

Union Calendar No. 427

108TH CONGRESS
2D SESSION

H. R. 4341

[Report No. 108-672, Parts I and II]

To reform the postal laws of the United States.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2004

Mr. MCHUGH (for himself, Mr. DAVIS of Illinois, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, Mrs. MILLER of Michigan, Mr. BURTON of Indiana, Mr. SCHROCK, Mr. SHAYS, Mr. OWENS, Mrs. MALONEY, Mr. MICA, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. PLATTS, Mr. CANNON, Mr. PUTNAM, Mr. DUNCAN, Mr. DEAL of Georgia, Ms. WATSON, Mr. LYNCH, Ms. NORTON, Mr. MURPHY, Mr. TURNER of Ohio, Mr. CARTER, Mrs. BLACKBURN, Mr. TIBERI, and Ms. HARRIS) introduced the following bill; which was referred to the Committee on Government Reform

SEPTEMBER 8, 2004

Reported and referred to the Committee on the Judiciary for a period ending not later than September 28, 2004, for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

SEPTEMBER 23, 2004

Additional sponsors: Mr. CLAY, Mr. WELDON of Pennsylvania, Mrs. EMERSON, Mr. LANTOS, Mr. RUSH, Mr. FORD, Ms. MCCARTHY of Missouri, Mr. BOUCHER, Mr. MCINTYRE, Mr. POMEROY, Mrs. CUBIN, Mr. MOORE, Mr. EVANS, Mr. ROSS, Mr. BOEHLERT, Mr. FRANK of Massachusetts, Ms. SLAUGHTER, Mr. RAHALL, Mr. BAIRD, Mr. LAHOOD, Mr. MCDERMOTT, Mr. PAYNE, Mr. WILSON of South Carolina, Mrs. CAPITO, Mr. DAVIS of Tennessee, Mr. BRADLEY of New Hampshire, Mr. BILIRAKIS, Mr. MORAN of Virginia, Mr. LUCAS of Kentucky, Ms. BERKLEY, Mr. MICHAUD, Mr. MEEK of Florida, Mr. TOWNS, Mr. LARSON of Connecticut, Mr. PRICE of North Carolina, Mr. LINCOLN DIAZ-BALART of Florida, Mr. CONYERS, Mr. SHERMAN, Ms. LINDA T. SÁNCHEZ of Cali-

fornia, Mr. GREEN of Wisconsin, Mr. CHANDLER, Mr. COSTELLO, Mr. PALLONE, Mr. SIMMONS, Mr. FERGUSON, Mr. McNULTY, Mr. VAN HOLLEN, Ms. HARMAN, Mr. OXLEY, and Mr. ALLEN

SEPTEMBER 23, 2004

Reported by the Committee on the Judiciary with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill see copy of bill as introduced on May 12, 2004]

A BILL

To reform the postal laws of the United States.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Postal Accountability and Enhancement Act”.*

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

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.*
- Sec. 307. Clarification.*

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 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. Postal processing and distribution network study.*
- Sec. 710. 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.*

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

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

7 “(10) ‘Consumer Price Index’ means the Con-
8 sumer Price Index for All Urban Consumers pub-
9 lished monthly by the Bureau of Labor Statistics of
10 the Department of Labor; and

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

13 **SEC. 102. POSTAL SERVICES.**

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

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

19 (2) by adding at the end the following:

20 “(c) Nothing in this title shall be considered to permit
21 or require that the Postal Service provide any special non-
22 postal or similar services, except that nothing in this sub-
23 section shall prevent the Postal Service from providing any
24 special nonpostal or similar services provided by the Postal
25 Service as of May 12, 2004.”.

1 (b) *CONFORMING AMENDMENT.*—Section
2 *1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98*
3 *Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by*
4 *striking “404(a)(8)” and inserting “404(a)(7)”.*

5 **SEC. 103. FINANCIAL TRANSPARENCY.**

6 (a) *IN GENERAL.*—Section 101 of title 39, United
7 States Code, is amended by redesignating subsections (d)
8 through (g) as subsections (e) through (h), respectively, and
9 by inserting after subsection (c) the following:

10 “(d) *As an establishment that provides both market-*
11 *dominant and competitive products, the Postal Service shall*
12 *be subject to a high degree of transparency, including in*
13 *its finances and operations, to ensure fair treatment of cus-*
14 *tomers of the Postal Service’s market-dominant products*
15 *and companies competing with the Postal Service’s com-*
16 *petitive products.”.*

17 (b) *CONFORMING AMENDMENT.*—Section 5001 of title
18 39, United States Code, is amended by striking “101(e) and
19 (f)” and inserting “101(f) and (g)”.

1 **TITLE II—MODERN RATE**
2 **REGULATION**

3 **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT**
4 **PRODUCTS.**

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

8 **“§ 3621. Applicability; definitions**

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

11 “(1)(A) *single piece first-class letters (both do-*
12 *mestic and international);*

13 “(B) *single piece first-class cards (both domestic*
14 *and international); and*

15 “(C) *special services;*

16 “(2) *all first-class mail not included under para-*
17 *graph (1);*

18 “(3) *periodicals;*

19 “(4) *standard mail;*

20 “(5) *media mail;*

21 “(6) *library mail; and*

22 “(7) *bound printed matter,*

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

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

5 “§ 3622. *Modern rate regulation*

6 “(a) *AUTHORITY GENERALLY.*—The Postal Regulatory
7 Commission shall, within 24 months after the date of the
8 enactment of this section, by regulation establish (and may
9 from time to time thereafter by regulation revise) a modern
10 system for regulating rates and classes for market-dominant
11 products.

12 “(b) *OBJECTIVES.*—Such system shall be designed to
13 achieve the following objectives:

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

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

18 “(3) *To maintain high quality service standards.*

19 “(4) *To allow the Postal Service pricing flexi-*
20 *bility.*

21 “(5) *To assure adequate revenues, including re-*
22 *tained earnings, to maintain financial stability.*

23 “(6) *To reduce the administrative burden of the*
24 *ratemaking process.*

1 “(c) *FACTORS.*—*In establishing or revising such sys-*
2 *tem, the Postal Regulatory Commission shall take into ac-*
3 *count—*

4 “(1) *the establishment and maintenance of a fair*
5 *and equitable schedule for rates and classification sys-*
6 *tem;*

7 “(2) *the value of the mail service actually pro-*
8 *vided each class or type of mail service to both the*
9 *sender and the recipient, including but not limited to*
10 *the collection, mode of transportation, and priority of*
11 *delivery;*

12 “(3) *the direct and indirect postal costs attrib-*
13 *utable to each class or type of mail service plus that*
14 *portion of all other costs of the Postal Service reason-*
15 *ably assignable to such class or type;*

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

20 “(5) *the available alternative means of sending*
21 *and receiving letters and other mail matter at reason-*
22 *able costs;*

23 “(6) *the degree of preparation of mail for deliv-*
24 *ery into the postal system performed by the mailer*

1 *and its effect upon reducing costs to the Postal Serv-*
2 *ice;*

3 “(7) *simplicity of structure for the entire sched-*
4 *ule and simple, identifiable relationships between the*
5 *rates or fees charged the various classes of mail for*
6 *postal services;*

7 “(8) *the relative value to the people of the kinds*
8 *of mail matter entered into the postal system and the*
9 *desirability and justification for special classifica-*
10 *tions and services of mail;*

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

15 “(10) *the desirability of special classifications*
16 *from the point of view of both the user and of the*
17 *Postal Service;*

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

21 “(12) *the policies of this title as well as such*
22 *other factors as the Commission deems appropriate.*

23 “(d) *ALLOWABLE PROVISIONS.—The system for regu-*
24 *lating rates and classes for market-dominant products may*
25 *include one or more of the following:*

1 “(1) *Price caps, revenue targets, or other form of*
2 *incentive regulation.*”

3 “(2) *Cost-of-service regulation.*”

4 “(3) *Such other form of regulation as the Com-*
5 *mission considers appropriate to achieve, consistent*
6 *with subsection (c), the objectives of subsection (b).*”

7 “(e) *LIMITATION.—In the administration of this sec-*
8 *tion, the Commission shall not permit the average rate in*
9 *any subclass of mail to increase at an annual rate greater*
10 *than the comparable increase in the Consumer Price Index,*
11 *unless it has, after notice and opportunity for a public*
12 *hearing and comment, determined that such increase is rea-*
13 *sonable and equitable and necessary to enable the Postal*
14 *Service, under best practices of honest, efficient, and eco-*
15 *nomical management, to maintain and continue the devel-*
16 *opment of postal services of the kind and quality adapted*
17 *to the needs of the United States.*”

18 “(f) *TRANSITION RULE.—Until regulations under this*
19 *section first take effect, rates and classes for market-domi-*
20 *nant products shall remain subject to modification in ac-*
21 *cordance with the provisions of this chapter and section*
22 *407, as such provisions were last in effect before the date*
23 *of the enactment of this section.*”

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

1 (c) *REDESIGNATION*.—Chapter 36 of title 39, United
 2 States Code (as in effect after the amendment made by sec-
 3 tion 501(a)(2), but before the amendment made by section
 4 202) is amended by striking the heading for subchapter II
 5 and inserting the following:

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

8 **SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-**
 9 **UCTS.**

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

12 “SUBCHAPTER II—PROVISIONS RELATING TO
 13 COMPETITIVE PRODUCTS

14 **“§ 3631. Applicability; definitions and updates**

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

17 “(1) priority mail;

18 “(2) expedited mail;

19 “(3) mailgrams;

20 “(4) international mail; and

21 “(5) parcel post,

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

24 “(b) *DEFINITION*.—For purposes of this subchapter,
 25 the term ‘costs attributable’, as used with respect to a prod-

1 *uct, means the direct and indirect postal costs attributable*
2 *to such product.*

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

7 “§ 3632. **Action of the Governors**

8 “(a) *AUTHORITY TO ESTABLISH RATES AND CLASS-*
9 *ES.*—*The Governors shall establish rates and classes for*
10 *products in the competitive category of mail in accordance*
11 *with the requirements of this subchapter and regulations*
12 *promulgated under section 3633.*

13 “(b) *PROCEDURES.*—

14 “(1) *IN GENERAL.*—*Rates and classes shall be es-*
15 *tablished in writing, complete with a statement of ex-*
16 *planation and justification, and the date as of which*
17 *each such rate or class takes effect.*

18 “(2) *RATES OR CLASSES OF GENERAL APPLICA-*
19 *BILITY.*—*In the case of rates or classes of general ap-*
20 *plicability in the Nation as a whole or in any sub-*
21 *stantial region of the Nation, the Governors shall*
22 *cause each rate and class decision under this section*
23 *and the record of the Governors’ proceedings in con-*
24 *nection with such decision to be published in the Fed-*

1 *eral Register at least 30 days before the effective date*
2 *of any new rates or classes.*

3 “(3) *RATES OR CLASSES NOT OF GENERAL AP-*
4 *PLICABILITY.—In the case of rates or classes not of*
5 *general applicability in the Nation as a whole or in*
6 *any substantial region of the Nation, the Governors*
7 *shall cause each rate and class decision under this*
8 *section and the record of the proceedings in connec-*
9 *tion with such decision to be filed with the Postal*
10 *Regulatory Commission by such date before the effec-*
11 *tive date of any new rates or classes as the Governors*
12 *consider appropriate, but in no case less than 15*
13 *days.*

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

20 “(c) *TRANSITION RULE.—Until regulations under sec-*
21 *tion 3633 first take effect, rates and classes for competitive*
22 *products shall remain subject to modification in accordance*
23 *with the provisions of this chapter and section 407, as such*
24 *provisions were as last in effect before the date of the enact-*
25 *ment of this section.*

1 **“§ 3633. Provisions applicable to rates for competitive**
 2 **products**

3 *“The Postal Regulatory Commission shall, within 18*
 4 *months after the date of the enactment of this section, pro-*
 5 *mulgate (and may from time to time thereafter revise) regu-*
 6 *lations—*

7 *“(1) to prohibit the subsidization of competitive*
 8 *products by market-dominant products;*

9 *“(2) to ensure that each competitive product cov-*
 10 *ers its costs attributable; and*

11 *“(3) to ensure that all competitive products col-*
 12 *lectively make a reasonable contribution to the insti-*
 13 *tutional costs of the Postal Service.”.*

14 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**
 15 **NEW PRODUCTS.**

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

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

20 **“§ 3641. Market tests of experimental products**

21 *“(a) AUTHORITY.—*

22 *“(1) IN GENERAL.—The Postal Service may con-*
 23 *duct market tests of experimental products in accord-*
 24 *ance with this section.*

25 *“(2) PROVISIONS WAIVED.—A product shall not,*
 26 *while it is being tested under this section, be subject*

1 to the requirements of sections 3622, 3633, or 3642,
2 or regulations promulgated under those sections.

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

5 “(1) *SIGNIFICANTLY DIFFERENT PRODUCT.*—The
6 product is, from the viewpoint of the mail users, sig-
7 nificantly different from all products offered by the
8 Postal Service within the 2-year period preceding the
9 start of the test.

10 “(2) *MARKET DISRUPTION.*—The introduction or
11 continued offering of the product will not create an
12 unfair or otherwise inappropriate competitive advan-
13 tage for the Postal Service or any mailer, particularly
14 in regard to small business concerns (as defined under
15 subsection (h)).

16 “(3) *CORRECT CATEGORIZATION.*—The Postal
17 Service identifies the product, for the purpose of a test
18 under this section, as either market dominant or com-
19 petitive, consistent with the criteria under section
20 3642(b)(1). Costs and revenues attributable to a prod-
21 uct identified as competitive shall be included in any
22 determination under section 3633(3) (relating to pro-
23 visions applicable to competitive products collec-
24 tively).

25 “(c) *NOTICE.*—

1 “(1) *IN GENERAL.*—*At least 30 days before initi-*
2 *ating a market test under this section, the Postal*
3 *Service shall file with the Postal Regulatory Commis-*
4 *sion and publish in the Federal Register a notice—*

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

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

10 “(2) *SAFEGUARDS.*—*For a competitive experi-*
11 *mental product, the provisions of section 504(g) shall*
12 *be available with respect to any information required*
13 *to be filed under paragraph (1) to the same extent*
14 *and in the same manner as in the case of any matter*
15 *described in section 504(g)(1). Nothing in paragraph*
16 *(1) shall be considered to permit or require the publi-*
17 *cation of any information as to which confidential*
18 *treatment is accorded under the preceding sentence*
19 *(subject to the same exception as set forth in section*
20 *504(g)(3)).*

21 “(d) *DURATION.*—

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

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

10 “(e) *DOLLAR-AMOUNT LIMITATION.*—

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

22 “(2) *EXEMPTION AUTHORITY.*—The Postal Regu-
23 latory Commission may, upon written application of
24 the Postal Service, exempt the market test from the
25 limit in paragraph (1) if the total revenues that are

1 *anticipated, or in fact received, by the Postal Service*
2 *from such product do not exceed \$50,000,000 in any*
3 *year, subject to subsection (g). In reviewing an appli-*
4 *cation under this paragraph, the Postal Regulatory*
5 *Commission shall approve such application if it de-*
6 *termines that—*

7 *“(A) the product is likely to benefit the pub-*
8 *lic and meet an expected demand;*

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

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

13 *“(f) CANCELLATION.—If the Postal Regulatory Com-*
14 *mission at any time determines that a market test under*
15 *this section fails, with respect to any particular product,*
16 *to meet one or more of the requirements of this section, it*
17 *may order the cancellation of the test involved or take such*
18 *other action as it considers appropriate. A determination*
19 *under this subsection shall be made in accordance with such*
20 *procedures as the Commission shall by regulation prescribe.*

21 *“(g) ADJUSTMENT FOR INFLATION.—For purposes of*
22 *each year following the year in which occurs the deadline*
23 *for the Postal Service’s first report to the Postal Regulatory*
24 *Commission under section 3652(a), each dollar amount con-*
25 *tained in this section shall be adjusted by the change in*

1 *the Consumer Price Index for such year (as determined*
2 *under regulations of the Commission).*

3 “(h) *DEFINITION OF A SMALL BUSINESS CONCERN.—*
4 *The criteria used in defining small business concerns or oth-*
5 *erwise categorizing business concerns as small business con-*
6 *cerns shall, for purposes of this section, be established by*
7 *the Postal Regulatory Commission in conformance with the*
8 *requirements of section 3 of the Small Business Act.*

9 “(i) *EFFECTIVE DATE.—Market tests under this sub-*
10 *chapter may be conducted in any year beginning with the*
11 *first year in which occurs the deadline for the Postal Serv-*
12 *ice’s first report to the Postal Regulatory Commission under*
13 *section 3652(a).*

14 **“§ 3642. *New products and transfers of products be-***
15 ***tween the market-dominant and competi-***
16 ***tive categories of mail***

17 “(a) *IN GENERAL.—Upon request of the Postal Service*
18 *or users of the mails, or upon its own initiative, the Postal*
19 *Regulatory Commission may change the list of market-dom-*
20 *inant products under section 3621 and the list of competi-*
21 *tive products under section 3631 by adding new products*
22 *to the lists, removing products from the lists, or transferring*
23 *products between the lists.*

1 “(b) *CRITERIA.*—All determinations by the Postal Reg-
2 *ulatory Commission under subsection (a) shall be made in*
3 *accordance with the following criteria:*

4 “(1) *The market-dominant category of products*
5 *shall consist of each product in the sale of which the*
6 *Postal Service exercises sufficient market power that*
7 *it can effectively set the price of such product substan-*
8 *tially above costs, raise prices significantly, decrease*
9 *quality, or decrease output, without risk of losing*
10 *business to other firms offering similar products. The*
11 *competitive category of products shall consist of all*
12 *other products.*

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

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

1 “(A) *the availability and nature of enter-*
2 *prises in the private sector engaged in the deliv-*
3 *ery of the product involved;*

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

7 “(C) *the likely impact of the proposed ac-*
8 *tion on small business concerns (within the*
9 *meaning of section 3641(h)).*

10 “(c) *TRANSFERS OF SUBCLASSES AND OTHER SUBOR-*
11 *DINATE UNITS ALLOWABLE.—Nothing in this title shall be*
12 *considered to prevent transfers under this section from being*
13 *made by reason of the fact that they would involve only*
14 *some (but not all) of the subclasses or other subordinate*
15 *units of the class of mail or type of postal service involved*
16 *(without regard to satisfaction of minimum quantity re-*
17 *quirements standing alone).*

18 “(d) *NOTIFICATION AND PUBLICATION REQUIRE-*
19 *MENTS.—*

20 “(1) *NOTIFICATION REQUIREMENT.—The Postal*
21 *Service shall, whenever it requests to add a product*
22 *or transfer a product to a different category, file with*
23 *the Postal Regulatory Commission and publish in the*
24 *Federal Register a notice setting out the basis for its*
25 *determination that the product satisfies the criteria*

1 *under subsection (b) and, in the case of a request to*
2 *add a product or transfer a product to the competi-*
3 *tive category of mail, that the product meets the regu-*
4 *lations promulgated by the Postal Regulatory Com-*
5 *mission pursuant to section 3633. The provisions of*
6 *section 504(g) shall be available with respect to any*
7 *information required to be filed.*

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

16 *“(e) NOTIFICATION REQUIREMENT.—The Postal Regu-*
17 *latory Commission shall, whenever it reaches a conclusion*
18 *that a product or products should be transferred between*
19 *the list of market-dominant products under section 3621*
20 *and the list of competitive products under section 3631, im-*
21 *mediately notify the appropriate committees of the Con-*
22 *gress. No such transfer may take effect less than 12 months*
23 *after such conclusion.*

24 *“(f) PROHIBITION.—Except as provided in section*
25 *3641, no product that involves the carriage of letters, print-*

1 *ed matter, or mailable packages may be offered by the Post-*
 2 *al Service unless it has been assigned to the market-domi-*
 3 *nant or competitive category of mail (as appropriate) ei-*
 4 *ther—*

5 “(1) under this subchapter; or

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

7 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**
 8 **VISIONS.**

9 (a) *REDESIGNATION*.—Chapter 36 of title 39, United
 10 States Code (as in effect before the amendment made by sub-
 11 section (b)) is amended by striking the heading for sub-
 12 chapter IV and inserting the following:

13 “SUBCHAPTER V—POSTAL SERVICES,
 14 COMPLAINTS, AND JUDICIAL REVIEW”.

