

Union Calendar No. 55

109TH CONGRESS
1ST SESSION

H. R. 22

[Report No. 109–66, Part I]

To reform the postal laws of the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

Mr. MCHUGH (for himself, Mr. DAVIS of Illinois, Mr. TOM DAVIS of Virginia, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Government Reform

APRIL 28, 2005

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than May 27, 2005, for consideration of such provisions of the bill and the amendment as fall within the jurisdiction of that committee pursuant to clause 1(1), rule X

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

MAY 27, 2005

Additional sponsors: Mr. GILLMOR, Mrs. MILLER of Michigan, Mr. CANNON, Mr. SHAYS, Mrs. BLACKBURN, Mr. MURPHY, Mr. CLAY, Mr. FRANK of Massachusetts, Mr. McNULTY, Mrs. MALONEY, Mr. RUSH, Mr. OWENS, Mr. TOWNS, Mr. VAN HOLLEN, Mr. CUMMINGS, Mr. OXLEY, Mr. CHANDLER, Mr. LARSEN of Washington, Ms. SLAUGHTER, Mr. BAIRD, Mr. HOLT, Mr. DICKS, Ms. HARMAN, Mr. FORD, Mr. SHERMAN, Ms. WATSON, Ms. LORETTA SANCHEZ of California, Mr. CASE, Mr. BOOZMAN, Ms. ROYBAL-ALLARD, Mr. BLUMENAUER, Mr. ROSS, Mr. BACA, Ms. WOOLSEY, Ms. ZOE LOFGREN of California, Mr. ROTHMAN, Mr. LANTOS, Mr. HONDA, Mr. BERMAN, Ms. MILLENDER-McDONALD, Mr. SAXTON, Ms. LEE, Ms. BERKLEY, Mr. FARR, Mr. STARK, Mr. GARRETT of New Jersey, Ms. HOOLEY, Mr. PLATTS, Mr. CARDOZA, Mr. SMITH of Washington, Mr. HIGGINS, Mrs. CUBIN, Mr. INSLEE, Mr. SCHIFF, Mr. McDERMOTT, Mr. CHABOT, Mr. BECERRA, Mr. FILNER, Mrs. TAUSCHER, Mr. ALLEN, Mr. EVANS, Mr. BURTON of Indiana, Mr. SCOTT of Georgia, Mrs. DAVIS of California, Mr. PALLONE, Mr. MORAN of Virginia, Mr. MICHAUD, Mr. LAHOOD, Mr. KUHL of New York, Ms. BALD-

WIN, Mr. HINCHEY, Mr. PETERSON of Minnesota, Mr. SPRATT, Mr. LINCOLN DIAZ-BALART of Florida, Mr. PASCRELL, Mr. MOORE of Kansas, Ms. HERSETH, Mr. MEEK of Florida, Mr. PORTER, Mrs. DRAKE, Mr. SIMMONS, Mr. CONYERS, Ms. GINNY BROWN-WAITE of Florida, Mr. ANDREWS, Mr. MENENDEZ, Ms. LINDA T. SÁNCHEZ of California, Mr. MURTHA, Mr. REYES, Mr. DUNCAN, Mr. BRADLEY of New Hampshire, Mr. LATOURETTE, Mr. TURNER, Mr. SOUDER, Mr. BISHOP of New York, Mr. ISSA, Mr. GUTIERREZ, Mr. WELLER, Ms. WASSERMAN SCHULTZ, Mr. WEXLER, Mr. PETERSON of Pennsylvania, Mr. DENT, Mr. LARSON of Connecticut, Mr. MICA, Mrs. CAPITO, Mr. MCHENRY, Mr. WESTMORELAND, Mr. CUNNINGHAM, Ms. MATSUI, Ms. CARSON, Mr. MARCHANT, Mr. COSTA, Mr. GERLACH, Mr. TIBERI, Mr. MCKEON, Ms. KAPTUR, Mr. PASTOR, Mr. LIPINSKI, Mrs. NORTHUP, Mr. NEAL of Massachusetts, Mr. LATHAM, Mr. MCGOVERN, Mr. STRICKLAND, Mr. DAVIS of Florida, Mr. GIBBONS, Mr. LANGEVIN, Mr. NORWOOD, Mr. CARDIN, Mr. BASS, Mr. BILIRAKIS, Mr. DOYLE, Ms. ROS-LEHTINEN, Mr. GREEN of Wisconsin, Mr. CUELLAR, Mr. ENGLISH of Pennsylvania, Mrs. NAPOLITANO, Mr. FERGUSON, Mrs. CAPPS, Mr. SHUSTER, Mr. PETRI, Mr. RYAN of Ohio, Mr. BOUCHER, Mr. SANDERS, Mr. RAHALL, Mr. BOEHLERT, Mr. KANJORSKI, Mr. GARY G. MILLER of California, Mr. BISHOP of Georgia, Mr. SESSIONS, Mr. WILSON of South Carolina, Mr. THOMPSON of California, Ms. KILPATRICK of Michigan, Mr. CARNAHAN, Mr. LYNCH, Mr. SCHWARZ of Michigan, Ms. SOLIS, Mr. BACHUS, Mr. ABERCROMBIE, Mr. WU, Mr. DAVIS of Kentucky, and Mr. DELAHUNT

MAY 27, 2005

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 4, 2005]

A BILL

To reform the postal laws of the United States.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

Sec. 103. Financial transparency.

TITLE II—MODERN RATE REGULATION

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

Sec. 202. Provisions relating to competitive products.

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

Sec. 204. Reporting requirements and related provisions.

Sec. 205. Complaints; appellate review and enforcement.

Sec. 206. Workshare discounts.

Sec. 207. Clerical amendment.

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 301. Postal Service Competitive Products Fund.

Sec. 302. Assumed Federal income tax on competitive products income.

Sec. 303. Unfair competition prohibited.

Sec. 304. Suits by and against the Postal Service.

Sec. 305. International postal arrangements.

Sec. 306. Redesignation.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Qualification requirements for Governors.

Sec. 402. Obligations.

Sec. 403. Private carriage of letters.

Sec. 404. Rulemaking authority.

Sec. 405. Noninterference with collective bargaining agreements, etc.

Sec. 406. Bonus and compensation authority.

Sec. 407. Mediation in collective-bargaining disputes.

TITLE V—ENHANCED REGULATORY COMMISSION

*Sec. 501. Reorganization and modification of certain provisions relating to the
 Postal Regulatory Commission.*

Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.

Sec. 503. Appropriations for the Postal Regulatory Commission.

Sec. 504. Redesignation of the Postal Rate Commission.

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

TITLE VI—INSPECTORS GENERAL

Sec. 601. Inspector General of the Postal Regulatory Commission.

*Sec. 602. Inspector General of the United States Postal Service to be appointed
 by the President.*

TITLE VII—EVALUATIONS

- Sec. 701. Universal postal service study.*
Sec. 702. Assessments of ratemaking, classification, and other provisions.
Sec. 703. Study on equal application of laws to competitive products.
Sec. 704. Greater diversity in Postal Service Executive and administrative schedule management positions.
Sec. 705. Plan for assisting displaced workers.
Sec. 706. Contracts with women, minorities, and small businesses.
Sec. 707. Rates for periodicals.
Sec. 708. Assessment of certain rate deficiencies.
Sec. 709. Network optimization.
Sec. 710. Assessment of future business model of the postal service.
Sec. 711. Study on certain proposed amendments.
Sec. 712. Definition.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

- Sec. 801. Employment of postal police officers.*
Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
Sec. 804. Obsolete provisions.
Sec. 805. Investments.
Sec. 806. Reduced rates.
Sec. 807. Hazardous matter.
Sec. 808. Provisions relating to cooperative mailings.
Sec. 809. Technical and conforming amendments.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

- Sec. 901. Civil Service Retirement System.*
Sec. 902. Health insurance.
Sec. 903. Repealer.
Sec. 904. Ensuring appropriate use of escrow and military savings.
Sec. 905. Effective dates.

1 ***TITLE I—DEFINITIONS; POSTAL***
2 ***SERVICES***

3 ***SEC. 101. DEFINITIONS.***

4 *Section 102 of title 39, United States Code, is amended*
5 *by striking “and” at the end of paragraph (3), by striking*
6 *the period at the end of paragraph (4) and inserting a semi-*
7 *colon, and by adding at the end the following:*

1 “(5) ‘postal service’ means the carriage of letters,
2 printed matter, or mailable packages, including ac-
3 ceptance, collection, processing, delivery, or other
4 functions supportive or ancillary thereto;

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

8 “(7) ‘rates’, as used with respect to products, in-
9 cludes fees for postal services;

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

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

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

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

22 **SEC. 102. POSTAL SERVICES.**

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

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

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

5 “(c) *Nothing in this title shall be considered to permit*
6 *or require that the Postal Service provide any special non-*
7 *postal or similar services, except that nothing in this sub-*
8 *section shall prevent the Postal Service from providing any*
9 *special nonpostal or similar services provided by the Postal*
10 *Service as of January 4, 2005.”.*

11 (b) **CONFORMING AMENDMENT.**—*Section*
12 *1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98*
13 *Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by*
14 *striking “404(a)(8)” and inserting “404(a)(7)”.*

15 **SEC. 103. FINANCIAL TRANSPARENCY.**

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

20 “(d) *As an establishment that provides both market-*
21 *dominant and competitive products, the Postal Service shall*
22 *be subject to a high degree of transparency, including in*
23 *its finances and operations, to ensure fair treatment of cus-*
24 *tomers of the Postal Service’s market-dominant products*

1 *and companies competing with the Postal Service’s com-*
2 *petitive products.”.*

3 (b) *CONFORMING AMENDMENT.*—Section 5001 of title
4 39, United States Code, is amended by striking “101(e) and
5 (f)” and inserting “101(f) and (g)”.

6 **TITLE II—MODERN RATE** 7 **REGULATION**

8 **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT**
9 **PRODUCTS.**

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

13 **“§ 3621. Applicability; definitions**

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

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

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

20 “(C) *special services;*

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

23 “(3) *periodicals;*

24 “(4) *standard mail;*

25 “(5) *media mail;*

1 “(6) library mail; and
2 “(7) bound printed matter,
3 *subject to any changes the Postal Regulatory Commission*
4 *may make under section 3642.*

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

9 “**§ 3622. Modern rate regulation**

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

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

18 “(1) *To establish and maintain a fair and equi-*
19 *table schedule for rates and classification.*

20 “(2) *To maximize incentives to reduce costs and*
21 *increase efficiency.*

22 “(3) *To create predictability and stability in*
23 *rates.*

24 “(4) *To maintain high quality service standards.*

1 “(5) *To allow the Postal Service pricing flexi-*
2 *bility.*

3 “(6) *To assure adequate revenues, including re-*
4 *tained earnings, to maintain financial stability.*

5 “(7) *To reduce the administrative burden of the*
6 *ratemaking process.*

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

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

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

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

23 “(4) *the available alternative means of sending*
24 *and receiving letters and other mail matter at reason-*
25 *able costs;*

1 “(5) the degree of preparation of mail for deliv-
2 ery into the postal system performed by the mailer
3 and its effect upon reducing costs to the Postal Serv-
4 ice;

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

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

13 “(8) the importance of providing classifications
14 with extremely high degrees of reliability and speed of
15 delivery and of providing those that do not require
16 high degrees of reliability and speed of delivery;

17 “(9) the desirability of special classifications
18 from the point of view of both the user and of the
19 Postal Service;

20 “(10) the educational, cultural, scientific, and
21 informational value to the recipient of mail matter;
22 and

23 “(11) the policies of this title as well as such
24 other factors as the Commission deems appropriate.

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

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

6 “(2) *Cost-of-service regulation.*

7 “(3) *Such other form of regulation as the Com-*
8 *mission considers appropriate to achieve, consistent*
9 *with subsection (c), the objectives of subsection (b).*

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

21 “(f) *TRANSITION RULE.*—*Until regulations under this*
22 *section first take effect, rates and classes for market-domi-*
23 *nant products shall remain subject to modification in ac-*
24 *cordance with the provisions of this chapter and section*

1 407, as such provisions were last in effect before the date
2 of the enactment of this section.”.

