
14           *latory Commission in a nonpublic annex under this*  
15           *section or under subsection (d) contains information*  
16           *which is described in section 410(c) of this title, or ex-*  
17           *empt from public disclosure under section 552(b) of*  
18           *title 5, the Postal Service shall, at the time of pro-*  
19           *viding such matter to the Commission, notify the*  
20           *Commission of its determination, in writing, and de-*  
21           *scribe with particularity the documents (or portions*  
22           *of documents) or other matter for which confiden-*  
23           *tiality is sought and the reasons therefor.*

24           “(2) *TREATMENT.—Any information or other*  
25           *matter described in paragraph (1) to which the Com-*

1        *mission gains access under this section shall be sub-*  
 2        *ject to paragraphs (2) and (3) of section 504(g) in the*  
 3        *same way as if the Commission had received notifica-*  
 4        *tion with respect to such matter under section*  
 5        *504(g)(1).*

6        “(g) *OTHER REPORTS.*—*The Postal Service shall sub-*  
 7        *mit to the Postal Regulatory Commission, together with any*  
 8        *other submission that the Postal Service is required to make*  
 9        *under this section in a year, copies of its then most recent—*

10            *“(1) comprehensive statement under section*  
 11            *2401(e);*

12            *“(2) strategic plan under section 2802;*

13            *“(3) performance plan under section 2803; and*

14            *“(4) program performance reports under section*  
 15            *2804.*

16        **“§ 3653. Annual determination of compliance**

17        “(a) *OPPORTUNITY FOR PUBLIC COMMENT.*—*After re-*  
 18        *ceiving the reports required under section 3652 for any*  
 19        *year, the Postal Regulatory Commission shall promptly*  
 20        *provide an opportunity for comment on such reports by*  
 21        *users of the mails, affected parties, and an officer of the*  
 22        *Commission who shall be required to represent the interests*  
 23        *of the general public.*

24        “(b) *DETERMINATION OF COMPLIANCE OR NONCOMPLI-*  
 25        *ANCE.*—*Not later than 90 days after receiving the submis-*

1 sions required under section 3652 with respect to a year,  
2 the Postal Regulatory Commission shall make a written de-  
3 termination as to—

4           “(1) whether any rates or fees in effect during  
5 such year (for products individually or collectively)  
6 were not in compliance with applicable provisions of  
7 this chapter (or regulations promulgated thereunder);  
8 or

9           “(2) whether any service standards in effect dur-  
10 ing such year were not met.

11 If, with respect to a year, no instance of noncompliance  
12 is found under this subsection to have occurred in such year,  
13 the written determination shall be to that effect.

14           “(c) *IF ANY NONCOMPLIANCE IS FOUND.*—If, for a  
15 year, a timely written determination of noncompliance is  
16 made under subsection (b), the Postal Regulatory Commis-  
17 sion shall take any appropriate remedial action authorized  
18 by section 3662(c).

19           “(d) *REBUTTABLE PRESUMPTION.*—A timely written  
20 determination described in the last sentence of subsection  
21 (b) shall, for purposes of any proceeding under section 3662,  
22 create a rebuttable presumption of compliance by the Postal  
23 Service (with regard to the matters described in paragraphs  
24 (1) through (3) of subsection (b)) during the year to which  
25 such determination relates.”.

1 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCE-**  
 2 **MENT.**

3 Chapter 36 of title 39, United States Code, is amended  
 4 by striking sections 3662 and 3663 and inserting the fol-  
 5 lowing:

6 **“§ 3662. Rate and service complaints**

7 “(a) *IN GENERAL.*—Any person (including an officer  
 8 of the Postal Regulatory Commission representing the inter-  
 9 ests of the general public) who believes the Postal Service  
 10 is not operating in conformance with the requirements of  
 11 chapter 1, 4, or 6, or this chapter (or regulations promul-  
 12 gated under any of those chapters) may lodge a complaint  
 13 with the Postal Regulatory Commission in such form and  
 14 manner as the Commission may prescribe.

15 “(b) *PROMPT RESPONSE REQUIRED.*—

16 “(1) *IN GENERAL.*—The Postal Regulatory Com-  
 17 mission shall, within 90 days after receiving a com-  
 18 plaint under subsection (a), either—

19 “(A) begin proceedings on such complaint;

20 or

21 “(B) issue an order dismissing the com-  
 22 plaint (together with a statement of the reasons  
 23 therefor).

24 “(2) *TREATMENT OF COMPLAINTS NOT TIMELY*  
 25 *ACTED ON.*—For purposes of section 3663, any com-  
 26 plaint under subsection (a) on which the Commission

1       *fails to act in the time and manner required by para-*  
2       *graph (1) shall be treated in the same way as if it*  
3       *had been dismissed under an order issued by the*  
4       *Commission on the last day allowable for the issuance*  
5       *of such order under paragraph (1).*

6       “(c) *ACTION REQUIRED IF COMPLAINT FOUND TO BE*  
7       *JUSTIFIED.—If the Postal Regulatory Commission finds the*  
8       *complaint to be justified, it shall order that the Postal Serv-*  
9       *ice take such action as the Commission considers appro-*  
10       *priate in order to achieve compliance with the applicable*  
11       *requirements and to remedy the effects of any noncompli-*  
12       *ance including ordering unlawful rates to be adjusted to*  
13       *lawful levels, ordering the cancellation of market tests, or-*  
14       *dering the Postal Service to discontinue providing loss-mak-*  
15       *ing products, and requiring the Postal Service to make up*  
16       *for revenue shortfalls in competitive products.*

17       “(d) *AUTHORITY TO ORDER FINES IN CASES OF DE-*  
18       *LIBERATE NONCOMPLIANCE.—In addition, in cases of delib-*  
19       *erate noncompliance by the Postal Service with the require-*  
20       *ments of this title, the Postal Regulatory Commission may*  
21       *order, based on the nature, circumstances, extent, and seri-*  
22       *ousness of the noncompliance, a fine (in the amount speci-*  
23       *fied by the Commission in its order) for each incidence of*  
24       *noncompliance. Fines resulting from the provision of com-*  
25       *petitive products shall be paid out of the Competitive Prod-*

1 *ucts Fund established in section 2011. All receipts from*  
 2 *finest imposed under this subsection shall be deposited in*  
 3 *the general fund of the Treasury of the United States.*

4 **“§ 3663. Appellate review**

5 *“A person, including the Postal Service, adversely af-*  
 6 *ected or aggrieved by a final order or decision of the Postal*  
 7 *Regulatory Commission may, within 30 days after such*  
 8 *order or decision becomes final, institute proceedings for re-*  
 9 *view thereof by filing a petition in the United States Court*  
 10 *of Appeals for the District of Columbia. The court shall re-*  
 11 *view the order or decision in accordance with section 706*  
 12 *of title 5, and chapter 158 and section 2112 of title 28,*  
 13 *on the basis of the record before the Commission.*

14 **“§ 3664. Enforcement of orders**

15 *“The several district courts have jurisdiction specifi-*  
 16 *cally to enforce, and to enjoin and restrain the Postal Serv-*  
 17 *ice from violating, any order issued by the Postal Regu-*  
 18 *latory Commission.”.*

19 **SEC. 206. CLERICAL AMENDMENT.**

20 *Chapter 36 of title 39, United States Code, is amended*  
 21 *by striking the heading and analysis for such chapter and*  
 22 *inserting the following:*

**“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

**“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT  
 PRODUCTS**

*“Sec.*

*“3621. Applicability; definitions.*

*“3622. Modern rate regulation.*

“3623. *Service agreements for market-dominant products.*

“[3624. *Repealed.*]

“[3625. *Repealed.*]

“3626. *Reduced Rates.*

“3627. *Adjusting free rates.*

“[3628. *Repealed.*]

“3629. *Reduced rates for voter registration purposes.*

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE  
PRODUCTS

“3631. *Applicability; definitions and updates.*

“3632. *Action of the Governors.*

“3633. *Provisions applicable to rates for competitive products.*

“3634. *Assumed Federal income tax on competitive products.*

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND  
NEW PRODUCTS

“3641. *Market tests of experimental products.*

“3642. *New products and transfers of products between the market-dominant and competitive categories of mail.*

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED  
PROVISIONS

“3651. *Annual reports by the Commission.*

“3652. *Annual reports to the Commission.*

“3653. *Annual determination of compliance.*

“SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL  
REVIEW

“3661. *Postal Services.*

“3662. *Rate and service complaints.*

“3663. *Appellate review.*

“3664. *Enforcement of orders.*

“SUBCHAPTER VI—GENERAL

“3681. *Reimbursement.*

“3682. *Size and weight limits.*

“3683. *Uniform rates for books; films, other materials.*

“3684. *Limitations.*

“3685. *Filing of information relating to periodical publications.*

“3686. *Bonus authority.*

“SUBCHAPTER VII—MODERN SERVICE STANDARDS

“3691. *Establishment of modern service standards.”.*

1           **TITLE III—MODERN SERVICE**  
2                           **STANDARDS**

3   **SEC. 301. ESTABLISHMENT OF MODERN SERVICE STAND-**  
4                           **ARDS.**

5           *Chapter 36 of title 39, United States Code, as amended*  
6 *by this Act, is further amended by adding at the end the*  
7 *following:*

8                           “**SUBCHAPTER VII—MODERN SERVICE**  
9   **STANDARDS**

10   “**§ 3691. Establishment of modern service standards**

11           “(a) **AUTHORITY GENERALLY.**—*The Postal Regulatory*  
12 *Commission shall, within 12 months after the date of the*  
13 *enactment of this section, by regulation establish (and may*  
14 *from time to time thereafter by regulation revise) a set of*  
15 *service standards for market-dominant products consistent*  
16 *with sections 101 (a) and (b) and 403.*

17           “(b) **OBJECTIVES.**—*Such standards shall be designed*  
18 *to achieve the following objectives:*

19                           “(1) *To enhance and preserve the value of postal*  
20 *services to both senders and recipients.*

21                           “(2) *To provide a system of objective external*  
22 *performance measurements for each market-dominant*  
23 *product as a basis for measurement of Postal Service*  
24 *performance.*

1           “(3) *To guarantee Postal Service customers de-*  
2           *livery reliability, speed and frequency consistent with*  
3           *reasonable rates and best business practices.*

4           “(c) *FACTORS.—In establishing or revising such stand-*  
5           *ards, the Postal Regulatory Commission shall take into ac-*  
6           *count—*

7           “(1) *the actual level of service that Postal Service*  
8           *customers receive under any service guidelines pre-*  
9           *viously established by the Postal Service or service*  
10          *standards established under this section;*

11          “(2) *the degree of customer satisfaction with*  
12          *Postal Service performance in the acceptance, proc-*  
13          *essing and delivery of mail;*

14          “(3) *mail volume and revenues projected for fu-*  
15          *ture years;*

16          “(4) *the projected growth in the number of ad-*  
17          *dresses the Postal Service will be required to serve in*  
18          *future years;*

19          “(5) *the current and projected future cost of serv-*  
20          *ing Postal Service customers;*

21          “(6) *the effect of changes in technology, demo-*  
22          *graphics and population distribution on the efficient*  
23          *and reliable operation of the postal delivery system;*  
24          *and*

1           “(7) the policies of this title as well as such other  
2           factors as the Commission determines appropriate.”.

3 **SEC. 302. POSTAL SERVICE PLAN.**

4           (a) *IN GENERAL.*—Within 6 months after the estab-  
5           lishment of the service standards under section 3691 of title  
6           39, United States Code, as added by this Act, the Postal  
7           Service shall, in consultation with the Postal Regulatory  
8           Commission, develop and submit to Congress a plan for  
9           meeting those standards.

10          (b) *CONTENT.*—The plan under this section shall—

11           (1) establish performance goals;

12           (2) describe any changes to the Postal Service’s  
13           processing, transportation, delivery, and retail net-  
14           works necessary to allow the Postal Service to meet  
15           the performance goals; and

16           (3) describe any changes to planning and per-  
17           formance management documents previously sub-  
18           mitted to Congress to reflect new performance goals.

19          (c) *POSTAL FACILITIES.*—The Postal Service plan  
20           shall include a description of its long-term vision for  
21           rationalizing its infrastructure and workforce and how it  
22           intends to implement that vision, including—

23           (1) a strategy for how it intends to rationalize  
24           the postal facilities network and remove excess proc-  
25           essing capacity and space from the network, includ-

1        *ing estimated timeframes, criteria and processes to be*  
2        *used for making changes to the facilities network, and*  
3        *the process for engaging policy makers and the public*  
4        *in related decisions;*

5            (2) *an update on how postal decisions related to*  
6        *mail changes, security, automation initiatives,*  
7        *worksharing, information technology systems, and*  
8        *other areas will impact network rationalization*  
9        *plans;*

10           (3) *a discussion of what impact any facility*  
11        *changes may have on the postal workforce and wheth-*  
12        *er the Postal Service has sufficient flexibility to make*  
13        *needed workforce changes; and*

14           (4) *an identification of anticipated costs, cost*  
15        *savings, and other benefits associated with the infra-*  
16        *structure rationalization alternatives discussed in the*  
17        *plan.*

18        (d) *ALTERNATE RETAIL OPTIONS.—The Postal Service*  
19        *plan shall include plans to expand and market retail access*  
20        *to postal services, in addition to post offices, including—*

21            (1) *vending machines;*

22            (2) *the Internet;*

23            (3) *Postal Service employees on delivery routes;*

1           (4) retail facilities in which overhead costs are  
2           shared with private businesses and other government  
3           agencies; or

4           (5) any other nonpost office access channel pro-  
5           viding market retail access to postal services.