15 (b) *REPORTS AND COMPLIANCE*.—Chapter 36 of title
 16 39, United States Code, is amended by inserting after sub-
 17 chapter III the following:

18 “SUBCHAPTER IV—REPORTING REQUIREMENTS
 19 AND RELATED PROVISIONS

20 **“§ 3651. Annual reports by the Commission**

21 “(a) *IN GENERAL*.—The Postal Regulatory Commis-
 22 sion shall submit an annual report to the President and
 23 the Congress concerning the operations of the Commission
 24 under this title, including the extent to which regulations

1 *are achieving the objectives under sections 3622 and 3633,*
2 *respectively.*

3 “(b) *ADDITIONAL INFORMATION.*—*In addition to the*
4 *information required under subsection (a), each report*
5 *under this section shall also include, with respect to the pe-*
6 *riod covered by such report, an estimate of the costs in-*
7 *curred by the Postal Service in providing—*

8 “(1) *postal services to areas of the Nation where,*
9 *in the judgment of the Postal Regulatory Commission,*
10 *the Postal Service either would not provide services at*
11 *all or would not provide such services in accordance*
12 *with the requirements of this title if the Postal Service*
13 *were not required to provide prompt, reliable, and ef-*
14 *ficent services to patrons in all areas and all com-*
15 *munities, including as required under the first sen-*
16 *tence of section 101(b);*

17 “(2) *free or reduced rates for postal services as*
18 *required by this title; and*

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

23 *The Commission shall detail the bases for its estimates and*
24 *the statutory requirements giving rise to the costs identified*
25 *in each report under this section.*

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

6 “**§ 3652. Annual reports to the Commission**

7 “(a) *COSTS, REVENUES, AND RATES.*—*Except as pro-*
8 *vided in subsection (c), the Postal Service shall, no later*
9 *than 90 days after the end of each year, prepare and submit*
10 *to the Postal Regulatory Commission a report (together*
11 *with such nonpublic annex thereto as the Commission may*
12 *require under subsection (e))—*

13 “(1) *which shall analyze costs, revenues, and*
14 *rates, using such methodologies as the Commission*
15 *shall by regulation prescribe, and in sufficient detail*
16 *to demonstrate that the rates in effect for all products*
17 *during such year complied with all applicable re-*
18 *quirements of this title; and*

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

21 “(A) *market information, including mail*
22 *volumes; and*

23 “(B) *measures of the quality of service af-*
24 *forded by the Postal Service in connection with*
25 *such product, including—*

1 “(i) the service standard applicable to
2 such product;

3 “(ii) the level of service (described in
4 terms of speed of delivery and reliability)
5 provided; and

6 “(iii) the degree of customer satisfac-
7 tion with the service provided.

8 *Before submitting a report under this subsection (including*
9 *any annex thereto and the information required under sub-*
10 *section (b)), the Postal Service shall have the information*
11 *contained in such report (and annex) audited by the Inspec-*
12 *tor General. The results of any such audit shall be submitted*
13 *along with the report to which it pertains.*

14 “(b) *INFORMATION RELATING TO WORKSHARE DIS-*
15 *COUNTS.—*

16 “(1) *IN GENERAL.—The Postal Service shall in-*
17 *clude, in each report under subsection (a), the fol-*
18 *lowing information with respect to each market-domi-*
19 *nant product for which a workshare discount was in*
20 *effect during the period covered by such report:*

21 “(A) *The per-item cost avoided by the Post-*
22 *al Service by virtue of such discount.*

23 “(B) *The percentage of such per-item cost*
24 *avoided that the per-item workshare discount*
25 *represents.*

1 “(C) *The per-item contribution made to in-*
2 *stitutional costs.*

3 “(2) *WORKSHARE DISCOUNT DEFINED.—For*
4 *purposes of this subsection, the term ‘workshare dis-*
5 *count’ refers to presorting, barcoding, dropshipping,*
6 *and other similar discounts, as further defined under*
7 *regulations which the Postal Regulatory Commission*
8 *shall prescribe.*

9 “(c) *MARKET TESTS.—In carrying out subsections (a)*
10 *and (b) with respect to experimental products offered*
11 *through market tests under section 3641 in a year, the Post-*
12 *al Service—*

13 “(1) *may report summary data on the costs, rev-*
14 *enues, and quality of service by market test; and*

15 “(2) *shall report such data as the Postal Regu-*
16 *latory Commission requires.*

17 “(d) *SUPPORTING MATTER.—The Postal Regulatory*
18 *Commission shall have access, in accordance with such reg-*
19 *ulations as the Commission shall prescribe, to the working*
20 *papers and any other supporting matter of the Postal Serv-*
21 *ice and the Inspector General in connection with any infor-*
22 *mation submitted under this section.*

23 “(e) *CONTENT AND FORM OF REPORTS.—*

24 “(1) *IN GENERAL.—The Postal Regulatory Com-*
25 *mission shall, by regulation, prescribe the content and*

1 *form of the public reports (and any nonpublic annex*
2 *and supporting matter relating thereto) to be pro-*
3 *vided by the Postal Service under this section. In car-*
4 *rying out this subsection, the Commission shall give*
5 *due consideration to—*

6 *“(A) providing the public with adequate in-*
7 *formation to assess the lawfulness of rates*
8 *charged;*

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

12 *“(C) protecting the confidentiality of com-*
13 *mercially sensitive information.*

14 *“(2) REVISED REQUIREMENTS.—The Commis-*
15 *sion may, on its own motion or on request of an in-*
16 *terested party, initiate proceedings (to be conducted*
17 *in accordance with regulations that the Commission*
18 *shall prescribe) to improve the quality, accuracy, or*
19 *completeness of Postal Service data required by the*
20 *Commission under this subsection whenever it shall*
21 *appear that—*

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

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

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

7 “(f) *CONFIDENTIAL INFORMATION.*—

8 “(1) *IN GENERAL.*—*If the Postal Service deter-*
9 *mines that any document or portion of a document,*
10 *or other matter, which it provides to the Postal Regu-*
11 *latory Commission in a nonpublic annex under this*
12 *section or pursuant to subsection (d) contains infor-*
13 *mation which is described in section 410(c) of this*
14 *title, or exempt from public disclosure under section*
15 *552(b) of title 5, the Postal Service shall, at the time*
16 *of providing such matter to the Commission, notify*
17 *the Commission of its determination, in writing, and*
18 *describe with particularity the documents (or portions*
19 *of documents) or other matter for which confiden-*
20 *tiality is sought and the reasons therefor.*

21 “(2) *TREATMENT.*—*Any information or other*
22 *matter described in paragraph (1) to which the Com-*
23 *mission gains access under this section shall be sub-*
24 *ject to paragraphs (2) and (3) of section 504(g) in the*
25 *same way as if the Commission had received notifica-*

1 *tion with respect to such matter under section*
2 *504(g)(1).*

3 “(g) *OTHER REPORTS.*—*The Postal Service shall sub-*
4 *mit to the Postal Regulatory Commission, together with any*
5 *other submission that it is required to make under this sec-*
6 *tion in a year, copies of its then most recent—*

7 *“(1) comprehensive statement under section*
8 *2401(e);*

9 *“(2) performance plan under section 2803; and*

10 *“(3) program performance reports under section*
11 *2804.*

12 **“§ 3653. Annual determination of compliance**

13 *“(a) OPPORTUNITY FOR PUBLIC COMMENT.*—*After re-*
14 *ceiving the reports required under section 3652 for any*
15 *year, the Postal Regulatory Commission shall promptly*
16 *provide an opportunity for comment on such reports by*
17 *users of the mails, affected parties, and an officer of the*
18 *Commission who shall be required to represent the interests*
19 *of the general public.*

20 *“(b) DETERMINATION OF COMPLIANCE OR NONCOMPLI-*
21 *ANCE.*—*Not later than 90 days after receiving the submis-*
22 *sions required under section 3652 with respect to a year,*
23 *the Postal Regulatory Commission shall make a written de-*
24 *termination as to—*

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

5 “(2) whether any performance goals established
6 under section 2803 or 2804 for such year were not
7 met; and

8 “(3) whether any market-dominant product
9 failed to meet any service standard during such year.

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

13 “(c) *IF ANY NONCOMPLIANCE IS FOUND.*—If, for a
14 year, a timely written determination of noncompliance is
15 made under subsection (b), the Postal Regulatory Commis-
16 sion shall take appropriate action in accordance with sub-
17 sections (c)–(e) of section 3662 (as if a complaint averring
18 such noncompliance had been duly filed and found under
19 such section to be justified).

20 “(d) *REBUTTABLE PRESUMPTION.*—A timely written
21 determination described in the last sentence of subsection
22 (b) shall, for purposes of any proceeding under section 3662,
23 create a rebuttable presumption of compliance by the Postal
24 Service (with regard to the matters described in paragraphs

1 (1) through (3) of subsection (b)) during the year to which
 2 such determination relates.”.

3 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCE-**
 4 **MENT.**

5 Chapter 36 of title 39, United States Code, is amended
 6 by striking sections 3662 and 3663 and inserting the fol-
 7 lowing:

8 **“§ 3662. Rate and service complaints**

9 “(a) *IN GENERAL.*—Interested persons (including an
 10 officer of the Postal Regulatory Commission representing
 11 the interests of the general public) who believe the Postal
 12 Service is not operating in conformance with the require-
 13 ments of chapter 1, 4, or 6, or this chapter (or regulations
 14 promulgated under any of those chapters) may lodge a com-
 15 plaint with the Postal Regulatory Commission in such form
 16 and manner as the Commission may prescribe.

17 “(b) *PROMPT RESPONSE REQUIRED.*—

18 “(1) *IN GENERAL.*—The Postal Regulatory Com-
 19 mission shall, within 90 days after receiving a com-
 20 plaint under subsection (a), either—

21 “(A) begin proceedings on such complaint;

22 or

23 “(B) issue an order dismissing the com-
 24 plaint (together with a statement of the reasons
 25 therefor).

1 “(2) *TREATMENT OF COMPLAINTS NOT TIMELY*
2 *ACTED ON.*—For purposes of section 3663, any com-
3 plaint under subsection (a) on which the Commission
4 fails to act in the time and manner required by para-
5 graph (1) shall be treated in the same way as if it
6 had been dismissed pursuant to an order issued by
7 the Commission on the last day allowable for the
8 issuance of such order under paragraph (1).

9 “(c) *ACTION REQUIRED IF COMPLAINT FOUND TO BE*
10 *JUSTIFIED.*—If the Postal Regulatory Commission finds the
11 complaint to be justified, it shall order that the Postal Serv-
12 ice take such action as the Commission considers appro-
13 priate in order to achieve compliance with the applicable
14 requirements and to remedy the effects of any noncompli-
15 ance (such as ordering unlawful rates to be adjusted to law-
16 ful levels, ordering the cancellation of market tests, ordering
17 the Postal Service to discontinue providing loss-making
18 products, or requiring the Postal Service to make up for
19 revenue shortfalls in competitive products).

20 “(d) *SUSPENSION AUTHORITY.*—The Postal Regu-
21 latory Commission may suspend implementation of rates
22 or classifications under section 3632(b)(3) for a limited pe-
23 riod of time pending expedited proceedings under this sec-
24 tion. In evaluating whether circumstances warrant suspen-
25 sion, the Commission shall consider factors such as (1)

1 *whether there is a substantial likelihood that such rate or*
2 *classification will violate the requirements of chapter 1, 4,*
3 *or 6, or this chapter (or regulations promulgated under any*
4 *of those chapters), (2) whether any persons would suffer sub-*
5 *stantial injury, loss, or damage absent a suspension, (3)*
6 *whether the Postal Service or any other persons would suffer*
7 *substantial injury, loss, or damage under a suspension, and*
8 *(4) the public interest.*

9 “(e) *AUTHORITY TO ORDER FINES IN CASES OF DE-*
10 *LIBERATE NONCOMPLIANCE.—In addition, in cases of delib-*
11 *erate noncompliance by the Postal Service with the require-*
12 *ments of this title, the Postal Regulatory Commission may*
13 *order, based on the nature, circumstances, extent, and seri-*
14 *ousness of the noncompliance, a fine (in the amount speci-*
15 *fied by the Commission in its order) for each incidence of*
16 *noncompliance. Fines resulting from the provision of com-*
17 *petitive products shall be paid out of the Competitive Prod-*
18 *ucts Fund established in section 2011. All receipts from*
19 *finer imposed under this subsection shall be deposited in*
20 *the general fund of the Treasury of the United States.*

21 **“§ 3663. Appellate review**

22 “A person adversely affected or aggrieved by a final
23 order or decision of the Postal Regulatory Commission may,
24 within 30 days after such order or decision becomes final,
25 institute proceedings for review thereof by filing a petition

1 *in the United States Court of Appeals for the District of*
2 *Columbia. The court shall review the order or decision in*
3 *accordance with section 706 of title 5, and chapter 158 and*
4 *section 2112 of title 28, on the basis of the record before*
5 *the Commission. For purposes of this section, the term ‘per-*
6 *son’ includes the Postal Service.*

7 **“§ 3664. Enforcement of orders**

8 *“The several district courts have jurisdiction specifi-*
9 *cally to enforce, and to enjoin and restrain the Postal Serv-*
10 *ice from violating, any order issued by the Postal Regu-*
11 *latory Commission.”.*

12 **SEC. 206. WORKSHARE DISCOUNTS.**

13 *(a) IN GENERAL.—Title 39, United States Code, is*
14 *amended by adding after section 3686 (as added by section*
15 *406) the following:*

16 **“§ 3687. Workshare discounts**

17 *“(a) IN GENERAL.—As part of the regulations estab-*
18 *lished under section 3622(a), the Postal Regulatory Com-*
19 *mission shall establish rules for workshare discounts that*
20 *ensure that workshare discounts do not exceed the cost that*
21 *the Postal Service avoids as the result of private sector*
22 *workshare activity, except—*

23 *“(1) where the discount is associated with a new*
24 *product or service or with a change to an existing*
25 *product or service and is necessary, over a period of*

1 *time not to exceed 4 years, to induce mailer behavior*
2 *that will enable the new or changed product or service*
3 *in furtherance of the overall economically efficient op-*
4 *eration of the Postal Service;*

5 *“(2) to the extent that a reduction in the dis-*
6 *count would lead to a loss of volume in the affected*
7 *category and reduce the aggregate contribution to in-*
8 *stitutional costs of the Postal Service, from the mail*
9 *matter subject to the discount, below what it otherwise*
10 *would have been if the discount had not been reduced*
11 *to costs avoided; would result in a further increase in*
12 *the rates paid by mailers not able to take advantage*
13 *of the discount; or would impede the efficient oper-*
14 *ation of the Postal Service;*

15 *“(3) where the amount of the discount above*
16 *costs avoided is necessary to mitigate rate shock and*
17 *will be phased out over time; or*

18 *“(4) where the workshare discount is provided in*
19 *connection with subclasses of mail consisting exclu-*
20 *sively of mail matter of educational, cultural, or sci-*
21 *entific value.*

22 *“(b) REPORTING REQUIREMENT.—Whenever the Post-*
23 *al Service establishes or maintains a workshare discount,*
24 *the Postal Service shall, at the time it publishes the*
25 *workshare discount rate, file with the Postal Regulatory*

1 *Commission a detailed report and explanation of its rea-*
 2 *sons for establishing or maintaining the rate, setting forth*
 3 *the data, economic analyses, and other information relied*
 4 *on by the Postal Service to justify the rate.*

5 “(c) *DEFINITION.*—*For purposes of this section, the*
 6 *term ‘workshare discount’ refers to rate discounts provided*
 7 *to mailers for presorting, prebarcoding, handling, or trans-*
 8 *portation, as further defined by the Postal Regulatory Com-*
 9 *mission as part of regulations established under section*
 10 *3622(a).”.*

11 “(b) *CLERICAL AMENDMENT.*—*The analysis for chapter*
 12 *36 of title 39, United States Code (as amended by section*
 13 *207) is amended by adding after the item relating to section*
 14 *3686 the following:*

“3687. *Workshare discounts.*”.

15 **SEC. 207. CLERICAL AMENDMENT.**

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

“CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. *Applicability; definitions.*

“3622. *Modern rate regulation.*

“[3623. *Repealed*].

“[3624. *Repealed*].

“[3625. *Repealed*].

“3626. *Reduced Rates.*

“3627. *Adjusting free rates.*

“[3628. *Repealed*].