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

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

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

12 **SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-**
13 **UCTS.**

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

16 “SUBCHAPTER II—PROVISIONS RELATING TO
17 COMPETITIVE PRODUCTS

18 **“§ 3631. Applicability; definitions and updates**

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

21 “(1) priority mail;

22 “(2) expedited mail;

23 “(3) mailgrams;

24 “(4) international mail; and

25 “(5) parcel post,

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

3 “(b) *DEFINITION.*—*For purposes of this subchapter,*
4 *the term ‘costs attributable’, as used with respect to a prod-*
5 *uct, means the direct and indirect postal costs attributable*
6 *to such product.*

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

11 **“§ 3632. Action of the Governors**

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

17 “(b) *PROCEDURES.*—

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

22 “(2) *RATES OR CLASSES OF GENERAL APPLICA-*
23 *BILITY.*—*In the case of rates or classes of general ap-*
24 *plicability in the Nation as a whole or in any sub-*
25 *stantial region of the Nation, the Governors shall*

1 *cause each rate and class decision under this section*
2 *and the record of the Governors' proceedings in con-*
3 *nection with such decision to be published in the Fed-*
4 *eral Register at least 30 days before the effective date*
5 *of any new rates or classes.*

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

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

23 “(c) *TRANSITION RULE.—Until regulations under sec-*
24 *tion 3633 first take effect, rates and classes for competitive*
25 *products shall remain subject to modification in accordance*

1 *with the provisions of this chapter and section 407, as such*
 2 *provisions were as last in effect before the date of the enact-*
 3 *ment of this section.*

4 **“§ 3633. Provisions applicable to rates for competitive**
 5 **products**

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

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

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

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

17 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**
 18 **NEW PRODUCTS.**

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

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

23 **“§ 3641. Market tests of experimental products**

24 *“(a) AUTHORITY.—*

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

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

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

10 “(1) *SIGNIFICANTLY DIFFERENT PRODUCT.*—*The*
11 *product is, from the viewpoint of the mail users, sig-*
12 *nificantly different from all products offered by the*
13 *Postal Service within the 2-year period preceding the*
14 *start of the test.*

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

21 “(3) *CORRECT CATEGORIZATION.*—*The Postal*
22 *Service identifies the product, for the purpose of a test*
23 *under this section, as either market dominant or com-*
24 *petitive, consistent with the criteria under section*
25 *3642(b)(1). Costs and revenues attributable to a prod-*

1 *uct identified as competitive shall be included in any*
2 *determination under section 3633(3) (relating to pro-*
3 *visions applicable to competitive products collec-*
4 *tively).*

5 *“(c) NOTICE.—*

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

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

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

15 *“(2) SAFEGUARDS.—For a competitive experi-*
16 *mental product, the provisions of section 504(g) shall*
17 *be available with respect to any information required*
18 *to be filed under paragraph (1) to the same extent*
19 *and in the same manner as in the case of any matter*
20 *described in section 504(g)(1). Nothing in paragraph*
21 *(1) shall be considered to permit or require the publi-*
22 *cation of any information as to which confidential*
23 *treatment is accorded under the preceding sentence*
24 *(subject to the same exception as set forth in section*
25 *504(g)(3)).*

1 “(d) *DURATION.*—

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

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

14 “(e) *DOLLAR-AMOUNT LIMITATION.*—

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

1 “(2) *EXEMPTION AUTHORITY.*—*The Postal Regu-*
2 *latory Commission may, upon written application of*
3 *the Postal Service, exempt the market test from the*
4 *limit in paragraph (1) if the total revenues that are*
5 *anticipated, or in fact received, by the Postal Service*
6 *from such product do not exceed \$50,000,000 in any*
7 *year, subject to subsection (g). In reviewing an appli-*
8 *cation under this paragraph, the Postal Regulatory*
9 *Commission shall approve such application if it de-*
10 *termines that—*

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

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

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

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

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

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

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

19 “**§ 3642. New products and transfers of products be-**
20 **tween the market-dominant and competi-**
21 **tive categories of mail**

22 “(a) *IN GENERAL.*—Upon request of the Postal Service
23 or users of the mails, or upon its own initiative, the Postal
24 Regulatory Commission may change the list of market-dom-
25 inant products under section 3621 and the list of competi-

1 *tive products under section 3631 by adding new products*
2 *to the lists, removing products from the lists, or transferring*
3 *products between the lists.*

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

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

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

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

4 “(A) *the availability and nature of enter-*
5 *prises in the private sector engaged in the deliv-*
6 *ery of the product involved;*

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

10 “(C) *the likely impact of the proposed ac-*
11 *tion on small business concerns (within the*
12 *meaning of section 3641(h)).*

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

21 “(d) *NOTIFICATION AND PUBLICATION REQUIRE-*
22 *MENTS.*—

23 “(1) *NOTIFICATION REQUIREMENT.*—*The Postal*
24 *Service shall, whenever it requests to add a product*
25 *or transfer a product to a different category, file with*

1 *the Postal Regulatory Commission and publish in the*
2 *Federal Register a notice setting out the basis for its*
3 *determination that the product satisfies the criteria*
4 *under subsection (b) and, in the case of a request to*
5 *add a product or transfer a product to the competi-*
6 *tive category of mail, that the product meets the regu-*
7 *lations promulgated by the Postal Regulatory Com-*
8 *mission pursuant to section 3633. The provisions of*
9 *section 504(g) shall be available with respect to any*
10 *information required to be filed.*

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

19 *“(e) NOTIFICATION REQUIREMENT.—The Postal Regu-*
20 *latory Commission shall, whenever it reaches a conclusion*
21 *that a product or products should be transferred between*
22 *the list of market-dominant products under section 3621*
23 *and the list of competitive products under section 3631, im-*
24 *mediately notify the appropriate committees of the Con-*

1 *gress. No such transfer may take effect less than 12 months*
2 *after such conclusion.*

3 “(f) *PROHIBITION.*—*Except as provided in section*
4 *3641, no product that involves the carriage of letters, print-*
5 *ed matter, or mailable packages may be offered by the Post-*
6 *al Service unless it has been assigned to the market-domi-*
7 *nant or competitive category of mail (as appropriate) ei-*
8 *ther—*

9 “(1) *under this subchapter; or*

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

11 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**
12 **VISIONS.**

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

17 “*SUBCHAPTER V—POSTAL SERVICES,*
18 *COMPLAINTS, AND JUDICIAL REVIEW*”.

19 (b) *REPORTS AND COMPLIANCE.*—*Chapter 36 of title*
20 *39, United States Code, is amended by inserting after sub-*
21 *chapter III the following:*

1 “SUBCHAPTER IV—REPORTING REQUIREMENTS
2 AND RELATED PROVISIONS

3 “§ 3651. *Annual reports by the Commission*

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

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

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

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

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

5 The Commission shall detail the bases for its estimates and
6 the statutory requirements giving rise to the costs identified
7 in each report under this section.

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

13 **“§ 3652. Annual reports to the Commission**

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

20 “(1) which shall analyze costs, revenues, and
21 rates, using such methodologies as the Commission
22 shall by regulation prescribe, and in sufficient detail
23 to demonstrate that the rates in effect for all products
24 during such year complied with all applicable re-
25 quirements of this title; and

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

3 “(A) market information, including mail
4 volumes; and

5 “(B) measures of the quality of service af-
6 forded by the Postal Service in connection with
7 such product, including—

8 “(i) the service standard applicable to
9 such product;

10 “(ii) the level of service (described in
11 terms of speed of delivery and reliability)
12 provided; and

13 “(iii) the degree of customer satisfac-
14 tion with the service provided.

15 *The Inspector General shall regularly audit the data collec-*
16 *tion systems and procedures utilized in collecting informa-*
17 *tion and preparing such report (including any annex there-*
18 *to and the information required under subsection (b)). The*
19 *results of any such audit shall be submitted to the Postal*
20 *Service and the Postal Regulatory Commission.*

21 “(b) *INFORMATION RELATING TO WORKSHARE DIS-*
22 *COUNTS.—*

23 “(1) *IN GENERAL.—The Postal Service shall in-*
24 *clude, in each report under subsection (a), the fol-*
25 *lowing information with respect to each market-domi-*

1 *nant product for which a workshare discount was in*
2 *effect during the period covered by such report:*

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

5 *“(B) The percentage of such per-item cost*
6 *avoided that the per-item workshare discount*
7 *represents.*

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

10 *“(2) WORKSHARE DISCOUNT DEFINED.—For*
11 *purposes of this subsection, the term ‘workshare dis-*
12 *count’ has the meaning given such term under section*
13 *3687.*

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

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

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

22 *“(d) SUPPORTING MATTER.—The Postal Regulatory*
23 *Commission shall have access, in accordance with such reg-*
24 *ulations as the Commission shall prescribe, to the working*
25 *papers and any other supporting matter of the Postal Serv-*

1 *ice and the Inspector General in connection with any infor-*
2 *mation submitted under this section.*

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

4 “(1) *IN GENERAL.*—*The Postal Regulatory Com-*
5 *mission shall, by regulation, prescribe the content and*
6 *form of the public reports (and any nonpublic annex*
7 *and supporting matter relating thereto) to be pro-*
8 *vided by the Postal Service under this section. In car-*
9 *rying out this subsection, the Commission shall give*
10 *due consideration to—*

11 “(A) *providing the public with adequate in-*
12 *formation to assess the lawfulness of rates*
13 *charged;*

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

17 “(C) *protecting the confidentiality of com-*
18 *mercially sensitive information.*

19 “(2) *REVISED REQUIREMENTS.*—*The Commis-*
20 *sion may, on its own motion or on request of an in-*
21 *terested party, initiate proceedings (to be conducted*
22 *in accordance with regulations that the Commission*
23 *shall prescribe) to improve the quality, accuracy, or*
24 *completeness of Postal Service data required by the*

1 Commission under this subsection whenever it shall
2 appear that—

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

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

9 “(C) those revisions are, in the judgment of
10 the Commission, otherwise necessitated by the
11 public interest.

12 “(f) CONFIDENTIAL INFORMATION.—

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

1 “(2) *TREATMENT.*—Any information or other
2 matter described in paragraph (1) to which the Com-
3 mission gains access under this section shall be sub-
4 ject to paragraphs (2) and (3) of section 504(g) in the
5 same way as if the Commission had received notifica-
6 tion with respect to such matter under section
7 504(g)(1).

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

12 “(1) comprehensive statement under section
13 2401(e);

14 “(2) performance plan under section 2803; and

15 “(3) program performance reports under section
16 2804.

17 **“§ 3653. Annual determination of compliance**

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

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

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

10 “(2) *whether any performance goals established*
11 *under section 2803 or 2804 for such year were not*
12 *met; and*

13 “(3) *whether any market-dominant product*
14 *failed to meet any service standard during such year.*
15 *If, with respect to a year, no instance of noncompliance*
16 *is found under this subsection to have occurred in such year,*
17 *the written determination shall be to that effect.*

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

1 “(d) *REBUTTABLE PRESUMPTION.*—A timely written
2 determination described in the last sentence of subsection
3 (b) shall, for purposes of any proceeding under section 3662,
4 create a rebuttable presumption of compliance by the Postal
5 Service (with regard to the matters described in paragraphs
6 (1) through (3) of subsection (b)) during the year to which
7 such determination relates.

8 **“§ 3654. Additional financial reporting**

9 “(a) *ADDITIONAL FINANCIAL REPORTING.*—

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

14 “(A) within 35 days after the end of each
15 fiscal quarter, a quarterly report containing the
16 information required by the Securities and Ex-
17 change Commission to be included in quarterly
18 reports under sections 13 and 15(d) of the Secu-
19 rities Exchange Act of 1934 (15 U.S.C. 78m,
20 78o(d)) on Form 10-Q, as such Form (or any
21 successor form) may be revised from time to
22 time;

23 “(B) within 60 days after the end of each
24 fiscal year, an annual report containing the in-
25 formation required by the Securities and Ex-

1 *change Commission to be included in annual re-*
2 *ports under such sections on Form 10-K, as such*
3 *Form (or any successor form) may be revised*
4 *from time to time; and*

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

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

17 *“(3) INTERNAL CONTROL REPORT.—For purposes*
18 *of defining the reports required by paragraph (1)(B),*
19 *the Postal Service shall comply with the rules pre-*
20 *scribed by the Securities and Exchange Commission*
21 *implementing section 404 of the Sarbanes-Oxley Act*
22 *of 2002 (15 U.S.C. 7262), beginning with the annual*
23 *report for fiscal year 2007.*

24 *“(b) FINANCIAL REPORTING.—*

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

4 “(A) the funded status of the Postal Serv-
5 ices’ pension and —postretirement health obliga-
6 tions;

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

10 “(C) components of net periodic costs;

11 “(D) cost methods and assumptions under-
12 lying the relevant actuarial valuations;

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

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

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

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

4 “(2)(A) Beginning with reports for the fiscal
5 year 2007, for purposes of the reports required under
6 subparagraphs (A) and (B) of subsection (a)(1), the
7 Postal Service shall include segment reporting.

8 “(B) The Postal Service shall determine the ap-
9 propriate segment reporting under subparagraph (A)
10 after consultation with the Postal Regulatory Com-
11 mission.

12 “(c) TREATMENT.—For purposes of the reports re-
13 quired by subsection (a)(1)(B), the Postal Service shall ob-
14 tain an opinion from an independent auditor on whether
15 the information listed in subsection (b) is fairly stated in
16 all material respects, either in relation to the basic finan-
17 cial statements as a whole or on a stand-alone basis.

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

23 “(e) REVISED REQUIREMENTS.—The Postal Regu-
24 latory Commission may, on its own motion or on request
25 of an interested party, initiate proceedings (to be conducted

1 *in accordance with regulations that the Commission shall*
2 *prescribe) to improve the quality, accuracy, or completeness*
3 *of Postal Service data required under this section whenever*
4 *it shall appear that—*

5 “(1) *the data have become significantly inac-*
6 *curate or can be significantly improved; or*

7 “(2) *those revisions are, in the judgment of the*
8 *Commission, otherwise necessitated by the public in-*
9 *terest.*

10 “(f) *CONFIDENTIAL INFORMATION.—*

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

24 “(2) *TREATMENT.—Any information or other*
25 *matter described in paragraph (1) to which the Com-*

1 “(B) issue an order dismissing the com-
2 plaint (together with a statement of the reasons
3 therefor).