6           (e) *REEMPLOYMENT ASSISTANCE AND RETIREMENT*  
7 *BENEFITS.—The Postal Service plan shall include—*

8           (1) a plan under which reemployment assistance  
9           shall be afforded to employees displaced as a result of  
10          the automation of any of its functions or the closing  
11          and consolidation of any of its facilities; and

12          (2) a plan, developed in consultation with the  
13          Office of Personnel Management, to offer early retire-  
14          ment benefits.

15          (f) *INSPECTOR GENERAL REPORT.—*

16          (1) *IN GENERAL.—Before submitting the plan*  
17          *under this section to Congress, the Postal Service shall*  
18          *submit the plan to the Inspector General of the*  
19          *United States Postal Service in a timely manner to*  
20          *carry out this subsection.*

21          (2) *REPORT.—The Inspector General shall pre-*  
22          *pare a report describing the extent to which the Postal*  
23          *Service plan—*

1           (A) is consistent with the continuing obliga-  
 2           tions of the Postal Service under title 39, United  
 3           States Code; and

4           (B) provides for the Postal Service to meet  
 5           the service standards established under section  
 6           3691.

7           (3) *SUBMISSION OF REPORT.*—The Postal Serv-  
 8           ice shall submit the report of the Inspector General  
 9           under this subsection with the plan submitted to Con-  
 10          gress under subsection (a).

11 **TITLE IV—PROVISIONS RELAT-**  
 12 **ING TO FAIR COMPETITION**

13 **SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.**

14           (a) *PROVISIONS RELATING TO POSTAL SERVICE COM-*  
 15 *PETITIVE PRODUCTS FUND AND RELATED MATTERS.*—

16           (1) *IN GENERAL.*—Chapter 20 of title 39, United  
 17           States Code, is amended by adding at the end the fol-  
 18           lowing:

19 **“§2011. Provisions relating to competitive products**

20           “(a) There is established in the Treasury of the United  
 21           States a revolving fund, to be called the Postal Service Com-  
 22           petitive Products Fund, which shall be available to the Post-  
 23           al Service without fiscal year limitation for the payment  
 24           of—

1           “(1) costs attributable to competitive products;  
2           and

3           “(2) all other costs incurred by the Postal Serv-  
4           ice, to the extent allocable to competitive products.

5           For purposes of this subsection, the term ‘costs attributable’  
6           has the meaning given such term by section 3631.

7           “(b) There shall be deposited in the Competitive Prod-  
8           ucts Fund, subject to withdrawal by the Postal Service—

9           “(1) revenues from competitive products;

10           “(2) amounts received from obligations issued by  
11           the Postal Service under subsection (e);

12           “(3) interest and dividends earned on invest-  
13           ments of the Competitive Products Fund; and

14           “(4) any other receipts of the Postal Service (in-  
15           cluding from the sale of assets), to the extent allocable  
16           to competitive products.

17           “(c) If the Postal Service determines that the moneys  
18           of the Competitive Products Fund are in excess of current  
19           needs, it may invest such amounts as it considers appro-  
20           priate in accordance with regulations which the Secretary  
21           of the Treasury shall prescribe within 12 months after the  
22           date of enactment of the Postal Accountability and En-  
23           hancement Act.

24           “(d) The Postal Service may, in its sole discretion,  
25           provide that moneys of the Competitive Products Fund be

1 *deposited in a Federal Reserve bank or a depository for*  
2 *public funds.*

3       “(e)(1) *Subject to the limitations specified in section*  
4 *2005(a), the Postal Service is authorized to borrow money*  
5 *and to issue and sell such obligations as it determines nec-*  
6 *essary to provide for competitive products and deposit such*  
7 *amounts in the Competitive Products Fund, except that the*  
8 *Postal Service may pledge only assets related to the provi-*  
9 *sion of competitive products (as determined under sub-*  
10 *section (h) or, for purposes of any period before accounting*  
11 *practices and principles under subsection (h) have been es-*  
12 *tablished and applied, the best information available from*  
13 *the Postal Service, including the audited statements re-*  
14 *quired by section 2008(e)), and the revenues and receipts*  
15 *from such products, for the payment of the principal of or*  
16 *interest on such obligations, for the purchase or redemption*  
17 *thereof, and for other purposes incidental thereto, including*  
18 *creation of reserve, sinking, and other funds which may be*  
19 *similarly pledged and used, to such extent and in such man-*  
20 *ner as the Postal Service determines necessary or desirable.*

21       “(2) *The Postal Service may enter into binding cov-*  
22 *enants with the holders of such obligations, and with the*  
23 *trustee, if any, under any agreement entered into in connec-*  
24 *tion with the issuance thereof with respect to—*

1           “(A) *the establishment of reserve, sinking, and*  
2 *other funds;*

3           “(B) *application and use of revenues and re-*  
4 *ceipts of the Competitive Products Fund;*

5           “(C) *stipulations concerning the subsequent*  
6 *issuance of obligations or the execution of leases or*  
7 *lease purchases relating to properties of the Postal*  
8 *Service; and*

9           “(D) *such other matters as the Postal Service*  
10 *considers necessary or desirable to enhance the mar-*  
11 *ketability of such obligations.*

12           “(3) *Obligations issued by the Postal Service under*  
13 *this subsection—*

14           “(A) *may not be purchased by the Secretary of*  
15 *the Treasury;*

16           “(B) *shall not be exempt either as to principal*  
17 *or interest from any taxation now or hereafter im-*  
18 *posed by any State or local taxing authority;*

19           “(C) *shall not be obligations of, nor shall pay-*  
20 *ment of the principal thereof or interest thereon be*  
21 *guaranteed by, the Government of the United States,*  
22 *and the obligations shall so plainly state; and*

23           “(D) *notwithstanding the provisions of the Fed-*  
24 *eral Financing Bank Act of 1973 or any other provi-*  
25 *sion of law (except as specifically provided by ref-*

1        *erence to this subparagraph in a law enacted after*  
2        *this subparagraph takes effect), shall not be eligible*  
3        *for purchase by, commitment to purchase by, or sale*  
4        *or issuance to, the Federal Financing Bank.*

5        *“(4)(A) This paragraph applies with respect to the pe-*  
6        *riod beginning on the date of the enactment of this para-*  
7        *graph and ending at the close of the 5-year period which*  
8        *begins on the date on which the Postal Service makes its*  
9        *submission under subsection (h)(1).*

10        *“(B) During the period described in subparagraph (A),*  
11        *nothing in subparagraph (A) or (D) of paragraph (3) or*  
12        *the last sentence of section 2006(b) shall, with respect to*  
13        *any obligations sought to be issued by the Postal Service*  
14        *under this subsection, be considered to affect such obliga-*  
15        *tions’ eligibility for purchase by, commitment to purchase*  
16        *by, or sale or issuance to, the Federal Financing Bank.*

17        *“(C) The Federal Financing Bank may elect to pur-*  
18        *chase such obligations under such terms, including rates of*  
19        *interest, as the Bank and the Postal Service may agree, but*  
20        *at a rate of yield no less than the prevailing yield on out-*  
21        *standing marketable securities of comparable maturity*  
22        *issued by entities with the same credit rating as the rating*  
23        *then most recently obtained by the Postal Service under sub-*  
24        *paragraph (D), as determined by the Bank.*

1       “(D) In order to be eligible to borrow under this para-  
2 graph, the Postal Service shall first obtain a credit rating  
3 from a nationally recognized credit rating organization.

4 Such rating—

5           “(i) shall be determined taking into account only  
6 those assets and activities of the Postal Service which  
7 are described in section 3634(a)(2) (relating to the  
8 Postal Service’s assumed taxable income from com-  
9 petitive products); and

10           “(ii) may, before final rules of the Postal Regu-  
11 latory Commission under subsection (h) are issued (or  
12 deemed to have been issued), be based on the best in-  
13 formation available from the Postal Service, includ-  
14 ing the audited statements required by section  
15 2008(e).

16           “(f) The receipts and disbursements of the Competitive  
17 Products Fund shall be accorded the same budgetary treat-  
18 ment as is accorded to receipts and disbursements of the  
19 Postal Service Fund under section 2009a.

20           “(g) A judgment against the Postal Service or the Gov-  
21 ernment of the United States (or settlement of a claim)  
22 shall, to the extent that it arises out of activities of the Post-  
23 al Service in the provision of competitive products, be paid  
24 out of the Competitive Products Fund.

1       “(h)(1) *The Secretary of the Treasury, in consultation*  
2 *with the Postal Service, an independent, certified public ac-*  
3 *counting firm, and such other advisers as the Secretary con-*  
4 *siders appropriate, shall develop recommendations regard-*  
5 *ing—*

6               “(A) *the accounting practices and principles that*  
7 *should be followed by the Postal Service with the ob-*  
8 *jectives of—*

9                       “(i) *identifying and valuing the assets and*  
10 *liabilities of the Postal Service associated with*  
11 *providing, and the capital and operating costs*  
12 *incurred by the Postal Service in providing,*  
13 *competitive products; and*

14                       “(ii) *preventing the subsidization of such*  
15 *products by market-dominant products; and*

16               “(B) *the substantive and procedural rules that*  
17 *should be followed in determining the Postal Service’s*  
18 *assumed Federal income tax on competitive products*  
19 *income for any year (within the meaning of section*  
20 *3634).*

21 *Such recommendations shall be submitted to the Postal Reg-*  
22 *ulatory Commission not earlier than 6 months, and not*  
23 *later than 12 months, after the effective date of this section.*

24       “(2)(A) *Upon receiving the recommendations of the*  
25 *Secretary of the Treasury under paragraph (1), the Com-*

1 mission shall give interested parties, including the Postal  
2 Service, users of the mails, and an officer of the Commission  
3 who shall be required to represent the interests of the general  
4 public, an opportunity to present their views on those rec-  
5 ommendations through submission of written data, views,  
6 or arguments with or without opportunity for oral presen-  
7 tation, or in such other manner as the Commission con-  
8 siders appropriate.

9       “(B) After due consideration of the views and other  
10 information received under subparagraph (A), the Commis-  
11 sion shall by rule—

12               “(i) provide for the establishment and applica-  
13 tion of the accounting practices and principles which  
14 shall be followed by the Postal Service;

15               “(ii) provide for the establishment and applica-  
16 tion of the substantive and procedural rules described  
17 in paragraph (1)(B); and

18               “(iii) provide for the submission by the Postal  
19 Service to the Postal Regulatory Commission of an-  
20 nual and other periodic reports setting forth such in-  
21 formation as the Commission may require.

22 Final rules under this subparagraph shall be issued not  
23 later than 12 months after the date on which the Secretary  
24 of the Treasury makes his submission to the Commission  
25 under paragraph (1) (or by such later date as agreed to

1 *by the Commission and the Postal Service). The Commis-*  
2 *sion is authorized to promulgate regulations revising such*  
3 *rules.*

4       “(C) Reports described in subparagraph (B)(iii) shall  
5 be submitted at such time, in such form, and shall include  
6 such information, as the Commission by rule requires. The  
7 Commission may, on its own motion or on request of an  
8 interested party, initiate proceedings (to be conducted in  
9 accordance with such rules as the Commission shall pre-  
10 scribe) to improve the quality, accuracy, or completeness of  
11 Postal Service data under such subparagraph whenever it  
12 shall appear that—

13               “(i) the quality of the information furnished in  
14 those reports has become significantly inaccurate or  
15 can be significantly improved; or

16               “(ii) such revisions are, in the judgment of the  
17 Commission, otherwise necessitated by the public in-  
18 terest.

19       “(D) A copy of each report described in subparagraph  
20 (B)(iii) shall also be transmitted by the Postal Service to  
21 the Secretary of the Treasury and the Inspector General of  
22 the United States Postal Service.