“3629. *Reduced rates for voter registration purposes.*

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

- “3631. *Applicability; definitions and updates.*
 “3632. *Action of the Governors.*
 “3633. *Provisions applicable to rates for competitive products.*
 “3634. *Assumed Federal income tax on competitive products.*

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

- “3641. *Market tests of experimental products.*
 “3642. *New products and transfers of products between the market-dominant and competitive categories of mail.*

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

- “3651. *Annual reports by the Commission.*
 “3652. *Annual reports to the Commission.*
 “3653. *Annual determination of compliance.*

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

- “3661. *Postal services.*
 “3662. *Rate and service complaints.*
 “3663. *Appellate review.*
 “3664. *Enforcement of orders.*

“SUBCHAPTER VI—GENERAL

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

1 **TITLE III—PROVISIONS RELAT-**
 2 **ING TO FAIR COMPETITION**

3 **SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.**

4 (a) *PROVISIONS RELATING TO POSTAL SERVICE COM-*
 5 *PETITIVE PRODUCTS FUND AND RELATED MATTERS.—*

6 (1) *IN GENERAL.—Chapter 20 of title 39, United*
 7 *States Code, is amended by adding at the end the fol-*
 8 *lowing:*

1 **“§2011. Provisions relating to competitive products**

2 “(a) *There is established in the Treasury of the United*
3 *States a revolving fund, to be called the Postal Service Com-*
4 *petitive Products Fund, which shall be available to the Post-*
5 *al Service without fiscal year limitation for the payment*
6 *of—*

7 “(1) *costs attributable to competitive products;*

8 *and*

9 “(2) *all other costs incurred by the Postal Serv-*
10 *ice, to the extent allocable to competitive products.*

11 *For purposes of this subsection, the term ‘costs attributable’*
12 *has the meaning given such term by section 3631.*

13 “(b) *There shall be deposited in the Competitive Prod-*
14 *ucts Fund, subject to withdrawal by the Postal Service—*

15 “(1) *revenues from competitive products;*

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

18 “(3) *interest and dividends earned on invest-*
19 *ments of the Competitive Products Fund; and*

20 “(4) *any other receipts of the Postal Service (in-*
21 *cluding from the sale of assets), to the extent allocable*
22 *to competitive products.*

23 “(c) *If the Postal Service determines that the moneys*
24 *of the Competitive Products Fund are in excess of current*
25 *needs, it may invest such amounts as it considers appro-*
26 *priate in—*

1 “(1) obligations of, or obligations guaranteed by,
2 the Government of the United States; and

3 “(2) in accordance with regulations which the
4 Secretary of the Treasury shall prescribe (by not later
5 than 18 months after the date of the enactment of the
6 Postal Accountability and Enhancement Act), such
7 other obligations or securities as it deems appro-
8 priate.

9 “(d) The Postal Service may, in its sole discretion,
10 provide that moneys of the Competitive Products Fund be
11 deposited in a Federal Reserve bank or a depository for
12 public funds.

13 “(e)(1) Subject to the limitations specified in section
14 2005(a), the Postal Service is authorized to borrow money
15 and to issue and sell such obligations as it determines nec-
16 essary to provide for competitive products and deposit such
17 amounts in the Competitive Products Fund, except that the
18 Postal Service may pledge only assets related to the provi-
19 sion of competitive products (as determined under sub-
20 section (h) or, for purposes of any period before accounting
21 practices and principles under subsection (h) have been es-
22 tablished and applied, the best information available from
23 the Postal Service, including the audited statements re-
24 quired by section 2008(e)), and the revenues and receipts
25 from such products, for the payment of the principal of or

1 *interest on such obligations, for the purchase or redemption*
2 *thereof, and for other purposes incidental thereto, including*
3 *creation of reserve, sinking, and other funds which may be*
4 *similarly pledged and used, to such extent and in such man-*
5 *ner as it deems necessary or desirable.*

6 “(2) *The Postal Service may enter into binding cov-*
7 *enants with the holders of such obligations, and with the*
8 *trustee, if any, under any agreement entered into in connec-*
9 *tion with the issuance thereof with respect to—*

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

12 “(B) *application and use of revenues and re-*
13 *ceipts of the Competitive Products Fund;*

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

18 “(D) *such other matters as the Postal Service*
19 *considers necessary or desirable to enhance the mar-*
20 *ketability of such obligations.*

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

23 “(A) *may not be purchased by the Secretary of*
24 *the Treasury;*

1 “(B) shall not be exempt either as to principal
2 or interest from any taxation now or hereafter im-
3 posed by any State or local taxing authority;

4 “(C) shall not be obligations of, nor shall pay-
5 ment of the principal thereof or interest thereon be
6 guaranteed by, the Government of the United States,
7 and the obligations shall so plainly state; and

8 “(D) notwithstanding the provisions of the Fed-
9 eral Financing Bank Act of 1973 or any other provi-
10 sion of law (except as specifically provided by ref-
11 erence to this subparagraph in a law enacted after
12 this subparagraph takes effect), shall not be eligible
13 for purchase by, commitment to purchase by, or sale
14 or issuance to, the Federal Financing Bank.

15 “(4)(A) This paragraph applies with respect to the pe-
16 riod beginning on the date of the enactment of this para-
17 graph and ending at the close of the 5-year period which
18 begins on the date on which the Postal Service makes its
19 submission under subsection (h)(1).

20 “(B) During the period described in subparagraph (A),
21 nothing in subparagraph (A) or (D) of paragraph (3) or
22 the last sentence of section 2006(b) shall, with respect to
23 any obligations sought to be issued by the Postal Service
24 under this subsection, be considered to affect such obliga-

1 tions' eligibility for purchase by, commitment to purchase
2 by, or sale or issuance to, the Federal Financing Bank.

3 “(C) The Federal Financing Bank may elect to pur-
4 chase such obligations under such terms, including rates of
5 interest, as the Bank and the Postal Service may agree, but
6 at a rate of yield no less than the prevailing yield on out-
7 standing marketable securities of comparable maturity
8 issued by entities with the same credit rating as the rating
9 then most recently obtained by the Postal Service under sub-
10 paragraph (D), as determined by the Bank.

11 “(D) In order to be eligible to borrow under this para-
12 graph, the Postal Service shall first obtain a credit rating
13 from a nationally recognized credit rating organization.
14 Such rating—

15 “(i) shall be determined taking into account only
16 those assets and activities of the Postal Service which
17 are described in section 3634(a)(2) (relating to the
18 Postal Service's assumed taxable income from com-
19 petitive products); and

20 “(ii) may, before final rules of the Postal Regu-
21 latory Commission under subsection (h) are issued (or
22 deemed to have been issued), be based on the best in-
23 formation available from the Postal Service, includ-
24 ing the audited statements required by section
25 2008(e).

1 “(f) *The receipts and disbursements of the Competitive*
2 *Products Fund shall be accorded the same budgetary treat-*
3 *ment as is accorded to receipts and disbursements of the*
4 *Postal Service Fund under section 2009a.*

5 “(g) *A judgment against the Postal Service or the Gov-*
6 *ernment of the United States (or settlement of a claim)*
7 *shall, to the extent that it arises out of activities of the Post-*
8 *al Service in the provision of competitive products, be paid*
9 *out of the Competitive Products Fund.*

10 “(h)(1) *The Secretary of the Treasury, in consultation*
11 *with the Postal Service and an independent, certified public*
12 *accounting firm and such other advisors as the Secretary*
13 *considers appropriate, shall develop recommendations re-*
14 *garding—*

15 “(A) *the accounting practices and principles that*
16 *should be followed by the Postal Service with the ob-*
17 *jectives of (i) identifying and valuing the assets and*
18 *liabilities of the Postal Service associated with pro-*
19 *viding, and the capital and operating costs incurred*
20 *by the Postal Service in providing, competitive prod-*
21 *ucts, and (ii) preventing the subsidization of such*
22 *products by market-dominant products; and*

23 “(B) *the substantive and procedural rules that*
24 *should be followed in determining the Postal Service’s*
25 *assumed Federal income tax on competitive products*

1 *income for any year (within the meaning of section*
2 *3634).*

3 *Such recommendations shall be submitted to the Postal Reg-*
4 *ulatory Commission no earlier than 6 months, and no later*
5 *than 12 months, after the effective date of this section.*

6 *“(2)(A) Upon receiving the recommendations of the*
7 *Secretary of the Treasury under paragraph (1), the Com-*
8 *mission shall give interested parties, including the Postal*
9 *Service, users of the mails, and an officer of the Commission*
10 *who shall be required to represent the interests of the general*
11 *public, an opportunity to present their views on those rec-*
12 *ommendations through submission of written data, views,*
13 *or arguments with or without opportunity for oral presen-*
14 *tation, or in such other manner as the Commission con-*
15 *siders appropriate.*

16 *“(B) After due consideration of the views and other*
17 *information received under subparagraph (A), the Commis-*
18 *sion shall by rule—*

19 *“(i) provide for the establishment and applica-*
20 *tion of the accounting practices and principles which*
21 *shall be followed by the Postal Service;*

22 *“(ii) provide for the establishment and applica-*
23 *tion of the substantive and procedural rules described*
24 *in paragraph (1)(B); and*

1 “(iii) provide for the submission by the Postal
2 Service to the Postal Regulatory Commission of an-
3 nual and other periodic reports setting forth such in-
4 formation as the Commission may require.

5 Final rules under this subparagraph shall be issued not
6 later than 12 months after the date on which the Secretary
7 of the Treasury makes his submission to the Commission
8 under paragraph (1) (or by such later date as the Commis-
9 sion and the Postal Service may agree to). The Commission
10 is authorized to promulgate regulations revising such rules.

11 “(C) Reports described in subparagraph (B)(iii) shall
12 be submitted at such time and in such form, and shall in-
13 clude such information, as the Commission by rule requires.
14 The Commission may, on its own motion or on request of
15 an interested party, initiate proceedings (to be conducted
16 in accordance with such rules as the Commission shall pre-
17 scribe) to improve the quality, accuracy, or completeness of
18 Postal Service data under such subparagraph whenever it
19 shall appear that—

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

23 “(ii) such revisions are, in the judgment of the
24 Commission, otherwise necessitated by the public in-
25 terest.

1 “(D) A copy of each report described in subparagraph
2 (B)(iii) shall also be transmitted by the Postal Service to
3 the Secretary of the Treasury and the Inspector General of
4 the United States Postal Service.

5 “(i) The Postal Service shall render an annual report
6 to the Secretary of the Treasury concerning the operation
7 of the Competitive Products Fund, in which it shall address
8 such matters as risk limitations, reserve balances, allocation
9 or distribution of moneys, liquidity requirements, and
10 measures to safeguard against losses. A copy of its then most
11 recent report under this subsection shall be included with
12 any other submission that it is required to make to the Post-
13 al Regulatory Commission under section 3652(g).”.

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

“2011. Provisions relating to competitive products.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

1 “(2) ‘*Competitive Products Fund*’ means the
2 *Postal Service Competitive Products Fund* established
3 by section 2011; and”.

4 (2) *CAPITAL OF THE POSTAL SERVICE*.—Section
5 2002(b) of title 39, *United States Code*, is amended
6 by striking “*Fund*,” and inserting “*Fund and the*
7 *balance in the Competitive Products Fund*,”.

8 (3) *POSTAL SERVICE FUND*.—

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

15 (B) *DEPOSITS*.—Section 2003(b) of title 39,
16 *United States Code*, is amended by striking
17 “*There*” and inserting “*Except as otherwise pro-*
18 *vided in section 2011, there*”.

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

22 (A) in subsection (b), by adding at the end
23 the following: “*Nothing in this chapter shall be*
24 *considered to permit or require the Secretary of*
25 *the Treasury to purchase any obligations of the*

1 *Postal Service other than those issued under sec-*
2 *tion 2005.”; and*

3 *(B) in subsection (c), by inserting “under*
4 *section 2005” before “shall be obligations”.*

5 **SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETI-**
6 **TIVE PRODUCTS INCOME.**

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

10 **“§3634. Assumed Federal income tax on competitive**
11 **products income**

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

13 *“(1) the term ‘assumed Federal income tax on*
14 *competitive products income’ means the net income*
15 *tax that would be imposed by chapter 1 of the Inter-*
16 *nal Revenue Code of 1986 on the Postal Service’s as-*
17 *sumed taxable income from competitive products for*
18 *the year; and*

19 *“(2) the term ‘assumed taxable income from com-*
20 *petitive products’, with respect to a year, refers to the*
21 *amount representing what would be the taxable in-*
22 *come of a corporation under the Internal Revenue*
23 *Code of 1986 for the year, if—*

24 *“(A) the only activities of such corporation*
25 *were the activities of the Postal Service allocable*

1 *under section 2011(h) to competitive products;*
2 *and*

3 “(B) *the only assets held by such corpora-*
4 *tion were the assets of the Postal Service allo-*
5 *cable under section 2011(h) to such activities.*

6 “(b) *COMPUTATION AND TRANSFER REQUIREMENTS.—*
7 *The Postal Service shall, for each year beginning with the*
8 *year in which occurs the deadline for the Postal Service’s*
9 *first report to the Postal Regulatory Commission under sec-*
10 *tion 3652(a)—*

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

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

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

20 **SEC. 303. UNFAIR COMPETITION PROHIBITED.**

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

1 **“§ 404a. Specific Limitations**

2 “(a) *Except as specifically authorized by law, the Post-*
3 *al Service may not—*

4 “(1) *establish any rule or regulation (including*
5 *any standard) the effect of which is to preclude com-*
6 *petition or establish the terms of competition unless*
7 *the Postal Service demonstrates that the regulation*
8 *does not create an unfair competitive advantage for*
9 *itself or any entity funded (in whole or in part) by*
10 *the Postal Service;*

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

15 “(3) *obtain information from a person that pro-*
16 *vides (or seeks to provide) any product, and then offer*
17 *any product or service that uses or is based in whole*
18 *or in part on such information, without the consent*
19 *of the person providing that information, unless sub-*
20 *stantially the same information is obtained (or ob-*
21 *tainable) from an independent source or is otherwise*
22 *obtained (or obtainable).*

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

25 “(c) *Any party (including an officer of the Commis-*
26 *sion representing the interests of the general public) who*

1 *believes that the Postal Service has violated this section may*
2 *bring a complaint in accordance with section 3662.”.*

3 (b) *CONFORMING AMENDMENTS.—*

4 (1) *GENERAL POWERS.—Section 401 of title 39,*
5 *United States Code, is amended by striking “The”*
6 *and inserting “Subject to the provisions of section*
7 *404a, the”.*

8 (2) *SPECIFIC POWERS.—Section 404(a) of title*
9 *39, United States Code, is amended by striking*
10 *“Without” and inserting “Subject to the provisions of*
11 *section 404a, but otherwise without”.*

12 (c) *CLERICAL AMENDMENT.—The analysis for chapter*
13 *4 of title 39, United States Code, is amended by inserting*
14 *after the item relating to section 404 the following:*

“404a. Specific limitations.”.

15 **SEC. 304. SUITS BY AND AGAINST THE POSTAL SERVICE.**

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

19 *“(d)(1) For purposes of the provisions of law cited in*
20 *paragraphs (2)(A) and (2)(B), respectively, the Postal Serv-*
21 *ice—*

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

24 *“(B) shall not be immune under any other doc-*
25 *trine of sovereign immunity from suit in Federal*

1 *court by any person for any violation of any of those*
2 *provisions of law by any officer or employee of the*
3 *Postal Service.*

4 *“(2) This subsection applies with respect to—*

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

8 *“(B) the provisions of section 5 of the Federal*
9 *Trade Commission Act to the extent that such section*
10 *5 applies to unfair or deceptive acts or practices.*

11 *“(e)(1) To the extent that the Postal Service, or other*
12 *Federal agency acting on behalf of or in concert with the*
13 *Postal Service, engages in conduct with respect to any com-*
14 *petitive product, the Postal Service or other Federal agency*
15 *(as the case may be)—*

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

20 *“(B) shall be considered to be a person (as de-*
21 *finied in subsection (a) of the first section of the Clay-*
22 *ton Act) for purposes of—*

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

1 “(i) section 5 of the Federal Trade Com-
2 mission Act to the extent that such section 5 ap-
3 plies to unfair methods of competition.

4 “(2) No damages, interest on damages, costs or attor-
5 ney’s fees may be recovered, and no criminal liability may
6 be imposed, under the antitrust laws (as so defined) from
7 any officer or employee of the Postal Service, or other Fed-
8 eral agency acting on behalf of or in concert with the Postal
9 Service, acting in an official capacity.

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

13 “(f)(1) Each building constructed or altered by the
14 Postal Service shall be constructed or altered, to the max-
15 imum extent feasible as determined by the Postal Service,
16 in compliance with one of the nationally recognized model
17 building codes and with other applicable nationally recog-
18 nized codes.

19 “(2) Each building constructed or altered by the Postal
20 Service shall be constructed or altered only after consider-
21 ation of all requirements (other than procedural require-
22 ments) of zoning laws, land use laws, and applicable envi-
23 ronmental laws of a State or subdivision of a State which
24 would apply to the building if it were not a building con-

1 *structed or altered by an establishment of the Government*
2 *of the United States.*

3 “(3) *For purposes of meeting the requirements of para-*
4 *graphs (1) and (2) with respect to a building, the Postal*
5 *Service shall—*

6 “(A) *in preparing plans for the building, consult*
7 *with appropriate officials of the State or political*
8 *subdivision, or both, in which the building will be lo-*
9 *cated;*

10 “(B) *upon request, submit such plans in a time-*
11 *ly manner to such officials for review by such officials*
12 *for a reasonable period of time not exceeding 30 days;*
13 *and*

14 “(C) *permit inspection by such officials during*
15 *construction or alteration of the building, in accord-*
16 *ance with the customary schedule of inspections for*
17 *construction or alteration of buildings in the locality,*
18 *if such officials provide to the Postal Service—*

19 “(i) *a copy of such schedule before construc-*
20 *tion of the building is begun; and*

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

24 *Nothing in this subsection shall impose an obligation on*
25 *any State or political subdivision to take any action under*

1 *the preceding sentence, nor shall anything in this subsection*
2 *require the Postal Service or any of its contractors to pay*
3 *for any action taken by a State or political subdivision to*
4 *carry out this subsection (including reviewing plans, car-*
5 *rying out on-site inspections, issuing building permits, and*
6 *making recommendations).*

7 *“(4) Appropriate officials of a State or a political sub-*
8 *division of a State may make recommendations to the Post-*
9 *al Service concerning measures necessary to meet the re-*
10 *quirements of paragraphs (1) and (2). Such officials may*
11 *also make recommendations to the Postal Service con-*
12 *cerning measures which should be taken in the construction*
13 *or alteration of the building to take into account local con-*
14 *ditions. The Postal Service shall give due consideration to*
15 *any such recommendations.*

16 *“(5) In addition to consulting with local and State*
17 *officials under paragraph (3), the Postal Service shall estab-*
18 *lish procedures for soliciting, assessing, and incorporating*
19 *local community input on real property and land use deci-*
20 *sions.*

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

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

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

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

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

11 The Postal Service may, by contract or otherwise, employ
12 attorneys to obtain any legal representation that it is pre-
13 cluded from obtaining from the Department of Justice
14 under this paragraph.

15 “(2) In any circumstance not covered by paragraph
16 (1), the Department of Justice shall, under section 411, fur-
17 nish the Postal Service such legal representation as it may
18 require, except that, with the prior consent of the Attorney
19 General, the Postal Service may, in any such circumstance,
20 employ attorneys by contract or otherwise to conduct litiga-
21 tion brought by or against the Postal Service or its officers
22 or employees in matters affecting the Postal Service.

23 “(3)(A) In any action, suit, or proceeding in a court
24 of the United States arising in whole or in part under any
25 of the provisions of law referred to in subparagraph (B)

1 or (C) of paragraph (1), and to which the Commission is
2 not otherwise a party, the Commission shall be permitted
3 to appear as a party on its own motion and as of right.

4 “(B) The Department of Justice shall, under such
5 terms and conditions as the Commission and the Attorney
6 General shall consider appropriate, furnish the Commission
7 such legal representation as it may require in connection
8 with any such action, suit, or proceeding, except that, with
9 the prior consent of the Attorney General, the Commission
10 may employ attorneys by contract or otherwise for that pur-
11 pose.

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

17 (b) *TECHNICAL AMENDMENT.*—Section 409(a) of title
18 39, United States Code, is amended by striking “Except as
19 provided in section 3628 of this title,” and inserting “Ex-
20 cept as otherwise provided in this title,”.

21 **SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.**

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

24 **“§ 407. International postal arrangements**

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

1 “(1) to promote and encourage communications
2 between peoples by efficient operation of international
3 postal services and other international delivery serv-
4 ices for cultural, social, and economic purposes;

5 “(2) to promote and encourage unrestricted and
6 undistorted competition in the provision of inter-
7 national postal services and other international deliv-
8 ery services, except where provision of such services by
9 private companies may be prohibited by law of the
10 United States;

11 “(3) to promote and encourage a clear distinc-
12 tion between governmental and operational respon-
13 sibilities with respect to the provision of international
14 postal services and other international delivery serv-
15 ices by the Government of the United States and by
16 intergovernmental organizations of which the United
17 States is a member; and

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

21 “(b)(1) The Secretary of State shall be responsible for
22 formulation, coordination, and oversight of foreign policy
23 related to international postal services and other inter-
24 national delivery services, and shall have the power to con-
25 clude treaties, conventions and amendments related to

1 *international postal services and other international deliv-*
2 *ery services, except that the Secretary may not conclude any*
3 *treaty, convention, or other international agreement (in-*
4 *cluding those regulating international postal services) if*
5 *such treaty, convention, or agreement would, with respect*
6 *to any competitive product, grant an undue or unreason-*
7 *able preference to the Postal Service, a private provider of*
8 *international postal or delivery services, or any other per-*
9 *son.*

10 “(2) *In carrying out the responsibilities specified in*
11 *paragraph (1), the Secretary of State shall exercise primary*
12 *authority for the conduct of foreign policy with respect to*
13 *international postal services and international delivery*
14 *services, including the determination of United States posi-*
15 *tions and the conduct of United States participation in ne-*
16 *gotiations with foreign governments and international bod-*
17 *ies. In exercising this authority, the Secretary—*

18 “(A) *shall coordinate with other agencies as ap-*
19 *propriate, and in particular, shall give full consider-*
20 *ation to the authority vested by law or Executive*
21 *order in the Postal Regulatory Commission, the De-*
22 *partment of Commerce, the Department of Transpor-*
23 *tation, and the Office of the United States Trade Rep-*
24 *resentative in this area;*

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

4 “(C) shall maintain continuing liaison with the
5 Committee on Government Reform of the House of
6 Representatives and the Committee on Governmental
7 Affairs of the Senate;

8 “(D) shall maintain appropriate liaison with
9 both representatives of the Postal Service and rep-
10 resentatives of users and private providers of inter-
11 national postal services and other international deliv-
12 ery services to keep informed of their interests and
13 problems, and to provide such assistance as may be
14 needed to ensure that matters of concern are promptly
15 considered by the Department of State or (if applica-
16 ble, and to the extent practicable) other executive
17 branch agencies; and

18 “(E) shall assist in arranging meetings of such
19 public sector advisory groups as may be established to
20 advise the Department of State and other executive
21 branch agencies in connection with international
22 postal services and international delivery services.

23 “(3) The Secretary of State shall establish an advisory
24 committee (within the meaning of the Federal Advisory
25 Committee Act) to perform such functions as the Secretary

1 *considers appropriate in connection with carrying out sub-*
2 *paragraphs (A) through (D) of paragraph (2).*

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

10 “(2) *The Secretary shall ensure that each treaty, con-*
11 *vention, or amendment concluded under subsection (b) is*
12 *consistent with a decision of the Commission adopted under*
13 *paragraph (1), except if, or to the extent, the Secretary de-*
14 *termines, by written order, that considerations of foreign*
15 *policy or national security require modification of the Com-*
16 *mission’s decision.*

17 “(d) *Nothing in this section shall be considered to pre-*
18 *vent the Postal Service from entering into such commercial*
19 *or operational contracts related to providing international*
20 *postal services and other international delivery services as*
21 *it deems appropriate, except that—*

22 “(1) *any such contract made with an agency of*
23 *a foreign government (whether under authority of this*
24 *subsection or otherwise) shall be solely contractual in*

1 *nature and may not purport to be international law;*
2 *and*

3 *“(2) a copy of each such contract between the*
4 *Postal Service and an agency of a foreign government*
5 *shall be transmitted to the Secretary of State and the*
6 *Postal Regulatory Commission not later than the ef-*
7 *fective date of such contract.*

8 *“(e)(1) With respect to shipments of international mail*
9 *that are competitive products within the meaning of section*
10 *3631 that are exported or imported by the Postal Service,*
11 *the Bureau of Customs and Border Protection of the De-*
12 *partment of Homeland Security and other appropriate*
13 *Federal agencies shall apply the customs laws of the United*
14 *States and all other laws relating to the importation or ex-*
15 *portation of such shipments in the same manner to both*
16 *shipments by the Postal Service and similar shipments by*
17 *private companies.*

18 *“(2) For purposes of this subsection, the term ‘private*
19 *company’ means a private company substantially owned*
20 *or controlled by persons who are citizens of the United*
21 *States.*

22 *“(3) In exercising the authority pursuant to subsection*
23 *(b) to conclude new treaties, conventions and amendments*
24 *related to international postal services and to renegotiate*
25 *such treaties, conventions and amendments, the Secretary*

1 of State shall, to the maximum extent practicable, take such
2 measures as are within the Secretary's control to encourage
3 the governments of other countries to make available to the
4 Postal Service and private companies a range of non-
5 discriminatory customs procedures that will fully meet the
6 needs of all types of American shippers. The Secretary of
7 State shall consult with the United States Trade Represent-
8 ative and the Commissioner of Customs, Department of
9 Homeland Security in carrying out this paragraph.

10 “(4) The provisions of this subsection shall take effect
11 6 months after the date of the enactment of this subsection
12 or such earlier date as the Bureau of Customs and Border
13 Protection of the Department of Homeland Security may
14 determine in writing.”.

15 (b) *EFFECTIVE DATE*.—Notwithstanding any provi-
16 sion of the amendment made by subsection (a), the author-
17 ity of the United States Postal Service to establish the rates
18 of postage or other charges on mail matter conveyed between
19 the United States and other countries shall remain avail-
20 able to the Postal Service until—

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

1 (2) *with respect to competitive products, the date*
2 *as of which the regulations promulgated under section*
3 *3633 of title 39, United States Code (as amended by*
4 *section 202) take effect.*

5 **SEC. 306. REDESIGNATION.**

6 *Chapter 36 of title 39, United States Code (as in effect*
7 *before the amendment made by section 204(a)) is amended*
8 *by striking the heading for subchapter V and inserting the*
9 *following:*

10 “SUBCHAPTER VI—GENERAL”.

11 **SEC. 307. CLARIFICATION.**

12 *Section 403(c) of title 39, United States Code, is*
13 *amended by adding after “user.” the following: “The prohi-*
14 *bition in this subsection shall not be construed to prevent*
15 *the establishment of rates that vary with volume if such*
16 *rates will be made available to similarly situated persons*
17 *and will increase the aggregate contribution to the institu-*
18 *tional costs of the Postal Service.”.*

19 **TITLE IV—GENERAL PROVISIONS**

20 **SEC. 401. QUALIFICATION REQUIREMENTS FOR GOV-**
21 **ERNORS.**

22 *(a) IN GENERAL.—Section 202(a) of title 39, United*
23 *States Code, is amended by striking “(a)” and inserting*
24 *“(a)(1)” and by striking the fourth sentence and inserting*
25 *the following: “The Governors shall represent the public in-*

1 *terest generally, and at least 4 of the Governors shall be*
2 *chosen solely on the basis of their demonstrated ability in*
3 *managing organizations or corporations (in either the pub-*
4 *lic or private sector) of substantial size; for purposes of this*
5 *sentence, an organization or corporation shall be considered*
6 *to be of substantial size if it employs at least 50,000 employ-*
7 *ees. The Governors shall not be representatives of specific*
8 *interests using the Postal Service, and may be removed only*
9 *for cause.”.*

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

13 *“(2) In selecting the individuals described in para-*
14 *graph (1) for nomination for appointment to the position*
15 *of Governor, the President should consult with the Speaker*
16 *of the House of Representatives, the minority leader of the*
17 *House of Representatives, the majority leader of the Senate,*
18 *and the minority leader of the Senate.”.*

19 *(c) RESTRICTION.—Section 202(b) of title 39, United*
20 *States Code, is amended by striking “(b)” and inserting*
21 *“(b)(1)”, and by adding at the end the following:*

22 *“(2)(A) Notwithstanding any other provision of this*
23 *section, in the case of the office of the Governor the term*
24 *of which is the first one scheduled to expire at least 4*
25 *months after the date of the enactment of this paragraph—*

1 “(i) such office may not, in the case of any per-
2 son commencing service after that expiration date, be
3 filled by any person other than an individual chosen
4 from among persons nominated for such office with
5 the unanimous concurrence of all labor organizations
6 described in section 206(a)(1); and

7 “(ii) instead of the term that would otherwise
8 apply under the first sentence of paragraph (1), the
9 term of any person so appointed to such office shall
10 be 3 years.

11 “(B) Except as provided in subparagraph (A), an ap-
12 pointment under this paragraph shall be made in conform-
13 ance with all provisions of this section that would otherwise
14 apply.”.

15 (d) *APPLICABILITY.*—The amendment made by sub-
16 section (a) shall not affect the appointment or tenure of any
17 person serving as a Governor of the Board of Governors of
18 the United States Postal Service pursuant to an appoint-
19 ment made before the date of the enactment of this Act, or,
20 except as provided in the amendment made by subsection
21 (c), any nomination made before that date; however, when
22 any such office becomes vacant, the appointment of any per-
23 son to fill that office shall be made in accordance with such
24 amendment. The requirement set forth in the fourth sentence
25 of section 202(a)(1) of title 39, United States Code (as

1 amended by subsection (a)) shall be met beginning not later
2 than 9 years after the date of the enactment of this Act.

3 **SEC. 402. OBLIGATIONS.**

4 (a) *PURPOSES FOR WHICH OBLIGATIONS MAY BE*
5 *ISSUED.*—*The first sentence of section 2005(a)(1) of title*
6 *39, United States Code, is amended by striking “title.” and*
7 *inserting “title, other than any of the purposes for which*
8 *the corresponding authority is available to the Postal Serv-*
9 *ice under section 2011.”.*

10 (b) *LIMITATION ON NET ANNUAL INCREASE IN OBLI-*
11 *GATIONS ISSUED FOR CERTAIN PURPOSES.*—*The third sen-*
12 *tence of section 2005(a)(1) of title 39, United States Code,*
13 *is amended to read as follows: “In any one fiscal year, the*
14 *net increase in the amount of obligations outstanding issued*
15 *for the purpose of capital improvements and the net in-*
16 *crease in the amount of obligations outstanding issued for*
17 *the purpose of defraying operating expenses of the Postal*
18 *Service shall not exceed a combined total of*
19 *\$3,000,000,000.”.*

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

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

24 “(3) *For purposes of applying the respective limita-*
25 *tions under this subsection, the aggregate amount of obliga-*

1 *tions issued by the Postal Service which are outstanding*
2 *as of any one time, and the net increase in the amount*
3 *of obligations outstanding issued by the Postal Service for*
4 *the purpose of capital improvements or for the purpose of*
5 *defraying operating expenses of the Postal Service in any*
6 *fiscal year, shall be determined by aggregating the relevant*
7 *obligations issued by the Postal Service under this section*
8 *with the relevant obligations issued by the Postal Service*
9 *under section 2011.”.*

10 (2) *CONFORMING AMENDMENT.—The second sen-*
11 *tence of section 2005(a)(1) of title 39, United States*
12 *Code, is amended by striking “any such obligations”*
13 *and inserting “obligations issued by the Postal Serv-*
14 *ice which may be”.*

15 (d) *AMOUNTS WHICH MAY BE PLEDGED, ETC.—*

16 (1) *OBLIGATIONS TO WHICH PROVISIONS*
17 *APPLY.—The first sentence of section 2005(b) of title*
18 *39, United States Code, is amended by striking “such*
19 *obligations,” and inserting “obligations issued by the*
20 *Postal Service under this section,”.*

21 (2) *ASSETS, REVENUES, AND RECEIPTS TO*
22 *WHICH PROVISIONS APPLY.—Subsection (b) of section*
23 *2005 of title 39, United States Code, is amended by*
24 *striking “(b)” and inserting “(b)(1)”, and by adding*
25 *at the end the following:*

1 “(2) Notwithstanding any other provision of this sec-
2 tion—

3 “(A) the authority to pledge assets of the Postal
4 Service under this subsection shall be available only
5 to the extent that such assets are not related to the
6 provision of competitive products (as determined
7 under section 2011(h) or, for purposes of any period
8 before accounting practices and principles under sec-
9 tion 2011(h) have been established and applied, the
10 best information available from the Postal Service,
11 including the audited statements required by section
12 2008(e)); and

13 “(B) any authority under this subsection relat-
14 ing to the pledging or other use of revenues or receipts
15 of the Postal Service shall be available only to the ex-
16 tent that they are not revenues or receipts of the Com-
17 petitive Products Fund.”.

18 **SEC. 403. PRIVATE CARRIAGE OF LETTERS.**

19 (a) *IN GENERAL.*—Section 601 of title 39, United
20 States Code, is amended by striking subsection (b) and in-
21 serting the following:

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

24 “(1) the amount paid for the private carriage of
25 the letter is at least the amount equal to 6 times the

1 rate then currently charged for the 1st ounce of a sin-
2 gle-piece first class letter;

3 “(2) the letter weighs at least 12¹/₂ ounces; or

4 “(3) such carriage is within the scope of services
5 described by regulations of the Postal Service (includ-
6 ing, in particular, sections 310.1 and 320.2–320.8 of
7 title 39 of the Code of Federal Regulations, as in ef-
8 fect on July 1, 2003) that purport to permit private
9 carriage by suspension of the operation of this section
10 (as then in effect).

11 “(c) Any regulations necessary to carry out this section
12 shall be promulgated by the Postal Regulatory Commis-
13 sion.”.

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

18 **SEC. 404. RULEMAKING AUTHORITY.**

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

21 “(2) to adopt, amend, and repeal such rules and
22 regulations, not inconsistent with this title, as may be
23 necessary in the execution of its functions under this
24 title and such other functions as may be assigned to

1 **“§ 3686. Bonus authority**

2 “(a) *IN GENERAL.*—*The Postal Service may establish*
3 *one or more programs to provide bonuses or other rewards*
4 *to officers and employees of the Postal Service to achieve*
5 *the objectives of this chapter.*

6 “(b) *WAIVER OF LIMITATION ON COMPENSATION.*—

7 “(1) *IN GENERAL.*—*Under any such program,*
8 *the Postal Service may award a bonus or other re-*
9 *ward in excess of the limitation set forth in the last*
10 *sentence of section 1003(a), if such program has been*
11 *approved under paragraph (2).*

12 “(2) *APPROVAL PROCESS.*—*If the Postal Service*
13 *wishes to have the authority, under any program de-*
14 *scribed in subsection (a), to award bonuses or other*
15 *rewards in excess of the limitation referred to in*
16 *paragraph (1)—*

17 “(A) *the Postal Service shall make an ap-*
18 *propriate request to the Postal Regulatory Com-*
19 *mission, in such form and manner as the Com-*
20 *mission requires; and*

21 “(B) *the Postal Regulatory Commission*
22 *shall approve any such request if it finds that*
23 *the program is likely to achieve the objectives of*
24 *this chapter.*

25 “(3) *REVOCATION AUTHORITY.*—*If the Postal*
26 *Regulatory Commission finds that a program pre-*

1 *viously approved under paragraph (2) is not achiev-*
 2 *ing the objectives of this chapter, the Commission may*
 3 *revoke or suspend the authority of the Postal Service*
 4 *to continue such program until such time as appro-*
 5 *priate corrective measures have, in the judgment of*
 6 *the Commission, been taken.*

7 *“(c) REPORTING REQUIREMENT RELATING TO BO-*
 8 *NUSES OR OTHER REWARDS.—Included in its comprehen-*
 9 *sive statement under section 2401(e) for any period shall*
 10 *be—*

11 *“(1) the name of each person receiving a bonus*
 12 *or other reward during such period which would not*
 13 *have been allowable but for the provisions of sub-*
 14 *section (b);*

15 *“(2) the amount of the bonus or other reward;*
 16 *and*

17 *“(3) the amount by which the limitation referred*
 18 *to in subsection (b)(1) was exceeded as a result of*
 19 *such bonus or other reward.”.*

20 **SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DIS-**
 21 **PUTES.**

22 *(a) IN GENERAL.—Section 1207(b) of title 39, United*
 23 *States Code, is amended by striking all that follows “the*
 24 *Director of the Federal Mediation and Conciliation Service*
 25 *shall” and inserting “, within 10 days appoint a mediator*

1 *of nationwide reputation and professional stature, and who*
2 *is also a member of the National Academy of Arbitrators.*
3 *The parties shall cooperate with the mediator in an effort*
4 *to reach an agreement and shall meet and negotiate in good*
5 *faith at such times and places that the mediator, in con-*
6 *sultation with the parties, shall direct.”.*

7 (b) *PROVISIONS RELATING TO ARBITRATION*
8 *BOARDS.—Section 1207(c) of title 39, United States Code,*
9 *is amended—*

10 (1) *in paragraph (1)—*

11 (A) *by striking “90” and inserting “60”;*

12 (B) *by striking “not members of the fact-*
13 *finding panel,”; and*

14 (C) *by striking all that follows “shall be*
15 *made” and inserting “from a list of names pro-*
16 *vided by the Director. This list shall consist of*
17 *not less than 9 names of arbitrators of nation-*
18 *wide reputation and professional stature, who*
19 *are also members of the National Academy of Ar-*
20 *bitrators, and whom the Director has determined*
21 *are available and willing to serve.”; and*

22 (2) *in paragraph (3), by striking “factfinding*
23 *panel” and inserting “mediation”.*

24 (c) *CONFORMING AMENDMENT.—Section 1207(d) of*
25 *title 39, United States Code, is amended by striking “fact-*

1 *finding panel will be established” and inserting “mediator*
 2 *shall be appointed”.*

3 **TITLE V—ENHANCED**
 4 **REGULATORY COMMISSION**

5 **SEC. 501. REORGANIZATION AND MODIFICATION OF CER-**
 6 **TAIN PROVISIONS RELATING TO THE POSTAL**
 7 **REGULATORY COMMISSION.**

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

10 (1) *by inserting after chapter 4 the following:*

11 **“CHAPTER 5—POSTAL REGULATORY**
 12 **COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

13 **“§ 501. Establishment**

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

17 **“§ 502. Commissioners**

18 *“(a) The Postal Regulatory Commission is composed*
 19 *of 5 Commissioners, appointed by the President, by and*
 20 *with the advice and consent of the Senate. The Commis-*
 21 *sioners shall be chosen solely on the basis of their technical*
 22 *qualifications, professional standing, and demonstrated ex-*
 23 *pertise in economics, accounting, law, or public adminis-*

1 *tration, and may be removed by the President only for*
2 *cause. Each individual appointed to the Commission shall*
3 *have the qualifications and expertise necessary to carry out*
4 *the responsibilities accorded Commissioners under the Post-*
5 *al Accountability and Enhancement Act. Not more than 3*
6 *of the Commissioners may be adherents of the same political*
7 *party.*

8 “(b) A Commissioner may continue to serve after the
9 expiration of his term until his successor has qualified, ex-
10 cept that a Commissioner may not so continue to serve for
11 more than 1 year after the date upon which his term other-
12 wise would expire under subsection (e).

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

16 “(d) The Commissioners shall by majority vote des-
17 ignate a Vice Chairman of the Commission. The Vice Chair-
18 man shall act as Chairman of the Commission in the ab-
19 sence of the Chairman.

20 “(e) The Commissioners shall serve for terms of 6
21 years.”;

22 (2) by striking, in subchapter I of chapter 36 (as
23 in effect before the amendment made by section
24 201(c)), the heading for such subchapter I and all
25 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, United*
 6 *States Code, as so redesignated by subsection (a)(3), is*
 7 *amended by adding at the end the following: “Such rules*
 8 *shall include procedures which balance, inter alia, the need*
 9 *for protecting due process rights and ensuring expeditious*
 10 *decision-making.”.*

11 (c) *APPLICABILITY.—The amendment made by sub-*
 12 *section (a)(1) shall not affect the appointment or tenure of*
 13 *any person serving as a Commissioner on the Postal Regu-*
 14 *latory Commission (as so redesignated by section 504) pur-*
 15 *suant to an appointment made before the date of the enact-*
 16 *ment of this Act or any nomination made before that date,*
 17 *but, when any such office becomes vacant, the appointment*
 18 *of any person to fill that office shall be made in accordance*
 19 *with such amendment.*

20 (d) *CLERICAL AMENDMENT.—The analysis for part I*
 21 *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 reded-*
4 *ignated by section 501) is amended by adding at the end*
5 *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 em-*
9 *ployee of the Commission designated by the Commission*
10 *may administer oaths, examine witnesses, take depositions,*
11 *and receive evidence.*

12 *“(2) The Chairman of the Commission, any Commis-*
13 *sioner designated by the Chairman, and any administrative*
14 *law judge appointed by the Commission under section 3105*
15 *of title 5 may, with respect to any proceeding conducted*
16 *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 of,*
20 *any covered person; and*

21 *“(B) order the taking of depositions and re-*
22 *sponses to written interrogatories by a covered person.*
23 *The written concurrence of a majority of the Commissioners*
24 *then holding office shall, with respect to each subpoena*
25 *under subparagraph (A), be required in advance of its*
26 *issuance.*

1 “(3) *In the case of contumacy or failure to obey a sub-*
2 *poena issued under this subsection, upon application by the*
3 *Commission, the district court of the United States for the*
4 *district in which the person to whom the subpoena is ad-*
5 *dressed resides or is served may issue an order requiring*
6 *such person to appear at any designated place to testify*
7 *or produce documentary or other evidence. Any failure to*
8 *obey the order of the court may be punished by the court*
9 *as a contempt thereof.*

10 “(4) *For purposes of this subsection, the term ‘covered*
11 *person’ means an officer, employee, agent, or contractor of*
12 *the Postal Service.*

13 “(g)(1) *If the Postal Service determines that any docu-*
14 *ment or other matter it provides to the Postal Regulatory*
15 *Commission pursuant to a subpoena issued under sub-*
16 *section (f), or otherwise at the request of the Commission*
17 *in connection with any proceeding or other purpose under*
18 *this title, contains information which is described in section*
19 *410(c) of this title, or exempt from public disclosure under*
20 *section 552(b) of title 5, the Postal Service shall, at the time*
21 *of providing such matter to the Commission, notify the*
22 *Commission, in writing, of its determination (and the rea-*
23 *sons therefor).*

1 “(2) No officer or employee of the Commission may,
2 with respect to any information as to which the Commis-
3 sion has been notified under paragraph (1)—

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

6 “(B) permit anyone who is not an officer or em-
7 ployee of the Commission to have access to any such
8 information.

9 “(3) Paragraph (2) shall not prevent information from
10 being furnished under any process of discovery established
11 under this title in connection with a proceeding under this
12 title. The Commission shall, by regulations based on rule
13 26(c) of the Federal Rules of Civil Procedure, establish pro-
14 cedures for ensuring appropriate confidentiality for any in-
15 formation furnished under the preceding sentence.”.

16 **SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY**
17 **COMMISSION.**

18 (a) *AUTHORIZATION OF APPROPRIATIONS.*—Sub-
19 section (d) of section 504 of title 39, United States Code
20 (as so redesignated by section 501) is amended to read as
21 follows:

22 “(d) There are authorized to be appropriated, out of
23 the Postal Service Fund, such sums as may be necessary
24 for the Postal Regulatory Commission. In requesting an ap-
25 propriation under this subsection for a fiscal year, the Com-

1 *mission shall prepare and submit to the Congress under sec-*
2 *tion 2009 a budget of the Commission's expenses, including*
3 *expenses for facilities, supplies, compensation, and em-*
4 *ployee benefits.”.*

5 (b) *BUDGET PROGRAM.—*

6 (1) *IN GENERAL.—The next to last sentence of*
7 *section 2009 of title 39, United States Code, is*
8 *amended to read as follows: “The budget program*
9 *shall also include separate statements of the amounts*
10 *which (1) the Postal Service requests to be appro-*
11 *propriated under subsections (b) and (c) of section 2401,*
12 *(2) the Office of Inspector General of the United*
13 *States Postal Service requests to be appropriated, out*
14 *of the Postal Service Fund, under section 8J(e) of the*
15 *Inspector General Act of 1978, and (3) the Postal*
16 *Regulatory Commission requests to be appropriated,*
17 *out of the Postal Service Fund, under section 504(d)*
18 *of this title.”.*

19 (2) *CONFORMING AMENDMENT.—Section*
20 *2003(e)(1) of title 39, United States Code, is amended*
21 *by striking the first sentence and inserting the fol-*
22 *lowing: “The Fund shall be available for the payment*
23 *of (A) all expenses incurred by the Postal Service in*
24 *carrying out its functions as provided by law, subject*
25 *to the same limitation as set forth in the parenthet-*

1 *ical matter under subsection (a); (B) all expenses of*
2 *the Postal Regulatory Commission, subject to the*
3 *availability of amounts appropriated pursuant to sec-*
4 *tion 504(d); and (C) all expenses of the Office of In-*
5 *spector General, subject to the availability of amounts*
6 *appropriated pursuant to section 8J(e) of the Inspec-*
7 *tor General Act of 1978.”.*

8 *(c) EFFECTIVE DATE.—*

9 *(1) IN GENERAL.—The amendments made by*
10 *this section shall apply with respect to fiscal years be-*
11 *ginning on or after October 1, 2004.*

12 *(2) SAVINGS PROVISION.—The provisions of title*
13 *39, United States Code, that are amended by this sec-*
14 *tion shall, for purposes of any fiscal year before the*
15 *first fiscal year to which the amendments made by*
16 *this section apply, continue to apply in the same way*
17 *as if this section had never been enacted.*

18 **SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMIS-**

19 **SION.**

20 *(a) AMENDMENTS TO TITLE 39, UNITED STATES*
21 *CODE.—Title 39, United States Code, is amended in sec-*
22 *tions 404, 503–504 (as so redesignated by section 501),*
23 *1001, and 1002 by striking “Postal Rate Commission” each*
24 *place it appears and inserting “Postal Regulatory Commis-*
25 *sion”.*

1 (b) *AMENDMENTS TO TITLE 5, UNITED STATES*
2 *CODE.*—*Title 5, United States Code, is amended in sections*
3 *104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating*
4 *to Chairman, Postal Rate Commission), 5315 (in the item*
5 *relating to Members, Postal Rate Commission),*
6 *5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),*
7 *8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking*
8 *“Postal Rate Commission” and inserting “Postal Regu-*
9 *latory Commission”.*

10 (c) *AMENDMENT TO THE ETHICS IN GOVERNMENT ACT*
11 *OF 1978.*—*Section 101(f)(6) of the Ethics in Government*
12 *Act of 1978 (5 U.S.C. App.) is amended by striking “Postal*
13 *Rate Commission” and inserting “Postal Regulatory Com-*
14 *mission”.*

15 (d) *AMENDMENT TO THE REHABILITATION ACT OF*
16 *1973.*—*Section 501(b) of the Rehabilitation Act of 1973 (29*
17 *U.S.C. 791(b)) is amended by striking “Postal Rate Office”*
18 *and inserting “Postal Regulatory Commission”.*

19 (e) *AMENDMENT TO TITLE 44, UNITED STATES*
20 *CODE.*—*Section 3502(5) of title 44, United States Code, is*
21 *amended by striking “Postal Rate Commission” and insert-*
22 *ing “Postal Regulatory Commission”.*

23 (f) *OTHER REFERENCES.*—*Whenever a reference is*
24 *made in any provision of law (other than this Act or a*
25 *provision of law amended by this Act), regulation, rule, doc-*

1 *ument, or other record of the United States to the Postal*
2 *Rate Commission, such reference shall be considered a ref-*
3 *erence to the Postal Regulatory Commission.*

4 **SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMIS-**
5 **SION REPRESENTING THE GENERAL PUBLIC.**

6 *(a) IN GENERAL.—Chapter 5 of title 39, United States*
7 *Code (as added by this Act) is amended by adding after*
8 *section 504 the following:*

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

11 *“The Postal Regulatory Commission shall designate an*
12 *officer of the Postal Regulatory Commission in all public*
13 *proceedings (such as developing rules, regulations, and pro-*
14 *cedures) who shall represent the interests of the general pub-*
15 *lic.”.*

16 *(b) CLERICAL AMENDMENT.—The analysis for chapter*
17 *5 of title 39, United States Code (as amended by section*
18 *501(a)(1)) is amended by adding after the item relating to*
19 *section 504 the following:*

“505. Officer of the Postal Regulatory Commission representing the general pub-
lic.”.

1 **TITLE VI—INSPECTORS**
2 **GENERAL**

3 **SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGU-**
4 **LATORY COMMISSION.**

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

9 (b) *ADMINISTRATION.*—Section 504 of title 39, United
10 *States Code (as so redesignated by section 501) is amended*
11 *by adding after subsection (g) (as added by section 502)*
12 *the following:*

13 “*(h)(1) Notwithstanding any other provision of this*
14 *title or of the Inspector General Act of 1978, the authority*
15 *to select, appoint, and employ officers and employees of the*
16 *Office of Inspector General of the Postal Regulatory Com-*
17 *mission, and to obtain any temporary or intermittent serv-*
18 *ices of experts or consultants (or an organization of experts*
19 *or consultants) for such Office, shall reside with the Inspec-*
20 *tor General of the Postal Regulatory Commission.*

21 “*(2) Except as provided in paragraph (1), any exercise*
22 *of authority under this subsection shall, to the extent prac-*
23 *ticable, be in conformance with the applicable laws and reg-*
24 *ulations that govern selections, appointments and employ-*

1 *ment, and the obtaining of any such temporary or intermit-*
 2 *tent services, within the Postal Regulatory Commission.”.*

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

5 (1) *the first Inspector General of the Postal Reg-*
 6 *ulatory Commission shall be appointed; and*

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

9 **SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES**

10 **POSTAL SERVICE TO BE APPOINTED BY THE**
 11 **PRESIDENT.**

12 (a) *DEFINITIONAL AMENDMENTS TO THE INSPECTOR*
 13 *GENERAL ACT OF 1978.*—Section 11 of the *Inspector Gen-*
 14 *eral Act of 1978 is amended—*

15 (1) *in paragraph (1)—*

16 (A) *by striking “or” before “the President of*
 17 *the Export-Import Bank;” and*

18 (B) *by inserting “or the Governors of the*
 19 *United States Postal Service (within the mean-*
 20 *ing of section 102(3) of title 39, United States*
 21 *Code);” after “the President of the Export-Im-*
 22 *port Bank;”; and*

23 (2) *in paragraph (2)—*

24 (A) *by striking “or” before “the Export-Im-*
 25 *port Bank;”; and*

1 *section 102(3) of title 39, United States Code) are required*
2 *to transmit under the second sentence of section 5(d), such*
3 *sentence shall be applied by deeming the term ‘appropriate*
4 *committees of Congress’ to mean the Committee on Govern-*
5 *ment Reform of the House of Representatives, the Com-*
6 *mittee on Governmental Affairs of the Senate, and such*
7 *other committees or subcommittees of Congress as may be*
8 *appropriate.*

9 “(c) Notwithstanding any provision of paragraph (7)
10 or (8) of section 6(a), the Inspector General of the United
11 States Postal Service may select, appoint, and employ such
12 officers and employees as may be necessary for carrying out
13 the functions, powers, and duties of the Office of Inspector
14 General and to obtain the temporary or intermittent serv-
15 ices of experts or consultants or an organization of experts
16 or consultants, subject to the applicable laws and regula-
17 tions that govern such selections, appointments, and em-
18 ployment, and the obtaining of such services, within the
19 United States Postal Service.

20 “(d) Nothing in this Act shall restrict, eliminate, or
21 otherwise adversely affect any of the rights, privileges, or
22 benefits of employees of the United States Postal Service,
23 or labor organizations representing employees of the United
24 States Postal Service, under chapter 12 of title 39, United
25 States Code, the National Labor Relations Act, any hand-

1 *book or manual affecting employee labor relations with the*
2 *United States Postal Service, or any collective bargaining*
3 *agreement.*

4 “(e) *There are authorized to be appropriated, out of*
5 *the Postal Service Fund, such sums as may be necessary*
6 *for the Office of Inspector General of the United States Post-*
7 *al Service.*”.

8 (2) *RELATED PROVISIONS.—For certain related*
9 *provisions, see section 503(b).*

10 (c) *EXERCISE OF CERTAIN POWERS.—Section 6(e)(3)*
11 *of the Inspector General Act of 1978 is amended—*

12 (1) *by striking “and the” before “Tennessee Val-*
13 *ley Authority”; and*

14 (2) *by inserting “, and United States Postal*
15 *Service” after “Tennessee Valley Authority”.*

16 (d) *PUBLIC CONTRACTS.—*

17 (1) *ADDITIONAL PROVISIONS APPLICABLE.—Sec-*
18 *tion 410(b)(5) of title 39, United States Code, is*
19 *amended—*

20 (A) *in subparagraph (A), by striking “and”*
21 *after the semicolon; and*

22 (B) *by adding after subparagraph (B) the*
23 *following:*

1 “(C) *the Anti-Kickback Act of 1986 (41*
2 *U.S.C. 51 and following), other than subsections*
3 *(a) and (b) of 7 and section 8 of that Act; and*

4 “(D) *section 315 of the Federal Property*
5 *and Administrative Services Act of 1949 (41*
6 *U.S.C. 265) (relating to protecting contractor*
7 *employees from reprisal for disclosure of certain*
8 *information);”.*

9 (2) *REGULATIONS ON ALLOWABLE COSTS.—Section*
10 *410 of title 39, United States Code, is amended*
11 *by adding at the end the following:*

12 “(e) *The Postal Service shall develop and issue pur-*
13 *chasing regulations that prohibit contract costs not allow-*
14 *able under section 5.2.5 of the United States Postal Service*
15 *Procurement Manual (Publication 41), as in effect on July*
16 *12, 1995.”.*

17 (e) *AUDITS OF THE POSTAL SERVICE.—*

18 (1) *AUDITS.—Subsection (e) of section 2008 of*
19 *title 39, United States Code, is amended to read as*
20 *follows:*

21 “(e)(1) *At least once each year beginning with the fis-*
22 *cal year commencing after the date of the enactment of the*
23 *Postal Accountability and Enhancement Act, the financial*
24 *statements of the Postal Service (including those used in*
25 *determining and establishing postal rates) shall be audited*

1 *by the Inspector General or by an independent external*
2 *auditor selected by the Inspector General.*

3 “(2) *Audits under this section shall be conducted in*
4 *accordance with applicable generally accepted government*
5 *auditing standards.*”

6 “(3) *Upon completion of the audit required by this*
7 *subsection, the person who audits the statement shall submit*
8 *a report on the audit to the Postmaster General.*”

9 (2) *RESULTS OF INSPECTOR GENERAL’S AUDIT*
10 *TO BE INCLUDED IN ANNUAL REPORT.—Section 2402*
11 *of title 39, United States Code, is amended by insert-*
12 *ing after the first sentence the following: “Each report*
13 *under this section shall include a copy of the report*
14 *most recently received by the Postmaster General*
15 *under section 2008(e)(3).”*

16 (3) *COORDINATION PROVISIONS.—Section*
17 *2008(d) of title 39, United States Code, is amended—*

18 (A) *by striking “(d) Nothing” and inserting*
19 *“(d)(1) Except as provided in paragraph (2),*
20 *nothing”; and*

21 (B) *by adding at the end the following:*

22 “(2) *An audit or report under paragraph (1) may not*
23 *be obtained without the prior written approval of the In-*
24 *spector General.*”

1 (4) *TRANSITION PROVISION.*—For purposes of
2 any fiscal year preceding the first fiscal year com-
3 mencing after the date of the enactment of this Act,
4 the provisions of title 39, United States Code, shall be
5 applied as if the amendments made by this subsection
6 had never been enacted.

7 (f) *REPORTS.*—Section 3013 of title 39, United States
8 Code, is amended by striking “Postmaster General” each
9 place it appears and inserting “Chief Postal Inspector”.

10 (g) *TECHNICAL AND CONFORMING AMENDMENTS.*—

11 (1) *RELATING TO THE INSPECTOR GENERAL ACT*
12 *OF 1978.*—(A) Subsection (a) of section 8G of the In-
13 spector General Act of 1978 (as amended by section
14 601(a)) is further amended—

15 (i) in paragraph (2), by striking “the Post-
16 al Regulatory Commission, and the United
17 States Postal Service;” and inserting “and the
18 Postal Regulatory Commission;” and

19 (ii) in paragraph (4), by striking “except
20 that” and all that follows through “Code;” and
21 inserting “except that, with respect to the Na-
22 tional Science Foundation, such term means the
23 National Science Board;”.

24 (B)(i) Subsection (f) of section 8G of such Act is
25 repealed.

1 (ii) Subsection (c) of section 8G of such Act is
2 amended by striking “Except as provided under sub-
3 section (f) of this section, the” and inserting “The”.

4 (C) Section 8K of such Act (as so redesignated
5 by subsection (b)(1)(A)) is amended by striking the
6 matter after “8D,” and before “of this Act” and in-
7 serting “8E, 8F, 8H, or 8J”.

8 (2) *RELATING TO TITLE 39, UNITED STATES*
9 *CODE.—(A) Subsection (e) of section 202 of title 39,*
10 *United States Code, is repealed.*

11 (B) Paragraph (4) of section 102 of such title 39
12 (as amended by section 101) is amended to read as
13 follows:

14 “(4) ‘Inspector General’ means the Inspector
15 General of the United States Postal Service, ap-
16 pointed under section 3(a) of the Inspector General
17 Act of 1978;”.

18 (C) The first sentence of section 1003(a) of such
19 title 39 is amended by striking “chapters 2 and 12
20 of this title, section 8G of the Inspector General Act
21 of 1978, or other provision of law,” and inserting
22 “chapter 2 or 12 of this title, subsection (b) or (c) of
23 this section, or any other provision of law,”.

24 (D) Section 1003(b) of such title 39 is amended
25 by striking “respective” and inserting “other”.

1 (E) Section 1003(c) of such title 39 is amended
2 by striking “included” and inserting “includes”.

3 (3) *RELATING TO THE ENERGY POLICY ACT OF*
4 1992.—Section 160(a) of the Energy Policy Act of
5 1992 (42 U.S.C. 8262f(a)) is amended (in the matter
6 before paragraph (1)) by striking all that follows “(5
7 U.S.C. App.)” and before “shall—”.

8 (h) *EFFECTIVE DATE; TRANSITION PROVISIONS.*—

9 (1) *EFFECTIVE DATE.*—Except as provided in
10 paragraph (2) or subsection (c), this section and the
11 amendments made by this section shall take effect on
12 the date of the enactment of this Act.

13 (2) *TRANSITION PROVISIONS.*—

14 (A) *PRESIDENTIAL APPOINTMENT AUTHOR-*
15 *ITY AVAILABLE IMMEDIATELY.*—The authority to
16 appoint an Inspector General of the United
17 States Postal Service in accordance with the
18 amendments made by this section shall be avail-
19 able as of the effective date of this section.

20 (B) *CONTINUATION IN OFFICE.*—Pending
21 the appointment of an Inspector General of the
22 United States Postal Service in accordance with
23 the amendments made by this section, the indi-
24 vidual serving as the Inspector General of the
25 United States Postal Service on the day before

1 the effective date of this section may continue to
2 serve—

3 (i) in accordance with applicable pro-
4 visions of the Inspector General Act of 1978
5 and (except as provided in clause (ii)) of
6 title 39, United States Code, as last in effect
7 before the effective date of this Act; but

8 (ii) subject to the provisions of such
9 title 39 as amended by subsections (e) and
10 (f) of this section (deeming any reference to
11 the “Inspector General” in such provisions,
12 as so amended, to refer to the individual
13 continuing to serve under authority of this
14 subparagraph) and subparagraph (C).

15 (C) AUTHORIZATION OF APPROPRIA-
16 TIONS.—

17 (i) IN GENERAL.—Notwithstanding
18 any other provision of this subsection, sec-
19 tion 8J(e) of the Inspector General Act of
20 1978 (as amended by this section) shall be
21 effective for purposes of fiscal years begin-
22 ning on or after October 1, 2004.

23 (ii) SAVINGS PROVISION.—For pur-
24 poses of the fiscal year ending on September
25 30, 2004, funding for the Office of Inspector

1 *General of the United States Postal Service*
2 *shall be made available in the same manner*
3 *as if this Act had never been enacted.*

4 (D) *ELIGIBILITY OF PRIOR INSPECTOR GEN-*
5 *ERAL.—Nothing in this Act shall prevent any*
6 *individual who has served as Inspector General*
7 *of the United States Postal Service at any time*
8 *before the date of the enactment of this Act from*
9 *being appointed to that position pursuant to the*
10 *amendments made by this section.*

11 ***TITLE VII—EVALUATIONS***

12 ***SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.***

13 (a) *REPORT BY THE POSTAL SERVICE.—The United*
14 *States Postal Service shall, within 12 months after the date*
15 *of the enactment of this Act, submit to the President, the*
16 *Congress, and the Postal Regulatory Commission, a written*
17 *report on universal postal service in the United States*
18 *(hereinafter in this section referred to as “universal serv-*
19 *ice”). Such report shall include at least the following:*

20 (1) *A comprehensive review of the history and*
21 *development of universal service, including how the*
22 *scope and standards of universal service have evolved*
23 *over time.*

24 (2) *The scope and standards of universal service*
25 *provided under current law (including sections 101*

1 *and 403 of title 39, United States Code) and current*
2 *rules, regulations, policy statements, and practices of*
3 *the Postal Service.*

4 (3) *A description of any geographic areas, popu-*
5 *lations, communities, organizations, or other groups*
6 *or entities not currently covered by universal service*
7 *or that are covered but that are receiving services de-*
8 *ficiant in scope or quality or both.*

9 (4) *The scope and standards of universal service*
10 *likely to be required in the future in order to meet the*
11 *needs and expectations of the American public, in-*
12 *cluding all types of mail users, based on such assump-*
13 *tions or alternative sets of assumptions as the Postal*
14 *Service considers plausible.*

15 (5) *Such recommendations as the Postal Service*
16 *considers appropriate.*

17 (b) *REPORT BY THE POSTAL REGULATORY COMMIS-*
18 *SION.—The Postal Regulatory Commission shall, within 12*
19 *months after receiving the report of the Postal Service under*
20 *subsection (a), submit to the President and the Congress a*
21 *written report evaluating the report of the Postal Service.*
22 *The report of the Commission shall include at least the fol-*
23 *lowing:*

1 (1) *Such comments and observations relating to*
2 *the matters addressed in the Postal Service's report as*
3 *the Commission considers appropriate.*

4 (2) *An estimate of the cost attributable to the ob-*
5 *ligation to provide universal service under prior and*
6 *current law, respectively.*

7 (3) *An estimate of the likely cost of fulfilling the*
8 *obligation to provide universal service under—*

9 (A) *the assumptions or respective sets of as-*
10 *sumptions of the Postal Service described in sub-*
11 *section (a)(4); and*

12 (B) *such other assumptions or sets of as-*
13 *sumptions as the Commission considers plau-*
14 *sible.*

15 (4) *Such additional topics and recommendations*
16 *as the Commission considers appropriate.*

17 (c) *CONSULTATION.—In preparing the reports required*
18 *by this section, the Postal Service and the Postal Regulatory*
19 *Commission—*

20 (1) *shall consult with each other, other Federal*
21 *agencies, users of the mails, enterprises in the private*
22 *sector engaged in the delivery of mail, and the general*
23 *public; and*

24 (2) *shall address in their respective reports any*
25 *written comments received under this section.*

1 (d) *CLARIFYING PROVISION.*—*Nothing in this section*
2 *shall be considered to relate to any services that are not*
3 *postal services (within the meaning of section 102 of title*
4 *39, United States Code, as amended by section 101).*

5 **SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION,**
6 **AND OTHER PROVISIONS.**

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

10 (1) *the operation of the amendments made by the*
11 *Postal Accountability and Enhancement Act; and*

12 (2) *recommendations for any legislation or other*
13 *measures necessary to improve the effectiveness or effi-*
14 *ciency of the postal laws of the United States.*

15 (b) *POSTAL SERVICE VIEWS.*—*A report under this sec-*
16 *tion shall be submitted only after reasonable opportunity*
17 *has been afforded to the Postal Service to review such report*
18 *and to submit written comments thereon. Any comments*
19 *timely received from the Postal Service under the preceding*
20 *sentence shall be attached to the report submitted under sub-*
21 *section (a).*

22 (c) *SPECIFIC INFORMATION REQUIRED.*—*The Postal*
23 *Regulatory Commission shall include, as part of at least*
24 *its first report under subsection (a), the following:*

1 (1) *COST-COVERAGE REQUIREMENT RELATING TO*
2 *COMPETITIVE PRODUCTS COLLECTIVELY.*—*With re-*
3 *spect to section 3633 of title 39, United States Code*
4 *(as amended by this Act)*—

5 (A) *a description of how such section has*
6 *operated; and*

7 (B) *recommendations as to whether or not*
8 *such section should remain in effect and, if so,*
9 *any suggestions as to how it might be improved.*

10 (2) *COMPETITIVE PRODUCTS FUND.*—*With re-*
11 *spect to the Postal Service Competitive Products Fund*
12 *(under section 2011 of title 39, United States Code,*
13 *as amended by section 301), in consultation with the*
14 *Secretary of the Treasury*—

15 (A) *a description of how such Fund has op-*
16 *erated;*

17 (B) *any suggestions as to how the operation*
18 *of such Fund might be improved; and*

19 (C) *a description and assessment of alter-*
20 *native accounting or financing mechanisms that*
21 *might be used to achieve the objectives of such*
22 *Fund.*

23 (3) *ASSUMED FEDERAL INCOME TAX ON COM-*
24 *PETITIVE PRODUCTS FUND.*—*With respect to section*
25 *3634 of title 39, United States Code (as amended by*

1 *this Act), in consultation with the Secretary of the*
2 *Treasury—*

3 *(A) a description of how such section has*
4 *operated; and*

5 *(B) recommendations as to whether or not*
6 *such section should remain in effect and, if so,*
7 *any suggestions as to how it might be improved.*

8 **SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COM-**
9 **PETITIVE PRODUCTS.**

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

19 *(b) RECOMMENDATIONS; ADJUSTMENTS.—The Federal*
20 *Trade Commission shall include such recommendations as*
21 *it considers appropriate for bringing such legal differences*
22 *to an end and, in the interim, to account under section*
23 *3633, for the net economic effects provided by those laws.*

24 *(c) CONSULTATION.—In preparing its report, the Fed-*
25 *eral Trade Commission shall consult with the United States*

1 *Postal Service, the Postal Regulatory Commission, other*
2 *Federal agencies, mailers, private companies that provide*
3 *delivery services, and the general public, and shall append*
4 *to such report any written comments received under this*
5 *subsection.*

6 (d) *COMPETITIVE PRODUCT RATE REGULATION.*—*The*
7 *Postal Regulatory Commission shall take into account the*
8 *recommendations of the Federal Trade Commission, and*
9 *subsequent events that affect the continuing validity of the*
10 *estimate of the net economic effect, in promulgating or re-*
11 *vising the regulations required by section 3633 of title 39,*
12 *United States Code.*

13 **SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECU-**
14 **TIVE AND ADMINISTRATIVE SCHEDULE MAN-**
15 **AGEMENT POSITIONS.**

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

23 (b) *PERFORMANCE EVALUATIONS.*—*The United States*
24 *Postal Service shall, as soon as practicable, take such meas-*
25 *ures as may be necessary to ensure that, for purposes of*

1 *conducting performance appraisals of supervisory or mana-*
2 *gerial employees, appropriate consideration shall be given*
3 *to meeting affirmative action goals, achieving equal em-*
4 *ployment opportunity requirements, and implementation of*
5 *plans designed to achieve greater diversity in the workforce.*

6 **SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.**

7 (a) *PLAN.*—*The United States Postal Service shall, be-*
8 *fore the deadline specified in subsection (b), develop and*
9 *be prepared to implement, whenever necessary, a com-*
10 *prehensive plan under which reemployment assistance shall*
11 *be afforded to employees displaced as a result of the automa-*
12 *tion or privatization of any of its functions.*

13 (b) *REPORT.*—*Not later than 1 year after the date of*
14 *the enactment of this Act, the United States Postal Service*
15 *shall submit to its Board of Governors and Congress a writ-*
16 *ten report describing its plan under this section.*

17 **SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND**
18 **SMALL BUSINESSES.**

19 *The Board of Governors shall study and, within 1 year*
20 *after the date of the enactment of this Act, submit to the*
21 *President and the Congress a report concerning the number*
22 *and value of contracts and subcontracts the Postal Service*
23 *has entered into with women, minorities, and small busi-*
24 *nesses.*

1 **SEC. 707. RATES FOR PERIODICALS.**

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

6 (1) *the quality, accuracy, and completeness of the*
7 *information used by the Postal Service in deter-*
8 *mining the direct and indirect postal costs attrib-*
9 *utable to periodicals; and*

10 (2) *any opportunities that might exist for im-*
11 *proving efficiencies in the collection, handling, trans-*
12 *portation, or delivery of periodicals by the Postal*
13 *Service, including any pricing incentives for mailers*
14 *that might be appropriate.*

15 (b) *RECOMMENDATIONS.*—*The report shall include rec-*
16 *ommendations for any administrative action or legislation*
17 *that might be appropriate.*

18 **SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.**

19 (a) *IN GENERAL.*—*Within 12 months after the date*
20 *of the enactment of this Act, the Office of Inspector General*
21 *of the United States Postal Service shall study and submit*
22 *to the President, the Congress, and the United States Postal*
23 *Service, a report concerning the administration of section*
24 *3626(k) of title 39, United States Code.*

25 (b) *SPECIFIC REQUIREMENTS.*—*The study and report*
26 *shall specifically address the adequacy and fairness of the*

1 *process by which assessments under section 3626(k) of title*
2 *39, United States Code, are determined and appealable, in-*
3 *cluding—*

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

7 (2) *whether a statute of limitations should be es-*
8 *tablished for the commencement of proceedings by the*
9 *Postal Service thereunder.*

10 **SEC. 709. POSTAL PROCESSING AND DISTRIBUTION NET-**
11 **WORK STUDY.**

12 *The United States Postal Service shall, within 16*
13 *months after the date of the enactment of this Act, submit*
14 *to the President, the Congress, and the Board of Governors*
15 *of the United States Postal Service a written report on the*
16 *postal processing and distribution network. Such report*
17 *shall include at least the following:*

18 (1) *Recommendations to improve the efficiency*
19 *and effectiveness of the processing and distribution*
20 *network while preserving the timely delivery of postal*
21 *services.*

22 (2) *Identification of excess capacity (if any)*
23 *within the processing and distribution network and*
24 *opportunities for savings through realignment or con-*
25 *solidation of facilities.*

1 (3) *Report of the Postal Service’s plans for deal-*
2 *ing with the recommendations and findings identified*
3 *in paragraphs (1) and (2).*

4 (4) *Statutory or regulatory obstacles preventing*
5 *the Postal Service from taking action to realign or*
6 *consolidate facilities identified in paragraph (2).*

7 (5) *Such additional topics and recommendations*
8 *as the Postal Service considers appropriate.*

9 **SEC. 710. DEFINITION.**

10 *For purposes of this title, the term “Board of Gov-*
11 *ernors” has the meaning given such term by section 102*
12 *of title 39, United States Code.*

13 **TITLE VIII—MISCELLANEOUS;**
14 **TECHNICAL AND CON-**
15 **FORMING AMENDMENTS**

16 **SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

17 *Section 3061 of title 18, United States Code, is amend-*
18 *ed by adding at the end the following:*

19 “(c)(1) *The Postal Service may employ police officers*
20 *for duty in connection with the protection of property*
21 *owned or occupied by the Postal Service or under the charge*
22 *and control of the Postal Service, and persons on the prop-*
23 *erty, including duty in areas outside the property to the*
24 *extent necessary to protect the property and persons on the*
25 *property.*

1 “(2) *With respect to such property, such officers shall*
2 *have the power to—*

3 “(A) *enforce Federal laws and regulations for the*
4 *protection of persons and property;*

5 “(B) *carry firearms; and*

6 “(C) *make arrests without a warrant for any of-*
7 *fense against the United States committed in the*
8 *presence of the officer or for any felony cognizable*
9 *under the laws of the United States if the officer has*
10 *reasonable grounds to believe that the person to be ar-*
11 *rested has committed or is committing a felony.*

12 “(3) *With respect to such property, such officers may*
13 *have, to such extent as the Postal Service may by regula-*
14 *tions prescribe, the power to—*

15 “(A) *serve warrants and subpoenas issued under*
16 *the authority of the United States; and*

17 “(B) *conduct investigations, on and off the prop-*
18 *erty in question, of offenses that may have been com-*
19 *mitted against property owned or occupied by the*
20 *Postal Service or persons on the property.*

21 “(4)(A) *As to such property, the Postmaster General*
22 *may prescribe regulations necessary for the protection and*
23 *administration of property owned or occupied by the Postal*
24 *Service and persons on the property. The regulations may*
25 *include reasonable penalties, within the limits prescribed*

1 *in subparagraph (B), for violations of the regulations. The*
2 *regulations shall be posted and remain posted in a con-*
3 *spicuous place on the property.*

4 “(B) *A person violating a regulation prescribed under*
5 *this subsection shall be fined under this title, imprisoned*
6 *for not more than 30 days, or both.*”

7 **SEC. 802. DATE OF POSTMARK TO BE TREATED AS DATE OF**
8 **APPEAL IN CONNECTION WITH THE CLOSING**
9 **OR CONSOLIDATION OF POST OFFICES.**

10 (a) *IN GENERAL.*—Section 404(b) of title 39, United
11 States Code, is amended by adding at the end the following:

12 “(6) *For purposes of paragraph (5), any appeal re-*
13 *ceived by the Commission shall—*

14 “(A) *if sent to the Commission through the*
15 *mails, be considered to have been received on the date*
16 *of the Postal Service postmark on the envelope or*
17 *other cover in which such appeal is mailed; or*

18 “(B) *if otherwise lawfully delivered to the Com-*
19 *mission, be considered to have been received on the*
20 *date determined based on any appropriate docu-*
21 *mentation or other indicia (as determined under reg-*
22 *ulations of the Commission).*”

23 (b) *EFFECTIVE DATE.*—This section and the amend-
24 ments made by this section shall apply with respect to any
25 determination to close or consolidate a post office which is

1 *first made available, in accordance with paragraph (3) of*
2 *section 404(b) of title 39, United States Code, after the end*
3 *of the 3-month period beginning on the date of the enact-*
4 *ment of this Act.*

5 **SEC. 803. PROVISIONS RELATING TO BENEFITS UNDER**
6 **CHAPTER 81 OF TITLE 5, UNITED STATES**
7 **CODE, FOR OFFICERS AND EMPLOYEES OF**
8 **THE FORMER POST OFFICE DEPARTMENT.**

9 (a) *IN GENERAL.*—Section 8 of the Postal Reorganiza-
10 *tion Act (39 U.S.C. 1001 note) is amended by inserting*
11 *“(a)” after “8.” and by adding at the end the following:*

12 *“(b) For purposes of chapter 81 of title 5, United*
13 *States Code, the Postal Service shall, with respect to any*
14 *individual receiving benefits under such chapter as an offi-*
15 *cer or employee of the former Post Office Department, have*
16 *the same authorities and responsibilities as it has with re-*
17 *spect to an officer or employee of the Postal Service receiv-*
18 *ing such benefits.”.*

19 (b) *EFFECTIVE DATE.*—*This section and the amend-*
20 *ments made by this section shall be effective as of the first*
21 *day of the fiscal year in which this Act is enacted.*

22 **SEC. 804. OBSOLETE PROVISIONS.**

23 (a) *REPEAL.*—

24 (1) *IN GENERAL.*—*Chapter 52 of title 39, United*
25 *States Code, is repealed.*

1 (2) *CONFORMING AMENDMENTS.—(A) Section*
2 *5005(a) of title 39, United States Code, is amended—*

3 *(i) by striking paragraph (1), and by redesi-*
4 *gnating paragraphs (2) through (4) as para-*
5 *graphs (1) through (3), respectively; and*

6 *(ii) in paragraph (3) (as so designated by*
7 *clause (i)), by striking “(as defined in section*
8 *5201(6) of this title)”.*

9 (B) *Section 5005(b) of such title 39 is amended*
10 *by striking “(a)(4)” each place it appears and insert-*
11 *ing “(a)(3)”.*

12 (C) *Section 5005(c) of such title 39 is amended*
13 *by striking “by carrier or person under subsection*
14 *(a)(1) of this section, by contract under subsection*
15 *(a)(4) of this section, or” and inserting “by contract*
16 *under subsection (a)(3) of this section or”.*

17 (b) *ELIMINATING RESTRICTION ON LENGTH OF CON-*
18 *TRACTS.—(1) Section 5005(b)(1) of title 39, United States*
19 *Code, is amended by striking “(or where the Postal Service*
20 *determines that special conditions or the use of special*
21 *equipment warrants, not in excess of 6 years)” and insert-*
22 *ing “(or such longer period of time as may be determined*
23 *by the Postal Service to be advisable or appropriate)”.*

24 (2) *Section 5402(d) of such title 39 is amended by*
25 *striking “for a period of not more than 4 years”.*

1 (3) *Section 5605 of such title 39 is amended by strik-*
2 *ing “for periods of not in excess of 4 years”.*

3 (c) *CLERICAL AMENDMENT.—The analysis for part V*
4 *of title 39, United States Code, is amended by repealing*
5 *the item relating to chapter 52.*

6 **SEC. 805. EXPANDED CONTRACTING AUTHORITY.**

7 (a) *AMENDMENT TO TITLE 39, UNITED STATES*
8 *CODE.—*

9 (1) *CONTRACTS WITH AIR CARRIERS.—Sub-*
10 *section (d) of section 5402 of title 39, United States*
11 *Code, is amended to read as follows:*

12 “(d)(1) *The Postal Service may contract with any air*
13 *carrier for the transportation of mail by aircraft in inter-*
14 *state air transportation, including the rates therefor, either*
15 *through negotiations or competitive bidding.*

16 “(2) *Notwithstanding subsections (a) through (c), the*
17 *Postal Service may contract with any air carrier or foreign*
18 *air carrier for the transportation of mail by aircraft in for-*
19 *ign air transportation, including the rates therefor, either*
20 *through negotiations or competitive bidding, except that—*

21 “(A) *any such contract may be awarded only to*
22 *(i) an air carrier holding a certificate required by*
23 *section 41101 of title 49 or an exemption therefrom*
24 *issued by the Secretary of Transportation, (ii) a for-*
25 *ign air carrier holding a permit required by section*

1 41301 of title 49 or an exemption therefrom issued by
2 the Secretary of Transportation, or (iii) a combina-
3 tion of such air carriers or foreign air carriers (or
4 both);

5 “(B) mail transported under any such contract
6 shall not be subject to any duty-to-carry requirement
7 imposed by any provision of subtitle VII of title 49
8 or by any certificate, permit, or corresponding exemp-
9 tion authority issued by the Secretary of Transpor-
10 tation under that subtitle;

11 “(C) every contract that the Postal Service
12 awards to a foreign air carrier under this paragraph
13 shall be subject to the continuing requirement that air
14 carriers shall be afforded the same opportunity to
15 carry the mail of the country to and from which the
16 mail is transported and the flag country of the for-
17 eign air carrier, if different, as the Postal Service has
18 afforded the foreign air carrier; and

19 “(D) the Postmaster General shall consult with
20 the Secretary of Defense concerning actions that affect
21 the carriage of military mail transported in foreign
22 air transportation.

23 “(3) Paragraph (2) shall not be interpreted as sus-
24 pending or otherwise diminishing the authority of the Sec-
25 retary of Transportation under section 41310 of title 49.”.

1 (2) *DEFINITIONS.*—*Subsection (e) of section 5402*
2 *of title 39, United States Code, is amended to read as*
3 *follows:*

4 “(e) *For purposes of this section, the terms ‘air car-*
5 *rier’, ‘air transportation’, ‘foreign air carrier’, ‘foreign air*
6 *transportation’, ‘interstate air transportation’, and ‘mail’*
7 *shall have the meanings given such terms in section 40102*
8 *of title 49.’.*”

9 (b) *AMENDMENTS TO TITLE 49, UNITED STATES*
10 *CODE.*—

11 (1) *AUTHORITY OF POSTAL SERVICE TO PROVIDE*
12 *FOR INTERSTATE AIR TRANSPORTATION OF MAIL.*—
13 *Section 41901(a) of title 49, United States Code, is*
14 *amended to read as follows:*

15 “(a) *TITLE 39.*—*The United States Postal Service*
16 *may provide for the transportation of mail by aircraft in*
17 *air transportation under this chapter and under chapter*
18 *54 of title 39.’.*”

19 (2) *SCHEDULES FOR CERTAIN TRANSPORTATION*
20 *OF MAIL.*—*Section 41902(b)(1) of title 49, United*
21 *States Code, is amended by inserting before the semi-*
22 *colon at the end the following: “(other than foreign*
23 *air transportation of mail)’.*”

1 (3) *PRICES FOR FOREIGN TRANSPORTATION OF*
2 *MAIL.—Section 41907 of title 49, United States Code,*
3 *is amended—*

4 (A) *by striking “(a) LIMITATIONS.—”; and*
5 (B) *by striking subsection (b).*

6 (4) *CONFORMING AMENDMENTS.—Sections*
7 *41107, 41901(b)(1), 41902(a), 41903(a), and 41903(b)*
8 *of title 49, United States Code, are amended by strik-*
9 *ing “in foreign air transportation or”.*

10 **SEC. 806. INVESTMENTS.**

11 *Subsection (c) of section 2003 of title 39, United States*
12 *Code, is amended—*

13 (1) *by striking “(c) If” and inserting “(c)(1) Ex-*
14 *cept as provided in paragraph (2), if”; and*

15 (2) *by adding at the end the following:*

16 “(2)(A) *Nothing in this section shall be considered to*
17 *authorize any investment in any obligations or securities*
18 *of a commercial entity.*

19 “(B) *For purposes of this paragraph, the term ‘com-*
20 *mercial entity’ means any corporation, company, associa-*
21 *tion, partnership, joint stock company, firm, society, or*
22 *other similar entity, as further defined under regulations*
23 *prescribed by the Postal Regulatory Commission.”.*

1 **SEC. 807. REPEAL OF SECTION 5403.**

2 (a) *IN GENERAL.*—Section 5403 of title 39, United
3 States Code, is repealed.

4 (b) *CLERICAL AMENDMENT.*—The analysis for chapter
5 54 of title 39, United States Code, is amended by repealing
6 the item relating to section 5403.

7 **SEC. 808. REDUCED RATES.**

8 Section 3626 of title 39, United States Code, is amend-
9 ed—

10 (1) *in subsection (a)*—

11 (A) *by striking all before paragraph (4) and*
12 *inserting the following:*

13 “(a)(1) *Except as otherwise provided in this section,*
14 *rates of postage for a class of mail or kind of mailer under*
15 *former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c)*
16 *of this title shall be established in accordance with section*
17 *3622.*

18 “(2) *For the purpose of this subsection, the term ‘reg-*
19 *ular-rate category’ means any class of mail or kind of mail-*
20 *er, other than a class or kind referred to in section*
21 *2401(c).’; and*

22 (B) *by redesignating paragraphs (4)*
23 *through (7) as paragraphs (3) through (6), re-*
24 *spectively;*

25 (2) *in subsection (g), by adding at the end the*
26 *following:*

1 “(3) For purposes of this section and former section
2 4358(a) through (c) of this title, those copies of an issue
3 of a publication entered within the county in which it is
4 published, but distributed outside such county on postal
5 carrier routes originating in the county of publication, shall
6 be treated as if they were distributed within the county of
7 publication.

8 “(4)(A) In the case of an issue of a publication, any
9 number of copies of which are mailed at the rates of postage
10 for a class of mail or kind of mailer under former section
11 4358(a) through (c) of this title, any copies of such issue
12 which are distributed outside the county of publication (ex-
13 cluding any copies subject to paragraph (3)) shall be subject
14 to rates of postage provided for under this paragraph.

15 “(B) The rates of postage applicable to mail under this
16 paragraph shall be established in accordance with section
17 3622.

18 “(C) This paragraph shall not apply with respect to
19 an issue of a publication unless the total paid circulation
20 of such issue outside the county of publication (not counting
21 recipients of copies subject to paragraph (3)) is less than
22 5,000.”; and

23 (3) by adding at the end the following:

24 “(n) In the administration of this section, matter that
25 satisfies the circulation standards for requester publications

1 *shall not be excluded from being mailed at the rates for mail*
2 *under former section 4358 solely because such matter is de-*
3 *signed primarily for free circulation or for circulation at*
4 *nominal rates, or fails to meet the requirements of former*
5 *section 4354(a)(5).”.*

6 **SEC. 809. HAZARDOUS MATTER.**

7 (a) *NONMAILABILITY GENERALLY.*—Section 3001 of
8 *title 39, United States Code, is amended—*

9 (1) *by redesignating subsection (n) as subsection*
10 *(o); and*

11 (2) *by inserting after subsection (m) the fol-*
12 *lowing:*

13 “(o)(1) *Except as otherwise authorized by law or regu-*
14 *lations of the Postal Service, hazardous material is non-*
15 *ailable.*

16 “(2) *In this subsection, the term ‘hazardous material’*
17 *means a substance or material designated by the Secretary*
18 *of Transportation under section 5103(a) of title 49.”.*

19 (b) *MAILABILITY.*—Chapter 30 of title 39, United
20 *States Code, is amended by adding at the end the following:*

21 **“§ 3018. Hazardous material**

22 “(a) *IN GENERAL.*—The Postal Service shall prescribe
23 *regulations for the safe transportation of hazardous mate-*
24 *rial in the mail.*

25 “(b) *PROHIBITIONS.*—No person may—

1 “(1) mail or cause to be mailed hazardous mate-
2 rial that has been declared by statute or Postal Serv-
3 ice regulation to be nonmailable;

4 “(2) mail or cause to be mailed hazardous mate-
5 rial in violation of any statute or Postal Service reg-
6 ulation restricting the time, place, or manner in
7 which hazardous material may be mailed; or

8 “(3) manufacture, distribute, or sell any con-
9 tainer, packaging kit, or similar device that—

10 “(A) is represented, marked, certified, or
11 sold by such person for use in the mailing of
12 hazardous material; and

13 “(B) fails to conform with any statute or
14 Postal Service regulation setting forth standards
15 for a container, packaging kit, or similar device
16 used for the mailing of hazardous material.

17 “(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAM-
18 AGES.—

19 “(1) IN GENERAL.—A person who knowingly vio-
20 lates this section or a regulation prescribed under this
21 section shall be liable for—

22 “(A) a civil penalty of at least \$250, but
23 not more than \$100,000, for each violation;

24 “(B) the costs of any clean-up associated
25 with each violation; and

1 “(C) *damages.*

2 “(2) *KNOWING ACTION.—A person acts know-*
3 *ingly for purposes of paragraph (1) when—*

4 “(A) *the person has actual knowledge of the*
5 *facts giving rise to the violation; or*

6 “(B) *a reasonable person acting in the cir-*
7 *cumstances and exercising reasonable care would*
8 *have had that knowledge.*

9 “(3) *SEPARATE VIOLATIONS.—*

10 “(A) *VIOLATIONS OVER TIME.—A separate*
11 *violation under this subsection occurs for each*
12 *day hazardous material, mailed or caused to be*
13 *mailed in noncompliance with this section, is in*
14 *the mail.*

15 “(B) *SEPARATE ITEMS.—A separate viola-*
16 *tion under this subsection occurs for each item*
17 *containing hazardous material that is mailed or*
18 *caused to be mailed in noncompliance with this*
19 *section.*

20 “(d) *HEARINGS.—The Postal Service may determine*
21 *that a person has violated this section or a regulation pre-*
22 *scribed under this section only after notice and an oppor-*
23 *tunity for a hearing. Proceedings under this section shall*
24 *be conducted in accordance with section 3001(m).*

1 “(e) *PENALTY CONSIDERATIONS.*—*In determining the*
2 *amount of a civil penalty for a violation of this section,*
3 *the Postal Service shall consider—*

4 “(1) *the nature, circumstances, extent, and grav-*
5 *ity of the violation;*

6 “(2) *with respect to the person who committed*
7 *the violation, the degree of culpability, any history of*
8 *prior violations, the ability to pay, and any effect on*
9 *the ability to continue in business;*

10 “(3) *the impact on Postal Service operations;*
11 *and*

12 “(4) *any other matters that justice requires.*

13 “(f) *CIVIL ACTIONS TO COLLECT.*—

14 “(1) *IN GENERAL.*—*In accordance with section*
15 *409(d), a civil action may be commenced in an ap-*
16 *propriate district court of the United States to collect*
17 *a civil penalty, clean-up costs, and damages assessed*
18 *under subsection (c).*

19 “(2) *COMPROMISE.*—*The Postal Service may*
20 *compromise the amount of a civil penalty, clean-up*
21 *costs, and damages assessed under subsection (c) be-*
22 *fore commencing a civil action with respect to such*
23 *civil penalty, clean-up costs, and damages under*
24 *paragraph (1).*

25 “(g) *CIVIL JUDICIAL PENALTIES.*—

1 “(1) *IN GENERAL.*—*At the request of the Postal*
2 *Service, the Attorney General may bring a civil ac-*
3 *tion in an appropriate district court of the United*
4 *States to enforce this section or a regulation pre-*
5 *scribed under this section.*

6 “(2) *RELIEF.*—*The court in a civil action under*
7 *paragraph (1) may award appropriate relief, includ-*
8 *ing a temporary or permanent injunction, civil pen-*
9 *alties as determined in accordance with this section,*
10 *or punitive damages.*

11 “(3) *CONSTRUCTION.*—*A civil action under this*
12 *subsection shall be in lieu of civil penalties for the*
13 *same violation under subsection (c)(1)(A).*

14 “(h) *DEPOSIT OF AMOUNTS COLLECTED.*—

15 “(1) *POSTAL SERVICE FUND.*—*Except as pro-*
16 *vided under paragraph (2), amounts collected under*
17 *subsection (c)(1)(B) and (C) shall be deposited into*
18 *the Postal Service Fund under section 2003.*

19 “(2) *TREASURY.*—*Amounts collected under sub-*
20 *section (c)(1)(A) and any punitive damages collected*
21 *under subsection (c)(1)(C) shall be deposited into the*
22 *Treasury of the United States.”.*

23 “(c) *CONFORMING AMENDMENTS.*—(1) *Section 2003(b)*
24 *of title 39, United States Code, is amended—*

1 (c) *TIMING.*—*The Postal Regulatory Commission shall*
2 *complete the examination required by subsection (a) and*
3 *the promulgation of any necessary regulations required by*
4 *subsection (b) within one year after the date of the enact-*
5 *ment of this section.*

6 **SEC. 811. TECHNICAL AND CONFORMING AMENDMENTS.**

7 (a) *REIMBURSEMENT.*—*Section 3681 of title 39,*
8 *United States Code, is amended by striking “section 3628”*
9 *and inserting “sections 3662 through 3664”.*

10 (b) *SIZE AND WEIGHT LIMITS.*—*Section 3682 of title*
11 *39, United States Code, is amended to read as follows:*

12 **“§ 3682. Size and weight limits**

13 *“The Postal Service may establish size and weight lim-*
14 *itations for mail matter in the market-dominant category*
15 *of mail consistent with regulations the Postal Regulatory*
16 *Commission may prescribe under section 3622. The Postal*
17 *Service may establish size and weight limitations for mail*
18 *matter in the competitive category of mail consistent with*
19 *its authority under section 3632.”.*

20 (c) *REVENUE FOREGONE, ETC.*—*Title 39, United*
21 *States Code, is amended—*

22 (1) *in section 503 (as so redesignated by section*
23 *501), by striking “this chapter.” and inserting “this*
24 *title.”; and*

1 (2) *in section 2401(d), by inserting “(as last in*
2 *effect before enactment of the Postal Accountability*
3 *and Enhancement Act)” after “3626(a)” and after*
4 *“3626(a)(3)(B)(ii)”.*

5 (d) *APPROPRIATIONS AND REPORTING REQUIRE-*
6 *MENTS.—*

7 (1) *APPROPRIATIONS.—Subsection (e) of section*
8 *2401 of title 39, United States Code, is amended—*

9 (A) *by striking “Committee on Post Office*
10 *and Civil Service” each place it appears and in-*
11 *serting “Committee on Government Reform”;*
12 *and*

13 (B) *by striking “Not later than March 15 of*
14 *each year,” and inserting “Each year,”.*

15 (2) *REPORTING REQUIREMENTS.—Sections*
16 *2803(a) and 2804(a) of title 39, United States Code,*
17 *are amended by striking “2401(g)” and inserting*
18 *“2401(e)”.*

19 (e) *AUTHORITY TO FIX RATES AND CLASSES GEN-*
20 *ERALLY; REQUIREMENT RELATING TO LETTERS SEALED*
21 *AGAINST INSPECTION.—Section 404 of title 39, United*
22 *States Code (as amended by section 102) is further amended*
23 *by redesignating subsections (b) and (c) as subsections (d)*
24 *and (e), respectively, and by inserting after subsection (a)*
25 *the following:*

1 “(b) *Except as otherwise provided, the Governors are*
2 *authorized to establish reasonable and equitable classes of*
3 *mail and reasonable and equitable rates of postage and fees*
4 *for postal services in accordance with the provisions of*
5 *chapter 36. Postal rates and fees shall be reasonable and*
6 *equitable and sufficient to enable the Postal Service, under*
7 *best practices of honest, efficient, and economical manage-*
8 *ment, to maintain and continue the development of postal*
9 *services of the kind and quality adapted to the needs of the*
10 *United States.*

11 “(c) *The Postal Service shall maintain one or more*
12 *classes of mail for the transmission of letters sealed against*
13 *inspection. The rate for each such class shall be uniform*
14 *throughout the United States, its territories, and posses-*
15 *sions. One such class shall provide for the most expeditious*
16 *handling and transportation afforded mail matter by the*
17 *Postal Service. No letter of such a class of domestic origin*
18 *shall be opened except under authority of a search warrant*
19 *authorized by law, or by an officer or employee of the Postal*
20 *Service for the sole purpose of determining an address at*
21 *which the letter can be delivered, or pursuant to the author-*
22 *ization of the addressee.”.*

23 (f) *LIMITATIONS.—Section 3684 of title 39, United*
24 *States Code, is amended by striking all that follows “any*
25 *provision” and inserting “of this title.”.*

1 (g) *MISCELLANEOUS.—Title 39, United States Code,*
2 *is amended—*

3 (1) *in section 1005(d)(2)—*

4 (A) *by striking “subsection (g) of section*
5 *5532,”; and*

6 (B) *by striking “8344,” and inserting*
7 *“8344”;*

8 (2) *in the analysis for part III, by striking the*
9 *item relating to chapter 28 and inserting the fol-*
10 *lowing:*

“28. Strategic Planning and Performance Management 2801”;

11 (3) *in section 3005(a)—*

12 (A) *in the matter before paragraph (1), by*
13 *striking all that follows “nonmailable” and pre-*
14 *cedes “(h),” and inserting “under section*
15 *3001(d),”;* and

16 (B) *in the sentence following paragraph (3),*
17 *by striking all that follows “nonmailable” and*
18 *precedes “(h),” and inserting “under such section*
19 *3001(d),”;*

20 (4) *in section 3210(a)(6)(C), by striking the*
21 *matter after “if such mass mailing” and before “than*
22 *60 days” and inserting “is postmarked fewer”;* and

23 (5) *by striking the heading for section 3627 and*
24 *inserting the following:*

1 “§ 3627. *Adjusting free rates*”.

2 **TITLE IX—POSTAL PENSION**
3 **FUNDING REFORM AMEND-**
4 **MENTS**

5 **SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.**

6 (a) *TERMINATION OF OBLIGATION TO PAY GOVERN-*
7 *MENT CONTRIBUTIONS.*—Section 8334(a)(1)(B)(ii) of title
8 5, United States Code, is amended by striking all that fol-
9 lows “be equal to” and inserting “zero”.

10 (b) *DETERMINATION AND DISPOSITION OF POSTAL*
11 *SURPLUS OR SUPPLEMENTAL LIABILITY.*—Section 8348(h)
12 of title 5, United States Code, is amended to read as follows:

13 “(h)(1) For purposes of this subsection, the ‘Postal sur-
14 plus or supplemental liability’ means the estimated dif-
15 ference, as determined by the Office, between—

16 “(A) the actuarial present value of all future
17 benefits which are payable from the Fund under this
18 subchapter to current or former employees of the
19 United States Postal Service, or their survivors, and
20 attributable to civilian employment with the Postal
21 Service, and

22 “(B) the sum of—

23 “(i) the actuarial present value of deduc-
24 tions to be withheld from the future basic pay of
25 employees of the Postal Service currently subject
26 to this subchapter pursuant to section 8334;

1 “(ii) that portion of the Fund balance, as of
2 the date the Postal surplus or supplemental li-
3 ability is determined, attributable to payments
4 to the Fund by the Postal Service and its em-
5 ployees, plus the earnings on such amounts while
6 in the Fund; and

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

11 “(2)(A)(i) Not later than June 15, 2006, the Office
12 shall determine the Postal surplus or supplemental liability
13 as of September 30, 2005.

14 “(ii) If a supplemental liability is determined under
15 this subparagraph for fiscal year 2005, the Office shall es-
16 tablish an amortization schedule, including a series of equal
17 annual installments commencing September 30, 2006,
18 which provides for the liquidation of such liability by Sep-
19 tember 30, 2043.

20 “(iii) If a surplus is determined under this subpara-
21 graph for fiscal year 2005, the amount of the surplus shall
22 be transferred to the Postal Service Retiree Health Benefits
23 Fund by June 30, 2006.

24 “(B)(i) For each of fiscal years 2006 through 2038,
25 the Office shall determine the Postal surplus or supple-

1 *mental liability as of the close of such fiscal year, with each*
2 *such determination to be made by June 15th of the following*
3 *fiscal year.*

4 “(ii) *If a supplemental liability is determined under*
5 *this subparagraph for a fiscal year, the Office shall establish*
6 *an amortization schedule, including a series of equal an-*
7 *nual installments commencing on September 30 of the fol-*
8 *lowing fiscal year, which provides for the liquidation of*
9 *such liability by September 30, 2043.*

10 “(iii)(I) *If a surplus of \$500,000,000 or more is deter-*
11 *mined under this subparagraph for a fiscal year, the*
12 *amount of the surplus shall be transferred to the Postal*
13 *Service Retiree Health Benefits Fund by June 30th of the*
14 *following fiscal year.*

15 “(II) *If a surplus of less than \$500,000,000 is deter-*
16 *mined under this subparagraph for a fiscal year, the sur-*
17 *plus shall remain in the Fund, subject to transfer in a sub-*
18 *sequent fiscal year under subclause (I) or subparagraph*
19 *(C)(iii).*

20 “(C)(i) *Not later than June 15, 2040, the Office shall*
21 *determine the Postal surplus or supplemental liability as*
22 *of September 30, 2039.*

23 “(ii) *If a supplemental liability is determined under*
24 *this subparagraph for fiscal year 2039, the Office shall es-*
25 *tablish an amortization schedule, including a series of equal*

1 *annual installments commencing September 30, 2040,*
2 *which provides for the liquidation of such liability by Sep-*
3 *tember 30, 2043.*

4 “(iii) *If a surplus is determined under this subpara-*
5 *graph for fiscal year 2039, the amount of the surplus—*

6 “(I) *shall be applied first toward reducing the*
7 *amount of any supplemental liability described in*
8 *section 8423(b)(1)(B); and*

9 “(II) *to the extent that any portion of such sur-*
10 *plus remains after the application of subclause (I),*
11 *shall, not later than June 30, 2040, be transferred to*
12 *the Postal Service Retiree Health Benefits Fund.*

13 “(D) *An amortization schedule under this para-*
14 *graph—*

15 “(i) *shall be established in accordance with gen-*
16 *erally accepted actuarial practices and principles,*
17 *with interest computed at the rate used in the most*
18 *recent valuation of the Civil Service Retirement Sys-*
19 *tem;*

20 “(ii) *shall supersede any amortization schedule*
21 *previously established under this paragraph; and*

22 “(iii) *shall not be taken into account, for pur-*
23 *poses of any determination of Postal surplus or sup-*
24 *plemental liability, except to the extent of any*
25 *amounts under such schedule actually paid.*

1 “(E) *The Postal Service shall pay to the Office the*
2 *amounts due under any amortization schedule established*
3 *under this paragraph that has not been superseded.*

4 “(3) *Notwithstanding any other provision of law, in*
5 *computing the amount of any payment under any other*
6 *subsection of this section that is based on the amount of*
7 *the unfunded liability, such payment shall be computed dis-*
8 *regarding that portion of the unfunded liability that the*
9 *Office determines will be liquidated by payments under this*
10 *subsection.*

11 “(4) *As used in this subsection, ‘Postal Service Retiree*
12 *Health Benefits Fund’ refers to the Postal Service Retiree*
13 *Health Benefits Fund, as established by section 8909a.’”.*

14 (c) *PROVISIONS RELATING TO AMOUNTS FOR MILI-*
15 *TARY SERVICE.—In the application of paragraph (2) of sec-*
16 *tion 8348(g) of title 5, United States Code, for fiscal year*
17 *2006, the Office of Personnel Management shall include, in*
18 *addition to the amount otherwise computed under that*
19 *paragraph, the amounts that would have been included for*
20 *fiscal years 2003 through 2005 with respect to credit for*
21 *military service of former employees of the United States*
22 *Postal Service if Public Law 108–18 had not been enacted*
23 *(including earnings thereon) and the Secretary of the Treas-*
24 *ury shall make the required transfer to the Civil Service*
25 *Retirement and Disability Fund based on that amount.*

1 (d) *REVIEW.*—

2 (1) *IN GENERAL.*—*Notwithstanding any other*
3 *provision of this section, any determination or rede-*
4 *termination made by the Office of Personnel Manage-*
5 *ment under this section shall, upon request of the*
6 *United States Postal Service, be subject to review by*
7 *the Postal Regulatory Commission. The Commission*
8 *shall submit a report containing the results of any*
9 *such review to the Postal Service, the Office of Per-*
10 *sonnel Management, and the Congress.*

11 (2) *RESPONSE.*—*Upon receiving the report of the*
12 *Postal Regulatory Commission, the Office of Per-*
13 *sonnel Management shall reconsider its determination*
14 *or redetermination in light of such report, and shall*
15 *make any appropriate adjustments. The Office shall*
16 *submit a report containing the results of its reconsid-*
17 *eration to the Commission, the Postal Service, and the*
18 *Congress.*

19 **SEC. 902. HEALTH INSURANCE.**

20 (a) *IN GENERAL.*—*Chapter 89 of title 5, United States*
21 *Code, is amended—*

22 (1) *in section 8906(g)(2)(A), by striking “by the*
23 *United States Postal Service.” and inserting “first*
24 *from the Postal Service Retiree Health Benefits Fund*
25 *up to the amount contained therein, with any re-*

1 *maintaining amount paid by the United States Postal*
2 *Service.”;*

3 *(2) by inserting after section 8909 the following:*

4 **“§ 8909a. Postal Service Retiree Health Benefits Fund**

5 *“(a) There is in the Treasury of the United States a*
6 *Postal Service Retiree Health Benefits Fund (hereinafter in*
7 *this section referred to as the ‘Fund’) which is administered*
8 *by the Office of Personnel Management. Any amounts*
9 *transferred to the Fund under section 8348(h)(2) shall yield*
10 *interest at a rate equal to the weighted average yield of all*
11 *the investments in the Civil Service Retirement and Dis-*
12 *ability Fund as of the date of transfer. All other investments*
13 *of amounts in the Fund shall be made in accordance with*
14 *subsections (c)–(e) of section 8348.*

15 *“(b) The Fund is available without fiscal year limita-*
16 *tion for payments required by section 8906(g)(2).*

17 *“(c)(1) Not later than June 30, 2006, and by June*
18 *30 of each succeeding year, the Office of Personnel Manage-*
19 *ment shall compute the net present value of the excess of*
20 *future payments required by section 8906(g)(2)(A) for cur-*
21 *rent and future United States Postal Service annuitants*
22 *over the value of the assets of the Fund as of the end of*
23 *the fiscal year ending on September 30 of that year. The*
24 *actuarial costing method to be used by the Office and all*
25 *actuarial assumptions shall be established by the Office*

1 *after consultation with the United States Postal Service and*
2 *must be in accordance with generally accepted actuarial*
3 *practices and principles.*

4 “(2) *Not later than September 30, 2006, and by Sep-*
5 *tember 30 of each succeeding year, the Office shall compute*
6 *and the United States Postal Service shall pay into such*
7 *Fund—*

8 “(A) *the portion of the net present value de-*
9 *scribed in paragraph (1) attributable to the current*
10 *year’s service of Postal Service employees; and*

11 “(B) *interest on the net present value described*
12 *in paragraph (1) for that fiscal year, at the interest*
13 *rate used in computing that net present value.*

14 “(3)(A) *Any computation or other determination of the*
15 *Office under this subsection shall, upon request of the Postal*
16 *Service, be subject to review by the Postal Regulatory Com-*
17 *mission. The Commission shall submit a report containing*
18 *the results of any such review to the Postal Service, the Of-*
19 *fice of Personnel Management, and the Congress.*

20 “(B) *Upon receiving the report of the Postal Regu-*
21 *latory Commission, the Office of Personnel Management*
22 *shall reconsider its computation or other determination in*
23 *light of such report, and shall make any appropriate adjust-*
24 *ments. The Office shall submit a report containing the re-*

1 *sults of its reconsideration to the Commission, the Postal*
2 *Service, and the Congress.*

3 “(4) *The Office shall promulgate, after consultation*
4 *with the United States Postal Service, any regulations it*
5 *deems necessary under this subsection.*”; and

6 (3) *in the analysis by inserting after the item re-*
7 *lating to section 8909 the following:*

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

8 (b) *REVIEW.*—

9 (1) *IN GENERAL.*—*Any regulation established*
10 *under section 8909a(c)(4) of title 5, United States*
11 *Code (as amended by subsection (a)) shall, upon re-*
12 *quest of the Postal Service, be subject to review by the*
13 *Postal Regulatory Commission. The Commission shall*
14 *submit a report containing the results of any such re-*
15 *view to the Postal Service, the Office of Personnel*
16 *Management, and the Congress.*

17 (2) *RESPONSE.*—*Upon receiving the report of the*
18 *Postal Regulatory Commission, the Office of Per-*
19 *sonnel Management shall reconsider its regulation in*
20 *light of such report, and shall take such action as it*
21 *considers appropriate. The Office shall submit a re-*
22 *port containing the results of its reconsideration to*
23 *the Commission, the Postal Service, and the Congress.*

24 **SEC. 903. REPEALER.**

25 *Section 3 of Public Law 108–18 is repealed.*

1 **SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND**
2 **MILITARY SAVINGS.**

3 (a) *DEFINITION.*—For purposes of this section, the
4 term “total savings” means, for any fiscal year, the amount
5 equal to—

6 (1) *the amount of contributions that the Postal*
7 *Service would otherwise have been required to make*
8 *to the Civil Service Retirement and Disability Fund*
9 *under subchapter III of chapter 83 of title 5, United*
10 *States Code, for such fiscal year if Public Law 108–*
11 *18 and this Act had not been enacted, minus*

12 (2) *the amount of amortization payments (if*
13 *any) required under section 8348(h)(2) of title 5,*
14 *United States Code, for such fiscal year.*

15 (b) *CALCULATIONS.*—The following calculations shall
16 be made for each of fiscal years 2006 through 2015:

17 (1) *Not later than January 31 of the fiscal year*
18 *following the fiscal year involved, the Office of Per-*
19 *sonnel Management (in consultation with the Postal*
20 *Service) shall determine the total savings for the fiscal*
21 *year.*

22 (2) *On the date of making its determination*
23 *under paragraph (1), the Office shall also determine*
24 *(in consultation with the Postal Service) the amount*
25 *by which—*

1 (A) the amount the Postal Service paid for
2 that fiscal year into the Postal Service Retiree
3 Health Benefits Fund in accordance with
4 8909a(c)(2) of title 5, United States Code, ex-
5 ceeds (if at all)

6 (B) the amount of payments made by the
7 Postal Service for that fiscal year from such
8 Fund in order to satisfy the requirements of sec-
9 tion 8906(g)(2) of such title 5.

10 (c) REQUIREMENTS.—

11 (1) IF THRESHOLD IS MET.—If the amount cal-
12 culated under subsection (b)(2) for a fiscal year is
13 greater than or equal to two-thirds of the total savings
14 in such fiscal year, no further action under this sec-
15 tion is necessary with respect to such fiscal year.

16 (2) IF THRESHOLD IS NOT MET.—

17 (A) IN GENERAL.—If the amount calculated
18 under subsection (b)(2) for a fiscal year is less
19 than two-thirds of the total savings in such fiscal
20 year, the Postal Service shall pay into the Postal
21 Service Retiree Health Benefits Fund, by June
22 30 of the following fiscal year, an amount equal
23 to the difference.

24 (B) ALLOWABLE ALTERNATIVE.—

1 (i) *IN GENERAL.*—Notwithstanding
2 subparagraph (A), and subject to clause (ii),
3 the Postal Service may instead use the
4 amount that it would otherwise be required
5 to pay into the Postal Service Retiree
6 Health Benefits Fund for a year (or any
7 portion thereof) to reduce the postal debt.

8 (ii) *LIMITATION.*—Amounts used to re-
9 duce the postal debt under this subpara-
10 graph may not exceed a total of
11 \$3,000,000,000.

12 (3) *AGGREGATION ALLOWED.*—Notwithstanding
13 paragraph (2), if the amount calculated under sub-
14 section (b)(2) for a fiscal year is less than two-thirds
15 of the total savings in such fiscal year, but the sum
16 of the amounts calculated under subsection (b)(2) for
17 all fiscal years from 2006 to the fiscal year involved
18 is greater than or equal to two-thirds of the sum of
19 the total savings for such years, no further action
20 under this section is necessary with respect to such
21 fiscal year.

22 (d) *REPORTING REQUIREMENT.*—The Office of Per-
23 sonnel Management shall submit a report containing the
24 results of its calculations under subsection (b) to the Postal

1 *Service, the Postal Regulatory Commission, and the Con-*
2 *gress.*

3 (e) *WAIVER AUTHORITY.*—*The requirements of sub-*
4 *section (c)(2)(A) may, upon application of the Postal Serv-*
5 *ice, be waived by the Postal Regulatory Commission, to the*
6 *extent that the Commission determines that such waiver is*
7 *reasonable and equitable and necessary to enable the Postal*
8 *Service, under best practices of honest, efficient, and eco-*
9 *nomical management, to maintain and continue the devel-*
10 *opment of postal services of the kind and quality adapted*
11 *to the needs of the United States.*

12 **SEC. 905. EFFECTIVE DATES.**

13 (a) *IN GENERAL.*—*Except as otherwise provided, this*
14 *title shall take effect on October 1, 2005.*

15 (b) *GOVERNMENT CONTRIBUTIONS.*—*Section 901(a)(1)*
16 *shall take effect on the first day of the first pay period be-*
17 *ginning on or after October 1, 2005.*

Union Calendar No. 427

108TH CONGRESS
2^D SESSION

H. R. 4341

[Report No. 108-672, Parts I and II]

A BILL

To reform the postal laws of the United States.

SEPTEMBER 23, 2004

Reported by the Committee on the Judiciary with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed