

109TH CONGRESS
1ST SESSION

H. R. 22

AN ACT

To reform the postal laws of the United States.

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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 PPLICABILITY.—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 (c))—

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.

109TH CONGRESS
1ST SESSION

H. R. 22

AN ACT

To reform the postal laws of the United States.