23       “(i) The Postal Service shall render an annual report  
24 to the Secretary of the Treasury concerning the operation  
25 of the Competitive Products Fund, in which it shall address

1 *such matters as risk limitations, reserve balances, allocation*  
 2 *or distribution of moneys, liquidity requirements, and*  
 3 *measures to safeguard against losses. A copy of its then most*  
 4 *recent report under this subsection shall be included with*  
 5 *any other submission that it is required to make to the Post-*  
 6 *al Regulatory Commission under section 3652(g).”.*

7           (2) *CLERICAL AMENDMENT.—The analysis for*  
 8 *chapter 20 of title 39, United States Code, is amended*  
 9 *by adding after the item relating to section 2010 the*  
 10 *following:*

*“2011. Provisions relating to competitive products.”.*

11           (b) *TECHNICAL AND CONFORMING AMENDMENTS.—*

12           (1) *DEFINITION.—Section 2001 of title 39,*  
 13 *United States Code, is amended by striking “and” at*  
 14 *the end of paragraph (1), by redesignating paragraph*  
 15 *(2) as paragraph (3), and by inserting after para-*  
 16 *graph (1) the following:*

17           *“(2) ‘Competitive Products Fund’ means the*  
 18 *Postal Service Competitive Products Fund established*  
 19 *by section 2011; and”.*

20           (2) *CAPITAL OF THE POSTAL SERVICE.—Section*  
 21 *2002(b) of title 39, United States Code, is amended*  
 22 *by striking “Fund,” and inserting “Fund and the*  
 23 *balance in the Competitive Products Fund,”.*

24           (3) *POSTAL SERVICE FUND.—*

1           (A) *PURPOSES FOR WHICH AVAILABLE.*—  
2           Section 2003(a) of title 39, United States Code,  
3           is amended by striking “title.” and inserting  
4           “title (other than any of the purposes, functions,  
5           or powers for which the Competitive Products  
6           Fund is available).”.

7           (B) *DEPOSITS.*—Section 2003(b) of title 39,  
8           United States Code, is amended by striking  
9           “*There*” and inserting “*Except as otherwise pro-*  
10          *vided in section 2011, there*”.

11          (4) *RELATIONSHIP BETWEEN THE TREASURY*  
12          *AND THE POSTAL SERVICE.*—Section 2006 of title 39,  
13          United States Code, is amended—

14                 (A) in subsection (b), by adding at the end  
15                 the following: “Nothing in this chapter shall be  
16                 considered to permit or require the Secretary of  
17                 the Treasury to purchase any obligations of the  
18                 Postal Service other than those issued under sec-  
19                 tion 2005.”; and

20                 (B) in subsection (c), by inserting “under  
21                 section 2005” before “shall be obligations”.

1 **SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETI-**  
2 **TIVE PRODUCTS INCOME.**

3 *Subchapter II of chapter 36 of title 39, United States*  
4 *Code, as amended by section 202, is amended by adding*  
5 *at the end the following:*

6 **“§3634. Assumed Federal income tax on competitive**  
7 **products income**

8 *“(a) DEFINITIONS.—For purposes of this section—*

9 *“(1) the term ‘assumed Federal income tax on*  
10 *competitive products income’ means the net income*  
11 *tax that would be imposed by chapter 1 of the Inter-*  
12 *nal Revenue Code of 1986 on the Postal Service’s as-*  
13 *sumed taxable income from competitive products for*  
14 *the year; and*

15 *“(2) the term ‘assumed taxable income from com-*  
16 *petitive products’, with respect to a year, refers to the*  
17 *amount representing what would be the taxable in-*  
18 *come of a corporation under the Internal Revenue*  
19 *Code of 1986 for the year, if—*

20 *“(A) the only activities of such corporation*  
21 *were the activities of the Postal Service allocable*  
22 *under section 2011(h) to competitive products;*  
23 *and*

24 *“(B) the only assets held by such corpora-*  
25 *tion were the assets of the Postal Service allo-*  
26 *cable under section 2011(h) to such activities.*

1           “(b) *COMPUTATION AND TRANSFER REQUIREMENTS.*—  
 2 *The Postal Service shall, for each year beginning with the*  
 3 *year in which occurs the deadline for the Postal Service’s*  
 4 *first report to the Postal Regulatory Commission under sec-*  
 5 *tion 3652(a)—*

6                   “(1) *compute its assumed Federal income tax on*  
 7 *competitive products income for such year; and*

8                   “(2) *transfer from the Competitive Products*  
 9 *Fund to the Postal Service Fund the amount of that*  
 10 *assumed tax.*

11           “(c) *DEADLINE FOR TRANSFERS.*—*Any transfer re-*  
 12 *quired to be made under this section for a year shall be*  
 13 *due on or before the January 15th next occurring after the*  
 14 *close of such year.”.*

15 **SEC. 403. UNFAIR COMPETITION PROHIBITED.**

16           (a) *SPECIFIC LIMITATIONS.*—*Chapter 4 of title 39,*  
 17 *United States Code, is amended by adding after section 404*  
 18 *the following:*

19 **“§ 404a. Specific limitations**

20                   “(a) *Except as specifically authorized by law, the Post-*  
 21 *al Service may not—*

22                   “(1) *establish any rule or regulation (including*  
 23 *any standard) the effect of which is to preclude com-*  
 24 *petition or establish the terms of competition unless*  
 25 *the Postal Service demonstrates that the regulation*

1        *does not create an unfair competitive advantage for*  
2        *itself or any entity funded (in whole or in part) by*  
3        *the Postal Service;*

4                *“(2) compel the disclosure, transfer, or licensing*  
5        *of intellectual property to any third party (such as*  
6        *patents, copyrights, trademarks, trade secrets, and*  
7        *proprietary information); or*

8                *“(3) obtain information from a person that pro-*  
9        *vides (or seeks to provide) any product, and then offer*  
10        *any postal service that uses or is based in whole or*  
11        *in part on such information, without the consent of*  
12        *the person providing that information, unless sub-*  
13        *stantially the same information is obtained (or ob-*  
14        *tainable) from an independent source or is otherwise*  
15        *obtained (or obtainable).*

16                *“(b) The Postal Regulatory Commission shall prescribe*  
17        *regulations to carry out this section.*

18                *“(c) Any party (including an officer of the Commis-*  
19        *sion representing the interests of the general public) who*  
20        *believes that the Postal Service has violated this section may*  
21        *bring a complaint in accordance with section 3662.”.*

22                *(b) CONFORMING AMENDMENTS.—*

23                        *(1) GENERAL POWERS.—Section 401 of title 39,*  
24        *United States Code, is amended by striking “The”*

1       and inserting “Subject to the provisions of section  
2       404a, the”.

3               (2) *SPECIFIC POWERS.*—Section 404(a) of title  
4       39, *United States Code*, is amended by striking  
5       “Without” and inserting “Subject to the provisions of  
6       section 404a, but otherwise without”.

7               (c) *CLERICAL AMENDMENT.*—The analysis for chapter  
8       4 of title 39, *United States Code*, is amended by inserting  
9       after the item relating to section 404 the following:

      “404a. *Specific limitations.*”.

10   **SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

11       (a) *IN GENERAL.*—Section 409 of title 39, *United*  
12       *States Code*, is amended by striking subsections (d) and (e)  
13       and inserting the following:

14               “(d)(1) For purposes of the provisions of law cited in  
15       paragraphs (2)(A) and (2)(B), respectively, the *Postal Serv-*  
16       *ice*—

17                       “(A) shall be considered to be a ‘person’, as used  
18       in the provisions of law involved; and

19                       “(B) shall not be immune under any other doc-  
20       trine of sovereign immunity from suit in Federal  
21       court by any person for any violation of any of those  
22       provisions of law by any officer or employee of the  
23       *Postal Service*.

24               “(2) This subsection applies with respect to—

1           “(A) the Act of July 5, 1946 (commonly referred  
2           to as the ‘Trademark Act of 1946’ (15 U.S.C. 1051  
3           and following)); and

4           “(B) the provisions of section 5 of the Federal  
5           Trade Commission Act to the extent that such section  
6           5 applies to unfair or deceptive acts or practices.

7           “(e)(1) To the extent that the Postal Service, or other  
8           Federal agency acting on behalf of or in concert with the  
9           Postal Service, engages in conduct with respect to any prod-  
10          uct which is not reserved to the United States under section  
11          1696 of title 18, the Postal Service or other Federal agency  
12          (as the case may be)—

13           “(A) shall not be immune under any doctrine of  
14           sovereign immunity from suit in Federal court by  
15           any person for any violation of Federal law by such  
16           agency or any officer or employee thereof; and

17           “(B) shall be considered to be a person (as de-  
18           fined in subsection (a) of the first section of the Clay-  
19           ton Act) for purposes of—

20           “(i) the antitrust laws (as defined in such  
21           subsection); and

22           “(ii) section 5 of the Federal Trade Com-  
23           mission Act to the extent that such section 5 ap-  
24           plies to unfair methods of competition.

1 *For purposes of the preceding sentence, any private carriage*  
2 *of mail allowable by virtue of section 601 shall not be con-*  
3 *sidered a service reserved to the United States under section*  
4 *1696 of title 18.*

5       “(2) *No damages, interest on damages, costs or attor-*  
6 *ney’s fees may be recovered, and no criminal liability may*  
7 *be imposed, under the antitrust laws (as so defined) from*  
8 *any officer or employee of the Postal Service, or other Fed-*  
9 *eral agency acting on behalf of or in concert with the Postal*  
10 *Service, acting in an official capacity.*

11       “(3) *This subsection shall not apply with respect to*  
12 *conduct occurring before the date of the enactment of this*  
13 *subsection.*

14       “(f) *To the extent that the Postal Service engages in*  
15 *conduct with respect to the provision of competitive prod-*  
16 *ucts, it shall be considered a person for the purposes of the*  
17 *Federal bankruptcy laws.*

18       “(g)(1) *Each building constructed or altered by the*  
19 *Postal Service shall be constructed or altered, to the max-*  
20 *imum extent feasible as determined by the Postal Service,*  
21 *in compliance with 1 of the nationally recognized model*  
22 *building codes and with other applicable nationally recog-*  
23 *nized codes.*

24       “(2) *Each building constructed or altered by the Postal*  
25 *Service shall be constructed or altered only after consider-*

1 *ation of all requirements (other than procedural require-*  
2 *ments) of zoning laws, land use laws, and applicable envi-*  
3 *ronmental laws of a State or subdivision of a State which*  
4 *would apply to the building if it were not a building con-*  
5 *structed or altered by an establishment of the Government*  
6 *of the United States.*

7       “(3) *For purposes of meeting the requirements of para-*  
8 *graphs (1) and (2) with respect to a building, the Postal*  
9 *Service shall—*

10           “(A) *in preparing plans for the building, consult*  
11 *with appropriate officials of the State or political*  
12 *subdivision, or both, in which the building will be lo-*  
13 *cated;*

14           “(B) *upon request, submit such plans in a time-*  
15 *ly manner to such officials for review by such officials*  
16 *for a reasonable period of time not exceeding 30 days;*  
17 *and*

18           “(C) *permit inspection by such officials during*  
19 *construction or alteration of the building, in accord-*  
20 *ance with the customary schedule of inspections for*  
21 *construction or alteration of buildings in the locality,*  
22 *if such officials provide to the Postal Service—*

23           “(i) *a copy of such schedule before construc-*  
24 *tion of the building is begun; and*

1                   “(ii) reasonable notice of their intention to  
2                   conduct any inspection before conducting such  
3                   inspection.

4 *Nothing in this subsection shall impose an obligation on*  
5 *any State or political subdivision to take any action under*  
6 *the preceding sentence, nor shall anything in this subsection*  
7 *require the Postal Service or any of its contractors to pay*  
8 *for any action taken by a State or political subdivision to*  
9 *carry out this subsection (including reviewing plans, car-*  
10 *rying out on-site inspections, issuing building permits, and*  
11 *making recommendations).*

12               “(4) *Appropriate officials of a State or a political sub-*  
13 *division of a State may make recommendations to the Post-*  
14 *al Service concerning measures necessary to meet the re-*  
15 *quirements of paragraphs (1) and (2). Such officials may*  
16 *also make recommendations to the Postal Service con-*  
17 *cerning measures which should be taken in the construction*  
18 *or alteration of the building to take into account local con-*  
19 *ditions. The Postal Service shall give due consideration to*  
20 *any such recommendations.*

21               “(5) *In addition to consulting with local and State*  
22 *officials under paragraph (3), the Postal Service shall estab-*  
23 *lish procedures for soliciting, assessing, and incorporating*  
24 *local community input on real property and land use deci-*  
25 *sions.*

1       “(6) For purposes of this subsection, the term ‘State’  
2 includes the District of Columbia, the Commonwealth of  
3 Puerto Rico, and a territory or possession of the United  
4 States.

5       “(h)(1) Notwithstanding any other provision of law,  
6 legal representation may not be furnished by the Depart-  
7 ment of Justice to the Postal Service in any action, suit,  
8 or proceeding arising, in whole or in part, under any of  
9 the following:

10               “(A) Subsection (d) or (e) of this section.

11               “(B) Subsection (f) or (g) of section 504 (relating  
12 to administrative subpoenas by the Postal Regulatory  
13 Commission).

14               “(C) Section 3663 (relating to appellate review).  
15 The Postal Service may, by contract or otherwise, employ  
16 attorneys to obtain any legal representation that it is pre-  
17 cluded from obtaining from the Department of Justice  
18 under this paragraph.

19       “(2) In any circumstance not covered by paragraph  
20 (1), the Department of Justice shall, under section 411, fur-  
21 nish the Postal Service such legal representation as it may  
22 require, except that, with the prior consent of the Attorney  
23 General, the Postal Service may, in any such circumstance,  
24 employ attorneys by contract or otherwise to conduct litiga-

1 *tion brought by or against the Postal Service or its officers*  
2 *or employees in matters affecting the Postal Service.*

3       “(3)(A) *In any action, suit, or proceeding in a court*  
4 *of the United States arising in whole or in part under any*  
5 *of the provisions of law referred to in subparagraph (B)*  
6 *or (C) of paragraph (1), and to which the Commission is*  
7 *not otherwise a party, the Commission shall be permitted*  
8 *to appear as a party on its own motion and as of right.*

9       “(B) *The Department of Justice shall, under such*  
10 *terms and conditions as the Commission and the Attorney*  
11 *General shall consider appropriate, furnish the Commission*  
12 *such legal representation as it may require in connection*  
13 *with any such action, suit, or proceeding, except that, with*  
14 *the prior consent of the Attorney General, the Commission*  
15 *may employ attorneys by contract or otherwise for that pur-*  
16 *pose.*

17       “(i) *A judgment against the Government of the United*  
18 *States arising out of activities of the Postal Service shall*  
19 *be paid by the Postal Service out of any funds available*  
20 *to the Postal Service, subject to the restriction specified in*  
21 *section 2011(g).”.*

22       (b) *TECHNICAL AMENDMENT.—Section 409(a) of title*  
23 *39, United States Code, is amended by striking “Except as*  
24 *provided in section 3628 of this title,” and inserting “Ex-*  
25 *cept as otherwise provided in this title.”.*

1 **SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.**

2 (a) *IN GENERAL.*—Section 407 of title 39, United  
3 States Code, is amended to read as follows:

4 **“§ 407. International postal arrangements**

5 “(a) *It is the policy of the United States—*

6 “(1) *to promote and encourage communications*  
7 *between peoples by efficient operation of international*  
8 *postal services and other international delivery serv-*  
9 *ices for cultural, social, and economic purposes;*

10 “(2) *to promote and encourage unrestricted and*  
11 *undistorted competition in the provision of inter-*  
12 *national postal services and other international deliv-*  
13 *ery services, except where provision of such services by*  
14 *private companies may be prohibited by law of the*  
15 *United States;*

16 “(3) *to promote and encourage a clear distinc-*  
17 *tion between governmental and operational respon-*  
18 *sibilities with respect to the provision of international*  
19 *postal services; and*

20 “(4) *to participate in multilateral and bilateral*  
21 *agreements with other countries to accomplish these*  
22 *objectives.*

23 “(b)(1) *The Secretary of State shall be responsible for*  
24 *formulation, coordination, and oversight of foreign policy*  
25 *related to international postal services and shall have the*  
26 *power to conclude postal treaties and conventions, except*

1 *that the Secretary may not conclude any postal treaty or*  
2 *convention if such treaty or convention would, with respect*  
3 *to any competitive product, grant an undue or unreason-*  
4 *able preference to the Postal Service, a private provider of*  
5 *international postal services, or any other person.*

6       “(2) *In carrying out the responsibilities specified in*  
7 *paragraph (1), the Secretary of State shall exercise primary*  
8 *authority for the conduct of foreign policy with respect to*  
9 *international postal services, including the determination*  
10 *of United States positions and the conduct of United States*  
11 *participation in negotiations with foreign governments and*  
12 *international bodies. In exercising this authority, the Sec-*  
13 *retary—*

14               “(A) *shall coordinate with other agencies as ap-*  
15 *propriate, and in particular, should consider the au-*  
16 *thority vested by law or Executive order in the Postal*  
17 *Regulatory Commission, the Department of Com-*  
18 *merce, the Department of Transportation, and the Of-*  
19 *fice of the United States Trade Representative in this*  
20 *area;*

21               “(B) *shall maintain continuing liaison with*  
22 *other executive branch agencies concerned with postal*  
23 *and delivery services;*

24               “(C) *shall maintain continuing liaison with the*  
25 *Committee on Governmental Affairs of the Senate and*

1       *the Committee on Government Reform of the House of*  
2       *Representatives;*

3           “(D) shall maintain appropriate liaison with  
4       *both representatives of the Postal Service and rep-*  
5       *resentatives of users and private providers of inter-*  
6       *national postal services and other international deliv-*  
7       *ery services to keep informed of their interests and*  
8       *problems, and to provide such assistance as may be*  
9       *needed to ensure that matters of concern are promptly*  
10       *considered by the Department of State or (if applica-*  
11       *ble, and to the extent practicable) other executive*  
12       *branch agencies; and*

13           “(E) shall assist in arranging meetings of such  
14       *public sector advisory groups as may be established to*  
15       *advise the Department of State and other executive*  
16       *branch agencies in connection with international*  
17       *postal services and international delivery services.*

18           “(3) The Secretary of State shall establish an advisory  
19       *committee (within the meaning of the Federal Advisory*  
20       *Committee Act) to perform such functions as the Secretary*  
21       *considers appropriate in connection with carrying out sub-*  
22       *paragraphs (A) through (D) of paragraph (2).*

23           “(c) Before concluding any postal treaty or convention  
24       *that establishes a rate or classification for a product subject*  
25       *to subchapter I of chapter 36, the Secretary of State shall*

1 *request the Postal Regulatory Commission to submit its*  
2 *views on whether such rate or classification is consistent*  
3 *with the standards and criteria established by the Commis-*  
4 *sion under section 3622.*

5       “(d) *Nothing in this section shall be considered to pre-*  
6 *vent the Postal Service from entering into such commercial*  
7 *or operational contracts related to providing international*  
8 *postal services as it deems appropriate, except that—*

9               “(1) *any such contract made with an agency of*  
10 *a foreign government (whether under authority of this*  
11 *subsection or otherwise) shall be solely contractual in*  
12 *nature and may not purport to be binding under*  
13 *international law; and*

14               “(2) *a copy of each such contract between the*  
15 *Postal Service and an agency of a foreign government*  
16 *shall be transmitted to the Secretary of State and the*  
17 *Postal Regulatory Commission not later than the ef-*  
18 *fective date of such contract.*

19       “(e)(1) *With respect to shipments of international mail*  
20 *that are competitive products within the meaning of section*  
21 *3631 that are exported or imported by the Postal Service,*  
22 *the Customs Service and other appropriate Federal agencies*  
23 *shall apply the customs laws of the United States and all*  
24 *other laws relating to the importation or exportation of such*

1 *shipments in the same manner to both shipments by the*  
2 *Postal Service and similar shipments by private companies.*

3       “(2) *In exercising the authority under subsection (b)*  
4 *to conclude new postal treaties and conventions related to*  
5 *international postal services and to renegotiate such treaties*  
6 *and conventions, the Secretary of State shall, to the max-*  
7 *imum extent practicable, take such measures as are within*  
8 *the Secretary’s control to encourage the governments of*  
9 *other countries to make available to the Postal Service and*  
10 *private companies a range of nondiscriminatory customs*  
11 *procedures that will fully meet the needs of all types of*  
12 *American shippers. The Secretary of State shall consult*  
13 *with the United States Trade Representative and the Com-*  
14 *missioner of Customs in carrying out this paragraph.*

15       “(3) *The provisions of this subsection shall take effect*  
16 *6 months after the date of the enactment of this subsection*  
17 *or such earlier date as the Customs Service may determine*  
18 *in writing.”.*

19       (b) *EFFECTIVE DATE.*—*Notwithstanding any provi-*  
20 *sion of the amendment made by subsection (a), the author-*  
21 *ity of the United States Postal Service to establish the rates*  
22 *of postage or other charges on mail matter conveyed between*  
23 *the United States and other countries shall remain avail-*  
24 *able to the Postal Service until—*

1           (1) *with respect to market-dominant products,*  
 2 *the date as of which the regulations promulgated*  
 3 *under section 3622 of title 39, United States Code (as*  
 4 *amended by section 201(a)) take effect; and*

5           (2) *with respect to competitive products, the date*  
 6 *as of which the regulations promulgated under section*  
 7 *3633 of title 39, United States Code (as amended by*  
 8 *section 202) take effect.*

## 9 **TITLE V—GENERAL PROVISIONS**

### 10 **SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR** 11 **GOVERNORS.**

12           (a) *QUALIFICATIONS.—*

13           (1) *IN GENERAL.—Section 202(a) of title 39,*  
 14 *United States Code, is amended by striking “(a)” and*  
 15 *inserting “(a)(1)” and by striking the fourth sentence*  
 16 *and inserting the following: “The Governors shall rep-*  
 17 *resent the public interest generally, and shall be cho-*  
 18 *sen solely on the basis of their demonstrated ability*  
 19 *in managing organizations or corporations (in either*  
 20 *the public or private sector) of substantial size. The*  
 21 *Governors shall not be representatives of specific in-*  
 22 *terests using the Postal Service, and may be removed*  
 23 *only for cause.”.*

24           (2) *APPLICABILITY.—The amendment made by*  
 25 *paragraph (1) shall not affect the appointment or ten-*

1        *ure of any person serving as a Governor of the United*  
2        *States Postal Service under an appointment made be-*  
3        *fore the date of the enactment of this Act however,*  
4        *when any such office becomes vacant, the appointment*  
5        *of any person to fill that office shall be made in ac-*  
6        *cordance with such amendment. The requirement set*  
7        *forth in the fourth sentence of section 202(a)(1) of*  
8        *title 39, United States Code (as amended by sub-*  
9        *section (a)) shall be met beginning not later than 9*  
10       *years after the date of the enactment of this Act.*

11       *(b) CONSULTATION REQUIREMENT.—Section 202(a) of*  
12       *title 39, United States Code, is amended by adding at the*  
13       *end the following:*

14       *“(2) In selecting the individuals described in para-*  
15       *graph (1) for nomination for appointment to the position*  
16       *of Governor, the President should consult with the Speaker*  
17       *of the House of Representatives, the minority leader of the*  
18       *House of Representatives, the majority leader of the Senate,*  
19       *and the minority leader of the Senate.”.*

20       *(c) 5-YEAR TERMS.—*

21       *(1) IN GENERAL.—Section 202(b) of title 39,*  
22       *United States code, is amended in the first sentence*  
23       *by striking “9 years” and inserting “5 years”.*

24       *(2) APPLICABILITY.—*

1           (A) *CONTINUATION BY INCUMBENTS.*—*The*  
2           *amendment made by paragraph (1) shall not af-*  
3           *fect the tenure of any person serving as a Gov-*  
4           *ernor of the United States Postal Service on the*  
5           *date of enactment of this Act and such person*  
6           *may continue to serve the remainder of the ap-*  
7           *plicable term.*

8           (B) *VACANCY BY INCUMBENT BEFORE 5*  
9           *YEARS OF SERVICE.*—*If a person who is serving*  
10           *as a Governor of the United States Postal Serv-*  
11           *ice on the date of enactment of this Act resigns,*  
12           *is removed, or dies before the expiration of the 9-*  
13           *year term of that Governor, and that Governor*  
14           *has served less than 5 years of that term, the re-*  
15           *sulting vacancy in office shall be treated as a va-*  
16           *cancy in a 5-year term.*

17           (C) *VACANCY BY INCUMBENT AFTER 5*  
18           *YEARS OF SERVICE.*—*If a person who is serving*  
19           *as a Governor of the United States Postal Serv-*  
20           *ice on the date of enactment of this Act resigns,*  
21           *is removed, or dies before the expiration of the 9-*  
22           *year term of that Governor, and that Governor*  
23           *has served 5 years or more of that term, that*  
24           *term shall be deemed to have been a 5-year term*  
25           *beginning on its commencement date for pur-*

1           poses of determining vacancies in office. Any ap-  
2           pointment to the vacant office shall be for a 5-  
3           year term beginning at the end of the original 9-  
4           year term determined without regard to the  
5           deeming under the preceding sentence. Nothing  
6           in this subparagraph shall be construed to affect  
7           any action or authority of any Governor or the  
8           Board of Governors during any portion of a 9-  
9           year term deemed to be 5-year term under this  
10          subparagraph.

11          (d) *TERM LIMITATION.*—

12                (1) *IN GENERAL.*—Section 202(b) of title 39,  
13          United States Code, is amended—

14                        (A) by inserting “(1)” after “(b)”; and

15                        (B) by adding at the end the following:

16                                “(2) No person may serve more than 3 terms as  
17          a Governor.”.

18                (2) *APPLICABILITY.*—The amendments made by  
19          paragraph (1) shall not affect the tenure of any per-  
20          son serving as a Governor of the United States Postal  
21          Service on the date of enactment of this Act with re-  
22          spect to the term which that person is serving on that  
23          date. Such person may continue to serve the remain-  
24          der of the applicable term, after which the amend-  
25          ments made by paragraph (1) shall apply.

1 **SEC. 502. OBLIGATIONS.**

2       (a) *PURPOSES FOR WHICH OBLIGATIONS MAY BE*  
3 *ISSUED.*—*The first sentence of section 2005(a)(1) of title*  
4 *39, United States Code, is amended by striking “title.” and*  
5 *inserting “title, other than any of the purposes for which*  
6 *the corresponding authority is available to the Postal Serv-*  
7 *ice under section 2011.”.*

8       (b) *INCREASE RELATING TO OBLIGATIONS ISSUED FOR*  
9 *CAPITAL IMPROVEMENTS.*—*Section 2005(a)(1) of title 39,*  
10 *United States Code, is amended by striking the third sen-*  
11 *tence.*

12       (c) *AMOUNTS WHICH MAY BE PLEDGED.*—

13           (1) *OBLIGATIONS TO WHICH PROVISIONS*  
14 *APPLY.*—*The first sentence of section 2005(b) of title*  
15 *39, United States Code, is amended by striking “such*  
16 *obligations,” and inserting “obligations issued by the*  
17 *Postal Service under this section,”.*

18           (2) *ASSETS, REVENUES, AND RECEIPTS TO*  
19 *WHICH PROVISIONS APPLY.*—*Subsection (b) of section*  
20 *2005 of title 39, United States Code, is amended by*  
21 *striking “(b)” and inserting “(b)(1)”, and by adding*  
22 *at the end the following:*

23           *“(2) Notwithstanding any other provision of this sec-*  
24 *tion—*

25           *“(A) the authority to pledge assets of the Postal*  
26 *Service under this subsection shall be available only*

1       to the extent that such assets are not related to the  
2       provision of competitive products (as determined  
3       under section 2011(h) or, for purposes of any period  
4       before accounting practices and principles under sec-  
5       tion 2011(h) have been established and applied, the  
6       best information available from the Postal Service,  
7       including the audited statements required by section  
8       2008(e)); and

9               “(B) any authority under this subsection relat-  
10       ing to the pledging or other use of revenues or receipts  
11       of the Postal Service shall be available only to the ex-  
12       tent that they are not revenues or receipts of the Com-  
13       petitive Products Fund.”.

14   **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

15       (a) *IN GENERAL.*—Section 601 of title 39, United  
16       States Code, is amended by striking subsection (b) and in-  
17       serting the following:

18       “(b) A letter may also be carried out of the mails  
19       when—

20               “(1) the amount paid for the private carriage of  
21       the letter is at least the amount equal to 6 times the  
22       rate then currently charged for the 1st ounce of a sin-  
23       gle-piece first class letter;

24               “(2) the letter weighs at least 12½ ounces; or

1           “(3) such carriage is within the scope of services  
2           described by regulations of the United States Postal  
3           Service (as in effect on July 1, 2001) that permit pri-  
4           vate carriage by suspension of the operation of this  
5           section (as then in effect).

6           “(c) Any regulations necessary to carry out this section  
7           shall be promulgated by the Postal Regulatory Commis-  
8           sion.”.

9           (b) *EFFECTIVE DATE.*—This section shall take effect  
10          on the date as of which the regulations promulgated under  
11          section 3633 of title 39, United States Code (as amended  
12          by section 202) take effect.

13       **SEC. 504. RULEMAKING AUTHORITY.**

14          Paragraph (2) of section 401 of title 39, United States  
15          Code, is amended to read as follows:

16               “(2) to adopt, amend, and repeal such rules and  
17               regulations, not inconsistent with this title, as may be  
18               necessary in the execution of its functions under this  
19               title and such other functions as may be assigned to  
20               the Postal Service under any provisions of law out-  
21               side of this title;”.

22       **SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-**  
23               **GAINING AGREEMENTS.**

24          (a) *LABOR DISPUTES.*—Section 1207 of title 39,  
25          United States Code, is amended to read as follows:

1 **“§ 1207. Labor disputes**

2       “(a) *If there is a collective-bargaining agreement in*  
3 *effect, no party to such agreement shall terminate or modify*  
4 *such agreement unless the party desiring such termination*  
5 *or modification serves written notice upon the other party*  
6 *to the agreement of the proposed termination or modifica-*  
7 *tion not less than 90 days prior to the expiration date there-*  
8 *of, or not less than 90 days prior to the time it is proposed*  
9 *to make such termination or modification. The party serv-*  
10 *ing such notice shall notify the Federal Mediation and Con-*  
11 *ciliation Service of the existence of a dispute within 45 days*  
12 *of such notice, if no agreement has been reached by that*  
13 *time.*

14       “(b) *If the parties fail to reach agreement or to adopt*  
15 *a procedure providing for a binding resolution of a dispute*  
16 *by the expiration date of the agreement in effect, or the date*  
17 *of the proposed termination or modification, the Director*  
18 *of the Federal Mediation and Conciliation Service shall*  
19 *within 10 days appoint a mediator of nationwide reputa-*  
20 *tion and professional stature, and who is also a member*  
21 *of the National Academy of Arbitrators. The parties shall*  
22 *cooperate with the mediator in an effort to reach an agree-*  
23 *ment and shall meet and negotiate in good faith at such*  
24 *times and places that the mediator, in consultation with*  
25 *the parties, shall direct.*

1           “(c)(1) If no agreement is reached within 60 days after  
2 the expiration or termination of the agreement or the date  
3 on which the agreement became subject to modification  
4 under subsection (a) of this section, or if the parties decide  
5 upon arbitration but do not agree upon the procedures  
6 therefore, an arbitration board shall be established con-  
7 sisting of 3 members, 1 of whom shall be selected by the  
8 Postal Service, 1 by the bargaining representative of the  
9 employees, and the third by the 2 thus selected. If either  
10 of the parties fails to select a member, or if the members  
11 chosen by the parties fail to agree on the third person with-  
12 in 5 days after their first meeting, the selection shall be  
13 made from a list of names provided by the Director. This  
14 list shall consist of not less than 9 names of arbitrators of  
15 nationwide reputation and professional nature, who are  
16 also members of the National Academy of Arbitrators, and  
17 whom the Director has determined are available and will-  
18 ing to serve.

19           “(2) The arbitration board shall give the parties a full  
20 and fair hearing, including an opportunity to present evi-  
21 dence in support of their claims, and an opportunity to  
22 present their case in person, by counsel or by other rep-  
23 resentative as they may elect. Decisions of the arbitration  
24 board shall be conclusive and binding upon the parties. The

1 *arbitration board shall render its decision within 45 days*  
2 *after its appointment.*

3       “(3) *Costs of the arbitration board and mediation shall*  
4 *be shared equally by the Postal Service and the bargaining*  
5 *representative.*

6       “(d) *In the case of a bargaining unit whose recognized*  
7 *collective-bargaining representative does not have an agree-*  
8 *ment with the Postal Service, if the parties fail to reach*  
9 *the agreement within 90 days of the commencement of col-*  
10 *lective bargaining, a mediator shall be appointed in accord-*  
11 *ance with the terms in subsection (b) of this section, unless*  
12 *the parties have previously agreed to another procedure for*  
13 *a binding resolution of their differences. If the parties fail*  
14 *to reach agreement within 180 days of the commencement*  
15 *of collective bargaining, and if they have not agreed to an-*  
16 *other procedure for binding resolution, an arbitration board*  
17 *shall be established to provide conclusive and binding arbi-*  
18 *tration in accordance with the terms of subsection (c) of*  
19 *this section.*”.

20       (b) *NONINTERFERENCE WITH COLLECTIVE BAR-*  
21 *GAINING AGREEMENTS.—Except as otherwise provided by*  
22 *the amendment made by subsection (a), nothing in this Act*  
23 *shall restrict, expand, or otherwise affect any of the rights,*  
24 *privileges, or benefits of either employees of or labor organi-*  
25 *zations representing employees of the United States Postal*

1 *Service under chapter 12 of title 39, United States Code,*  
 2 *the National Labor Relations Act, any handbook or manual*  
 3 *affecting employee labor relations within the United States*  
 4 *Postal Service, or any collective bargaining agreement.*

5 (c) *FREE MAILING PRIVILEGES CONTINUE UN-*  
 6 *CHANGED.—Nothing in this Act or any amendment made*  
 7 *by this Act shall affect any free mailing privileges accorded*  
 8 *under section 3217 or sections 3403 through 3406 of title*  
 9 *39, United States Code.*

10 **TITLE VI—ENHANCED**  
 11 **REGULATORY COMMISSION**

12 **SEC. 601. REORGANIZATION AND MODIFICATION OF CER-**  
 13 **TAIN PROVISIONS RELATING TO THE POSTAL**  
 14 **REGULATORY COMMISSION.**

15 (a) *TRANSFER AND REDESIGNATION.—Title 39,*  
 16 *United States Code, is amended—*

17 (1) *by inserting after chapter 4 the following:*

18 **“CHAPTER 5—POSTAL REGULATORY**  
 19 **COMMISSION**

*“Sec.*

*“501. Establishment.*

*“502. Commissioners.*

*“503. Rules; regulations; procedures.*

*“504. Administration.*

*“505. Officer of the Postal Regulatory Commission representing the general public.*

1 **“§ 501. Establishment**

2       *“The Postal Regulatory Commission is an independent*  
3 *establishment of the executive branch of the Government of*  
4 *the United States.*

5 **“§ 502. Commissioners**

6       *“(a) The Postal Regulatory Commission is composed*  
7 *of 5 Commissioners, appointed by the President, by and*  
8 *with the advice and consent of the Senate. The Commis-*  
9 *sioners shall be chosen solely on the basis of their technical*  
10 *qualifications, professional standing, and demonstrated ex-*  
11 *pertise in economics, accounting, law, or public adminis-*  
12 *tration, and may be removed by the President only for*  
13 *cause. Each individual appointed to the Commission shall*  
14 *have the qualifications and expertise necessary to carry out*  
15 *the enhanced responsibilities accorded Commissioners under*  
16 *the Postal Accountability and Enhancement Act. Not more*  
17 *than 3 of the Commissioners may be adherents of the same*  
18 *political party.*

19       *“(b) No Commissioner shall be financially interested*  
20 *in any enterprise in the private sector of the economy en-*  
21 *gaged in the delivery of mail matter.*

22       *“(c) A Commissioner may continue to serve after the*  
23 *expiration of his term until his successor has qualified, ex-*  
24 *cept that a Commissioner may not so continue to serve for*  
25 *more than 1 year after the date upon which his term other-*  
26 *wise would expire under subsection (f).*

1       “(d) One of the Commissioners shall be designated as  
2 Chairman by, and shall serve in the position of Chairman  
3 at the pleasure of, the President.

4       “(e) The Commissioners shall by majority vote des-  
5 ignate a Vice Chairman of the Commission. The Vice Chair-  
6 man shall act as Chairman of the Commission in the ab-  
7 sence of the Chairman.

8       “(f) The Commissioners shall serve for terms of 6  
9 years.”;

10           (2) by striking, in subchapter I of chapter 36 (as  
11 in effect before the amendment made by section  
12 201(c)), the heading for such subchapter I and all  
13 that follows through section 3602;

14           (3) by redesignating sections 3603 and 3604 as  
15 sections 503 and 504, respectively, and transferring  
16 such sections to the end of chapter 5 (as inserted by  
17 paragraph (1)); and

18           (4) by adding after such section 504 the fol-  
19 lowing:

20       **“§ 505. Officer of the Postal Regulatory Commission**  
21                               **representing the general public**

22       “The Postal Regulatory Commission shall designate an  
23 officer of the Postal Regulatory Commission in all public  
24 proceedings who shall represent the interests of the general  
25 public.”.

1       (b) *APPLICABILITY.*—*The amendment made by sub-*  
 2 *section (a)(1) shall not affect the appointment or tenure of*  
 3 *any person serving as a Commissioner on the Postal Regu-*  
 4 *latory Commission (as so redesignated by section 604)*  
 5 *under an appointment made before the date of the enact-*  
 6 *ment of this Act or any nomination made before that date,*  
 7 *but, when any such office becomes vacant, the appointment*  
 8 *of any person to fill that office shall be made in accordance*  
 9 *with such amendment.*

10       (c) *CLERICAL AMENDMENT.*—*The analysis for part I*  
 11 *of title 39, United States Code, is amended by inserting*  
 12 *after the item relating to chapter 4 the following:*

**“5. Postal Regulatory Commission ..... 501”.**

13 **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-**  
 14 **SION TO ISSUE SUBPOENAS.**

15       *Section 504 of title 39, United States Code (as so redes-*  
 16 *ignated by section 601) is amended by adding at the end*  
 17 *the following:*

18       “(f)(1) *Any Commissioner of the Postal Regulatory*  
 19 *Commission, any administrative law judge appointed by*  
 20 *the Commission under section 3105 of title 5, and any em-*  
 21 *ployee of the Commission designated by the Commission*  
 22 *may administer oaths, examine witnesses, take depositions,*  
 23 *and receive evidence.*

24       “(2) *The Chairman of the Commission, any Commis-*  
 25 *sioner designated by the Chairman, and any administrative*

1 *law judge appointed by the Commission under section 3105*  
2 *of title 5 may, with respect to any proceeding conducted*  
3 *by the Commission under this title or to obtain information*  
4 *to be used to prepare a report under this title—*

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

9           “(B) *order the taking of depositions and re-*  
10          *sponses to written interrogatories by a covered person.*

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

15          “(3) *In the case of contumacy or failure to obey a sub-*  
16 *poena issued under this subsection, upon application by the*  
17 *Commission, the district court of the United States for the*  
18 *district in which the person to whom the subpoena is ad-*  
19 *dressed resides or is served may issue an order requiring*  
20 *such person to appear at any designated place to testify*  
21 *or produce documentary or other evidence. Any failure to*  
22 *obey the order of the court may be punished by the court*  
23 *as a contempt thereof.*

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

4       “(g)(1) If the Postal Service determines that any docu-  
5 ment or other matter it provides to the Postal Regulatory  
6 Commission under a subpoena issued under subsection (f),  
7 or otherwise at the request of the Commission in connection  
8 with any proceeding or other purpose under this title, con-  
9 tains information which is described in section 410(c) of  
10 this title, or exempt from public disclosure under section  
11 552(b) of title 5, the Postal Service shall, at the time of  
12 providing such matter to the Commission, notify the Com-  
13 mission, in writing, of its determination (and the reasons  
14 therefor).

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

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

21               “(B) permit anyone who is not an officer or em-  
22 ployee of the Commission to have access to any such  
23 information.

24       “(3)(A) Paragraph (2) shall not prohibit the  
25 Commission from publicly disclosing relevant infor-

1        *mation in furtherance of its duties under this title,*  
2        *provided that the Commission has adopted regula-*  
3        *tions under section 553 of title 5, that establish a pro-*  
4        *cedure for according appropriate confidentiality to*  
5        *information identified by the Postal Service under*  
6        *paragraph (1). In determining the appropriate degree*  
7        *of confidentiality to be accorded information identi-*  
8        *fied by the Postal Service under paragraph (1), the*  
9        *Commission shall balance the nature and extent of the*  
10       *likely commercial injury to the Postal Service against*  
11       *the public interest in maintaining the financial*  
12       *transparency of a government establishment com-*  
13       *peting in commercial markets.*

14                *“(B) Paragraph (2) shall not prevent the Com-*  
15        *mission from requiring production of information in*  
16        *the course of any discovery procedure established in*  
17        *connection with a proceeding under this title. The*  
18        *Commission shall, by regulations based on rule 26(c)*  
19        *of the Federal Rules of Civil Procedure, establish pro-*  
20        *cedures for ensuring appropriate confidentiality for*  
21        *information furnished to any party.”.*

22        **SEC. 603. APPROPRIATIONS FOR THE POSTAL REGULATORY**  
23                        **COMMISSION.**

24                *(a) AUTHORIZATION OF APPROPRIATIONS.—Sub-*  
25        *section (d) of section 504 of title 39, United States Code*

1 *(as so redesignated by section 601) is amended to read as*  
2 *follows:*

3       “(d) *There are authorized to be appropriated, out of*  
4 *the Postal Service Fund, such sums as may be necessary*  
5 *for the Postal Regulatory Commission. In requesting an ap-*  
6 *propriation under this subsection for a fiscal year, the Com-*  
7 *mission shall prepare and submit to the Congress under sec-*  
8 *tion 2009 a budget of the Commission’s expenses, including*  
9 *expenses for facilities, supplies, compensation, and em-*  
10 *ployee benefits.”.*

11       ***(b) BUDGET PROGRAM.—***

12           ***(1) IN GENERAL.—****The next to last sentence of*  
13 *section 2009 of title 39, United States Code, is*  
14 *amended to read as follows: “The budget program*  
15 *shall also include separate statements of the amounts*  
16 *which (1) the Postal Service requests to be appro-*  
17 *propriated under subsections (b) and (c) of section 2401,*  
18 *(2) the Office of Inspector General of the United*  
19 *States Postal Service requests to be appropriated, out*  
20 *of the Postal Service Fund, under section 8G(f) of the*  
21 *Inspector General Act of 1978, and (3) the Postal*  
22 *Regulatory Commission requests to be appropriated,*  
23 *out of the Postal Service Fund, under section 504(d)*  
24 *of this title.”.*

1           (2)       *CONFORMING AMENDMENT.*—Section  
2       2003(e)(1) of title 39, United States Code, is amended  
3       by striking the first sentence and inserting the fol-  
4       lowing: “The Fund shall be available for the payment  
5       of (A) all expenses incurred by the Postal Service in  
6       carrying out its functions as provided by law, subject  
7       to the same limitation as set forth in the parenthet-  
8       ical matter under subsection (a); (B) all expenses of  
9       the Postal Regulatory Commission, subject to the  
10      availability of amounts appropriated under section  
11      504(d); and (C) all expenses of the Office of Inspector  
12      General, subject to the availability of amounts appro-  
13      priated under section 8G(f) of the Inspector General  
14      Act of 1978.”.

15      (c) *EFFECTIVE DATE.*—

16           (1) *IN GENERAL.*—The amendments made by  
17      this section shall apply with respect to fiscal years be-  
18      ginning on or after October 1, 2002.

19           (2) *SAVINGS PROVISION.*—The provisions of title  
20      39, United States Code, that are amended by this sec-  
21      tion shall, for purposes of any fiscal year before the  
22      first fiscal year to which the amendments made by  
23      this section apply, continue to apply in the same way  
24      as if this section had never been enacted.

1 **SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMIS-**  
2 **SION.**

3 (a) *AMENDMENTS TO TITLE 39, UNITED STATES*  
4 *CODE.*—*Title 39, United States Code, is amended in sec-*  
5 *tions 404, 503 and 504 (as so redesignated by section 601),*  
6 *1001 and 1002, by striking “Postal Rate Commission” each*  
7 *place it appears and inserting “Postal Regulatory Commis-*  
8 *sion”;*

9 (b) *AMENDMENTS TO TITLE 5, UNITED STATES*  
10 *CODE.*—*Title 5, United States Code, is amended in sections*  
11 *104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating*  
12 *to Chairman, Postal Rate Commission), 5315 (in the item*  
13 *relating to Members, Postal Rate Commission),*  
14 *5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(vi),*  
15 *8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking*  
16 *“Postal Rate Commission” and inserting “Postal Regu-*  
17 *latory Commission”.*

18 (c) *AMENDMENT TO THE ETHICS IN GOVERNMENT ACT*  
19 *OF 1978.*—*Section 101(f)(6) of the Ethics in Government*  
20 *Act of 1978 (5 U.S.C. App.) is amended by striking “Postal*  
21 *Rate Commission” and inserting “Postal Regulatory Com-*  
22 *mission”.*

23 (d) *AMENDMENT TO THE REHABILITATION ACT OF*  
24 *1973.*—*Section 501(b) of the Rehabilitation Act of 1973 (29*  
25 *U.S.C. 791(b)) is amended by striking “Postal Rate Office”*  
26 *and inserting “Postal Regulatory Commission”.*

1       (e) *AMENDMENT TO TITLE 44, UNITED STATES*  
2 *CODE.*—Section 3502(5) of title 44, United States Code, is  
3 amended by striking “Postal Rate Commission” and insert-  
4 ing “Postal Regulatory Commission”.

5       (f) *OTHER REFERENCES.*—Whenever a reference is  
6 made in any provision of law (other than this Act or a  
7 provision of law amended by this Act), regulation, rule, doc-  
8 ument, or other record of the United States to the Postal  
9 Rate Commission, such reference shall be considered a ref-  
10 erence to the Postal Regulatory Commission.

11 **SEC. 605. FINANCIAL TRANSPARENCY.**

12       Section 101 of title 39, United States Code, is amend-  
13 ed—

14           (1) by redesignating subsections (d) through (g)  
15 as subsections (e) through (h), respectively; and

16           (2) by inserting after subsection (c) the fol-  
17 lowing:

18       “(d) As an independent establishment of the executive  
19 branch of the Government of the United States, the Postal  
20 Service shall be subject to a high degree of transparency  
21 to ensure fair treatment of customers of the Postal Service’s  
22 market-dominant products and companies competing with  
23 the Postal Service’s competitive products.”.

1           **TITLE VII—EVALUATIONS**

2   **SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION,**  
3                           **AND OTHER PROVISIONS.**

4           (a) *IN GENERAL.*—*The Postal Regulatory Commission*  
5 *shall, at least every 3 years, submit a report to the President*  
6 *and Congress concerning—*

7                   (1) *the operation of the amendments made by*  
8 *this Act; and*

9                   (2) *recommendations for any legislation or other*  
10 *measures necessary to improve the effectiveness or effi-*  
11 *ciency of the postal laws of the United States.*

12           (b) *POSTAL SERVICE VIEWS.*—*A report under this sec-*  
13 *tion shall be submitted only after reasonable opportunity*  
14 *has been afforded to the Postal Service to review the report*  
15 *and to submit written comments on the report. Any com-*  
16 *ments timely received from the Postal Service under the pre-*  
17 *ceding sentence shall be attached to the report submitted*  
18 *under subsection (a).*

19   **SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND**  
20                           **THE POSTAL MONOPOLY.**

21           (a) *REPORT BY THE POSTAL REGULATORY COMMIS-*  
22 *SION.*—

23                   (1) *IN GENERAL.*—*Not later than 12 months*  
24 *after the date of enactment of this Act, the Postal Reg-*  
25 *ulatory Commission shall submit a report to the*

1 *President and Congress on universal postal service*  
2 *and the postal monopoly in the United States (in this*  
3 *section referred to as “universal service and the postal*  
4 *monopoly”), including the monopoly on the delivery*  
5 *of mail and on access to mailboxes.*

6 (2) *CONTENTS.—The report under this subsection*  
7 *shall include—*

8 (A) *a comprehensive review of the history*  
9 *and development of universal service and the*  
10 *postal monopoly, including how the scope and*  
11 *standards of universal service and the postal mo-*  
12 *nopoly have evolved over time for the Nation and*  
13 *its urban and rural areas;*

14 (B) *the scope and standards of universal*  
15 *service and the postal monopoly provided under*  
16 *current law (including sections 101 and 403 of*  
17 *title 39, United States Code), and current rules,*  
18 *regulations, policy statements, and practices of*  
19 *the Postal Service;*

20 (C) *a description of any geographic areas,*  
21 *populations, communities (including both urban*  
22 *and rural communities), organizations, or other*  
23 *groups or entities not currently covered by uni-*  
24 *versal service or that are covered but that are re-*

1            *ceiving services deficient in scope or quality or*  
2            *both; and*

3            *(D) the scope and standards of universal*  
4            *service and the postal monopoly likely to be re-*  
5            *quired in the future in order to meet the needs*  
6            *and expectations of the United States public, in-*  
7            *cluding all types of mail users, based on discus-*  
8            *sion of such assumptions, alternative sets of as-*  
9            *sumptions, and analyses as the Postal Service*  
10           *considers plausible.*

11           *(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE*  
12           *AND THE MONOPOLY.—The Postal Regulatory Commission*  
13           *shall include in the report under subsection (a), and in all*  
14           *reports submitted under section 701 of this Act—*

15           *(1) any recommended changes to universal serv-*  
16           *ice and the postal monopoly as the Commission con-*  
17           *siders appropriate, including changes that the Com-*  
18           *mission may implement under current law and*  
19           *changes that would require changes to current law,*  
20           *with estimated effects of the recommendations on the*  
21           *service, financial condition, rates, and security of*  
22           *mail provided by the Postal Service;*

23           *(2) with respect to each recommended change de-*  
24           *scribed under paragraph (1)—*

1           (A) *an estimate of the costs of the Postal*  
 2           *Service attributable to the obligation to provide*  
 3           *universal service under current law; and*

4           (B) *an analysis of the likely benefit of the*  
 5           *current postal monopoly to the ability of the*  
 6           *Postal Service to sustain the current scope and*  
 7           *standards of universal service, including esti-*  
 8           *mates of the financial benefit of the postal mo-*  
 9           *nopoly to the extent practicable, under current*  
 10          *law; and*

11          (3) *such additional topics and recommendations*  
 12          *as the Commission considers appropriate, with esti-*  
 13          *mated effects of the recommendations on the service,*  
 14          *financial condition, rates, and the security of mail*  
 15          *provided by the Postal Service.*

16 **SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COM-**  
 17                                   **PETITIVE PRODUCTS.**

18          (a) *IN GENERAL.*—*The Federal Trade Commission*  
 19          *shall prepare and submit to the President and Congress,*  
 20          *and to the Postal Regulatory Commission, within 1 year*  
 21          *after the date of the enactment of this Act, a comprehensive*  
 22          *report identifying Federal and State laws that apply dif-*  
 23          *ferently to the United States Postal Service with respect to*  
 24          *the competitive category of mail (within the meaning of sec-*  
 25          *tion 102 of title 39, United States Code, as amended by*

1 *section 101) and similar products provided by private com-*  
2 *panies.*

3 (b) *RECOMMENDATIONS.*—*The Federal Trade Commis-*  
4 *sion shall include such recommendations as it considers ap-*  
5 *propriate for bringing such legal discrimination to an end,*  
6 *and in the interim, to account under section 3633 of title*  
7 *39, United States Code (as added by this Act), for the net*  
8 *economic advantages provided by those laws.*

9 (c) *CONSULTATION.*—*In preparing its report, the Fed-*  
10 *eral Trade Commission shall consult with the United States*  
11 *Postal Service, the Postal Regulatory Commission, other*  
12 *Federal agencies, mailers, private companies that provide*  
13 *delivery services, and the general public, and shall append*  
14 *to such report any written comments received under this*  
15 *subsection.*

16 (d) *COMPETITIVE PRODUCT REGULATION.*—*The Postal*  
17 *Regulatory Commission shall take into account the rec-*  
18 *ommendations of the Federal Trade Commission in promul-*  
19 *gating or revising the regulations required under section*  
20 *3633 of title 39, United States Code.*

21 **SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND**  
22 **WORKPLACE-RELATED INJURIES.**

23 (a) *REPORT BY THE INSPECTOR GENERAL.*—

24 (1) *IN GENERAL.*—*No later than 6 months after*  
25 *the enactment of this Act, the Inspector General of the*

1 *United States Postal Service shall submit a report to*  
2 *Congress and the Postal Service that—*

3 *(A) details and assesses any progress the*  
4 *Postal Service has made in improving workplace*  
5 *safety and reducing workplace-related injuries*  
6 *nationwide; and*

7 *(B) identifies opportunities for improve-*  
8 *ment that remain with respect to such improve-*  
9 *ments and reductions.*

10 *(2) CONTENTS.—The report under this subsection*  
11 *shall also—*

12 *(A) discuss any injury reduction goals es-*  
13 *tablished by the Postal Service;*

14 *(B) describe the actions that the Postal*  
15 *Service has taken to improve workplace safety*  
16 *and reduce workplace-related injuries, and assess*  
17 *how successful the Postal Service has been in*  
18 *meeting its injury reduction goal; and*

19 *(C) identify areas where the Postal Service*  
20 *has failed to meet its injury reduction goals, ex-*  
21 *plain the reasons why these goals were not met,*  
22 *and identify opportunities for making further*  
23 *progress in meeting these goals.*

24 *(b) REPORT BY THE POSTAL SERVICE.—*

1           (1) *REPORT TO CONGRESS.*—Not later than 6  
2           months after receiving the report under subsection (a),  
3           the Postal Service shall submit a report to Congress  
4           detailing how it plans to improve workplace safety  
5           and reduce workplace-related injuries nationwide, in-  
6           cluding goals and metrics.

7           (2) *PROBLEM AREAS.*—The report under this  
8           subsection shall also include plans, developed in con-  
9           sultation with the Inspector General and employee  
10          representatives, including representatives of each post-  
11          al labor union and management association, for ad-  
12          dressing the problem areas identified by the Inspector  
13          General in the report under subsection (a)(2)(C).

14 **SEC. 705. STUDY ON RECYCLED PAPER.**

15          (a) *IN GENERAL.*—Within 12 months after the date  
16          of enactment of this Act, the General Accounting Office shall  
17          study and submit to the Congress, the Board of Governors  
18          of the Postal Service, and to the Postal Regulatory Commis-  
19          sion a report concerning—

20               (1) *the economic and environmental efficacy of*  
21               *establishing rate incentives for mailers linked to the*  
22               *use of recycled paper;*

23               (2) *a description of the accomplishments of the*  
24               *Postal Service in each of the preceding 5 years involv-*  
25               *ing recycling activities, including the amount of an-*

1 *nual revenue generated and savings achieved by the*  
 2 *Postal Service as a result of its use of recycled paper*  
 3 *and other recycled products and its efforts to recycle*  
 4 *undeliverable and discarded mail and other mate-*  
 5 *rials; and*

6 *(3) additional opportunities that may be avail-*  
 7 *able for the United States Postal Service to engage in*  
 8 *recycling initiatives and the projected costs and reve-*  
 9 *nuces of undertaking such opportunities.*

10 *(b) RECOMMENDATIONS.—The report shall include rec-*  
 11 *ommendations for any administrative or legislative actions*  
 12 *that may be appropriate.*

13 **TITLE VIII—POSTAL SERVICE RE-**  
 14 **TIREMENT AND HEALTH BEN-**  
 15 **EFITS FUNDING**

16 **SEC. 801. SHORT TITLE.**

17 *This title may be cited as the “Postal Civil Service*  
 18 *Retirement and Health Benefits Funding Amendments of*  
 19 *2004”.*

20 **SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

21 *(a) IN GENERAL.—Chapter 83 of title 5, United States*  
 22 *Code, is amended—*

23 *(1) in section 8334(a)(1)(B), by striking clause*  
 24 *(ii) and inserting the following:*

1       “(ii) *In the case of an employee of the United States*  
2 *Postal Service, no amount shall be contributed under this*  
3 *subparagraph.*”; and

4               (2) *by amending section 8348(h) to read as fol-*  
5 *lows:*

6       “(h)(1) *In this subsection, the term ‘Postal surplus or*  
7 *supplemental liability’ means the estimated difference, as*  
8 *determined by the Office, between—*

9               “(A) *the actuarial present value of all future*  
10 *benefits payable from the Fund under this subchapter*  
11 *to current or former employees of the United States*  
12 *Postal Service and attributable to civilian employ-*  
13 *ment with the United States Postal Service; and*

14               “(B) *the sum of—*

15               “(i) *the actuarial present value of deduc-*  
16 *tions to be withheld from the future basic pay of*  
17 *employees of the United States Postal Service*  
18 *currently subject to this subchapter under section*  
19 *8334;*

20               “(ii) *that portion of the Fund balance, as of*  
21 *the date the Postal surplus or supplemental li-*  
22 *ability is determined, attributable to payments*  
23 *to the Fund by the United States Postal Service*  
24 *and its employees, minus benefit payments at-*  
25 *tributable to civilian employment with the*

1           *United States Postal Service, plus the earnings*  
2           *on such amounts while in the Fund; and*

3                   *“(iii) any other appropriate amount, as de-*  
4                   *termined by the Office in accordance with gen-*  
5                   *erally accepted actuarial practices and prin-*  
6                   *ciples.*

7           *“(2)(A) Not later than June 30, 2006, the Office shall*  
8           *determine the Postal surplus or supplemental liability, as*  
9           *of September 30, 2005. If that result is a surplus, the*  
10          *amount of the surplus shall be transferred to the Postal*  
11          *Service Retiree Health Benefits Fund established under sec-*  
12          *tion 8909a. If the result is a supplemental liability, the Of-*  
13          *fice shall establish an amortization schedule, including a*  
14          *series of annual installments commencing September 30,*  
15          *2006, which provides for the liquidation of such liability*  
16          *by September 30, 2043.*

17          *“(B) The Office shall redetermine the Postal surplus*  
18          *or supplemental liability as of the close of the fiscal year,*  
19          *for each fiscal year beginning after September 30, 2006,*  
20          *through the fiscal year ending September 30, 2038. If the*  
21          *result is a surplus, that amount shall remain in the Fund*  
22          *until distribution is authorized under subparagraph (C),*  
23          *and any prior amortization schedule for payments shall be*  
24          *terminated. If the result is a supplemental liability, the Of-*  
25          *fice shall establish a new amortization schedule, including*

1 *a series of annual installments commencing on September*  
2 *30 of the subsequent fiscal year, which provides for the liq-*  
3 *uidation of such liability by September 30, 2043.*

4       “(C) *As of the close of the fiscal years ending Sep-*  
5 *tember 30, 2015, 2025, 2035, and 2039, if the result is a*  
6 *surplus, that amount shall be transferred to the Postal Serv-*  
7 *ice Retiree Health Benefits Fund, and any prior amortiza-*  
8 *tion schedule for payments shall be terminated.*

9       “(D) *Amortization schedules established under this*  
10 *paragraph shall be set in accordance with generally accept-*  
11 *ed actuarial practices and principles, with interest com-*  
12 *puted at the rate used in the most recent valuation of the*  
13 *Civil Service Retirement System.*

14       “(E) *The United States Postal Service shall pay the*  
15 *amounts so determined to the Office, with payments due*  
16 *not later than the date scheduled by the Office.*

17       “(3) *Notwithstanding any other provision of law, in*  
18 *computing the amount of any payment under any other*  
19 *subsection of this section that is based upon the amount*  
20 *of the unfunded liability, such payment shall be computed*  
21 *disregarding that portion of the unfunded liability that the*  
22 *Office determines will be liquidated by payments under this*  
23 *subsection.”.*

24       (b) *CREDIT ALLOWED FOR MILITARY SERVICE.—In*  
25 *the application of section 8348(g)(2) of title 5, United*

1 *States Code, for the fiscal year 2006, the Office of Personnel*  
 2 *Management shall include, in addition to the amount other-*  
 3 *wise computed under that paragraph, the amounts that*  
 4 *would have been included for the fiscal years 2003 through*  
 5 *2005 with respect to credit for military service of former*  
 6 *employees of the United States Postal Service as though the*  
 7 *Postal Civil Service Retirement System Funding Reform*  
 8 *Act of 2003 (Public Law 108–18) had not been enacted,*  
 9 *and the Secretary of the Treasury shall make the required*  
 10 *transfer to the Civil Service Retirement and Disability*  
 11 *Fund based on that amount.*

12 **SEC. 803. HEALTH INSURANCE.**

13 (a) *IN GENERAL.*—Chapter 89 of title 5, United States  
 14 Code, is amended—

15 (1) *in section 8906(g)(2)(A), by striking “shall*  
 16 *be paid by the United States Postal Service.” and in-*  
 17 *serting “shall be paid first from the Postal Service*  
 18 *Retiree Health Benefits Fund up to the amount con-*  
 19 *tained in the Fund, with any remaining amount*  
 20 *paid by the United States Postal Service.”; and*

21 (2) *by inserting after section 8909 the following:*

22 **“§ 8909a. Postal Service Retiree Health Benefit Fund**

23 “(a) *There is in the Treasury of the United States a*  
 24 *Postal Service Retiree Health Benefits Fund which is ad-*  
 25 *ministered by the Office of Personnel Management.*”

1       “(b) *The Fund is available without fiscal year limita-*  
2 *tion for payments required under section 8906(g)(2)(A).*

3       “(c) *The Secretary of the Treasury shall immediately*  
4 *invest, in interest-bearing securities of the United States*  
5 *such currently available portions of the Fund as are not*  
6 *immediately required for payments from the Fund. Such*  
7 *investments shall be made in the same manner as invest-*  
8 *ments for the Civil Service Retirement and Disability Fund*  
9 *under section 8348.*

10       “(d)(1) *Not later than December 31, 2006, and by De-*  
11 *cember 31 of each succeeding year, the Office shall compute*  
12 *the net present value of the future payments required under*  
13 *section 8906(g)(2)(A) and attributable to the service of Post-*  
14 *al Service employees during the most recently ended fiscal*  
15 *year.*

16       “(2)(A) *Not later than December 31, 2006, the Office*  
17 *shall compute, and by December 31 of each succeeding year,*  
18 *the Office shall recompute the difference between—*

19               “(i) *the net present value of the excess of future*  
20 *payments required under section 8906(g)(2)(A) for*  
21 *current and future United States Postal Service an-*  
22 *nuityants as of the end of the fiscal year ending on*  
23 *September 30 of that year; and*

1           “(ii)(I) the value of the assets of the Postal Re-  
2           tiree Health Benefits Fund as of the end of the fiscal  
3           year ending on September 30 of that year; and

4           “(II) the net present value computed under para-  
5           graph (1).

6           “(B) Not later than December 31, 2006, the Office shall  
7           compute, and by December 31 of each succeeding year shall  
8           recompute, an amortization schedule including a series of  
9           annual installments which provide for the liquidation by  
10          January 31, 2046, or within 15 years, whichever is later,  
11          of the net present value determined under subparagraph  
12          (A), including interest at the rate used in that computation.

13          “(3) Not later than January 31, 2007, and by Janu-  
14          ary 31 of each succeeding year, the United States Postal  
15          Service shall pay into such Fund—

16                 “(A) the net present value computed under para-  
17                 graph (1); and

18                 “(B) the annual installment computed under  
19                 paragraph (2)(B).

20          “(4) Computations under this subsection shall be made  
21          consistent with the assumptions and methodology used by  
22          the Office for financial reporting under subchapter II of  
23          chapter 35 of title 31.

1       “(5) *After consultation with the United States Postal*  
 2 *Service, the Office shall promulgate any regulations the Of-*  
 3 *fice determines necessary under this subsection.*”.

4       **(b) TECHNICAL AND CONFORMING AMENDMENT.**—*The*  
 5 *table of sections for chapter 89 of title 5, United States*  
 6 *Code, is amended by inserting after the item relating to*  
 7 *section 8909 the following:*

      “8909a. *Postal Service Retiree Health Benefits Fund.*”.

8       **SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

9       *Section 3 of the Postal Civil Service Retirement Sys-*  
 10 *tem Funding Reform Act of 2003 (Public Law 108–18) is*  
 11 *repealed.*

12       **SEC. 805. EFFECTIVE DATES.**

13       **(a) IN GENERAL.**—*Except as provided under sub-*  
 14 *section (b), this title shall take effect on October 1, 2005.*

15       **(b) TERMINATION OF EMPLOYER CONTRIBUTION.**—*The*  
 16 *amendment made by paragraph (1) of section 802(a) shall*  
 17 *take effect on the first day of the first pay period beginning*  
 18 *on or after October 1, 2005.*

19       **TITLE IX—COMPENSATION FOR**  
 20                                   **WORK INJURIES**

21       **SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

22       **(a) TIME OF ACCRUAL OF RIGHT.**—*Section 8117 of*  
 23 *title 5, United States Code, is amended—*

1           (1) *by striking “An employee” and inserting*  
 2           *“(a) An employee other than a Postal Service em-*  
 3           *ployee”;* and

4           (2) *by adding at the end the following:*

5           *“(b) A Postal Service employee is not entitled to com-*  
 6           *pensation or continuation of pay for the first 3 days of tem-*  
 7           *porary disability, except as provided under paragraph (3)*  
 8           *of subsection (a). A Postal Service employee may use an-*  
 9           *nual leave, sick leave, or leave without pay during that 3-*  
 10          *day period, except that if the disability exceeds 14 days or*  
 11          *is followed by permanent disability, the employee may have*  
 12          *their sick leave or annual leave reinstated or receive pay*  
 13          *for the time spent on leave without pay under this section.”.*

14          (b) *TECHNICAL AND CONFORMING AMENDMENT.—Sec-*  
 15          *tion 8118(b)(1) of title 5, United States Code, is amended*  
 16          *to read as follows:*

17                 *“(1) without a break in time, except as provided*  
 18                 *under section 8117(b), unless controverted under regu-*  
 19                 *lations of the Secretary”.*

20          **SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-**  
 21                                 **EES.**

22          (a) *TOTAL DISABILITY.—Section 8105 of title 5,*  
 23          *United States Code, is amended—*

24                 (1) *in subsection (a), by adding at the end the*  
 25                 *following: “This section applies to a Postal Service*

1        *employee, except as provided under subsection (c).”;*

2        *and*

3                *(2) by adding at the end the following:*

4                *“(c)(1) In this subsection, the term ‘retirement age’ has*  
5 *the meaning given under section 216(l)(1) of the Social Se-*  
6 *curity Act (42 U.S.C. 416(l)(1)).*

7                *“(2) Notwithstanding any other provision of law, for*  
8 *any injury occurring on or after the date of enactment of*  
9 *the Postal Accountability and Enhancement Act, and for*  
10 *any new claim for a period of disability commencing on*  
11 *or after that date, the compensation entitlement for total*  
12 *disability is converted to 50 percent of the monthly pay of*  
13 *the employee on the later of—*

14                *“(A) the date on which the injured employee*  
15 *reaches retirement age; or*

16                *“(B) 1 year after the employee begins receiving*  
17 *compensation.”.*

18        *(b) PARTIAL DISABILITY.—Section 8106 of title 5,*  
19 *United States Code, is amended—*

20                *(1) in subsection (a), by adding at the end the*  
21 *following: “This section applies to a Postal Service*  
22 *employee, except as provided under subsection (d).”;*

23        *and*

24                *(2) by adding at the end the following:*

1       “(d)(1) *In this subsection, the term ‘retirement age’ has*  
 2 *the meaning given under section 216(l)(1) of the Social Se-*  
 3 *curity Act (42 U.S.C. 416(l)(1)).*

4               “(2) *Notwithstanding any other provision of law,*  
 5 *for any injury occurring on or after the date of enact-*  
 6 *ment of this subsection, and for any new claim for a*  
 7 *period of disability commencing on or after that date,*  
 8 *the compensation entitlement for partial disability is*  
 9 *converted to 50 percent of the difference between the*  
 10 *monthly pay of an employee and the monthly wage*  
 11 *earning capacity of the employee after the beginning*  
 12 *of partial disability on the later of—*

13                       “(A) *the date on which the injured employee*  
 14 *reaches retirement age; or*

15                       “(B) *1 year after the employee begins re-*  
 16 *ceiving compensation.”.*

17       **TITLE X—MISCELLANEOUS**

18       **SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

19       *Section 404 of title 39, United States Code (as amend-*  
 20 *ed by this Act), is further amended by adding at the end*  
 21 *the following:*

22               “(d) *The Postal Service may employ guards for all*  
 23 *buildings and areas owned or occupied by the Postal Service*  
 24 *or under the charge and control of the Postal Service, and*  
 25 *may give such guards, with respect to such property, any*

1 *of the powers of special policemen provided under section*  
2 *1315 of title 40. The Postmaster General, or the designee*  
3 *of the Postmaster General, may take any action that the*  
4 *Secretary of Homeland Security may take under section*  
5 *1315 of title 40, with respect to that property.”.*

6 **SEC. 1002. EXPANDED CONTRACTING AUTHORITY.**

7 *(a) AMENDMENT TO TITLE 39, UNITED STATES*  
8 *CODE.—*

9 *(1) CONTRACTS WITH AIR CARRIERS.—Sub-*  
10 *section (d) of section 5402 of title 39, United States*  
11 *Code, is amended to read as follows:*

12 *“(d)(1) The Postal Service may contract with any air*  
13 *carrier for the transportation of mail by aircraft in inter-*  
14 *state air transportation, including the rates therefor, either*  
15 *through negotiations or competitive bidding.*

16 *“(2) Notwithstanding subsections (a) through (c), the*  
17 *Postal Service may contract with any air carrier or foreign*  
18 *air carrier for the transportation of mail by aircraft in for-*  
19 *ign air transportation, including the rates therefor, either*  
20 *through negotiations or competitive bidding, except that—*

21 *“(A) any such contract may be awarded only to*  
22 *(i) an air carrier holding a certificate required by*  
23 *section 41101 of title 49 or an exemption therefrom*  
24 *issued by the Secretary of Transportation, (ii) a for-*  
25 *ign air carrier holding a permit required by section*

1       41301 of title 49 or an exemption therefrom issued by  
2       the Secretary of Transportation, or (iii) a combina-  
3       tion of such air carriers or foreign air carriers (or  
4       both);

5               “(B) mail transported under any such contract  
6       shall not be subject to any duty-to-carry requirement  
7       imposed by any provision of subtitle VII of title 49  
8       or by any certificate, permit, or corresponding exemp-  
9       tion authority issued by the Secretary of Transpor-  
10      tation under that subtitle;

11              “(C) every contract that the Postal Service  
12      awards to a foreign air carrier under this paragraph  
13      shall be subject to the continuing requirement that air  
14      carriers shall be afforded the same opportunity to  
15      carry the mail of the country to and from which the  
16      mail is transported and the flag country of the for-  
17      eign air carrier, if different, as the Postal Service has  
18      afforded the foreign air carrier; and

19              “(D) the Postmaster General shall consult with  
20      the Secretary of Defense concerning actions that affect  
21      the carriage of military mail transported in foreign  
22      air transportation.

23              “(3) Paragraph (2) shall not be interpreted as sus-  
24      pending or otherwise diminishing the authority of the Sec-  
25      retary of Transportation under section 41310 of title 49.”.

1           (2) *DEFINITIONS.*—*Subsection (e) of section 5402*  
2           *of title 39, United States Code, is amended to read as*  
3           *follows:*

4           “(e) *For purposes of this section, the terms ‘air car-*  
5           *rier’, ‘air transportation’, ‘foreign air carrier’, ‘foreign air*  
6           *transportation’, ‘interstate air transportation’, and ‘mail’*  
7           *shall have the meanings given such terms in section 40102*  
8           *of title 49.’.*”

9           (b) *AMENDMENTS TO TITLE 49, UNITED STATES*  
10          *CODE.*—

11           (1) *AUTHORITY OF POSTAL SERVICE TO PROVIDE*  
12          *FOR INTERSTATE AIR TRANSPORTATION OF MAIL.*—  
13          *Section 41901(a) of title 49, United States Code, is*  
14          *amended to read as follows:*

15          “(a) *TITLE 39.*—*The United States Postal Service*  
16          *may provide for the transportation of mail by aircraft in*  
17          *air transportation under this chapter and under chapter*  
18          *54 of title 39.’.*”

19           (2) *SCHEDULES FOR CERTAIN TRANSPORTATION*  
20          *OF MAIL.*—*Section 41902(b)(1) of title 49, United*  
21          *States Code, is amended by inserting before the semi-*  
22          *colon at the end the following: “(other than foreign*  
23          *air transportation of mail)’.*”

1           (3) *PRICES FOR FOREIGN TRANSPORTATION OF*  
2           *MAIL.—Section 41907 of title 49, United States Code,*  
3           *is amended—*

4                     (A) *by striking “(a) LIMITATIONS.—”; and*  
5                     (B) *by striking subsection (b).*

6           (4) *CONFORMING AMENDMENTS.—Sections*  
7           *41107, 41901(b)(1), 41902(a), 41903(a), and 41903(b)*  
8           *of title 49, United States Code, are amended by strik-*  
9           *ing “in foreign air transportation or”.*

Calendar No. 674

108<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2468**

[Report No. 108-318]

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**A BILL**

To reform the postal laws of the United States.

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August 25, 2004

Reported with an amendment

VII. Signing Statement of  
President George W. Bush  
(Dec. 20, 2006)

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For Immediate Release  
Office of the Press Secretary  
December 20, 2006

## President's Statement on H.R. 6407, the "Postal Accountability and Enhancement Act"

Today I have signed into law H.R. 6407, the "Postal Accountability and Enhancement Act." The Act is designed to improve the quality of postal service for Americans and to strengthen the free market for delivery services.

The executive branch shall construe sections 3662 and 3663 of title 39, United States Code, as enacted by section 205 of the Act, not to authorize an officer or agency within the executive branch to institute proceedings in Federal court against the Postal Regulatory Commission, which is another part of the executive branch, as is consistent with the constitutional authority of the President to supervise the unitary executive branch and the constitutional limitation of Federal courts to deciding cases or controversies.



The executive branch shall construe subsection 409(h) of title 39, as enacted by section 404 of the Act, which relates to legal representation for an element of the executive branch, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and to take care that the laws be faithfully executed.

The executive branch shall construe section 407 of title 39, as enacted by section 405 of the Act, in a manner consistent with the President's constitutional authority to conduct the Nation's foreign affairs, including the authority to determine which officers shall negotiate for the United States and toward what objectives, to make treaties by and with the advice and consent of the Senate, and to supervise the unitary executive branch.

The executive branch shall construe subsections 202(a) and 502(a) of title 39, as enacted by subsections 501(a) and 601(a) of the Act, which purport to limit the qualifications of the pool of persons from whom the President may select appointees in a manner

that rules out a large portion of those persons best qualified by experience and knowledge to fill the positions, in a manner consistent with the Appointments Clause of the Constitution. The executive branch shall also construe as advisory the purported deadline in subsection 605(c) for the making of an appointment, as is consistent with the Appointments Clause.

The executive branch shall construe subsection 404(c) of title 39, as enacted by subsection 1010(e) of the Act, which provides for opening of an item of a class of mail otherwise sealed against inspection, in a manner consistent, to the maximum extent permissible, with the need to conduct searches in exigent circumstances, such as to protect human life and safety against hazardous materials, and the need for physical searches specifically authorized by law for foreign intelligence collection.

The executive branch shall construe provisions of the Act that call for executive branch officials to submit legislative recommendations to the Congress in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and to recommend for congressional consideration such measures as the President shall judge necessary and expedient. Such provisions include subsection 504(d) and section 2009 of title 39, as amended by section 603 of the Act, and sections 701(a)(2), 702(b), 703(b), 708(b), and 709(b)(2) of the Act.

GEORGE W. BUSH

THE WHITE HOUSE,

December 20, 2006.

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