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

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

23 “(d) *SUSPENSION AUTHORITY.*—The Postal Regu-
24 latory Commission may suspend implementation of rates
25 or classifications under section 3632(b)(3) for a limited pe-

1 *riod of time pending expedited proceedings under this sec-*
2 *tion. In evaluating whether circumstances warrant suspen-*
3 *sion, the Commission shall consider factors such as (1)*
4 *whether there is a substantial likelihood that such rate or*
5 *classification will violate the requirements of chapter 1, 4,*
6 *or 6, or this chapter (or regulations promulgated under any*
7 *of those chapters), (2) whether any persons would suffer sub-*
8 *stantial injury, loss, or damage absent a suspension, (3)*
9 *whether the Postal Service or any other persons would suffer*
10 *substantial injury, loss, or damage under a suspension, and*
11 *(4) the public interest.*

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

1 **“§ 3663. Appellate review**

2 *“A person adversely affected or aggrieved by a final*
3 *order or decision of the Postal Regulatory Commission may,*
4 *within 30 days after such order or decision becomes final,*
5 *institute proceedings for review thereof by filing a petition*
6 *in the United States Court of Appeals for the District of*
7 *Columbia. The court shall review the order or decision in*
8 *accordance with section 706 of title 5, and chapter 158 and*
9 *section 2112 of title 28, on the basis of the record before*
10 *the Commission. For purposes of this section, the term ‘per-*
11 *son’ includes the Postal Service.*

12 **“§ 3664. Enforcement of orders**

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

17 **SEC. 206. WORKSHARE DISCOUNTS.**

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

21 **“§ 3687. Workshare discounts**

22 *“(a) IN GENERAL.—As part of the regulations estab-*
23 *lished under section 3622(a), the Postal Regulatory Com-*
24 *mission shall establish rules for workshare discounts that*
25 *ensure that such discounts do not exceed the cost that the*

1 *Postal Service avoids as the result of workshare activity,*
2 *unless—*

3 *“(1) the discount is—*

4 *“(A) associated with a new postal service, a*
5 *change to an existing postal service, or a new*
6 *workshare initiative related to an existing postal*
7 *service; and*

8 *“(B) necessary to induce mailer behavior*
9 *that furthers the economically efficient operation*
10 *of the Postal Service and the portion of the dis-*
11 *count in excess of the cost that the Postal Service*
12 *avoids as a result of the workshare activity will*
13 *be phased out over a limited period of time;*

14 *“(2) a reduction in the discount would—*

15 *“(A) lead to a loss of volume in the affected*
16 *category or subclass of mail and reduce the ag-*
17 *gregate contribution to the institutional costs of*
18 *the Postal Service from the category or subclass*
19 *subject to the discount below what it otherwise*
20 *would have been if the discount had not been re-*
21 *duced to costs avoided;*

22 *“(B) result in a further increase in the*
23 *rates paid by mailers not able to take advantage*
24 *of the discount; or*

1 “(C) impede the efficient operation of the
2 Postal Service;

3 “(3) the amount of the discount above costs
4 avoided—

5 “(A) is necessary to mitigate rate shock;
6 and

7 “(B) will be phased out over time; or

8 “(4) the discount is provided in connection with
9 subclasses of mail consisting exclusively of mail mat-
10 ter of educational, cultural, scientific, or informa-
11 tional value.

12 “(b) REPORT.—Whenever the Postal Service establishes
13 or maintains a workshare discount, the Postal Service shall,
14 at the time it publishes the workshare discount rate, submit
15 to the Postal Regulatory Commission a detailed report
16 that—

17 “(1) explains the Postal Service’s reasons for es-
18 tablishing or maintaining the rate;

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

22 “(3) certifies that the discount will not adversely
23 affect rates or services provided to users of postal serv-
24 ices who do not take advantage of the discount rate.

1 “(c) *DEFINITION.*—For purposes of this section, the
 2 term ‘workshare discount’ refers to rate discounts provided
 3 to mailers for the presorting, prebarcoding, handling, or
 4 transportation of mail, as further defined by the Postal Reg-
 5 ulatory Commission under section 3622(a).”.

6 (b) *CLERICAL AMENDMENT.*—The analysis for chapter
 7 36 of title 39, United States Code (as amended by section
 8 207) is amended by adding after the item relating to section
 9 3686 the following:

“3687. Workshare discounts.”.

10 **SEC. 207. CLERICAL AMENDMENT.**

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

“CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“3626. Reduced rates.

“3627. Adjusting free rates.

“3629. Reduced rates for voter registration purposes.

“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW
 PRODUCTS

“3641. Market tests of experimental products.

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

“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

- “3651. Annual reports by the Commission.
 “3652. Annual reports to the Commission.
 “3653. Annual determination of compliance.
 “3654. Additional financial reporting.

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

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

“SUBCHAPTER VI—GENERAL

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

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:

9 **“§ 2011. Provisions relating to competitive products**

10 “(a) There is established in the Treasury of the United
 11 States a revolving fund, to be called the Postal Service Com-
 12 petitive Products Fund, which shall be available to the Post-
 13 al Service without fiscal year limitation for the payment
 14 of—

15 “(1) costs attributable to competitive products;
 16 and

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

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

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

7 “(1) revenues from competitive products;

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

10 “(3) interest and dividends earned on invest-
11 ments of the Competitive Products Fund; and

12 “(4) any other receipts of the Postal Service (in-
13 cluding from the sale of assets), to the extent allocable
14 to competitive products.

15 “(c) If the Postal Service determines that the moneys
16 of the Competitive Products Fund are in excess of current
17 needs, it may request the investment of such amounts as
18 it deems advisable by the Secretary of the Treasury in obli-
19 gations of, or obligations guaranteed by, the Government
20 of the United States, and, with the approval of the Sec-
21 retary, in such other obligations or securities as it deems
22 appropriate.

23 “(d) With the approval of the Secretary of the Treas-
24 ury, the Postal Service may deposit moneys of the Competi-
25 tive Products Fund in any Federal Reserve bank, any de-

1 *pository for public funds, or in such other places and in*
2 *such manner as the Postal Service and the Secretary may*
3 *mutually agree.*

4 “(e)(1) *Subject to the limitations specified in section*
5 *2005(a), the Postal Service is authorized to borrow money*
6 *and to issue and sell such obligations as it determines nec-*
7 *essary to provide for competitive products and deposit such*
8 *amounts in the Competitive Products Fund. Any such bor-*
9 *rowings by the Postal Service shall be supported and serv-*
10 *iced by the revenues and receipts from competitive products*
11 *and the assets related to the provision of competitive prod-*
12 *ucts (as determined under subsection (h) or, for purposes*
13 *of any period before accounting practices and principles*
14 *under subsection (h) have been established and applied, the*
15 *best information available from the Postal Service, includ-*
16 *ing the audited statements required by section 2008(e), but*
17 *in either case subject to paragraph (5)).*

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

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

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

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

5 “(D) such other matters as the Postal Service
6 considers necessary or desirable to enhance the mar-
7 ketability of such obligations.

8 “(3) The obligations issued by the Postal Service under
9 this section—

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

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

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

14 “(D) shall be sold at such prices;

15 “(E) shall bear such rates of interest;

16 “(F) may be redeemable before maturity in such
17 manner, at such times, and at such redemption pre-
18 miums;

19 “(G) may be entitled to such relative priorities
20 of claim on the assets of the Postal Service with re-
21 spect to principal and interest payments; and

22 “(H) shall be subject to such other terms and
23 conditions;

24 as the Postal Service determines.

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

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

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

10 “(C) *shall be lawful investments and may be ac-*
11 *cepted as security for all fiduciary, trust, and public*
12 *funds, the investment or deposit of which shall be*
13 *under the authority or control of any officer or agen-*
14 *cy of the Government of the United States, and the*
15 *Secretary of the Treasury or any other officer or*
16 *agency having authority over or control of any such*
17 *fiduciary, trust, or public funds, may at any time sell*
18 *any of the obligations of the Postal Service acquired*
19 *under this section;*

20 “(D) *shall not be exempt either as to principal*
21 *or interest from any taxation now or hereafter im-*
22 *posed by any State or local taxing authority; and*

23 “(E) *except as provided in section 2006(c) of this*
24 *title, shall not be obligations of, nor shall payment of*
25 *the principal thereof or interest thereon be guaranteed*

1 *by, the Government of the United States, and the obli-*
2 *gations shall so plainly state.*

3 “(5) *The Postal Service shall make payments of prin-*
4 *cipal, or interest, or both on obligations issued under this*
5 *section out of revenues and receipts from competitive prod-*
6 *ucts and assets related to the provision of competitive prod-*
7 *ucts (as determined under subsection (h) or, for purposes*
8 *of any period before accounting practices and principles*
9 *under subsection (h) have been established and applied, the*
10 *best information available, including the audited state-*
11 *ments required by section 2008(e)). For purposes of this*
12 *subsection, the total assets of the Competitive Products*
13 *Fund shall be the greater of—*

14 “(A) *the assets related to the provision of com-*
15 *petitive products; or*

16 “(B) *the percentage of total Postal Service reve-*
17 *nuues and receipts from competitive products times the*
18 *total assets of the Postal Service.*

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

23 “(g) *A judgment against the Postal Service or the Gov-*
24 *ernment of the United States (or settlement of a claim)*
25 *shall, to the extent that it arises out of activities of the Post-*

1 *al Service in the provision of competitive products, be paid*
2 *out of the Competitive Products Fund.*

3 “(h)(1) *The Secretary of the Treasury, in consultation*
4 *with the Postal Service and an independent, certified public*
5 *accounting firm and such other advisors as the Secretary*
6 *considers appropriate, shall develop recommendations re-*
7 *garding—*

8 “(A) *the accounting practices and principles that*
9 *should be followed by the Postal Service with the ob-*
10 *jectives of (i) identifying and valuing the assets and*
11 *liabilities of the Postal Service associated with pro-*
12 *viding, and the capital and operating costs incurred*
13 *by the Postal Service in providing, competitive prod-*
14 *ucts, and (ii) subject to subsection (e)(5), preventing*
15 *the subsidization of such products by market-domi-*
16 *nant products; and*

17 “(B) *the substantive and procedural rules that*
18 *should be followed in determining the Postal Service’s*
19 *assumed Federal income tax on competitive products*
20 *income for any year (within the meaning of section*
21 *3634).*

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

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

11 “(B) After due consideration of the views and other
12 information received under subparagraph (A), the Commis-
13 sion shall by rule—

14 “(i) provide for the establishment and applica-
15 tion of the accounting practices and principles which
16 shall be followed by the Postal Service;

17 “(ii) provide for the establishment and applica-
18 tion of the substantive and procedural rules described
19 in paragraph (1)(B); and

20 “(iii) provide for the submission by the Postal
21 Service to the Postal Regulatory Commission of an-
22 nual and other periodic reports setting forth such in-
23 formation as the Commission may require.

24 Final rules under this subparagraph shall be issued not
25 later than 12 months after the date on which the Secretary

1 *of the Treasury makes his submission to the Commission*
2 *under paragraph (1) (or by such later date as the Commis-*
3 *sion and the Postal Service may agree to). The Commission*
4 *is authorized to promulgate regulations revising such rules.*

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

14 *“(i) the quality of the information furnished in*
15 *those reports has become significantly inaccurate or*
16 *can be significantly improved; or*

17 *“(ii) those revisions are, in the judgment of the*
18 *Commission, otherwise necessitated by the public in-*
19 *terest.*

20 *“(D) A copy of each report described in subparagraph*
21 *(B)(iii) shall also be transmitted by the Postal Service to*
22 *the Secretary of the Treasury and the Inspector General of*
23 *the United States Postal Service.*

24 *“(i) The Postal Service shall render an annual report*
25 *to the Secretary of the Treasury concerning the operation*

1 *of the Competitive Products Fund, in which it shall address*
2 *such matters as risk limitations, reserve balances, allocation*
3 *or distribution of moneys, liquidity requirements, and*
4 *measures to safeguard against losses. A copy of its then most*
5 *recent report under this subsection shall be included with*
6 *any other submission that it is required to make to the Post-*
7 *al Regulatory Commission under section 3652(g).”.*

8 (2) *CLERICAL AMENDMENT.—The analysis for*
9 *chapter 20 of title 39, United States Code, is amended*
10 *by adding after the item relating to section 2010 the*
11 *following:*

“2011. Provisions relating to competitive products.”.

12 (b) *TECHNICAL AND CONFORMING AMENDMENTS.—*

13 (1) *DEFINITION.—Section 2001 of title 39,*
14 *United States Code, is amended by striking “and” at*
15 *the end of paragraph (1), by redesignating paragraph*
16 *(2) as paragraph (3), and by inserting after para-*
17 *graph (1) the following:*

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

21 (2) *CAPITAL OF THE POSTAL SERVICE.—Section*
22 *2002(b) of title 39, United States Code, is amended*
23 *by striking “Fund,” and inserting “Fund and the*
24 *balance in the Competitive Products Fund,”.*

25 (3) *POSTAL SERVICE FUND.—*

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

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

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

14 (A) in subsection (a), by inserting “or sec-
15 tion 2011” before “of this title,”;

16 (B) in subsection (b), by inserting “under
17 section 2005” before “in such amounts” in the
18 first sentence and before “in excess of such
19 amount.” in the second sentence; and

20 (C) in subsection (c), by inserting “or sec-
21 tion 2011(e)(4)(E)” before “of this title,”.

1 **SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETI-**
2 **TIVE PRODUCTS INCOME.**

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

6 **“§3634. Assumed Federal income tax on competitive**
7 **products income**

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

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

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

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

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

1 “(b) *COMPUTATION AND TRANSFER REQUIREMENTS.*—
2 *The Postal Service shall, for each year beginning with the*
3 *year in which occurs the deadline for the Postal Service’s*
4 *first report to the Postal Regulatory Commission under sec-*
5 *tion 3652(a)—*

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

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

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

15 **SEC. 303. UNFAIR COMPETITION PROHIBITED.**

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

19 **“§ 404a. Specific Limitations**

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

22 “(1) *establish any rule or regulation (including*
23 *any standard) the effect of which is to preclude com-*
24 *petition or establish the terms of competition unless*
25 *the Postal Service demonstrates that the regulation*

1 *does not create an unfair competitive advantage for*
2 *itself or any entity funded (in whole or in part) by*
3 *the Postal Service;*

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

8 *“(3) obtain information from a person that pro-*
9 *vides (or seeks to provide) any product, and then offer*
10 *any product or service that uses or is based in whole*
11 *or in part on such information, without the consent*
12 *of the person providing that information, unless sub-*
13 *stantially the same information is obtained (or ob-*
14 *tainable) from an independent source or is otherwise*
15 *obtained (or obtainable).*

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

18 *“(c) Any party (including an officer of the Commis-*
19 *sion representing the interests of the general public) who*
20 *believes that the Postal Service has violated this section may*
21 *bring a complaint in accordance with section 3662.”.*

22 *(b) CONFORMING AMENDMENTS.—*

23 *(1) GENERAL POWERS.—Section 401 of title 39,*
24 *United States Code, is amended by striking “The”*

1 and inserting “Subject to the provisions of section
2 404a, the”.

3 (2) *SPECIFIC POWERS.*—Section 404(a) of title
4 39, *United States Code*, is amended by striking
5 “Without” and inserting “Subject to the provisions of
6 section 404a, but otherwise without”.

7 (c) *CLERICAL AMENDMENT.*—The analysis for chapter
8 4 of title 39, *United States Code*, is amended by inserting
9 after the item relating to section 404 the following:

 “404a. *Specific limitations.*”.

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

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

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

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

19 “(B) shall not be immune under any other doc-
20 trine of sovereign immunity from suit in *Federal*
21 court by any person for any violation of any of those
22 provisions of law by any officer or employee of the
23 *Postal Service*.

24 “(2) This subsection applies with respect to—

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

4 “(B) the provisions of section 5 of the Federal
5 Trade Commission Act to the extent that such section
6 5 applies to unfair or deceptive acts or practices.

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

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

16 “(B) shall be considered to be a person (as de-
17 fined in subsection (a) of the first section of the Clay-
18 ton Act) for purposes of—

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

21 “(ii) section 5 of the Federal Trade Com-
22 mission Act to the extent that such section 5 ap-
23 plies to unfair methods of competition.

24 “(2) No damages, interest on damages, costs or attor-
25 ney’s fees may be recovered, and no criminal liability may

1 *be imposed, under the antitrust laws (as so defined) from*
2 *any officer or employee of the Postal Service, or other Fed-*
3 *eral agency acting on behalf of or in concert with the Postal*
4 *Service, acting in an official capacity.*

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

8 “(f)(1) *Each building constructed or altered by the*
9 *Postal Service shall be constructed or altered, to the max-*
10 *imum extent feasible as determined by the Postal Service,*
11 *in compliance with one of the nationally recognized model*
12 *building codes and with other applicable nationally recog-*
13 *nized codes.*

14 “(2) *Each building constructed or altered by the Postal*
15 *Service shall be constructed or altered only after consider-*
16 *ation of all requirements (other than procedural require-*
17 *ments) of zoning laws, land use laws, and applicable envi-*
18 *ronmental laws of a State or subdivision of a State which*
19 *would apply to the building if it were not a building con-*
20 *structed or altered by an establishment of the Government*
21 *of the United States.*

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

1 “(A) in preparing plans for the building, consult
2 with appropriate officials of the State or political
3 subdivision, or both, in which the building will be lo-
4 cated;

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

9 “(C) permit inspection by such officials during
10 construction or alteration of the building, in accord-
11 ance with the customary schedule of inspections for
12 construction or alteration of buildings in the locality,
13 if such officials provide to the Postal Service—

14 “(i) a copy of such schedule before construc-
15 tion of the building is begun; and

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

19 Nothing in this subsection shall impose an obligation on
20 any State or political subdivision to take any action under
21 the preceding sentence, nor shall anything in this subsection
22 require the Postal Service or any of its contractors to pay
23 for any action taken by a State or political subdivision to
24 carry out this subsection (including reviewing plans, car-

1 *rying out on-site inspections, issuing building permits, and*
2 *making recommendations).*

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

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

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

21 “(g)(1) *Notwithstanding any other provision of law,*
22 *legal representation may not be furnished by the Depart-*
23 *ment of Justice to the Postal Service in any action, suit,*
24 *or proceeding arising, in whole or in part, under any of*
25 *the following:*

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

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

5 “(C) Section 3663 (relating to appellate review).
6 The Postal Service may, by contract or otherwise, employ
7 attorneys to obtain any legal representation that it is pre-
8 cluded from obtaining from the Department of Justice
9 under this paragraph.

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

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

24 “(B) The Department of Justice shall, under such
25 terms and conditions as the Commission and the Attorney

1 *General shall consider appropriate, furnish the Commission*
2 *such legal representation as it may require in connection*
3 *with any such action, suit, or proceeding, except that, with*
4 *the prior consent of the Attorney General, the Commission*
5 *may employ attorneys by contract or otherwise for that pur-*
6 *pose.*

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

12 (b) *TECHNICAL AMENDMENT.*—Section 409(a) of title
13 39, United States Code, is amended by striking “Except as
14 provided in section 3628 of this title,” and inserting “Ex-
15 cept as otherwise provided in this title,”.

16 **SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.**

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

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

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

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

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

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

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

17 “(b)(1) The Secretary of State shall be responsible for
18 formulation, coordination, and oversight of foreign policy
19 related to international postal services and other inter-
20 national delivery services, and shall have the power to con-
21 clude treaties, conventions and amendments related to
22 international postal services and other international deliv-
23 ery services, except that the Secretary may not conclude any
24 treaty, convention, or other international agreement (in-
25 cluding those regulating international postal services) if

1 *such treaty, convention, or agreement would, with respect*
2 *to any competitive product, grant an undue or unreason-*
3 *able preference to the Postal Service, a private provider of*
4 *international postal or delivery services, or any other per-*
5 *son.*

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

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

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

24 “(C) *shall maintain continuing liaison with the*
25 *Committee on Government Reform of the House of*

1 *Representatives and the Committee on Governmental*
2 *Affairs of the Senate;*

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

13 *“(E) shall assist in arranging meetings of such*
14 *public sector advisory groups as may be established to*
15 *advise the Department of State and other executive*
16 *branch agencies in connection with international*
17 *postal services and international delivery services.*

18 *“(3) The Secretary of State shall establish an advisory*
19 *committee (within the meaning of the Federal Advisory*
20 *Committee Act) to perform such functions as the Secretary*
21 *considers appropriate in connection with carrying out sub-*
22 *paragraphs (A) through (D) of paragraph (2).*

23 *“(c)(1) Before concluding any treaty, convention, or*
24 *amendment that establishes a rate or classification for a*
25 *product subject to subchapter I of chapter 36, the Secretary*

1 *of State shall request the Postal Regulatory Commission to*
2 *submit a decision on whether such rate or classification is*
3 *consistent with the standards and criteria established by the*
4 *Commission under section 3622.*

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

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

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

22 “(2) *a copy of each such contract between the*
23 *Postal Service and an agency of a foreign government*
24 *shall be transmitted to the Secretary of State and the*

1 *Postal Regulatory Commission not later than the ef-*
2 *fective date of such contract.*

3 *“(e)(1) With respect to shipments of international mail*
4 *that are competitive products within the meaning of section*
5 *3631 that are exported or imported by the Postal Service,*
6 *the Bureau of Customs and Border Protection of the De-*
7 *partment of Homeland Security and other appropriate*
8 *Federal agencies shall apply the customs laws of the United*
9 *States and all other laws relating to the importation or ex-*
10 *portation of such shipments in the same manner to both*
11 *shipments by the Postal Service and similar shipments by*
12 *private companies.*

13 *“(2) For purposes of this subsection, the term ‘private*
14 *company’ means a private company substantially owned*
15 *or controlled by persons who are citizens of the United*
16 *States.*

17 *“(3) In exercising the authority pursuant to subsection*
18 *(b) to conclude new treaties, conventions and amendments*
19 *related to international postal services and to renegotiate*
20 *such treaties, conventions and amendments, the Secretary*
21 *of State shall, to the maximum extent practicable, take such*
22 *measures as are within the Secretary’s control to encourage*
23 *the governments of other countries to make available to the*
24 *Postal Service and private companies a range of non-*
25 *discriminatory customs procedures that will fully meet the*

1 *needs of all types of American shippers. The Secretary of*
2 *State shall consult with the United States Trade Represent-*
3 *ative and the Commissioner of Customs, Department of*
4 *Homeland Security in carrying out this paragraph.*

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

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

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

20 (2) *with respect to competitive products, the date*
21 *as of which the regulations promulgated under section*
22 *3633 of title 39, United States Code (as amended by*
23 *section 202) take effect.*

1 **SEC. 306. REDESIGNATION.**

2 Chapter 36 of title 39, United States Code (as in effect
3 before the amendment made by section 204(a)) is amended
4 by striking the heading for subchapter V and inserting the
5 following:

6 “SUBCHAPTER VI—GENERAL”.

7 **TITLE IV—GENERAL PROVISIONS**

8 **SEC. 401. QUALIFICATION REQUIREMENTS FOR GOV-**
9 **ERNORS.**

10 (a) *IN GENERAL.*—Section 202(a) of title 39, United
11 States Code, is amended by striking “(a)” and inserting
12 “(a)(1)” and by striking the fourth sentence and inserting
13 the following: “The Governors shall represent the public in-
14 terest generally, and at least 4 of the Governors shall be
15 chosen solely on the basis of their demonstrated ability in
16 managing organizations or corporations (in either the pub-
17 lic or private sector) of substantial size; for purposes of this
18 sentence, an organization or corporation shall be considered
19 to be of substantial size if it employs at least 50,000 employ-
20 ees. The Governors shall not be representatives of specific
21 interests using the Postal Service, and may be removed only
22 for cause.”.

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

1 “(2) *In selecting the individuals described in para-*
2 *graph (1) for nomination for appointment to the position*
3 *of Governor, the President should consult with the Speaker*
4 *of the House of Representatives, the minority leader of the*
5 *House of Representatives, the majority leader of the Senate,*
6 *and the minority leader of the Senate.”.*

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

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

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

20 “(ii) *instead of the term that would otherwise*
21 *apply under the first sentence of paragraph (1), the*
22 *term of any person so appointed to such office shall*
23 *be 3 years.*

24 “(B) *Except as provided in subparagraph (A), an ap-*
25 *pointment under this paragraph shall be made in conform-*

1 *ance with all provisions of this section that would otherwise*
2 *apply.”.*

3 (d) *APPLICABILITY.—The amendment made by sub-*
4 *section (a) shall not affect the appointment or tenure of any*
5 *person serving as a Governor of the Board of Governors of*
6 *the United States Postal Service pursuant to an appoint-*
7 *ment made before the date of the enactment of this Act, or,*
8 *except as provided in the amendment made by subsection*
9 *(c), any nomination made before that date; however, when*
10 *any such office becomes vacant, the appointment of any per-*
11 *son to fill that office shall be made in accordance with such*
12 *amendment. The requirement set forth in the fourth sentence*
13 *of section 202(a)(1) of title 39, United States Code (as*
14 *amended by subsection (a)) shall be met beginning not later*
15 *than 9 years after the date of the enactment of this Act.*

16 **SEC. 402. OBLIGATIONS.**

17 (a) *PURPOSES FOR WHICH OBLIGATIONS MAY BE*
18 *ISSUED.—The first sentence of section 2005(a)(1) of title*
19 *39, United States Code, is amended by striking “title.” and*
20 *inserting “title, other than any of the purposes for which*
21 *the corresponding authority is available to the Postal Serv-*
22 *ice under section 2011.”.*

23 (b) *LIMITATION ON NET ANNUAL INCREASE IN OBLI-*
24 *GATIONS ISSUED FOR CERTAIN PURPOSES.—The third sen-*
25 *tence of section 2005(a)(1) of title 39, United States Code,*

1 *is amended to read as follows: “In any one fiscal year, the*
2 *net increase in the amount of obligations outstanding issued*
3 *for the purpose of capital improvements and the net in-*
4 *crease in the amount of obligations outstanding issued for*
5 *the purpose of defraying operating expenses of the Postal*
6 *Service shall not exceed a combined total of*
7 *\$3,000,000,000.” .*

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

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

12 *“(3) For purposes of applying the respective limita-*
13 *tions under this subsection, the aggregate amount of obliga-*
14 *tions issued by the Postal Service which are outstanding*
15 *as of any one time, and the net increase in the amount*
16 *of obligations outstanding issued by the Postal Service for*
17 *the purpose of capital improvements or for the purpose of*
18 *defraying operating expenses of the Postal Service in any*
19 *fiscal year, shall be determined by aggregating the relevant*
20 *obligations issued by the Postal Service under this section*
21 *with the relevant obligations issued by the Postal Service*
22 *under section 2011.”.*

23 *(2) CONFORMING AMENDMENT.—The second sen-*
24 *tence of section 2005(a)(1) of title 39, United States*
25 *Code, is amended by striking “any such obligations”*

1 *and inserting “obligations issued by the Postal Serv-*
2 *ice which may be”.*

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

4 *(1) OBLIGATIONS TO WHICH PROVISIONS*
5 *APPLY.—The first sentence of section 2005(b) of title*
6 *39, United States Code, is amended by striking “such*
7 *obligations,” and inserting “obligations issued by the*
8 *Postal Service under this section,”.*

9 *(2) ASSETS, REVENUES, AND RECEIPTS TO*
10 *WHICH PROVISIONS APPLY.—Subsection (b) of section*
11 *2005 of title 39, United States Code, is amended by*
12 *striking “(b)” and inserting “(b)(1)”, and by adding*
13 *at the end the following:*

14 *“(2) Notwithstanding any other provision of this sec-*
15 *tion—*

16 *“(A) the authority to pledge assets of the Postal*
17 *Service under this subsection shall be available only*
18 *to the extent that such assets are not related to the*
19 *provision of competitive products (as determined*
20 *under section 2011(h) or, for purposes of any period*
21 *before accounting practices and principles under sec-*
22 *tion 2011(h) have been established and applied, the*
23 *best information available from the Postal Service,*
24 *including the audited statements required by section*
25 *2008(e)); and*

1 “(B) any authority under this subsection relat-
2 ing to the pledging or other use of revenues or receipts
3 of the Postal Service shall be available only to the ex-
4 tent that they are not revenues or receipts of the Com-
5 petitive Products Fund.”.

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

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

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

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

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

17 “(3) such carriage is within the scope of services
18 described by regulations of the Postal Service (includ-
19 ing, in particular, sections 310.1 and 320.2–320.8 of
20 title 39 of the Code of Federal Regulations, as in ef-
21 fect on July 1, 2004) that purport to permit private
22 carriage by suspension of the operation of this section
23 (as then in effect).

1 “(c) *Any regulations necessary to carry out this section*
2 *shall be promulgated by the Postal Regulatory Commis-*
3 *sion.*”.

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

8 **SEC. 404. RULEMAKING AUTHORITY.**

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

11 “(2) *to adopt, amend, and repeal such rules and*
12 *regulations, not inconsistent with this title, as may be*
13 *necessary in the execution of its functions under this*
14 *title and such other functions as may be assigned to*
15 *the Postal Service under any provisions of law out-*
16 *side of this title;*”.

17 **SEC. 405. NONINTERFERENCE WITH COLLECTIVE BAR-**
18 **GAINING AGREEMENTS, ETC.**

19 (a) *NONINTERFERENCE WITH COLLECTIVE BAR-*
20 *GAINING AGREEMENTS.*—*Except as provided in section 407,*
21 *nothing in this Act or any amendment made by this Act*
22 *shall restrict, expand, or otherwise affect any of the rights,*
23 *privileges, or benefits of either employees of or labor organi-*
24 *zations representing employees of the United States Postal*
25 *Service under chapter 12 of title 39, United States Code,*

1 *the National Labor Relations Act, any handbook or manual*
 2 *affecting employee labor relations within the United States*
 3 *Postal Service, or any collective bargaining agreement.*

4 (b) *FREE MAILING PRIVILEGES CONTINUE UN-*
 5 *CHANGED.—Nothing in this Act or any amendment made*
 6 *by this Act shall affect any free mailing privileges accorded*
 7 *under section 3217 or sections 3403 through 3406 of title*
 8 *39, United States Code.*

9 **SEC. 406. BONUS AND COMPENSATION AUTHORITY.**

10 *Subchapter VI of chapter 36 of title 39, United States*
 11 *Code (as so redesignated by section 306) is amended by add-*
 12 *ing at the end the following:*

13 **“§ 3686. Bonus authority**

14 *“(a) IN GENERAL.—The Postal Service may establish*
 15 *one or more programs to provide bonuses or other rewards*
 16 *to officers and employees of the Postal Service in senior ex-*
 17 *ecutive or equivalent positions to achieve the objectives of*
 18 *this chapter.*

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

20 *“(1) IN GENERAL.—Under any such program,*
 21 *the Postal Service may award a bonus or other re-*
 22 *ward in excess of the limitation set forth in the last*
 23 *sentence of section 1003(a), if such program has been*
 24 *approved under paragraph (2). Any such award or*
 25 *bonus may not cause the total compensation of such*

1 *officer or employee to exceed the total annual com-*
2 *ensation payable to the Vice President under section*
3 *104 of title 3 as of the end of the calendar year in*
4 *which the bonus or award is paid.*

5 “(2) *APPROVAL PROCESS.*—*If the Postal Service*
6 *wishes to have the authority, under any program de-*
7 *scribed in subsection (a), to award bonuses or other*
8 *rewards in excess of the limitation set forth in the last*
9 *sentence of section 1003(a)—*

10 “(A) *the Postal Service shall make an ap-*
11 *propriate request to the Board of Governors in*
12 *such form and manner as the Board requires;*
13 *and*

14 “(B) *the Board of Governors shall approve*
15 *any such request if it certifies, for the annual*
16 *appraisal period involved, that the performance*
17 *appraisal system for affected officers and em-*
18 *ployees of the Postal Service (as designed and*
19 *applied) makes meaningful distinctions based on*
20 *relative performance.*

21 “(3) *REVOCATION AUTHORITY.*—*If the Board of*
22 *Governors finds that a performance appraisal system*
23 *previously approved under paragraph (2)(B) does not*
24 *(as designed and applied) make meaningful distinc-*
25 *tions based on relative performance, the Board may*

1 *revoke or suspend the authority of the Postal Service*
2 *to continue a program approved under paragraph (2)*
3 *until such time as appropriate corrective measures*
4 *have, in the judgment of the Board, been taken.*

5 “(c) *EXCEPTIONS FOR CRITICAL POSITIONS.*—Not-
6 *withstanding any other provision of law, the Board of Gov-*
7 *ernors may allow up to 12 officers or employees of the Post-*
8 *al Service in critical senior executive or equivalent posi-*
9 *tions to receive total compensation in an amount not to*
10 *exceed 120 percent of the total annual compensation pay-*
11 *able to the Vice President under section 104 of title 3 as*
12 *of the end of the calendar year in which such payment is*
13 *received. For each exception made under this subsection, the*
14 *Board shall provide written notification to the Director of*
15 *the Office of Personnel Management and the Congress with-*
16 *in 30 days after the payment is made setting forth the name*
17 *of the officer or employee involved, the critical nature of*
18 *his or her duties and responsibilities, and the basis for de-*
19 *termining that such payment is warranted.*

20 “(d) *INFORMATION FOR INCLUSION IN COMPREHEN-*
21 *SIVE STATEMENT.*—*Included in its comprehensive state-*
22 *ment under section 2401(e) for any period shall be—*

23 “(1) *the name of each person receiving a bonus*
24 *or other payment during such period which would not*

1 (1) *in paragraph (1)—*

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

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

5 (C) *by striking all that follows “shall be*
6 *made” and inserting “from a list of names pro-*
7 *vided by the Director. This list shall consist of*
8 *not less than 9 names of arbitrators of nation-*
9 *wide reputation and professional stature, who*
10 *are also members of the National Academy of Ar-*
11 *bitrators, and whom the Director has determined*
12 *are available and willing to serve.”; and*

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

15 (c) *CONFORMING AMENDMENT.—Section 1207(d) of*
16 *title 39, United States Code, is amended by striking “fact-*
17 *finding panel will be established” and inserting “mediator*
18 *shall be appointed”.*

19 ***TITLE V—ENHANCED***
20 ***REGULATORY COMMISSION***

21 ***SEC. 501. REORGANIZATION AND MODIFICATION OF CER-***
22 ***TAIN PROVISIONS RELATING TO THE POSTAL***
23 ***REGULATORY COMMISSION.***

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

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

2 **“CHAPTER 5—POSTAL REGULATORY**
3 **COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

4 **“§ 501. Establishment**

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

8 **“§ 502. Commissioners**

9 *“(a) The Postal Regulatory Commission is composed*
10 *of 5 Commissioners, appointed by the President, by and*
11 *with the advice and consent of the Senate. The Commis-*
12 *sioners shall be chosen solely on the basis of their technical*
13 *qualifications, professional standing, and demonstrated ex-*
14 *pertise in economics, accounting, law, or public adminis-*
15 *tration, and may be removed by the President only for*
16 *cause. Each individual appointed to the Commission shall*
17 *have the qualifications and expertise necessary to carry out*
18 *the responsibilities accorded Commissioners under the Post-*
19 *al Accountability and Enhancement Act. Not more than 3*
20 *of the Commissioners may be adherents of the same political*
21 *party.*

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

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

9 “(d) The Commissioners shall by majority vote des-
10 ignate a Vice Chairman of the Commission. The Vice Chair-
11 man shall act as Chairman of the Commission in the ab-
12 sence of the Chairman.

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

15 (2) in subchapter I of chapter 36 (as in effect be-
16 fore the amendment made by section 201(c)), by strik-
17 ing the heading for such subchapter I and all that fol-
18 lows through section 3602; and

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

23 (b) DETERMINATIONS.—Section 503 of title 39, United
24 States Code, as so redesignated by subsection (a)(3), is
25 amended by adding at the end the following: “Such rules

1 *shall include procedures which balance, inter alia, the need*
 2 *for protecting due process rights and ensuring expeditious*
 3 *decision-making.”.*

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

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

“5. Postal Regulatory Commission 501”.

16 **SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMIS-**
 17 **SION TO ISSUE SUBPOENAS.**

18 *Section 504 of title 39, United States Code (as so reded-*
 19 *ignated by section 501) is amended by adding at the end*
 20 *the following:*

21 *“(f)(1) Any Commissioner of the Postal Regulatory*
 22 *Commission, any administrative law judge appointed by*
 23 *the Commission under section 3105 of title 5, and any em-*
 24 *ployee of the Commission designated by the Commission*

1 *may administer oaths, examine witnesses, take depositions,*
2 *and receive evidence.*

3 “(2) *The Chairman of the Commission, any Commis-*
4 *sioner designated by the Chairman, and any administrative*
5 *law judge appointed by the Commission under section 3105*
6 *of title 5 may, with respect to any proceeding conducted*
7 *by the Commission under this title—*

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

12 “(B) *order the taking of depositions and re-*
13 *sponses to written interrogatories by a covered person.*
14 *The written concurrence of a majority of the Commissioners*
15 *then holding office shall, with respect to each subpoena*
16 *under subparagraph (A), be required in advance of its*
17 *issuance.*

18 “(3) *In the case of contumacy or failure to obey a sub-*
19 *poena issued under this subsection, upon application by the*
20 *Commission, the district court of the United States for the*
21 *district in which the person to whom the subpoena is ad-*
22 *dressed resides or is served may issue an order requiring*
23 *such person to appear at any designated place to testify*
24 *or produce documentary or other evidence. Any failure to*

1 *obey the order of the court may be punished by the court*
2 *as a contempt thereof.*

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

6 “(g)(1) *If the Postal Service determines that any docu-*
7 *ment or other matter it provides to the Postal Regulatory*
8 *Commission pursuant to a subpoena issued under sub-*
9 *section (f), or otherwise at the request of the Commission*
10 *in connection with any proceeding or other purpose under*
11 *this title, contains information which is described in section*
12 *410(c) of this title, or exempt from public disclosure under*
13 *section 552(b) of title 5, the Postal Service shall, at the time*
14 *of providing such matter to the Commission, notify the*
15 *Commission, in writing, of its determination (and the rea-*
16 *sons therefor).*

17 “(2) *Except as provided in paragraph (3), no officer*
18 *or employee of the Commission may, with respect to any*
19 *information as to which the Commission has been notified*
20 *under paragraph (1)—*

21 “(A) *use such information for purposes other*
22 *than the purposes for which it is supplied; or*

23 “(B) *permit anyone who is not an officer or em-*
24 *ployee of the Commission to have access to any such*
25 *information.*

1 “(3)(A) Paragraph (2) shall not prevent the Commis-
2 sion from publicly disclosing relevant information in fur-
3 therance of its duties under this title if the Commission has
4 adopted regulations under section 553 of title 5 that estab-
5 lish a procedure for according appropriate confidentiality
6 to information identified by the Postal Service under para-
7 graph (1). In determining the appropriate degree of con-
8 fidentiality to be accorded information identified by the
9 Postal Service under paragraph (1), the Commission shall
10 balance the nature and extent of the likely commercial in-
11 jury to the Postal Service against the public interest, as
12 required by section 101(d) of this title for financial trans-
13 parency of a government establishment.

14 “(B) Paragraph (2) shall not prevent information
15 from being furnished under any process of discovery estab-
16 lished under this title in connection with a proceeding
17 under this title. The Commission shall, by regulations based
18 on rule 26(c) of the Federal Rules of Civil Procedure, estab-
19 lish procedures for ensuring appropriate confidentiality for
20 any information furnished under the preceding sentence.”.

21 **SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY**

22 **COMMISSION.**

23 (a) *AUTHORIZATION OF APPROPRIATIONS.*—Sub-
24 section (d) of section 504 of title 39, United States Code

1 *(as so redesignated by section 501) is amended to read as*
2 *follows:*

3 “(d) *There are authorized to be appropriated, out of*
4 *the Postal Service Fund, such sums as may be necessary*
5 *for the Postal Regulatory Commission. In requesting an ap-*
6 *propriation under this subsection for a fiscal year, the Com-*
7 *mission shall prepare and submit to the Congress under sec-*
8 *tion 2009 a budget of the Commission’s expenses, including*
9 *expenses for facilities, supplies, compensation, and em-*
10 *ployee benefits.”.*

11 ***(b) BUDGET PROGRAM.—***

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

1 (2) *CONFORMING AMENDMENT.*—Section
2 2003(e)(1) of title 39, United States Code, is amended
3 by striking the first sentence and inserting the fol-
4 lowing: “The Fund shall be available for the payment
5 of (A) all expenses incurred by the Postal Service in
6 carrying out its functions as provided by law, subject
7 to the same limitation as set forth in the parenthet-
8 ical matter under subsection (a); (B) all expenses of
9 the Postal Regulatory Commission, subject to the
10 availability of amounts appropriated pursuant to sec-
11 tion 504(d); and (C) all expenses of the Office of In-
12 spector General, subject to the availability of amounts
13 appropriated pursuant to section 8L(e) of the Inspec-
14 tor General Act of 1978.”.

15 (c) *EFFECTIVE DATE.*—

16 (1) *IN GENERAL.*—The amendments made by
17 this section shall apply with respect to fiscal years be-
18 ginning on or after October 1, 2005.

19 (2) *SAVINGS PROVISION.*—The provisions of title
20 39, United States Code, that are amended by this sec-
21 tion shall, for purposes of any fiscal year before the
22 first fiscal year to which the amendments made by
23 this section apply, continue to apply in the same way
24 as if this section had never been enacted.

1 **SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMIS-**
2 **SION.**

3 (a) *AMENDMENTS TO TITLE 39, UNITED STATES*
4 *CODE.*—Title 39, United States Code, is amended in sec-
5 tions 404, 503–504 (as so redesignated by section 501),
6 1001, and 1002 by striking “Postal Rate Commission” each
7 place it appears and inserting “Postal Regulatory Commis-
8 sion”.

9 (b) *AMENDMENTS TO TITLE 5, UNITED STATES*
10 *CODE.*—Title 5, United States Code, is amended in sections
11 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating
12 to Chairman, Postal Rate Commission), 5315 (in the item
13 relating to Members, Postal Rate Commission),
14 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(vi),
15 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking
16 “Postal Rate Commission” and inserting “Postal Regu-
17 latory Commission”.

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

23 (d) *AMENDMENT TO THE REHABILITATION ACT OF*
24 *1973.*—Section 501(b) of the Rehabilitation Act of 1973 (29
25 U.S.C. 791(b)) is amended by striking “Postal Rate Office”
26 and inserting “Postal Regulatory Commission”.

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

5 (f) *OTHER REFERENCES.*—Whenever a reference is
 6 made in any provision of law (other than this Act or a
 7 provision of law amended by this Act), regulation, rule, doc-
 8 ument, or other record of the United States to the Postal
 9 Rate Commission, such reference shall be considered a ref-
 10 erence to the Postal Regulatory Commission.

11 **SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMIS-**
 12 **SION REPRESENTING THE GENERAL PUBLIC.**

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

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

18 “The Postal Regulatory Commission shall designate an
 19 officer of the Postal Regulatory Commission in all public
 20 proceedings (such as developing rules, regulations, and pro-
 21 cedures) who shall represent the interests of the general pub-
 22 lic.”.

23 (b) *CLERICAL AMENDMENT.*—The analysis for chapter
 24 5 of title 39, United States Code (as amended by section

1 501(a)(1)) is amended by adding after the item relating to
 2 section 504 the following:

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

3 **TITLE VI—INSPECTORS**
 4 **GENERAL**

5 **SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.**
 6

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

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

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

23 “(2) Except as provided in paragraph (1), any exercise
 24 of authority under this subsection shall, to the extent prac-

1 *licable, be in conformance with the applicable laws and reg-*
 2 *ulations that govern selections, appointments and employ-*
 3 *ment, and the obtaining of any such temporary or intermit-*
 4 *tent services, within the Postal Regulatory Commission.”.*

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

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

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

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

12 **POSTAL SERVICE TO BE APPOINTED BY THE**

13 **PRESIDENT.**

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

17 *(1) in paragraph (1)—*

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

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

25 *(2) in paragraph (2)—*

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

20 (f) *TECHNICAL AND CONFORMING AMENDMENTS.—*

21 (1) *RELATING TO THE INSPECTOR GENERAL ACT*
22 *OF 1978.—(A) Subsection (a) of section 8G of the In-*
23 *spector General Act of 1978 (as amended by section*
24 *601(a)) is further amended—*

1 (i) in paragraph (2), by striking “the Post-
2 al Regulatory Commission, and the United
3 States Postal Service;” and inserting “and the
4 Postal Regulatory Commission;” and

5 (ii) in paragraph (4), by striking “except
6 that” and all that follows through “Code;” and
7 inserting “except that, with respect to the Na-
8 tional Science Foundation, such term means the
9 National Science Board;”.

10 (B)(i) Subsection (f) of section 8G of such Act is
11 repealed.

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

15 (C) Section 8J of such Act is amended by strik-
16 ing the matter after “8D,” and before “of this Act”
17 and inserting “8E, 8F, 8H, or 8L”.

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

21 (B) Paragraph (4) of section 102 of such title 39
22 (as amended by section 101) is amended to read as
23 follows:

24 “(4) ‘Inspector General’ means the Inspector
25 General of the United States Postal Service, ap-

1 pointed under section 3(a) of the Inspector General
2 Act of 1978;”.

3 (C) The first sentence of section 1003(a) of such
4 title 39 is amended by striking “chapters 2 and 12
5 of this title, section 8G of the Inspector General Act
6 of 1978, or other provision of law,” and inserting
7 “chapter 2 or 12 of this title, subsection (b) or (c) of
8 this section, or any other provision of law,”.

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

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

13 (3) RELATING TO THE ENERGY POLICY ACT OF
14 1992.—Section 160(a) of the Energy Policy Act of
15 1992 (42 U.S.C. 8262f(a)) is amended (in the matter
16 before paragraph (1)) by striking all that follows “(5
17 U.S.C. App.)” and before “shall—”.

18 (g) EFFECTIVE DATE; TRANSITION PROVISIONS.—

19 (1) EFFECTIVE DATE.—Except as provided in
20 paragraph (2) or subsection (c), this section and the
21 amendments made by this section shall take effect on
22 the date of the enactment of this Act.

23 (2) TRANSITION PROVISIONS.—

24 (A) PRESIDENTIAL APPOINTMENT AUTHOR-
25 ITY AVAILABLE IMMEDIATELY.—The authority to

1 *appoint an Inspector General of the United*
2 *States Postal Service in accordance with the*
3 *amendments made by this section shall be avail-*
4 *able as of the effective date of this section.*

5 *(B) CONTINUATION IN OFFICE.—Pending*
6 *the appointment of an Inspector General of the*
7 *United States Postal Service in accordance with*
8 *the amendments made by this section, the indi-*
9 *vidual serving as the Inspector General of the*
10 *United States Postal Service on the day before*
11 *the effective date of this section may continue to*
12 *serve—*

13 *(i) in accordance with applicable pro-*
14 *visions of the Inspector General Act of 1978*
15 *and (except as provided in clause (ii)) of*
16 *title 39, United States Code, as last in effect*
17 *before the effective date of this Act; but*

18 *(ii) subject to the provisions of such*
19 *title 39 as amended by subsection (e) of this*
20 *section (deeming any reference to the “In-*
21 *pector General” in such provisions, as so*
22 *amended, to refer to the individual con-*
23 *tinuing to serve under authority of this sub-*
24 *paragraph) and subparagraph (C).*

1 (C) AUTHORIZATION OF APPROPRIA-
2 TIONS.—

3 (i) IN GENERAL.—Notwithstanding
4 any other provision of this subsection, sec-
5 tion 8L(e) of the Inspector General Act of
6 1978 (as amended by this section) shall be
7 effective for purposes of fiscal years begin-
8 ning on or after October 1, 2005.

9 (ii) SAVINGS PROVISION.—For pur-
10 poses of the fiscal year ending on September
11 30, 2005, funding for the Office of Inspector
12 General of the United States Postal Service
13 shall be made available in the same manner
14 as if this Act had never been enacted.

15 (D) ELIGIBILITY OF PRIOR INSPECTOR GEN-
16 ERAL.—Nothing in this Act shall prevent any
17 individual who has served as Inspector General
18 of the United States Postal Service at any time
19 before the date of the enactment of this Act from
20 being appointed to that position pursuant to the
21 amendments made by this section.

22 **TITLE VII—EVALUATIONS**

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

24 (a) REPORT BY THE POSTAL SERVICE.—The United
25 States Postal Service shall, within 12 months after the date

1 *of the enactment of this Act, submit to the President, the*
2 *Congress, and the Postal Regulatory Commission, a written*
3 *report on universal postal service in the United States*
4 *(hereinafter in this section referred to as “universal serv-*
5 *ice”). Such report shall include at least the following:*

6 (1) *A comprehensive review of the history and*
7 *development of universal service, including how the*
8 *scope and standards of universal service have evolved*
9 *over time.*

10 (2) *The scope and standards of universal service*
11 *provided under current law (including sections 101*
12 *and 403 of title 39, United States Code) and current*
13 *rules, regulations, policy statements, and practices of*
14 *the Postal Service.*

15 (3) *A description of any geographic areas, popu-*
16 *lations, communities, organizations, or other groups*
17 *or entities not currently covered by universal service*
18 *or that are covered but that are receiving services de-*
19 *ficient in scope or quality or both.*

20 (4) *The scope and standards of universal service*
21 *likely to be required in the future in order to meet the*
22 *needs and expectations of the American public, in-*
23 *cluding all types of mail users, based on such assump-*
24 *tions or alternative sets of assumptions as the Postal*
25 *Service considers plausible.*

1 (5) *Such recommendations as the Postal Service*
2 *considers appropriate.*

3 (b) *REPORT BY THE POSTAL REGULATORY COMMIS-*
4 *SION.—The Postal Regulatory Commission shall, within 12*
5 *months after receiving the report of the Postal Service under*
6 *subsection (a), submit to the President and the Congress a*
7 *written report evaluating the report of the Postal Service.*
8 *The report of the Commission shall include at least the fol-*
9 *lowing:*

10 (1) *Such comments and observations relating to*
11 *the matters addressed in the Postal Service’s report as*
12 *the Commission considers appropriate.*

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

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

18 (A) *the assumptions or respective sets of as-*
19 *sumptions of the Postal Service described in sub-*
20 *section (a)(4); and*

21 (B) *such other assumptions or sets of as-*
22 *sumptions as the Commission considers plau-*
23 *sible.*

24 (4) *Such additional topics and recommendations*
25 *as the Commission considers appropriate.*

1 *has been afforded to the Postal Service to review such report*
2 *and to submit written comments thereon. Any comments*
3 *timely received from the Postal Service under the preceding*
4 *sentence shall be attached to the report submitted under sub-*
5 *section (a).*

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

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

13 (A) *a description of how such section has*
14 *operated; and*

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

18 (2) *COMPETITIVE PRODUCTS FUND.—With re-*
19 *spect to the Postal Service Competitive Products Fund*
20 *(under section 2011 of title 39, United States Code,*
21 *as amended by section 301), in consultation with the*
22 *Secretary of the Treasury—*

23 (A) *a description of how such Fund has op-*
24 *erated;*

1 (B) any suggestions as to how the operation
2 of such Fund might be improved; and

3 (C) a description and assessment of alter-
4 native accounting or financing mechanisms that
5 might be used to achieve the objectives of such
6 Fund.

7 (3) *ASSUMED FEDERAL INCOME TAX ON COM-*
8 *PETITIVE PRODUCTS FUND.*—With respect to section
9 3634 of title 39, United States Code (as amended by
10 this Act), in consultation with the Secretary of the
11 Treasury—

12 (A) a description of how such section has
13 operated; and

14 (B) recommendations as to whether or not
15 such section should remain in effect and, if so,
16 any suggestions as to how it might be improved.

17 **SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COM-**
18 **PETITIVE PRODUCTS.**

19 (a) *IN GENERAL.*—The Federal Trade Commission
20 shall prepare and submit to the President, the Congress,
21 and the Postal Regulatory Commission, within 1 year after
22 the date of the enactment of this Act, a comprehensive report
23 identifying Federal and State laws that apply differently
24 to the United States Postal Service with respect to the com-
25 petitive category of mail (within the meaning of section 102

1 *of title 39, United States Code, as amended by section 101)*
2 *and private companies providing similar products.*

3 **(b) RECOMMENDATIONS; ADJUSTMENTS.**—*The Federal*
4 *Trade Commission shall include such recommendations as*
5 *it considers appropriate for bringing such legal differences*
6 *to an end and, in the interim, to account under section*
7 *3633, for the net economic effects provided by those laws.*

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

15 **(d) COMPETITIVE PRODUCT RATE REGULATION.**—*The*
16 *Postal Regulatory Commission shall take into account the*
17 *recommendations of the Federal Trade Commission, and*
18 *subsequent events that affect the continuing validity of the*
19 *estimate of the net economic effect, in promulgating or re-*
20 *vising the regulations required by section 3633 of title 39,*
21 *United States Code.*

1 **SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECU-**
2 **TIVE AND ADMINISTRATIVE SCHEDULE MAN-**
3 **AGEMENT POSITIONS.**

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

11 (b) *PERFORMANCE EVALUATIONS.*—*The United States*
12 *Postal Service shall, as soon as practicable, take such meas-*
13 *ures as may be necessary to ensure that, for purposes of*
14 *conducting performance appraisals of supervisory or mana-*
15 *gerial employees, appropriate consideration shall be given*
16 *to meeting affirmative action goals, achieving equal em-*
17 *ployment opportunity requirements, and implementation of*
18 *plans designed to achieve greater diversity in the workforce.*

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

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

1 **(b) REPORT.**—Not later than 1 year after the date of
2 *the enactment of this Act, the United States Postal Service*
3 *shall submit to the Board of Governors and to Congress a*
4 *written report describing its plan under this section.*

5 **SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND**
6 **SMALL BUSINESSES.**

7 *The Board of Governors shall study and, within 1 year*
8 *after the date of the enactment of this Act, submit to the*
9 *President and the Congress a report concerning the number*
10 *and value of contracts and subcontracts the Postal Service*
11 *has entered into with women, minorities, and small busi-*
12 *nesses.*

13 **SEC. 707. RATES FOR PERIODICALS.**

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

18 **(1)** *the quality, accuracy, and completeness of the*
19 *information used by the Postal Service in deter-*
20 *mining the direct and indirect postal costs attrib-*
21 *utable to periodicals; and*

22 **(2)** *any opportunities that might exist for im-*
23 *proving efficiencies in the collection, handling, trans-*
24 *portation, or delivery of periodicals by the Postal*

1 *Service, including any pricing incentives for mailers*
2 *that might be appropriate.*

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

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

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

13 **(b) SPECIFIC REQUIREMENTS.**—*The study and report*
14 *shall specifically address the adequacy and fairness of the*
15 *process by which assessments under section 3626(k) of title*
16 *39, United States Code, are determined and appealable, in-*
17 *cluding—*

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

21 (2) *whether a statute of limitations should be es-*
22 *tablished for the commencement of proceedings by the*
23 *Postal Service thereunder.*

1 **SEC. 709. NETWORK OPTIMIZATION.**

2 (a) *IN GENERAL.*—*The Postal Service shall, within 90*
3 *days after the end of each fiscal year, prepare and submit*
4 *to the Postal Regulatory Commission, the Congress, and the*
5 *Board of Governors a written report on the postal proc-*
6 *essing, transportation, and distribution networks. Such re-*
7 *port shall include at least the following:*

8 (1) *An account of actions taken during the pre-*
9 *ceding fiscal year to improve the efficiency and effec-*
10 *tiveness of the processing, transportation, and dis-*
11 *tribution networks, while preserving the timely deliv-*
12 *ery of postal services.*

13 (2) *An account of—*

14 (A) *actions taken to identify any excess ca-*
15 *capacity within the processing, transportation, and*
16 *distribution networks; and*

17 (B) *actions taken to implement savings*
18 *through realignment or consolidation of facili-*
19 *ties.*

20 (3) *Identification of statutory or regulatory ob-*
21 *stacles that prevented or will prevent the Postal Serv-*
22 *ice from taking action to realign or consolidate facili-*
23 *ties.*

24 (4) *Such additional topics and recommendations*
25 *as the Postal Service considers appropriate.*

1 **(b) TREATMENT AS PERFORMANCE GOALS.**—*The Post-*
2 *al Service shall establish and report the matters set forth*
3 *in subsection (a) as performance goals in the reports re-*
4 *quired by sections 2803 and 2804.*

5 **(c) ACTIONS TO BE TAKEN.**—*The Postal Service shall*
6 *take such actions it considers, in its sole discretion, nec-*
7 *essary and appropriate to provide the Nation with a mod-*
8 *ern and efficient network for the processing, transportation,*
9 *and distribution of mail. Nothing in this section shall pre-*
10 *vent the Postal Service from making such improvements in*
11 *the efficiency and effectiveness of the network as it deems*
12 *appropriate.*

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

15 **(a) APPOINTMENT OF RESEARCH ORGANIZATION.**—
16 *Not later than 90 days after the date of the enactment of*
17 *this Act, the Comptroller General of the United States shall*
18 *appoint, in such manner and under such terms as he in*
19 *his sole discretion determines appropriate, an independent,*
20 *impartial, and expert research organization (hereinafter in*
21 *this section referred to as the “research organization”) to*
22 *prepare and submit to the President and to Congress a com-*
23 *prehensive report that evaluates what business model would*
24 *best promote an efficient, reliable, innovative, and viable*
25 *Postal Service that can meet the needs of the Nation and*

1 *its citizens in the 21st century. The final report required*
2 *by this section shall be submitted within 27 months of the*
3 *date of the enactment of this Act. The final report shall*
4 *identify costs, benefits, and feasible options, if any, associ-*
5 *ated with one or more strategies for—*

6 (1) *maintaining the Postal Service in its current*
7 *form as an independent establishment in the executive*
8 *branch of the Government; and*

9 (2) *transforming the Postal Service into an ordi-*
10 *nary corporation, owned wholly by the Government,*
11 *wholly by private shareholders, or partly by the Gov-*
12 *ernment and partly by private shareholders.*

13 (b) *PROTECTION OF UNIVERSAL SERVICE.—The re-*
14 *search organization may include such recommendations as*
15 *it considers appropriate with respect to how the Postal*
16 *Service’s business model can be maintained or transformed*
17 *in an orderly manner that will minimize adverse effects on*
18 *all interested parties and assure continued availability of*
19 *affordable, universal postal service throughout the United*
20 *States (based on the reports required by section 701). The*
21 *research organization shall not consider any strategy or*
22 *other course of action that would pose a significant risk*
23 *to the continued availability of affordable, universal postal*
24 *service throughout the United States.*

25 (c) *ELEMENTS OF REPORT.—*

1 (1) *TOPICS TO ADDRESS.*—*The report shall ad-*
2 *dress at least the following:*

3 (A) *Specification of nature and bases of one*
4 *or more sets of reasonable assumptions about the*
5 *development of the postal services market, to the*
6 *extent that such assumptions may be necessary*
7 *or appropriate for each strategy identified by the*
8 *research organization.*

9 (B) *Specification of the nature and bases of*
10 *one or more sets of reasonable assumptions about*
11 *the development of the regulatory framework for*
12 *postal services, to the extent that such assump-*
13 *tions may be necessary or appropriate for each*
14 *strategy identified by the research organization.*

15 (C) *Qualitative and, to the extent possible,*
16 *quantitative effects that each strategy identified*
17 *by the research organization may have on uni-*
18 *versal service generally, the Postal Service, mail-*
19 *ers, postal employees, private companies that*
20 *provide delivery services, and the general public.*

21 (D) *Financial effects that each strategy*
22 *identified by the research organization may have*
23 *on the Postal Service, postal employees, the*
24 *Treasury of the United States, and other affected*

1 *parties, including the American mailing con-*
2 *sumer.*

3 *(E) Feasible and appropriate procedural*
4 *steps and timetables for implementing each*
5 *strategy identified by the research organization.*

6 *(F) Such additional topics as the Comp-*
7 *troller General or the research organization shall*
8 *consider necessary and appropriate.*

9 *(2) MATTERS TO CONSIDER.—For each strategy*
10 *identified, the research organization shall assess how*
11 *each business model might—*

12 *(A) address the human-capital challenges*
13 *facing the Postal Service, including how em-*
14 *ployee-management relations within the Postal*
15 *Service may be improved;*

16 *(B) optimize the postal infrastructure, in-*
17 *cluding the best methods for providing retail*
18 *services that ensure convenience and access to*
19 *customers;*

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

22 *(D) minimize areas of inefficiency or waste*
23 *and improve operations involved in the collec-*
24 *tion, processing, or delivery of mail; and*

1 (E) *impact other matters that the Comp-*
2 *troller General or the research organization de-*
3 *termines are relevant to evaluating a viable long-*
4 *term business model for the Postal Service.*

5 (3) *EXPERIENCES OF OTHER COUNTRIES.—In*
6 *preparing the report required by subsection (a), the*
7 *research organization shall comprehensively and*
8 *quantitatively investigate the experiences of other in-*
9 *dustrialized countries that have transformed the na-*
10 *tional post office. The research organization shall un-*
11 *dertake such original research as it deems necessary.*
12 *In each case, the research organization shall describe*
13 *as fully as possible the costs and benefits of trans-*
14 *formation of the national post office on all affected*
15 *parties and shall identify any lessons that foreign ex-*
16 *perience may imply for each strategy identified by*
17 *the research organization.*

18 (d) *OUTSIDE EXPERTS.—In preparing its study, the*
19 *research organization may retain the services of additional*
20 *experts and consultants.*

21 (e) *CONSULTATION.—In preparing its report, the re-*
22 *search organization shall consult fully with the Postal Serv-*
23 *ice, the Postal Regulatory Commission, other Federal agen-*
24 *cies, postal employee unions and management associations,*
25 *mailers, private companies that provide delivery services,*

1 *and the general public. The research organization shall in-*
2 *clude with its final report a copy of all formal written com-*
3 *ments received under this subsection.*

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

7 **SEC. 711. STUDY ON CERTAIN PROPOSED AMENDMENTS.**

8 *The Government Accountability Office shall study and,*
9 *within 12 months after the date of the enactment of this*
10 *Act, submit to the Congress a report on sections 805 and*
11 *807 of H.R. 22 (109th Congress), as introduced. Such report*
12 *shall include the following:*

13 (1) *A description of the efficiencies of the current*
14 *system under section 5402 of title 39, United States*
15 *Code.*

16 (2) *The potential for cost savings to the United*
17 *States Postal Service if the Postal Service, rather*
18 *than the Department of Transportation, were to ad-*
19 *minister international mail carriage.*

20 (3) *The potential for harm to domestic air car-*
21 *riers and American workers currently employed by*
22 *domestic air carriers.*

23 (4) *The potential loss of revenue to domestic air*
24 *carriers and American workers currently employed by*
25 *domestic air carriers.*

1 (5) *The process by which the United States Post-*
2 *al Service would administer any changes in current*
3 *law.*

4 (6) *The process by which the Department of*
5 *Transportation administers current law.*

6 (7) *The potential for change in protection of na-*
7 *tional security by carriage by foreign carriers of*
8 *international mail to and from the United States.*

9 **SEC. 712. 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. INVESTMENTS.**

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

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

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

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

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

20 **SEC. 806. REDUCED RATES.**

21 *Section 3626 of title 39, United States Code, is amend-*
22 *ed—*

23 (1) *in subsection (a), by striking all before para-*
24 *graph (4) and inserting the following:*

1 “(a)(1) *Except as otherwise provided in this section,*
2 *rates of postage for a class of mail or kind of mailer under*
3 *former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c)*
4 *of this title shall be established in accordance with section*
5 *3622.*

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

9 “(3) *Rates of postage for a class of mail or kind of*
10 *mailer under former section 4358(a) through (c) of this title*
11 *shall be established so that postage on each mailing of such*
12 *mail reflects its preferred status as compared to the postage*
13 *for the most closely corresponding regular-rate category*
14 *mailing.”;*

15 (2) *in subsection (g), by adding at the end the*
16 *following:*

17 “(3) *For purposes of this section and former section*
18 *4358(a) through (c) of this title, those copies of an issue*
19 *of a publication entered within the county in which it is*
20 *published, but distributed outside such county on postal*
21 *carrier routes originating in the county of publication, shall*
22 *be treated as if they were distributed within the county of*
23 *publication.*

24 “(4)(A) *In the case of an issue of a publication, any*
25 *number of copies of which are mailed at the rates of postage*

1 *for a class of mail or kind of mailer under former section*
2 *4358(a) through (c) of this title, any copies of such issue*
3 *which are distributed outside the county of publication (ex-*
4 *cluding any copies subject to paragraph (3)) shall be subject*
5 *to rates of postage provided for under this paragraph.*

6 “(B) *The rates of postage applicable to mail under this*
7 *paragraph shall be established in accordance with section*
8 *3622.*

9 “(C) *This paragraph shall not apply with respect to*
10 *an issue of a publication unless the total paid circulation*
11 *of such issue outside the county of publication (not counting*
12 *recipients of copies subject to paragraph (3)) is less than*
13 *5,000.”; and*

14 *(3) by adding at the end the following:*

15 “(n) *In the administration of this section, matter that*
16 *satisfies the circulation standards for requester publications*
17 *shall not be excluded from being mailed at the rates for mail*
18 *under former section 4358 solely because such matter is de-*
19 *signed primarily for free circulation or for circulation at*
20 *nominal rates, or fails to meet the requirements of former*
21 *section 4354(a)(5).”.*

22 **SEC. 807. HAZARDOUS MATTER.**

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

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

3 (2) *by inserting after subsection (m) the fol-*
4 *lowing:*

5 “(n)(1) *Except as otherwise authorized by law or regu-*
6 *lations of the Postal Service, hazardous material is non-*
7 *mailable.*

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

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

13 **“§ 3018. Hazardous material**

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

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

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

21 “(2) *mail or cause to be mailed hazardous mate-*
22 *rial in violation of any statute or Postal Service reg-*
23 *ulation restricting the time, place, or manner in*
24 *which hazardous material may be mailed; or*

1 “(3) *manufacture, distribute, or sell any con-*
2 *tainer, packaging kit, or similar device that—*

3 “(A) *is represented, marked, certified, or*
4 *sold by such person for use in the mailing of*
5 *hazardous material; and*

6 “(B) *fails to conform with any statute or*
7 *Postal Service regulation setting forth standards*
8 *for a container, packaging kit, or similar device*
9 *used for the mailing of hazardous material.*

10 “(c) *CIVIL PENALTY; CLEAN-UP COSTS AND DAM-*
11 *AGES.—*

12 “(1) *IN GENERAL.—A person who knowingly vio-*
13 *lates this section or a regulation prescribed under this*
14 *section shall be liable for—*

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

17 “(B) *the costs of any clean-up associated*
18 *with each violation; and*

19 “(C) *damages.*

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

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

1 “(B) a reasonable person acting in the cir-
2 cumstances and exercising reasonable care would
3 have had that knowledge.

4 “(3) SEPARATE VIOLATIONS.—

5 “(A) VIOLATIONS OVER TIME.—A separate
6 violation under this subsection occurs for each
7 day hazardous material, mailed or caused to be
8 mailed in noncompliance with this section, is in
9 the mail.

10 “(B) SEPARATE ITEMS.—A separate viola-
11 tion under this subsection occurs for each item
12 containing hazardous material that is mailed or
13 caused to be mailed in noncompliance with this
14 section.

15 “(d) HEARINGS.—The Postal Service may determine
16 that a person has violated this section or a regulation pre-
17 scribed under this section only after notice and an oppor-
18 tunity for a hearing. Proceedings under this section shall
19 be conducted in accordance with section 3001(m).

20 “(e) PENALTY CONSIDERATIONS.—In determining the
21 amount of a civil penalty for a violation of this section,
22 the Postal Service shall consider—

23 “(1) the nature, circumstances, extent, and grav-
24 ity of the violation;

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

5 “(3) *the impact on Postal Service operations;*
6 *and*

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

8 “(f) *CIVIL ACTIONS TO COLLECT.—*

9 “(1) *IN GENERAL.—In accordance with section*
10 *409(d), a civil action may be commenced in an ap-*
11 *propriate district court of the United States to collect*
12 *a civil penalty, clean-up costs, and damages assessed*
13 *under subsection (c).*

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

20 “(g) *CIVIL JUDICIAL PENALTIES.—*

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

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

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

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

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

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

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

20 (A) *in paragraph (7), by striking “and” after*
21 *the semicolon;*

22 (B) *in paragraph (8), by striking “purposes.”*
23 *and inserting “purposes; and”; and*

24 (C) *by adding at the end the following:*

25 “(9) *any amounts collected under section 3018.”.*

1 (2) *The analysis for chapter 30 of title 39, United*
2 *States Code, is amended by adding at the end the following:*

 “3018. *Hazardous material.*”.

3 (d) *INJURIOUS ARTICLES AS NONMAILABLE.*—Section
4 *1716(a) of title 18, United States Code, is amended by in-*
5 *serting after “explosives,” the following: “hazardous mate-*
6 *rials.”.*

7 **SEC. 808. PROVISIONS RELATING TO COOPERATIVE MAIL-**
8 **INGS.**

9 (a) *DETERMINATION.*—*The Postal Regulatory Com-*
10 *mission shall examine section E670.5.3 of the Domestic*
11 *Mail Manual to determine whether it contains adequate*
12 *safeguards to protect against (1) abuses of rates for non-*
13 *profit mail and (2) deception of consumers.*

14 (b) *REGULATIONS.*—*If the Postal Regulatory Commis-*
15 *sion determines that section E670.5.3 of the Domestic Mail*
16 *Manual does not contain adequate safeguards as described*
17 *in the preceding subsection, the Commission shall promul-*
18 *gate such regulations as may be necessary to ensure such*
19 *safeguards.*

20 (c) *TIMING.*—*The Postal Regulatory Commission shall*
21 *complete the examination required by subsection (a) and*
22 *the promulgation of any necessary regulations required by*
23 *subsection (b) within one year after the date of the enact-*
24 *ment of this section.*

1 **SEC. 809. TECHNICAL AND CONFORMING AMENDMENTS.**

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

5 (b) *SIZE AND WEIGHT LIMITS.*—Section 3682 of title
6 39, *United States Code*, is amended to read as follows:

7 **“§ 3682. Size and weight limits**

8 “The Postal Service may establish size and weight lim-
9 itations for mail matter in the market-dominant category
10 of mail consistent with regulations the Postal Regulatory
11 Commission may prescribe under section 3622. The Postal
12 Service may establish size and weight limitations for mail
13 matter in the competitive category of mail consistent with
14 its authority under section 3632.”.

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

17 (1) in section 503 (as so redesignated by section
18 501), by striking “this chapter.” and inserting “this
19 title.”; and

20 (2) in section 2401(d), by inserting “(as last in
21 effect before enactment of the *Postal Accountability*
22 *and Enhancement Act*)” after “3626(a)” and after
23 “3626(a)(3)(B)(ii)”.

24 (d) *APPROPRIATIONS AND REPORTING REQUIRE-*
25 *MENTS.*—

1 (1) *APPROPRIATIONS.*—Subsection (e) of section
2 2401 of title 39, United States Code, is amended—

3 (A) by striking “Committee on Post Office
4 and Civil Service” each place it appears and in-
5 serting “Committee on Government Reform”;
6 and

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

9 (2) *REPORTING REQUIREMENTS.*—Sections
10 2803(a) and 2804(a) of title 39, United States Code,
11 are amended by striking “2401(g)” and inserting
12 “2401(e)”.

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

20 “(b) Except as otherwise provided, the Governors are
21 authorized to establish reasonable and equitable classes of
22 mail and reasonable and equitable rates of postage and fees
23 for postal services in accordance with the provisions of
24 chapter 36. Postal rates and fees shall be reasonable and
25 equitable and sufficient to enable the Postal Service, under

1 *best practices of honest, efficient, and economical manage-*
2 *ment, to maintain and continue the development of postal*
3 *services of the kind and quality adapted to the needs of the*
4 *United States.*

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

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

20 (g) *MISCELLANEOUS.—Title 39, United States Code,*
21 *is amended—*

22 (1) *in section 1005(d)(2)—*

23 (A) *by striking “subsection (g) of section*
24 5532,”; and

1 (B) by striking “8344,” and inserting
2 “8344”;

3 (2) in the analysis for part III, by striking the
4 item relating to chapter 28 and inserting the fol-
5 lowing:

“28. Strategic Planning and Performance Management 2801”;

6 (3) in section 3005(a)—

7 (A) in the matter before paragraph (1), by
8 striking all that follows “nonmailable” and pre-
9 cedes “(h),” and inserting “under section
10 3001(d),”; and

11 (B) in the sentence following paragraph (3),
12 by striking all that follows “nonmailable” and
13 precedes “(h),” and inserting “under such section
14 3001(d),”;

15 (4) in section 3210(a)(6)(C), by striking the
16 matter after “if such mass mailing” and before “than
17 60 days” and inserting “is postmarked fewer”; and

18 (5) by striking the heading for section 3627 and
19 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, a Postal sur-
 14 plus (or supplemental liability) is the amount, as estimated
 15 by the Office, by which—

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, is less than (or greater than)

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 such surplus or supplemental liability is
3 determined, attributable to payments to the
4 Fund by the Postal Service and its employees,
5 plus the earnings on such amounts while in the
6 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)(i) *The Postal Service shall pay to the Office the*
2 *amounts due under any amortization schedule established*
3 *under this paragraph, to the extent not superseded or can-*
4 *celed.*

5 “(ii) *A determination under subparagraph (B)(i) or*
6 *(C)(i) that no supplemental liability exists shall cancel any*
7 *amortization schedule previously established under this*
8 *paragraph, to the extent of any amounts first coming due*
9 *after the close of the fiscal year to which such determination*
10 *relates.*

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

18 “(4) *As used in this subsection, ‘Postal Service Retiree*
19 *Health Benefits Fund’ refers to the Postal Service Retiree*
20 *Health Benefits Fund, as established by section 8909a.’’.*

21 (c) *PROVISIONS RELATING TO AMOUNTS FOR MILI-*
22 *TARY SERVICE.—In the application of paragraph (2) of sec-*
23 *tion 8348(g) of title 5, United States Code, for fiscal year*
24 *2006, the Office of Personnel Management shall include, in*
25 *addition to the amount otherwise computed under that*

1 paragraph, the amounts that would have been included for
2 fiscal years 2003 through 2005 with respect to credit for
3 military service of former employees of the United States
4 Postal Service if Public Law 108-18 had not been enacted
5 (including earnings thereon) and the Secretary of the Treas-
6 ury shall make the required transfer to the Civil Service
7 Retirement and Disability Fund based on that amount.

8 (d) REVIEW.—

9 (1) IN GENERAL.—Notwithstanding any other
10 provision of this section, any determination or rede-
11 termination made by the Office of Personnel Manage-
12 ment under this section shall, upon request of the
13 United States Postal Service, be subject to review by
14 the Postal Regulatory Commission. The Commission
15 shall submit a report containing the results of any
16 such review to the Postal Service, the Office of Per-
17 sonnel Management, and the Congress.

18 (2) RESPONSE.—Upon receiving the report of the
19 Postal Regulatory Commission, the Office of Per-
20 sonnel Management shall reconsider its determination
21 or redetermination in light of such report, and shall
22 make any appropriate adjustments. The Office shall
23 submit a report containing the results of its reconsid-
24 eration to the Commission, the Postal Service, and the
25 Congress.

1 **SEC. 902. HEALTH INSURANCE.**

2 (a) *IN GENERAL.*—Chapter 89 of title 5, United States
3 Code, is amended—

4 (1) *in section 8906(g)(2)(A), by striking “by the*
5 *United States Postal Service.” and inserting “first*
6 *from the Postal Service Retiree Health Benefits Fund*
7 *up to the amount contained therein, with any re-*
8 *maining amount paid by the United States Postal*
9 *Service.”;*

10 (2) *by inserting after section 8909 the following:*

11 **“§ 8909a. Postal Service Retiree Health Benefits Fund**

12 “(a) *There is in the Treasury of the United States a*
13 *Postal Service Retiree Health Benefits Fund (hereinafter in*
14 *this section referred to as the ‘Fund’) which is administered*
15 *by the Office of Personnel Management. Any amounts*
16 *transferred to the Fund under section 8348(h)(2) shall yield*
17 *interest at a rate equal to the weighted average yield of all*
18 *the investments in the Civil Service Retirement and Dis-*
19 *ability Fund as of the date of transfer. All other investments*
20 *of amounts in the Fund shall be made in accordance with*
21 *subsections (c)–(e) of section 8348.*

22 “(b) *The Fund is available without fiscal year limita-*
23 *tion for payments required by section 8906(g)(2).*

24 “(c)(1) *Not later than June 30, 2006, and by June*
25 *30 of each succeeding year, the Office of Personnel Manage-*
26 *ment shall compute the net present value of the excess of*

1 *future payments required by section 8906(g)(2)(A) for cur-*
2 *rent and future United States Postal Service annuitants*
3 *over the value of the assets of the Fund as of the end of*
4 *the fiscal year ending on September 30 of that year. The*
5 *actuarial costing method to be used by the Office and all*
6 *actuarial assumptions shall be established by the Office*
7 *after consultation with the United States Postal Service and*
8 *must be in accordance with generally accepted actuarial*
9 *practices and principles.*

10 “(2) Not later than September 30, 2006, and by Sep-
11 *tember 30 of each succeeding year, the Office shall compute*
12 *and the United States Postal Service shall pay into such*
13 *Fund—*

14 “(A) *the portion of the net present value de-*
15 *scribed in paragraph (1) attributable to the current*
16 *year’s service of Postal Service employees; and*

17 “(B) *interest on the net present value described*
18 *in paragraph (1) for that fiscal year, at the interest*
19 *rate used in computing that net present value;*

20 *except that the amount otherwise payable by the Postal*
21 *Service under the preceding provisions of this paragraph*
22 *by not later than September 30, 2006, shall be reduced by*
23 *the total contributions made by the Postal Service under*
24 *section 8906(g)(2) and attributable to fiscal year 2006 (as*
25 *determined by the Office).*

1 “(3)(A) Any computation or other determination of the
2 Office under this subsection shall, upon request of the Postal
3 Service, be subject to review by the Postal Regulatory Com-
4 mission. The Commission shall submit a report containing
5 the results of any such review to the Postal Service, the Of-
6 fice of Personnel Management, and the Congress.

7 “(B) Upon receiving the report of the Postal Regu-
8 latory Commission, the Office of Personnel Management
9 shall reconsider its computation or other determination in
10 light of such report, and shall make any appropriate adjust-
11 ments. The Office shall submit a report containing the re-
12 sults of its reconsideration to the Commission, the Postal
13 Service, and the Congress.

14 “(4) The Office shall promulgate, after consultation
15 with the United States Postal Service, any regulations it
16 deems necessary under this subsection.”; and

17 (3) in the analysis by inserting after the item re-
18 lating to section 8909 the following:

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

19 (b) REVIEW.—

20 (1) IN GENERAL.—Any regulation established
21 under section 8909a(c)(4) of title 5, United States
22 Code (as amended by subsection (a)) shall, upon re-
23 quest of the Postal Service, be subject to review by the
24 Postal Regulatory Commission. The Commission shall
25 submit a report containing the results of any such re-

1 *view to the Postal Service, the Office of Personnel*
2 *Management, and the Congress.*

3 (2) *RESPONSE.*—*Upon receiving the report of the*
4 *Postal Regulatory Commission, the Office of Per-*
5 *sonnel Management shall reconsider its regulation in*
6 *light of such report, and shall take such action as it*
7 *considers appropriate. The Office shall submit a re-*
8 *port containing the results of its reconsideration to*
9 *the Commission, the Postal Service, and the Congress.*

10 **SEC. 903. REPEALER.**

11 *Section 3 of Public Law 108–18 is repealed.*

12 **SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND**
13 **MILITARY SAVINGS.**

14 (a) *DEFINITION.*—*For purposes of this section, the*
15 *term “total savings” means, for any fiscal year, the amount*
16 *equal to—*

17 (1) *the amount of contributions that the Postal*
18 *Service would otherwise have been required to make*
19 *to the Civil Service Retirement and Disability Fund*
20 *under subchapter III of chapter 83 of title 5, United*
21 *States Code, for such fiscal year if Public Law 108-*
22 *18 and this Act had not been enacted, minus*

23 (2) *the amount of amortization payments (if*
24 *any) required under section 8348(h)(2) of title 5,*
25 *United States Code, for such fiscal year.*

1 (b) *CALCULATIONS.*—*The following calculations shall*
2 *be made for each of fiscal years 2006 through 2015:*

3 (1) *Not later than January 31 of the fiscal year*
4 *following the fiscal year involved, the Office of Per-*
5 *sonnel Management (in consultation with the Postal*
6 *Service) shall determine the total savings for the fiscal*
7 *year.*

8 (2) *On the date of making its determination*
9 *under paragraph (1), the Office shall also determine*
10 *(in consultation with the Postal Service) the amount*
11 *by which—*

12 (A) *the amount the Postal Service paid for*
13 *that fiscal year into the Postal Service Retiree*
14 *Health Benefits Fund in accordance with*
15 *8909a(c)(2) of title 5, United States Code, ex-*
16 *ceeds (if at all)*

17 (B) *the amount of payments made by the*
18 *Postal Service for that fiscal year from such*
19 *Fund in order to satisfy the requirements of sec-*
20 *tion 8906(g)(2) of such title 5.*

21 (c) *REQUIREMENTS.*—

22 (1) *IF THRESHOLD IS MET.*—*If the amount cal-*
23 *culated under subsection (b)(2) for a fiscal year is*
24 *greater than or equal to two-thirds of the total savings*

1 *in such fiscal year, no further action under this sec-*
2 *tion is necessary with respect to such fiscal year.*

3 (2) *IF THRESHOLD IS NOT MET.*—

4 (A) *IN GENERAL.*—*If the amount calculated*
5 *under subsection (b)(2) for a fiscal year is less*
6 *than two-thirds of the total savings in such fiscal*
7 *year, the Postal Service shall pay into the Postal*
8 *Service Retiree Health Benefits Fund, by June*
9 *30 of the following fiscal year, an amount equal*
10 *to the difference.*

11 (B) *ALLOWABLE ALTERNATIVE.*—

12 (i) *IN GENERAL.*—*Notwithstanding*
13 *subparagraph (A), and subject to clause (ii),*
14 *the Postal Service may instead use the*
15 *amount that it would otherwise be required*
16 *to pay into the Postal Service Retiree*
17 *Health Benefits Fund for a year (or any*
18 *portion thereof) to reduce the postal debt.*

19 (ii) *LIMITATION.*—*Amounts used to re-*
20 *duce the postal debt under this subpara-*
21 *graph may not exceed a total of*
22 *\$3,000,000,000.*

23 (3) *AGGREGATION ALLOWED.*—*Notwithstanding*
24 *paragraph (2), if the amount calculated under sub-*
25 *section (b)(2) for a fiscal year is less than two-thirds*

1 of the total savings in such fiscal year, but the sum
2 of the amounts calculated under subsection (b)(2) for
3 all fiscal years from 2006 to the fiscal year involved
4 is greater than or equal to two-thirds of the sum of
5 the total savings for such years, no further action
6 under this section is necessary with respect to such
7 fiscal year.

8 (d) **REPORTING REQUIREMENT.**—The Office of Per-
9 sonnel Management shall submit a report containing the
10 results of its calculations under subsection (b) to the Postal
11 Service, the Postal Regulatory Commission, and the Con-
12 gress.

13 (e) **WAIVER AUTHORITY.**—The requirements of sub-
14 section (c)(2)(A) may, upon application of the Postal Serv-
15 ice, be waived by the Postal Regulatory Commission, to the
16 extent that the Commission determines that such waiver is
17 reasonable and equitable and necessary to enable the Postal
18 Service, under best practices of honest, efficient, and eco-
19 nomical management, to maintain and continue the devel-
20 opment of postal services of the kind and quality adapted
21 to the needs of the United States.

22 **SEC. 905. EFFECTIVE DATES.**

23 (a) **IN GENERAL.**—Except as otherwise provided, this
24 title shall take effect on October 1, 2005.

1 **(b) GOVERNMENT CONTRIBUTIONS.**—*Section 901(a)*
2 *shall take effect on the first day of the first pay period be-*
3 *ginning on or after October 1, 2005.*

Union Calendar No. 55

109TH CONGRESS
1ST Session

H. R. 22

[Report No. 109-66, Part I]

A BILL

To reform the postal laws of the United States.

MAY 27, 2005

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed