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Part 1

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

APRIL 28, 2005.—Ordered to be printed

Mr. TOM DAVIS of Virginia, from the Committee on Government Reform, submitted the following

R E P O R T

[To accompany H.R. 22]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 22) to reform the postal laws of the United States, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

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Sec. 102. Postal services.
Sec. 103. Financial transparency.

TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.
Sec. 202. Provisions relating to competitive products.
Sec. 203. Provisions relating to experimental and new products.
Sec. 204. Reporting requirements and related provisions.
Sec. 205. Complaints; appellate review and enforcement.
Sec. 206. Workshare discounts.
Sec. 207. Clerical amendment.

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 301. Postal Service Competitive Products Fund.
Sec. 302. Assumed Federal income tax on competitive products income.
Sec. 303. Unfair competition prohibited.
Sec. 304. Suits by and against the Postal Service.
Sec. 305. International postal arrangements.
Sec. 306. Redesignation.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Qualification requirements for Governors.
Sec. 402. Obligations.
Sec. 403. Private carriage of letters.
Sec. 404. Rulemaking authority.
Sec. 405. Noninterference with collective bargaining agreements, etc.
Sec. 406. Bonus and compensation authority.
Sec. 407. Mediation in collective-bargaining disputes.

TITLE V—ENHANCED REGULATORY COMMISSION

Sec. 501. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.
Sec. 503. Appropriations for the Postal Regulatory Commission.
Sec. 504. Redesignation of the Postal Rate Commission.
Sec. 505. Officer of the Postal Regulatory Commission representing the general public.

TITLE VI—INSPECTORS GENERAL

Sec. 601. Inspector General of the Postal Regulatory Commission.
Sec. 602. Inspector General of the United States Postal Service to be appointed by the President.

TITLE VII—EVALUATIONS

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

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

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

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

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

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

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

"(5) 'postal service' means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto;

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

"(7) 'rates', as used with respect to products, includes fees for postal services;

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

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36;

"(10) 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

"(11) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

SEC. 102. POSTAL SERVICES.

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

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

(2) by adding at the end the following:

"(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.".

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

SEC. 103. FINANCIAL TRANSPARENCY.

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

"(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.".

(b) CONFORMING AMENDMENT.—Section 5001 of title 39, United States Code, is amended by striking "101(e) and (f)" and inserting "101(f) and (g)".

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

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

"§ 3621. Applicability; definitions

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

"(1)(A) single piece first-class letters (both domestic and international);

"(B) single piece first-class cards (both domestic and international); and

"(C) special services;

"(2) all first-class mail not included under paragraph (1);

"(3) periodicals;

"(4) standard mail;

"(5) media mail;

"(6) library mail; and

"(7) bound printed matter,

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

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

"§ 3622. Modern rate regulation

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

"(b) OBJECTIVES.—Such system shall be designed to achieve the following objectives:

"(1) To establish and maintain a fair and equitable schedule for rates and classification.

"(2) To maximize incentives to reduce costs and increase efficiency.

"(3) To create predictability and stability in rates.

"(4) To maintain high quality service standards.

"(5) To allow the Postal Service pricing flexibility.

"(6) To assure adequate revenues, including retained earnings, to maintain financial stability.

"(7) To reduce the administrative burden of the ratemaking process.

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

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

"(2) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

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

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

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

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

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

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

"(9) the desirability of special classifications from the point of view of both the user and of the Postal Service;

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

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

"(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

"(1) Price caps, revenue targets, or other form of incentive regulation.

"(2) Cost-of-service regulation.

"(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

"(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

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

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

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS".

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

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

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"§ 3631. Applicability; definitions and updates

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

"(1) priority mail;

"(2) expedited mail;

"(3) mailgrams;

"(4) international mail; and

"(5) parcel post,

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

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

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

"§ 3632. Action of the Governors

"(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) PROCEDURES.—

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

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

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

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

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

"§ 3633. Provisions applicable to rates for competitive products

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

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

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

"(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.".

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

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

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"§ 3641. Market tests of experimental products

"(a) AUTHORITY.—

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

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

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

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

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

"(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

"(c) NOTICE.—

"(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

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

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

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

"(d) DURATION.—

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

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

"(e) DOLLAR-AMOUNT LIMITATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

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

"(2) PUBLICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it changes the list of products in the market-dominant or competitive category of mail, prescribe new lists of products. The revised lists shall indicate

how and when any previous lists (including the lists under sections 3621 and 3631) are superseded, and shall be published in the Federal Register.

"(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

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

"(1) under this subchapter; or

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

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

(a) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect before the amendment made by subsection (b)) is amended by striking the heading for subchapter IV and inserting the following:

"SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW".

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

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"§ 3651. Annual reports by the Commission

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

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

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

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

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

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

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

"§ 3652. Annual reports to the Commission

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

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

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

"(A) market information, including mail volumes; and

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

"(i) the service standard applicable to such product;

"(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

"(iii) the degree of customer satisfaction with the service provided.

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

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

"(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

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

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

"(C) The per-item contribution made to institutional costs.

"(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term 'workshare discount' has the meaning given such term under section 3687.

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

"(1) may report summary data on the costs, revenues, and quality of service by market test; and

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

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

"(e) CONTENT AND FORM OF REPORTS.—

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

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

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

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

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

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

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

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

"(f) CONFIDENTIAL INFORMATION.—

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

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

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

"(1) comprehensive statement under section 2401(e);
"(2) performance plan under section 2803; and
"(3) program performance reports under section 2804.

"§ 3653. Annual determination of compliance

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

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

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

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

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

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

"(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

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

"§ 3654. Additional financial reporting

"(a) ADDITIONAL FINANCIAL REPORTING.—

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

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

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

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

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

"(3) INTERNAL CONTROL REPORT.—For purposes of defining the reports required by paragraph (1)(B), the Postal Service shall comply with the rules prescribed by the Securities and Exchange Commission implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262), beginning with the annual report for fiscal year 2007.

"(b) FINANCIAL REPORTING.—

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

"(A) the funded status of the Postal Service's pension and —postretirement health obligations;

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

"(C) components of net periodic costs;

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

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

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

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

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

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

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

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

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

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

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

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

"(f) CONFIDENTIAL INFORMATION.—

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

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

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

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

"§ 3662. Rate and service complaints

"(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

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

"(A) begin proceedings on such complaint; or

"(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in

the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

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

"(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

"(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

"§ 3663. Appellate review

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

"§ 3664. Enforcement of orders

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

SEC. 206. WORKSHARE DISCOUNTS.

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

"§ 3687. Workshare discounts

"(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as the result of workshare activity, unless—

"(1) the discount is—

"(A) associated with a new postal service, a change to an existing postal service, or a new workshare initiative related to an existing postal service; and

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

"(2) a reduction in the discount would—

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

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

"(C) impede the efficient operation of the Postal Service;

"(3) the amount of the discount above costs avoided—

"(A) is necessary to mitigate rate shock; and

"(B) will be phased out over time; or

"(4) the discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

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

"(1) explains the Postal Service's reasons for establishing or maintaining the rate;

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

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

"(c) DEFINITION.—For purposes of this section, the term 'workshare discount' refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under section 3622(a).".

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

"3687. Workshare discounts.".

SEC. 207. CLERICAL AMENDMENT.

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

"CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

"Sec.
"3621. Applicability; definitions.
"3622. Modern rate regulation.
"3626. Reduced rates.
"3627. Adjusting free rates.
"3629. Reduced rates for voter registration purposes.

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

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

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

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

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

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

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

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

"SUBCHAPTER VI—GENERAL

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

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

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

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

"§ 2011. Provisions relating to competitive products

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

"(1) costs attributable to competitive products; and

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

For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

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

"(1) revenues from competitive products;

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

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

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

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

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

"(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund. Any such borrowings by the Postal Service shall be supported and serviced by the revenues and receipts from competitive products and the assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e), but in either case subject to paragraph (5)).

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

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

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

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

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

"(3) The obligations issued by the Postal Service under this section—

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

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

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

"(D) shall be sold at such prices;

"(E) shall bear such rates of interest;

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

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

"(H) shall be subject to such other terms and conditions;

as the Postal Service determines.

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

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

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

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

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

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

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

"(A) the assets related to the provision of competitive products; or

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

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

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

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

"(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

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

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

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

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

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

"(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

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

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

"(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

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

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

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

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

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

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

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

(3) POSTAL SERVICE FUND.—

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

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

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

(A) in subsection (a), by inserting "or section 2011" before "of this title,";

(B) in subsection (b), by inserting "under section 2005" before "in such amounts" in the first sentence and before "in excess of such amount." in the second sentence; and

(C) in subsection (c), by inserting "or section 2011(e)(4)(E)" before "of this title,".

SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

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

"§ 3634. Assumed Federal income tax on competitive products income

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

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

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

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

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

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

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

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

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

SEC. 303. UNFAIR COMPETITION PROHIBITED.

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

"§ 404a. Specific Limitations

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

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

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

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

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

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

(b) CONFORMING AMENDMENTS.—

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

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

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

"404a. Specific limitations.".

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

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

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

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

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

"(2) This subsection applies with respect to—

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

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

"(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any competitive product, the Postal Service or other Federal agency (as the case may be)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(2) In any circumstance not covered by paragraph (1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it

may require, except that, with the prior consent of the Attorney General, the Postal Service may, in any such circumstance, employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

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

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

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

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

SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.

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

"§ 407. International postal arrangements

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

"(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

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

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

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

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

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

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

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

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

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their

interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

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

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

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

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

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

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

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

"(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

"(2) For purposes of this subsection, the term 'private company' means a private company substantially owned or controlled by persons who are citizens of the United States.

"(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

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

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

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

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

SEC. 306. REDESIGNATION.

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

"SUBCHAPTER VI—GENERAL".

TITLE IV—GENERAL PROVISIONS

SEC. 401. QUALIFICATION REQUIREMENTS FOR GOVERNORS.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.".

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

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

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

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

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

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

"(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.".

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

SEC. 402. OBLIGATIONS.

(a) PURPOSES FOR WHICH OBLIGATIONS MAY BE ISSUED.—The first sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "title." and inserting "title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.".

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

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

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

"(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding

as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.".

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

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

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

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

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

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

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

SEC. 403. PRIVATE CARRIAGE OF LETTERS.

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

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

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

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

"(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2004) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

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

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

SEC. 404. RULEMAKING AUTHORITY.

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

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

SEC. 405. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in section 407, nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

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

SEC. 406. BONUS AND COMPENSATION AUTHORITY.

Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by section 306) is amended by adding at the end the following:

"§ 3686. Bonus authority

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

"(b) LIMITATION ON TOTAL COMPENSATION.—

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

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

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

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

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

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

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

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

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

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

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

SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DISPUTES.

(a) IN GENERAL.—Section 1207(b) of title 39, United States Code, is amended by striking all that follows "the Director of the Federal Mediation and Conciliation Service shall" and inserting ", within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.".

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

(1) in paragraph (1)—

(A) by striking "90" and inserting "60";

(B) by striking "not members of the factfinding panel,"; and

(C) by striking all that follows "shall be made" and inserting "from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve."; and

(2) in paragraph (3), by striking "factfinding panel" and inserting "mediation".

(c) CONFORMING AMENDMENT.—Section 1207(d) of title 39, United States Code, is amended by striking "factfinding panel will be established" and inserting "mediator shall be appointed".

TITLE V—ENHANCED REGULATORY COMMISSION

SEC. 501. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

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

(1) by inserting after chapter 4 the following:

"CHAPTER 5—POSTAL REGULATORY COMMISSION

"Sec.
"501. Establishment.
"502. Commissioners.
"503. Rules; regulations; procedures.
"504. Administration.

"§ 501. Establishment

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

"§ 502. Commissioners

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

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

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

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

"(e) The Commissioners shall serve for terms of 6 years.";

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

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

(b) DETERMINATIONS.—Section 503 of title 39, United States Code, as so redesignated by subsection (a)(3), is amended by adding at the end the following: "Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.".

(c) APPLICABILITY.—The amendment made by subsection (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Regulatory Commission (as so redesignated by section 504) pursuant to an appointment made before the date of the enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment.

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

"5. Postal Regulatory Commission ..... 501".

SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

Section 504 of title 39, United States Code (as so redesignated by section 501) is amended by adding at the end the following:

"(f)(1) Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any

employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

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

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

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

"(4) For purposes of this subsection, the term 'covered person' means an officer, employee, agent, or contractor of the Postal Service.

"(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

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

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

"(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

"(3)(A) Paragraph (2) shall not prevent the Commission from publicly disclosing relevant information in furtherance of its duties under this title if the Commission has adopted regulations under section 553 of title 5 that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest, as required by section 101(d) of this title for financial transparency of a government establishment.

"(B) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.".

SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 501) is amended to read as follows:

"(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.".

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: "The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8L(e) of the Inspector

General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.".

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2005.

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

SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 501), 1001, and 1002 by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission".

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

(c) AMENDMENT TO THE ETHICS IN GOVERNMENT ACT OF 1978.—Section 101(f)(6) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

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

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

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

SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMISSION REPRESENTING THE GENERAL PUBLIC.

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

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

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

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

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

TITLE VI—INSPECTORS GENERAL

SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.

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

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

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

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

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

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

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

SEC. 602. INSPECTOR GENERAL OF THE UNITED STATES POSTAL SERVICE TO BE APPOINTED BY THE PRESIDENT.

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking "or" before "the President of the Export-Import Bank;" and

(B) by inserting "or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);" after "the President of the Export-Import Bank;"; and

(2) in paragraph (2)—

(A) by striking "or" before "the Export-Import Bank,"; and

(B) by inserting "or the United States Postal Service," after "the Export-Import Bank,".

(b) SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE.—

(1) IN GENERAL.—The Inspector General Act of 1978 is amended by inserting after section 8K the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8L. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

"(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term 'appropriate committees of Congress' to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

"(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

"(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

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

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

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

(1) by striking "and the" before "Tennessee Valley Authority"; and

(2) by inserting ", and United States Postal Service" after "Tennessee Valley Authority".

(d) PUBLIC CONTRACTS.—

(1) ADDITIONAL PROVISIONS APPLICABLE.—Section 410(b)(5) of title 39, United States Code, is amended—

(A) in subparagraph (A), by striking "and" after the semicolon; and

(B) by adding after subparagraph (B) the following:

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

"(D) section 315 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 265) (relating to protecting contractor employees from reprisal for disclosure of certain information);".

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

"(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.".

(e) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking "Postmaster General" each place it appears and inserting "Chief Postal Inspector".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) RELATING TO THE INSPECTOR GENERAL ACT OF 1978.—(A) Subsection (a) of section 8G of the Inspector General Act of 1978 (as amended by section 601(a)) is further amended—

(i) in paragraph (2), by striking "the Postal Regulatory Commission, and the United States Postal Service;" and inserting "and the Postal Regulatory Commission;" and

(ii) in paragraph (4), by striking "except that" and all that follows through "Code);" and inserting "except that, with respect to the National Science Foundation, such term means the National Science Board;".

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

(ii) Subsection (c) of section 8G of such Act is amended by striking "Except as provided under subsection (f) of this section, the" and inserting "The".

(C) Section 8J of such Act is amended by striking the matter after "8D," and before "of this Act" and inserting "8E, 8F, 8H, or 8L".

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

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

"(4) 'Inspector General' means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;".

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

(D) Section 1003(b) of such title 39 is amended by striking "respective" and inserting "other".

(E) Section 1003(c) of such title 39 is amended by striking "included" and inserting "includes".

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

(g) EFFECTIVE DATE; TRANSITION PROVISIONS.—

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

(2) TRANSITION PROVISIONS.—

(A) PRESIDENTIAL APPOINTMENT AUTHORITY AVAILABLE IMMEDIATELY.—The authority to appoint an Inspector General of the United States Postal Service in accordance with the amendments made by this section shall be available as of the effective date of this section.

(B) CONTINUATION IN OFFICE.—Pending the appointment of an Inspector General of the United States Postal Service in accordance with the amendments made by this section, the individual serving as the Inspector General

of the United States Postal Service on the day before the effective date of this section may continue to serve—

(i) in accordance with applicable provisions of the Inspector General Act of 1978 and (except as provided in clause (ii)) of title 39, United States Code, as last in effect before the effective date of this Act; but

(ii) subject to the provisions of such title 39 as amended by subsection (e) of this section (deeming any reference to the "Inspector General" in such provisions, as so amended, to refer to the individual continuing to serve under authority of this subparagraph) and subparagraph (C).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, section 8L(e) of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2005.

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

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

TITLE VII—EVALUATIONS

SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.

(a) REPORT BY THE POSTAL SERVICE.—The United States Postal Service shall, within 12 months after the date of the enactment of this Act, submit to the President, the Congress, and the Postal Regulatory Commission, a written report on universal postal service in the United States (hereinafter in this section referred to as "universal service"). Such report shall include at least the following:

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

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

(3) A description of any geographic areas, populations, communities, organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.

(4) The scope and standards of universal service likely to be required in the future in order to meet the needs and expectations of the American public, including all types of mail users, based on such assumptions or alternative sets of assumptions as the Postal Service considers plausible.

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

(b) REPORT BY THE POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall, within 12 months after receiving the report of the Postal Service under subsection (a), submit to the President and the Congress a written report evaluating the report of the Postal Service. The report of the Commission shall include at least the following:

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

(2) An estimate of the cost attributable to the obligation to provide universal service under prior and current law, respectively.

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

(A) the assumptions or respective sets of assumptions of the Postal Service described in subsection (a)(4); and

(B) such other assumptions or sets of assumptions as the Commission considers plausible.

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

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

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

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

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

SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

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

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

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

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

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

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

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

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

(2) COMPETITIVE PRODUCTS FUND.—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 301), in consultation with the Secretary of the Treasury—

(A) a description of how such Fund has operated;

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

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

(3) ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS FUND.—With respect to section 3634 of title 39, United States Code (as amended by this Act), in consultation with the Secretary of the Treasury—

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

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

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

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

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

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

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

SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.

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

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.

(a) PLAN.—The United States Postal Service shall, before the deadline specified in subsection (b), develop and be prepared to implement, whenever necessary, a comprehensive plan under which reemployment assistance shall be afforded to employees displaced as a result of the automation or privatization of any of its functions.

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

SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.

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

SEC. 707. RATES FOR PERIODICALS.

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

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

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

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

SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.

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

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

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

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

SEC. 709. NETWORK OPTIMIZATION.

(a) IN GENERAL.—The Postal Service shall, within 90 days after the end of each fiscal year, prepare and submit to the Postal Regulatory Commission, the Congress, and the Board of Governors a written report on the postal processing, transportation, and distribution networks. Such report shall include at least the following:

(1) An account of actions taken during the preceding fiscal year to improve the efficiency and effectiveness of the processing, transportation, and distribution networks, while preserving the timely delivery of postal services.

(2) An account of—

(A) actions taken to identify any excess capacity within the processing, transportation, and distribution networks; and

(B) actions taken to implement savings through realignment or consolidation of facilities.

(3) Identification of statutory or regulatory obstacles that prevented or will prevent the Postal Service from taking action to realign or consolidate facilities.

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

(b) TREATMENT AS PERFORMANCE GOALS.—The Postal Service shall establish and report the matters set forth in subsection (a) as performance goals in the reports required by sections 2803 and 2804.

(c) ACTIONS TO BE TAKEN.—The Postal Service shall take such actions it considers, in its sole discretion, necessary and appropriate to provide the Nation with a modern and efficient network for the processing, transportation, and distribution of mail. Nothing in this section shall prevent the Postal Service from making such improvements in the efficiency and effectiveness of the network as it deems appropriate.

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

(a) APPOINTMENT OF RESEARCH ORGANIZATION.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall appoint, in such manner and under such terms as he in his sole discretion determines appropriate, an independent, impartial, and expert research organization (hereinafter in this section referred to as the "research organization") to prepare and submit to the President and to Congress a comprehensive report that evaluates what business model would best promote an efficient, reliable, innovative, and viable Postal Service that can meet the needs of the Nation and its citizens in the 21st century. The final report required by this section shall be submitted within 27 months of the date of the enactment of this Act. The final report shall identify costs, benefits, and feasible options, if any, associated with one or more strategies for—

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

(2) transforming the Postal Service into an ordinary corporation, owned wholly by the Government, wholly by private shareholders, or partly by the Government and partly by private shareholders.

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

(c) ELEMENTS OF REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 711. STUDY ON CERTAIN PROPOSED AMENDMENTS.

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

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

(2) The potential for cost savings to the United States Postal Service if the Postal Service, rather than the Department of Transportation, were to administer international mail carriage.

(3) The potential for harm to domestic air carriers and American workers currently employed by domestic air carriers.

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

(5) The process by which the United States Postal Service would administer any changes in current law.

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

(7) The potential for change in protection of national security by carriage by foreign carriers of international mail to and from the United States.

SEC. 712. DEFINITION.

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

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 3061 of title 18, United States Code, is amended by adding at the end the following:

"(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

"(2) With respect to such property, such officers shall have the power to—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms; and

"(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the

laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

"(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

"(A) serve warrants and subpoenas issued under the authority of the United States; and

"(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

"(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

"(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both.".

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

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

"(6) For purposes of paragraph (5), any appeal received by the Commission shall—

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

"(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall apply with respect to any determination to close or consolidate a post office which is first made available, in accordance with paragraph (3) of section 404(b) of title 39, United States Code, after the end of the 3-month period beginning on the date of the enactment of this Act.

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

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting "(a)" after "8." and by adding at the end the following:

"(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.".

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective as of the first day of the fiscal year in which this Act is enacted.

SEC. 804. OBSOLETE PROVISIONS.

(a) REPEAL.—

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

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

(i) by striking paragraph (1), and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively; and

(ii) in paragraph (3) (as so designated by clause (i)), by striking "(as defined in section 5201(6) of this title)".

(B) Section 5005(b) of such title 39 is amended by striking "(a)(4)" each place it appears and inserting "(a)(3)".

(C) Section 5005(c) of such title 39 is amended by striking "by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or" and inserting "by contract under subsection (a)(3) of this section or".

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking "(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)" and inserting "(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)".

(2) Section 5402(d) of such title 39 is amended by striking "for a period of not more than 4 years".

(3) Section 5605 of such title 39 is amended by striking "for periods of not in excess of 4 years".

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

SEC. 805. INVESTMENTS.

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

(1) by striking "(c) If" and inserting "(c)(1) Except as provided in paragraph (2), if"; and

(2) by adding at the end the following:

"(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

"(B) For purposes of this paragraph, the term 'commercial entity' means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.".

SEC. 806. REDUCED RATES.

Section 3626 of title 39, United States Code, is amended—

(1) in subsection (a), by striking all before paragraph (4) and inserting the following:

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

"(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

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

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

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

"(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

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

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

(3) by adding at the end the following:

"(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).".

SEC. 807. HAZARDOUS MATTER.

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

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

(2) by inserting after subsection (m) the following:

"(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.".

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

"§ 3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

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

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

"(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

"(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

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

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

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

"(A) the person has actual knowledge of the facts giving rise to the violation; or

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) SEPARATE VIOLATIONS.—

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

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

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

"(1) the nature, circumstances, extent, and gravity of the violation;

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

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

"(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

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

"(h) DEPOSIT OF AMOUNTS COLLECTED.—

"(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

"(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.".

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

(A) in paragraph (7), by striking "and" after the semicolon;

(B) in paragraph (8), by striking "purposes." and inserting "purposes; and"; and

(C) by adding at the end the following:

"(9) any amounts collected under section 3018.".

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

"3018. Hazardous material.".

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after "explosives," the following: "hazardous materials,".

SEC. 808. PROVISIONS RELATING TO COOPERATIVE MAILINGS.

(a) DETERMINATION.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against (1) abuses of rates for nonprofit mail and (2) deception of consumers.

(b) REGULATIONS.—If the Postal Regulatory Commission determines that section E670.5.3 of the Domestic Mail Manual does not contain adequate safeguards as described in the preceding subsection, the Commission shall promulgate such regulations as may be necessary to ensure such safeguards.

(c) TIMING.—The Postal Regulatory Commission shall complete the examination required by subsection (a) and the promulgation of any necessary regulations required by subsection (b) within one year after the date of the enactment of this section.

SEC. 809. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REIMBURSEMENT.—Section 3681 of title 39, United States Code, is amended by striking "section 3628" and inserting "sections 3662 through 3664".

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

"§ 3682. Size and weight limits

"The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.".

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

(1) in section 503 (as so redesignated by section 501), by striking "this chapter." and inserting "this title."; and

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

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

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

(A) by striking "Committee on Post Office and Civil Service" each place it appears and inserting "Committee on Government Reform"; and

(B) by striking "Not later than March 15 of each year," and inserting "Each year,".

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking "2401(g)" and inserting "2401(e)".

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

"(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

"(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be

uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.".

(f) LIMITATIONS.—Section 3684 of title 39, United States Code, is amended by striking all that follows "any provision" and inserting "of this title.".

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

(1) in section 1005(d)(2)—

(A) by striking "subsection (g) of section 5532,"; and

(B) by striking "8344," and inserting "8344";

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

"28. Strategic Planning and Performance Management ..... 2801";

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under section 3001(d),"; and

(B) in the sentence following paragraph (3), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under such section 3001(d),";

(4) in section 3210(a)(6)(C), by striking the matter after "if such mail ing" and before "than 60 days" and inserting "is postmarked fewer"; and

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

"§ 3627. Adjusting free rates".

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.

(a) TERMINATION OF OBLIGATION TO PAY GOVERNMENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of title 5, United States Code, is amended by striking all that follows "be equal to" and inserting "zero.".

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

"(h)(1) For purposes of this subsection, a Postal surplus (or supplemental liability) is the amount, as estimated by the Office, by which—

"(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, is less than (or greater than)

"(B) the sum of—

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

"(ii) that portion of the Fund balance, as of the date such surplus or supplemental liability is determined, attributable to payments to the Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

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

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

"(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2005, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

"(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

"(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

"(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

"(iii)(I) If a surplus of $500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

"(II) If a surplus of less than $500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

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

"(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2039, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2040, which provides for the liquidation of such liability by September 30, 2043.

"(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

"(I) shall be applied first toward reducing the amount of any supplemental liability described in section 8423(b)(1)(B); and

"(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

"(D) An amortization schedule under this paragraph—

"(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

"(ii) shall supersede any amortization schedule previously established under this paragraph; and

"(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

"(E)(i) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph, to the extent not superseded or canceled.

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

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

"(4) As used in this subsection, 'Postal Service Retiree Health Benefits Fund' refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.".

(c) PROVISIONS RELATING TO AMOUNTS FOR MILITARY SERVICE.—In the application of paragraph (2) of section 8348(g) of title 5, United States Code, for fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service if Public Law 108-18 had not been enacted (including earnings thereon) and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(d) REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, any determination or redetermination made by the Office of Personnel Management under this section shall, upon request of the United States Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

SEC. 902. HEALTH INSURANCE.

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

(1) in section 8906(g)(2)(A), by striking "by the United States Postal Service." and inserting "first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.";

(2) by inserting after section 8909 the following:

"§ 8909a. Postal Service Retiree Health Benefits Fund

"(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the 'Fund') which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

"(b) The Fund is available without fiscal year limitation for payments required by section 8906(g)(2).

"(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

"(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

"(A) the portion of the net present value described in paragraph (1) attributable to the current year's service of Postal Service employees; and

"(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value;

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

"(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

"(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection."; and

(3) in the analysis by inserting after the item relating to section 8909 the following:

"8909a. Postal Service Retiree Health Benefits Fund.".

(b) REVIEW.—

(1) IN GENERAL.—Any regulation established under section 8909a(c)(4) of title 5, United States Code (as amended by subsection (a)) shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its regulation in light of such report, and shall take such action as it considers appropriate. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 903. REPEALER.

Section 3 of Public Law 108–18 is repealed.

SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND MILITARY SAVINGS.

(a) DEFINITION.—For purposes of this section, the term "total savings" means, for any fiscal year, the amount equal to—

(1) the amount of contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund under subchapter III of chapter 83 of title 5, United States Code, for such fiscal year if Public Law 108-18 and this Act had not been enacted, minus

(2) the amount of amortization payments (if any) required under section 8348(h)(2) of title 5, United States Code, for such fiscal year.

(b) CALCULATIONS.—The following calculations shall be made for each of fiscal years 2006 through 2015:

(1) Not later than January 31 of the fiscal year following the fiscal year involved, the Office of Personnel Management (in consultation with the Postal Service) shall determine the total savings for the fiscal year.

(2) On the date of making its determination under paragraph (1), the Office shall also determine (in consultation with the Postal Service) the amount by which—

(A) the amount the Postal Service paid for that fiscal year into the Postal Service Retiree Health Benefits Fund in accordance with 8909a(c)(2) of title 5, United States Code, exceeds (if at all)

(B) the amount of payments made by the Postal Service for that fiscal year from such Fund in order to satisfy the requirements of section 8906(g)(2) of such title 5.

(c) REQUIREMENTS.—

(1) IF THRESHOLD IS MET.—If the amount calculated under subsection (b)(2) for a fiscal year is greater than or equal to two-thirds of the total savings in such fiscal year, no further action under this section is necessary with respect to such fiscal year.

(2) IF THRESHOLD IS NOT MET.—

(A) IN GENERAL.—If the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, the Postal Service shall pay into the Postal Service Retiree Health Benefits Fund, by June 30 of the following fiscal year, an amount equal to the difference.

(B) ALLOWABLE ALTERNATIVE.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), and subject to clause (ii), the Postal Service may instead use the amount that it would otherwise be required to pay into the Postal Service Retiree Health Benefits Fund for a year (or any portion thereof) to reduce the postal debt.

(ii) LIMITATION.—Amounts used to reduce the postal debt under this subparagraph may not exceed a total of $3,000,000,000.

(3) AGGREGATION ALLOWED.—Notwithstanding paragraph (2), if the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, but the sum of the amounts calculated under subsection (b)(2) for all fiscal years from 2006 to the fiscal year involved is greater than or equal to two-thirds of the sum of the total savings for such years, no further action under this section is necessary with respect to such fiscal year.

(d) REPORTING REQUIREMENT.—The Office of Personnel Management shall submit a report containing the results of its calculations under subsection (b) to the Postal Service, the Postal Regulatory Commission, and the Congress.

(e) WAIVER AUTHORITY.—The requirements of subsection (c)(2)(A) may, upon application of the Postal Service, be waived by the Postal Regulatory Commission, to the extent that the Commission determines that such waiver is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

SEC. 905. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title shall take effect on October 1, 2005.

(b) GOVERNMENT CONTRIBUTIONS.—Section 901(a) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

COMMITTEE STATEMENT AND VIEWS

BACKGROUND AND NEED FOR LEGISLATION

The United States Postal Service (USPS) processes and delivers over 200 billion pieces of mail to more than 130 million households and businesses in the United States each year. The agency's mission, outlined in the Postal Reorganization Act of 1970, is to provide postal services that bind the Nation together through the correspondence of the people, to provide access in all communities, and to offer prompt, reliable postal services at uniform prices.[1] The 1970 law was designed to transform the Postal Service from a bureaucracy subsidized by tax revenue to a self-supporting, business-like entity supported by the fees (e.g., stamp revenue) paid by its users. Today the Postal Service is the center of a $900 billion industry employing 9 million workers nationwide.

The mission of the USPS is being challenged by a variety of factors including decreasing volume, insufficient revenue, mounting debts, and electronic communications alternatives such as Internet advertising, electronic bill payments, emails and faxes.

In January, the Comptroller General maintained the Postal Service on its list of high risk areas, stating that "comprehensive postal reform is urgently needed. The Postal Service's financial viability is at risk because its business model—which relies on mail volume growth to cover the costs of its expanding delivery network—is not aligned with 21st century realities." The Comptroller General outlined the trends that are creating the need for reform:

- declining mail volume, particularly for First-Class Mail, which is critical to generating sufficient revenues to maintain affordable, high-quality, universal postal service;
- changes in the mail mix from high-margin to lower-margin products;
- increased competition from private delivery companies;
- projected revenue declines and increases in expenses;
- significant financial liabilities and obligations that continue to exceed assets (e.g., $60 billion in unfunded retiree health obligations and a multibillion-dollar escrow account);
- uncertain funding for emergency preparedness (the Postal Service has received almost $800 million in emergency response funds from Congress to help cover its security costs for 2005);
- changing demographics of the aging postal workforce; and
- challenges in restructuring infrastructure and workforce to become more efficient and performance based.

PRESIDENT'S COMMISSION

On July 31, 2003, the President's Commission on the Postal Service released its recommendations for maintaining the viability of the Postal Service. Roughly half of the recommendations require legislative change. Most of these concerns have been addressed in earlier postal reform proposals, although some specific recommendations differ. New issues raised by the Commission include reform of the collective bargaining process and legislative changes making it easier to close post offices and processing centers. In ad-

[1] 39 U.S.C. 101 et seq.

dition, the Commission recommended that the Postal Service not be responsible for funding the portion of Civil Service Retirement System (CSRS) employees' pensions that are attributable to their prior military service, for which no other agency is responsible under CSRS.

ADMINISTRATION'S PRINCIPLES FOR POSTAL REFORM

On December 8, 2003, the Department of the Treasury released a set of 5 principles, based on the recommendations of the President's Commission that should guide Congress's effort to reform the Postal Service. The principles are:

- Implement Best Practices: Ensure that the Postal Service's governing body is equipped to meet the responsibilities and objectives of an enterprise of its size and scope.
- Transparency: Ensure that important factual information on the Postal Service's product costs and performance is accurately measured and made available to the public in a timely manner.
- Flexibility: Ensure that the Postal Service's governing body and management have the authority to reduce costs, set rates, and adjust key aspects of its business in order to meet its obligations to customers in a dynamic marketplace.
- Accountability: Ensure that a Postal Service operating with greater flexibility has appropriate independent oversight to protect consumer welfare and universal mail service.
- Self-Financing: Ensure that a Postal Service operating with greater flexibility is financially self-sufficient, covering all of its obligations.

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

The "Postal Accountability and Enhancement Act", introduced as H.R. 22 by Mr. McHugh on January 4, 2005, with Chairman Davis, Ranking Member Waxman, and Mr. Danny Davis as original cosponsors, affirmatively responds to all of the Administration's five principles for postal reform, and incorporates most of the seventeen legislative recommendations made by the President's Commission on the U.S. Postal Service. The bill mandates transparency in the Service's finances, costs, and operations. The legislation creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and institutes improvements to the collective bargaining process. However, unlike the unconstrained pricing flexibility recommended by the President's Commission for competitive products, the bill imposes limited but important controls to protect the public interest from unfair competition.

The objective of the bill is to position the Postal Service to operate in a more business-like manner. To achieve this goal, the system must be responsive to market considerations and must provide clear incentives for postal management and the Postal Service as an institution. The Postal Service would no longer operate under a break-even mandate. By maximizing gains and minimizing costs, the Postal Service could generate earnings that would be retained, and which could be distributed as incentives to management as well as to employees through collective bargaining. In the same

way, losses could not be recovered by increasing rates beyond specific parameters without regulatory approval.

On April 8, 2005, the Postal Service filed a request with the Postal Rate Commission for an across-the-board rate increase of 5.4 percent, or 2 cents on a first class stamp.[2] According to the Postal Service, this rate increase is only necessary to meet the escrow requirement of Public Law 108–18, the Postal Civil Service Retirement System Funding Reform Act of 2003. The Postal Accountability and Enhancement Act eliminates the P.L. 108–18 escrow requirement, which should substantially mitigate the need for this rate increase.

Highlights of the Postal Accountability and Enhancement Act include:

Preservation of Universal Service: Maintenance of a universal postal system must be the cornerstone of any postal reform measure, and the bill preserves this mandate by giving the Postal Service the ability to remain viable and effective. The statutory mission of the Postal Service is focused strictly on postal services. A study will be required to recommend concrete standards for universal service. In addition, the Postal Regulatory Commission will develop an annual estimate of the costs of universal service so that Congress can better understand how to provide the necessary protections in the future.

Promotion of Efficiency and Flexibility: The bill gives postal management and employees the tools to adapt and survive in the face of enormous challenges caused by changing technology and a dynamic communications marketplace. The bill encourages innovation and efficiency by permitting the Postal Service to distribute earnings as bonuses to all employees. In the same way, losses could not be recovered by increasing rates beyond specified parameters without regulatory approval. The bill also allows the Postal Service to better react to market conditions by streamlining the rate setting process, and permitting rates that are better tailored to consumers' needs.

Ensuring Fair Competition and Accountability: Under the legislation, the Postal Service will compete on a level playing field, under many of the same terms and conditions as faced by its private sector competitors, albeit with stronger controls, oversight, and limitations in recognition of its governmental status. The Postal Service will be given flexibility to price competitive products, but competitive products and services will have to pay their own costs without subsidy from market-dominant mail revenues. A "Postal Regulatory Commission" is created from the existing Postal Rate Commission to oversee and regulate the Postal Service. The bill clarifies the distinction between competitive and market-dominant products and imposes prohibitions on the Postal Service's ability to regulate areas in which it competes. In addition, the bill, for the first time, subjects the Postal Service's competitive products to many of the same laws as private companies, such as—

Antitrust laws
Fair-trade laws
Equal customs procedures

[2] Postal Rate Commission Docket No. R2005–1, "Postal Rate and Fee Changes Pursuant to Public Law 108–18."

An assumed federal income tax payment

Basis for Future Reforms: The legislation mandates several studies, including a comprehensive assessment of the scope and standards for universal service. Other evaluations address:

Equal application of laws

Plans for assisting displaced workers

Quality of ratemaking data for Periodicals' costs

An assessment of the revenue deficiency process

The future business model and legal status of the Postal Service

SECTION-BY-SECTION ANALYSIS

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions

Section 101 of the bill proposes, for the first time, a clear definition of "postal services" as the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto. The definition of "postal service" will clarify the scope of activities that the Postal Service is authorized to pursue.

Section 101 also defines the term "product" to mean "any postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied."

Section 101 further clarifies that "rates," as used with respect to products, "includes fees for postal services." It defines "market-dominant product" as "a product subject to subchapter I of chapter 36" and "competitive product" as "a product subject to subchapter II of chapter 36." Section 101 defines "Consumer Price Index" to mean the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor. Finally, section 101 defines "year" to refer to a fiscal year for most purposes of rate regulation.

Sec. 102. Postal Services

Section 102 declares that the Postal Service's authority to offer products and services is limited to postal services. Current law is unclear in this respect. The section strikes a provision that gave the Postal Service the specific power "to provide, establish, change, or abolish special nonpostal or similar services." If the Service unlawfully offers a nonpostal service or product, the Postal Regulatory Commission may order that the Postal Service cease providing the product under the complaint procedures outlined in section 202 of the bill. An exception is made for "special nonpostal or similar services" provided as of January 4, 2005.

The changes made by this section should not be interpreted to limit the Postal Service's ability to furnish government services to the public, such as acceptance of passport applications and sale of duck stamps, in accordance with section 411 of title 39.

Sec. 103. Transparency

Recognizing the recommendations of the President's Commission on the U.S. Postal Service as well as the Administration's key principles for reform, including the need for a more open and accountable executive branch, the nation's postal laws will now include a

clear mandate that the Postal Service must be subject to a high degree of transparency, including in its finances and operations. This is a key foundation for ensuring fair treatment of both customers and competitors.

TITLE II—MODERN RATE REGULATION

In the new regulatory regime proposed in the bill, the classes of mail and services are classified as either Market Dominant or Competitive products. In general, the bill requires the Postal Regulatory Commission to design, within 24 months, a new system of rate regulation for Market Dominant products. The new system will, for the most part, continue the ratemaking factors found in current law while providing increased flexibility, predictability, incentives for efficiency, and long term financial stability. The Commission is required to ensure that price increases of subclasses in the Market Dominant category do not exceed the rise in the Consumer Price Index (CPI) unless such an increase is reasonable and equitable and necessary for the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

With respect to Competitive products, the Postal Regulatory Commission must issue regulations within 18 months to guard against subsidization by market-dominant products and ensure that competitive products cover their attributable costs and, as a group, make a reasonable contribution to institutional costs. Once the Commission has issued its regulations, the Postal Service is given pricing flexibility somewhat comparable to that exercised by private competitors. The changes regarding competitive products will be complemented by title III, which provides for a level playing field for such products in several important respects.

Sec. 201. Provisions relating to market-dominant products

Section 201 of the bill establishes a new, modern system for regulation of Market Dominant products, which account for almost 90 percent of current Postal Service revenues. In current title 39, chapter 36 deals with regulation of postal rates. The bill redesignates subchapter I of chapter 36 (establishing the Postal Rate Commission) as chapter 5 (see section 501, below). Section 201 revises subchapter II, which currently sets out the process of rate regulation, and redesignates it as subchapter I. As amended, subchapter I relates only to regulation of Market Dominant products. Section 201 adds two new provisions to title 39, sections 3621 and 3622, as follows.

Section 3621 lists certain postal products to be regulated as Market Dominant products immediately after enactment: First-Class mail (but not priority and express mail, which are deemed competitive products), Periodical mail, Standard mail, media mail, library mail, and bound printed matter. This list specifically includes "Aunt Minnie" or "individual consumer" mail, that is, domestic and international single piece First-Class letters and cards. Special services (e.g., post office boxes in rural areas, certificates of mailing and delivery, etc.) are also regarded as Market Dominant products. The products listed have the same meaning given them in the Mail Classification Schedule (39 CFR pt. 3001, Subpt. C, App. A) as of

the date of enactment. After enactment, the Commission may revise the list of Market Dominant products. See new section 3642 set out in section 203 of the bill.

Subsection 3622(a) requires the Postal Regulatory Commission to establish within 24 months a new system for regulating postage rates and classes for Market Dominant products. The Commission may subsequently revise the system.

Subsection 3622(b) provides that the objectives of the new system shall be:

1. Establish and maintain a fair and equitable schedule for rates and classification;
2. Maximize incentives to reduce costs and increase efficiency;
3. Create predictability and stability in rates;
4. Maintain high quality service standards;
5. Allow the Postal Service pricing flexibility;
6. Assure adequate revenues, including retained earnings, to maintain financial stability; and
7. Reduce the administrative burden of the ratemaking process.

Subsection 3622(c) requires that, in establishing or revising the new system, the Commission shall take into account certain factors, which are modeled after the rate and classification factors found in sections 3622 and 3623 of current law. These factors include the value of the mail service actually provided for each class or type of mail to both the sender and recipient; the direct and indirect postal costs attributable to each class or type of mail service and that portion of all other Postal Service costs reasonably assignable to the class or type; the effect of rate increases on certain groups; available alternative means to sending and receiving letters or other mail matter at reasonable costs; the degree of preparation of mail for delivery into the system performed by the mailer and its effect upon reducing Postal Service costs; simplicity of structure for the entire schedule, along with simple, identifiable relationships between rates or fees charged the various classes of mail for postal services; the relative value to the people of the kinds of mail matter entered in the postal system and the desirability and justification for special classifications and services; the importance of providing classifications with extremely high degrees of reliability and speed of delivery, and of providing classifications without such requirements; the desirability of special classifications; the educational, cultural, scientific, and informational value to the recipient; and the policies of this title as well as such other factors as the Commission deems appropriate.

Subsection 3622(d) declares that the new system may include price caps, revenue targets, cost-of-service regulation, or such other forms of regulation as the Commission considers appropriate. This subsection lists potential approaches and is not intended to limit the options of the Commission to a particular result.

Subsection 3622(e) requires that the Postal Regulatory Commission ensure that the average rate for any subclass does not increase by more than the annual increase in the Consumer Price Index unless the Commission has determined, after notice and opportunity for a public hearing and comment, that such an increase is "reasonable and equitable and necessary to enable the Postal

Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States."

The current rate-setting process provides little or no incentive for the Postal Service to control its costs because all costs are ultimately passed through to the consumer regardless of how efficiently or inefficiently the Postal Service operates. Under the new system, the Postal Regulatory Commission will have the flexibility to design a system that will improve efficiency and control costs. The details of such a system have been left to the Commission so that this regulatory body will be able to respond to changes in mail volume, technologies, and other factors. To ensure fairness, the new system provides that rates from any one subclass should not increase faster than CPI, unless the Commission finds such increase "reasonable and equitable and necessary" to maintain services and quality.

Sec. 202. Provisions relating to competitive products

Section 202 of the bill adds a new subchapter II to chapter 36 of title 39. Subchapter II establishes a flexible system for regulation of Competitive products, which currently account for about 10 percent of current Postal Service revenues. Section 202 adds three new sections to title 39, as follows.

Section 3631 lists the present mail classes and products to be included within the Competitive category immediately after enactment. This list includes Priority mail, Express mail, mailgrams, international mail not included in the market-dominant category, and parcel post. After enactment, the Commission may revise the list of Competitive products. See new section 3642 set out in section 203 of the bill. Further the section defines "costs attributable", as the direct and indirect costs attributable to a postal product. Although single piece parcels are assigned to the competitive category, the Committee expects the Postal Regulatory Commission to monitor package delivery services of the Postal Service. If there is not effective competition in rural areas or elsewhere, the Postal Regulatory Commission should consider appropriate changes, including transfers of single piece parcels to the market dominant category.

Section 3632 provides that the Governors of the Postal Service may establish rates and classes for all products in the Competitive category of mail after giving notice in the Federal Register at least 30 days in advance, for rates or classes of general applicability in the Nation as a whole or in any substantial region. For rates and classes not in that category, the Governors must file their decision at least 15 days in advance with the Postal Regulatory Commission, which shall establish the criteria for determining when rate or class falls within this 15 day category. The Governors' new pricing authority for competitive products does not take effect until the Postal Regulatory Commission promulgates regulations under section 3633.

Section 3633 requires the Postal Regulatory Commission to promulgate regulations within 18 months of enactment prohibiting subsidization of competitive products by market dominant products. The Commission shall ensure that each competitive product

covers its attributable costs, and in addition ensure that competitive products collectively make a "reasonable contribution" to the institutional costs of the Postal Service. The committee expects that the Commission, like the courts, will take into account the inherent differences between market dominant and competitive markets.

In addressing the attributable costs, the Commission should continue to focus on the need to have reliable indicators of cost causality. This committee heard testimony from differing viewpoints, with some urging a higher attribution of costs. The goal of the Commission should be a technically correct result, placing accuracy above achieving a particular outcome of higher or lower attribution.

With respect to the requirement that competitive products collectively make a reasonable contribution to overhead, it should be noted that the broad standard contains inherent flexibility. It is not intended to dictate a particular approach that the Postal Regulatory Commission should follow.

Sec. 203. Provisions relating to experimental and new products

Section 203 of the bill adds a new subchapter III to chapter 36 of title 39. Subchapter III provides rules for market tests of experimental products and for shifting products between the Market Dominant and Competitive categories. The new subchapter III replaces, and thus repeals, the current subchapter III dealing with temporary rates and classes. Section 203 adds two new provisions to title 39 as follows.

Section 3641 authorizes the Postal Service to conduct limited market tests, which are exempt from the statutory criteria for market-dominant and competitive products. Market tests under this section are restricted to periods that last no more than two years (which may be increased to three years by the Commission) and to products that earn less than $10 million annually nationwide (which may be raised to $50 million by the Commission). Regardless of duration or size, a market test may not be conducted under this section if it will "create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns." Under this section, the Commission retains substantial oversight authority over market tests. Under section 3652, the Postal Service is obliged to provide summary information in annual reports to the Postal Regulatory Commission about market tests.

Section 3642 authorizes the Postal Regulatory Commission to classify new products as falling in either the Market Dominant category or Competitive category, to transfer existing products between the two categories, and to remove a product from a list for a category. Subsection (b) adopts criteria for the two categories that reflect the Federal Communications Commission's (FCC) approach to defining "dominant" carriers for the purpose of regulation. Paragraph (b)(1) provides that: "The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products." Prod-

ucts covered by the postal monopoly may not be transferred to the Competitive category. Paragraph (b)(3) requires the Postal Regulatory Commission to consider in addition (a) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved; (b) the views of those who use the product involved on the appropriateness of the action; and (c) the likely impact of the proposed action on small business concerns. The Commission is also allowed to transfer a subclass or other subordinate unit of a class of mail or type of postal service.

Subsection 3642(d) provides that the Postal Regulatory Commission must ensure that any change in the lists of products in the Market Dominant and Competitive categories is published in the Federal Register. Subsection (e) requires that Congress be notified when the Commission has concluded a product should be transferred and that such transfer may not take effect for one year. Subsection (f) provides that the Postal Service may not offer any product involving the carriage of letters, printed matter, or packages until it is categorized as falling in either the Market Dominant or Competitive Category (except for an experimental product).

Sec. 204. Reporting requirements and related provisions

Section 204 of the bill adds a new subchapter IV to chapter 36 of title 39. In general, subchapter IV provides for annual audits of Postal Service operations by the Postal Regulatory Commission to ensure compliance with the ratemaking criteria of the act.

Section 3651 requires that the Postal Regulatory Commission provide an annual report to the President and the Congress concerning its operations, including an assessment of whether its regulations for Market Dominant and Competitive products are meeting legislative policy. As part of this report, the Commission is directed to prepare an estimate of public service costs borne by the Postal Service including universal service costs, revenue-forgone costs, and other costs (e.g., law enforcement activities). The Postal Service must give the Commission such information as the Commission deems necessary to prepare the reports.

Subsection 3652(a) requires that the Postal Service submit information to the Postal Regulatory Commission no later than three months after the last day of each fiscal year, which demonstrates that the rates in effect for all Market Dominant and Competitive products during the year are in compliance with the requirements of this title. In addition, information must be provided on each product in the Market Dominant category including volume and market information, along with measures of quality of service, including service standards, the level of service (in terms of speed and reliability), and customer satisfaction. In this manner, the bill mandates that the Postal Service must develop measures for and report on, among other things, the speed and reliability of postal services in all classes of mail in the Market Dominant category. The Postal Service Inspector General is required to regularly audit the data collection systems and procedures that the Postal Service uses in the report prepared for Postal Regulatory Commission review.

Subsection 3652(b) requires annual reporting on work-sharing discounts, including the per-item cost avoided by the Postal Service by virtue of such discount; the percentage of such per-item cost

avoided that the per-item discount represents; and the per-item contribution made to institutional costs.

Subsection 3652(c) provides that the Service must provide such data as the Commission requires for market tests but may provide summary data on the required costs, revenues, and quality of service for market tests for which the Commission has not required specific information.

Subsection 3652(d) states that the Commission will have access to all the working papers and supporting materials of the Postal Service and the Inspector General in connection with the required reports.

Subsection 3652(e) provides that the Commission must develop regulations prescribing the content and form of the required annual reports. In doing so, the Commission shall give due consideration to providing the public with adequate information to assess the lawfulness of rates charged, avoiding unnecessary or unwarranted administrative effort or expense on the part of the Postal Service, and protecting the confidentiality of commercially sensitive information. The Commission may specify what information will be provided as either (1) public reports or (2) non-public annexes and supporting matter. The subsection also contains a provision for the Commission, on its own motion or on request from an interested party, to initiate a proceeding to improve the quality, accuracy, or completeness of Postal Service data required by the Commission.

Subsection 3652(f) provides that the Postal Service may obtain confidential treatment for information that is protected from disclosure under current law, in accordance with provisions outlined in new section 504. See section 502 of the bill.

Subsection 3652(g) requires the Postal Service to provide the Commission, as part of information to be examined in the annual audit, specific reports that are submitted to Congress, including the comprehensive statement required under section 2401 and the performance plan and program reports required under the Government Performance and Results Act.

Section 3653 provides that, after receiving annual reports from the Postal Service in accordance with section 3652, the Postal Regulatory Commission shall provide an opportunity for public comment. The Commission will then, within 90 days, make a written determination whether any rates and fees were not in compliance with the law or whether performance goals or any service standards were not met. If any noncompliance is found, the Commission is required to take appropriate action under the revised complaint procedure, section 3662 (section 205 of the bill, below). On the other hand, a determination of compliance creates a rebuttable presumption of compliance in any complaint proceeding on the specific matters reviewed in the annual audit.

Section 3654(a) requires the Postal Service to file with the Postal Regulatory Commission the quarterly, annual, and periodic reports required of Securities and Exchange Commission registrants, and to comply with the internal control requirements of Sarbanes-Oxley. Section 3654(b) and (c) require the Postal Service to include in such reports information regarding their pension and postretirement health obligations, segment reporting (after consultation with the Postal Regulatory Commission on the appropriate manner of such reporting), and that such reports be independently audited.

Section 3654(d) requires that the Postal Regulatory Commission have access to audit documentation and other supporting matter of such reports. Section 3654(e) allows the Postal Regulatory Commission to revise the requirements of Section 3654 when the data required by the reports have become significantly inaccurate or can be significantly improved, or when such revisions are otherwise necessitated by the public interest. Section 3654(f) provides for confidential treatment of information provided to the Postal Regulatory Commission under certain circumstances.

Sec. 205. Complaints; appellate review and enforcement

Section 205 of the bill revises the complaint and appellate review provisions set out in subchapter V of chapter 36, title 39 (as redesignated by the bill). In general, the bill strengthens the authority of the Postal Regulatory Commission to act on complaints. Section 205 repeals current sections 3662 (rate and service complaints) and 3663 (annual report on international services) and adds three sections in title 39 as follows:

Section 3662 provides the Postal Regulatory Commission with enhanced authority to respond to complaints of pricing, service, or other actions by the Postal Service in violation of law. As revised, this section would require the Commission to begin proceedings on or dismiss complaints within 90 days and if not acted on, the complaint shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1). In subsection 3662(c), the amendment gives the Commission broad authority to correct violations by ordering the Postal Service to take whatever steps the Commission considers appropriate. For instance, the Commission may order the Postal Service to adjust the rates of Competitive products to lawful levels if they are set below attributable costs (the Commission has no such authority under current law). The Commission is authorized to suspend Competitive product rates or classifications under section 3632(b)(3) that are not of general applicability in the Nation as a whole or in any substantial region of the Nation. This suspension is permitted for only a limited period of time pending expedited proceedings under 3662, and four key factors are outlined in subsection (d) that the Commission must consider in evaluating whether this authority may be exercised. The Committee does not intend this provision to restrain the ability of the Postal Service to compete fully and fairly against private sector competitors in competitive markets. Under subsection (e), for cases of deliberate noncompliance with law, the Commission is authorized to levy fines based on the seriousness, nature, circumstances, and extent of the noncompliance. Fines resulting from provision of Competitive products must be paid out of the Competitive Products Fund, and all fines are paid into the general Treasury fund.

Section 3663 provides for appeals of any order or decision of the Postal Regulatory Commission to the United States Court of Appeals for the District of Columbia Circuit in accordance with chapter 706 of title 5 and chapter 158 of title 28.

Section 3664 gives any United States District Court jurisdiction to enforce orders of the Postal Regulatory Commission and issue injunctions or restraining orders.

Sec. 206. Workshare discounts

Section 206 amends Title 39 by adding section 3687, requiring the Postal Regulatory Commission to establish rules for workshare discounts that ensure that workshare discounts do not exceed the cost that the Postal Service avoids as the result of private sector workshare activity, except (1) where the discount is associated with a new product or service or with a change to an existing product or service and is necessary to induce certain mailer behavior, although such discount must be phased out over a limited period of time; (2) to the extent that a reduction in the discount would lead to a loss of volume in the affected category and reduce the aggregate contribution to institutional costs of the Postal Service, from the mail matter subject to the discount, below what it otherwise would have been if the discount had not been reduced to costs avoided; would result in a further increase in the rates paid by mailers not able to take advantage of the discount; or would impede the efficient operation of the Postal Service; (3) where the amount of the discount above costs avoided is necessary to mitigate rate shock and will be phased out over time; or (4) where the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, scientific, or informational value.

Section 206 also requires the Postal Service to submit to the Postal Regulatory Commission reports justifying each worksharing discount.

Sec. 207. Clerical amendment

Section 207 of the bill revises the analysis of chapter 36, title 39, in accordance with the changes made by the bill.

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

Sec. 301. Postal Service Competitive Products Fund

Section 301 of the bill adds a new section 2011 to title 39. Section 2011 establishes an off-budget fund within the Treasury for revenues and expenditures associated with competitive products. The "Competitive Products Fund" is in addition to the current Postal Service Fund. The intent of this section is to level the playing field for the Postal Service and its competitors in the Competitive product market by requiring the Postal Service to keep separate financial accounts for Market Dominant and Competitive products. Separation of accounts also protects the interests of postal consumers in the Market Dominant category and taxpayers.

Subsection 2011 essentially permits the Postal Service to manage the Competitive Products Fund in its discretion. The new fund can borrow money from Treasury to support competitive products by pledging the assets of the fund and its revenues and receipts.

Subsection 2011(h) requires that the Secretary of the Treasury, in consultation with the Postal Service, an independent accountant, and other appropriate advisors, develop recommendations for rules such as accounting practices and principles that will identify and value the assets, liabilities, capital, and operating costs, associated with Competitive products. Treasury's recommendations must be submitted to the Postal Regulatory Commission, which must then provide an opportunity for all other interested parties to present

their views. The Postal Service, among others, will therefore be able to present its own recommendations and counterarguments. While Treasury will have the first opportunity to make recommendations, the Committee expects the Commission to give consideration to all input from interested parties, without a presumption that the Treasury recommendations are correct. After taking into account all views and information presented, the Commission must issue rules providing for the establishment and application of accounting practices and principles, certain substantive and procedural rules, and submission by the Postal Service of annual and periodic reports. The Commission is authorized to update the rules as necessary.

The Postal Service must report to the Postal Regulatory Commission on the Competitive Products Fund periodically, as may be required by the Commission. In addition, the Postal Service must prepare an annual report for the Secretary of the Treasury concerning the operation of this Fund. This report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of the report must also be provided to the Commission as part of the required annual reports.

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

Section 302 of the bill adds a new section 3634 to title 39. Section 3634 requires the Postal Service each year to compute an assumed Federal income tax on income from Competitive products and to transfer from the Competitive Products Fund to the Postal Service Fund the amount of that assumed tax.

Sec. 303. Unfair competition prohibited

Section 303 of the bill adds a new section 404a to title 39. Section 404a prohibits the Postal Service from (1) establishing rules or regulations which preclude competition or give the Postal Service an unfair competitive advantage; (2) compelling disclosure, transfer, or licensing of intellectual property to any third party; or (3) offering any product or service that makes use of information obtained from a person that provides or seeks to provide a product to the Postal Service (unless the person has consented to such use or substantially the same information is otherwise obtainable). The Postal Regulatory Commission is required to prescribe regulations to carry out the purposes of this section, and the prohibitions are enforced through the Commission's strengthened complaint process and remedies, which include ordering rescission of any regulation.

Sec. 304. Suits by and against the Postal Service

Section 304 of the bill amends section 409 of title 39 to make the Postal Service more amenable to other laws regulating the conduct of commercial activities.

First, the amendment subjects all Postal Service activities to federal laws prohibiting the conduct of business in a fraudulent manner (the Lanham Act and certain parts of the Federal Trade Commission Act).

Second, the amendment subjects Postal Service conduct with respect to competitive products to federal antitrust laws and unfair

competition prohibitions and eliminates sovereign immunity protection from suits in Federal court for violations of Federal law. The amended section 409 allows injunctive relief against officers and employees of the Postal Service in case of violation of the antitrust laws, while the Postal Service itself would be subject to all available remedies.

Fourth, the amendment would require the Postal Service to consider local zoning, planning, or land use regulations and building codes when constructing or altering buildings.

As amended, section 409 further requires the Postal Service to represent itself in most legal proceedings permitted by the amendment as well as in cases involving administrative subpoenas issued by the Postal Regulatory Commission and appeals of decisions by the Commission or the Governors. The amendment requires that judgments arising out of activities of the Postal Service must be paid by the Postal Service, and judgments arising out of violations of law involving competitive products must be paid from revenues from competitive products.

Sec. 305. International postal arrangements

Section 305 of the bill replaces section 407 of title 39. Section 407 deals with international postal arrangements.

New subsection 407(a) establishes a policy framework for future international postal agreements that stresses separation of regulatory and operational functions.

Subsection 407(b) vests the Secretary of State with authority to lead U.S. delegations in intergovernmental meetings devoted to postal matters. The Secretary is barred from concluding agreements with respect to any competitive product that give preference to any entity, either public or private, including the Postal Service. The subsection provides the Secretary in carrying out his responsibilities under this section shall maintain continuing liaison with other federal agencies and the Congress, and appropriate liaison with the Postal Service and affected members of the public. The subsection further declares that the Secretary of State shall establish an advisory committee, under the Federal Advisory Committee Act, to help perform such functions as the Secretary considers appropriate in connection with the necessary coordination and liaison with entities in the public and private sectors as the Secretary develops U.S. foreign policy related to international postal services and other international delivery services.

Subsection 407(c) provides that, before concluding an international agreement that establishes a rate or classification for a market-dominant product, the Secretary shall request a decision from the Postal Regulatory Commission to determine whether the proposed rate or classification is consistent with the Commission standards and criteria for market dominant products. The Secretary must ensure that international agreements are consistent with the Commission's decision except to the extent that modification may be required by considerations of foreign policy or national security.

Subsection 407(d) authorizes the Postal Service to enter into agreements or contracts as it deems appropriate for international postal services or other international delivery services without the consent of the Secretary as long as any agreements with agencies

or subsidiaries of foreign governments are contractual in nature and do not purport to be international law. The Postal Service must notify the Secretary and the Commission of agreements with agencies of foreign governments.

In light of studies conducted by the General Accounting Office and the former U.S. Customs Service, subsection 407(e) requires the Bureau of Customs and Border Protection of the Department of Homeland Security to afford non-discriminatory access to U.S. customs procedures for both the Postal Service's Competitive products and similar products of U.S.-owned private carriers. Since some foreign governments currently limit access to simplified customs procedures to government post offices—thus discriminating between the Postal Service and U.S. private carriers—the subsection requires the Secretary of State "to the maximum extent practicable" to negotiate with other countries to make available customs procedures that do not discriminate between the Postal Service and U.S. private carriers while fully meeting the needs of all types of American shippers.

Sec. 306. Redesignation

Section 306 redesignates a subchapter heading in chapter 36 of title 39 to reflect various amendments in the bill.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Qualification requirements for Governors

Section 401 of the bill amends section 202 of title 39. Section 202 establishes the Board of Governors and provides that the nine Governors shall represent the public interest generally. The amendment adds a requirement that the President shall select at least four Governors based solely on their demonstrated ability in managing organizations or corporations, in either the public or the private sector, of substantial size (employing at least 50,000 employees). The amendment requires the President to consult with the Speaker and minority leader of the House and the majority and minority leaders of the Senate in selecting individuals to nominate to the Board.

The amendment also has a provision that one of the nine Governors must be chosen from among persons unanimously nominated by all labor unions recognized by law as collective-bargaining representatives for employees of the Postal Service in one or more bargaining units. The term of office for this Governor is three years (instead of nine).

Section 401 recognizes the bill vests enhanced powers and responsibilities in the Governors. A majority of current and former Board members have indicated support for well-defined qualification requirements for Board appointments. The qualification provisions in the bill are modeled on the appointment criteria for the Amtrak Board of Directors. Those Governors currently serving or nominated before enactment are not affected by this change.

Sec. 402. Obligations

Current law imposes a $2 billion annual cap on borrowing for capital investments and a $1 billion annual cap on borrowing for operating expenses. As recommended by the President's Commis-

sion on the U.S. Postal Service, section 402 of the bill amends section 2005 of title 39 to eliminate these annual sub-limits, but still maintains the overall $3 billion cap on the annual net increase in borrowed funds. Current law also remains unchanged regarding the aggregate $15 billion limit of obligations outstanding at any one time, and this cap would apply in the aggregate to the Postal Service Fund and the Competitive Products Fund.

Sec. 403. Private carriage of letters

Section 405 of the bill amends section 601 of title 39 to provide limited additional statutory exemptions to the postal monopoly. In summary, this section provides that a letter may be carried outside the mail under three new circumstances: (1) when the amount paid to a private carrier is at least 6 times the rate then currently charged for the first ounce of a single-piece first-class letter, (2) when the letter weighs at least 12 and a half ounces, and (3) when private carriage is within the scope of current Postal Service regulations that purport to suspend the operation of current law.

The proposed price and weight limits for the postal monopoly, 6 times the first-class stamp price and 12 and a half ounces, remain significantly more protective of the Postal Service than postal monopoly limits enacted in other industrialized nations that have concluded smaller monopolies will promote greater efficiency without jeopardizing universal service. For example, in 1997, the European Union limited European postal monopolies to 5 times the stamp price or 12 and a half ounces. In 2002, the European Union adopted a second postal directive that reduced last year the limits on postal monopoly laws to 3 times the stamp price or 3 and a half ounces. Canada's postal monopoly has been limited to 3 times the stamp price since 1981; Australia's monopoly is limited to 4 times the stamp price or 8 ounces. Indeed, several countries have abolished their postal monopolies or are in the process of doing so, including Germany, Sweden, New Zealand, and the United Kingdom. In comments submitted to the Committee in August 1998, the Department of Justice stated its support for limiting the scope of the statutory monopoly with a bright-line test for identifying products falling within it. In that August 1998 correspondence, the Department also noted that the Postal Service's entry into competitive markets suggested that economic theory did not justify the postal monopoly as it existed under current law. In April 1997, the General Accounting Office testified that the "impact of reducing the scope of the letter mail monopoly to $2 would not significantly affect the Postal Service's ability to provide affordable universal service because little of the first-class mail volumes that are currently protected by the postal monopoly would become subject to competition. * * * Available data indicate that less than 3 percent of the first-class mail revenues are currently derived from first-class mail that falls outside the proposed reduced limit of $2." By setting the limit at 6 times the first-class stamp price, the amended section 601 provides that the price limit on the postal monopoly will rise as the stamp price increases.

As predicted by the Postal Rate Commission Chairman's testimony in 1996, the Postal Service subsequently testified that year that it would interpret current Section 601(b) of Title 39 to allow it to repeal the changes proposed by the bill. Subsection (b) is de-

rived from section 7 of an 1864 postal act, and the revision repeals it as obsolete—this suspension power has never been used as provided; in fact, no occasion is known of the Post Office or the Postal Service suspending the exception for postage paid mail. Current subsection (b) of 601 simply authorizes the Postal Service to suspend the exception of paragraph (a) and thereby forbid the private carriage of letters even if postage is paid. The Postal Service's authority to reapply the postal monopoly to stamped letters is unnecessary and antiquated; it is repealed by the bill. Some entities in both the government and the private sector have testified that since 1974, the Postal Service has often misused the suspension power of 601(b). Since 1974, the Postal Service has, under color of subsection (b), issued regulations that rather than suspend the exception to the monopoly for stamped letters set out in subsection (a), instead suspend the postal monopoly itself (i.e., the criminal prohibitions set out in chapter 83 of title 18, U.S. Code). Indeed, when the Postal Service first proposed these regulations in 1973 that purported to derive a suspension power for the private express statutes contained in Title 18 of the U.S. Code, the Postal Rate Commission's General Counsel concluded that use of the suspension authority in this way violated the legislative language and intent. The "grandfather clause" provided in the bill will authorize the continuation of private activities that the Postal Service has permitted under color of this section. In this way, the bill protects mailers and private carriers who have relied upon regulations that the Postal Service has adopted to date in apparent misinterpretation of the current subsection (b).

By establishing boundaries for the postal monopoly while providing the Postal Service more commercial freedom, the bill clarifies the scope of the statutory monopoly that historically has been defined solely by the Service.

The suspension for outgoing international mail would be continued, to the extent that it involves the uninterrupted carriage of letters from a point within the United States to a foreign country for delivery to an ultimate destination outside the United States. However, the requirement that a shipper or carrier submit to an inspection or audit or face a presumption of violation would not be continued. At the time this regulation (section 320.8 of title 39 of the Code of Federal Regulations) was promulgated, the carriage and delivery of mail was generally the preserve of government-owned or sponsored postal administrations in foreign countries. The Committee intends the suspension to incorporate more recent changes in the laws of destinating countries, so that it would not prohibit delivery outside a foreign government-owned or sponsored post if such delivery is permitted by the laws of the foreign country.

The Postal Regulatory Commission is authorized to adopt regulations necessary to carry out the exceptions to the postal monopoly set out in section 601 as amended. This amendment does not take effect until the Postal Regulatory Commission promulgates regulations for the competitive pricing system under section 3633.

Sec. 404. Rulemaking authority

Section 404 of the bill amends section 401(2) of title 39 to clarify the rulemaking function of the Postal Service. As amended, section 401(2) authorizes the Postal Service "to adopt, amend, and repeal

such rules and regulations, not inconsistent with this title, as may be necessary in the execution of its functions under this title and such other functions as may be assigned to the Postal Service under any provisions of law outside of this title." This amendment is intended to make clear that the Postal Service is not, unless explicitly authorized by Congress, empowered to adopt regulations implementing other parts of the U.S. code, e.g., the criminal laws. This amendment is fully consistent with the legislative history of this provision (which originated in the 1960 codification) and is modeled on the Federal Communications Commission's rulemaking authority, 47 USC 154(i). The amendment recognizes that the rulemaking authority of the Postal Service is affected by its obligations under title 5 and certain other limited provisions of law outside title 39.

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

Section 405 of the bill addresses two specific issues. First, subsection (a) mandates that, except for section 407, nothing in the bill, or amendments made by the bill to current law, can affect any of the rights, privileges, or benefits of postal employees or the labor organizations representing them. Second, subsection (b) clarifies that nothing in the bill will affect free mail as currently provided by law for (1) correspondence of members of the diplomatic corps and consuls of the countries of the Postal Union of Americas and Spain; (2) people who are blind and other people with a physical impairment preventing them from using or reading conventionally printed material; and (3) mailing of balloting materials under the Uniformed and Overseas Citizens Absentee Voting Act.

Sec. 406. Bonus authority

Section 406 of the bill adds a new section 3686 to title 39. Section 3686 authorizes the Postal Service to establish one or more bonus or reward programs in furtherance of the objectives of chapter 36. The Board of Governors must review any such program prior to implementation and may approve any program that it finds "makes meaningful distinctions based on relative performance." The section states that bonus payments may exceed the salary cap for postal employees established in section 1003(a) of title 39 so long as the total compensation of such employees does not exceed the annual compensation of the Vice President of the United States. The Board of Governors may also allow up to twelve officers or employees of the Postal Service to receive total compensation of up to 120 percent of the Vice President's annual compensation, but report to Congress and the Office of Personnel Management within 30 days of a payment made under this exception. For each employee whose compensation exceeds the salary cap by virtue of a bonus or other payment awarded under this section, the Postal Service is required to list in its annual comprehensive statement the name of the employee, the amount of the bonus, the limitation of the salary cap, and amount by which the cap was exceeded. Nothing in this new section is intended to modify existing statutory authority for employment in the Postal Service under chapter 10 of title 39, particularly in regard to section 1001(c) (i.e., authority for the Postal Service to hire individuals as executives under employment contracts).

Sec. 407. Mediation in collective bargaining disputes

Section 407 is intended to expedite the resolution of collective bargaining disputes. It would replace the fact-finding panel that currently conducts the first step in the dispute resolution process with a mediator appointed by the Director of the Federal Mediation and Conciliation Service. If the parties are unable to agree and determine to submit the dispute to arbitration, the existing process of an arbitration board remains in place. This new step in the current bargaining process reflects a joint suggestion by the Postal Service and its four postal unions, and is based upon a recommendation by the President's Commission on the U.S. Postal Service. It should assist disagreeing parties in forging a final agreement, or limiting the issues that must be addressed if interest arbitration becomes necessary.

TITLE V—ENHANCED REGULATORY COMMISSION

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

Section 501 of the bill creates a new chapter 5 in title 39 to establish the Postal Regulatory Commission. Chapter 5 consists of four sections as follows.

Section 501 of title 39 establishes the Postal Regulatory Commission. Section 3601 of current law, establishing the Postal Rate Commission, is repealed.

Section 502 of title 39 sets out the qualifications and terms of office for the five Commissioners. This section provides that "Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration." Section 3602, establishing terms of office for Commissioners of the Postal Rate Commission, is repealed. Commissioners currently serving or nominated before enactment are not affected by this change.

Section 503 of title 39 authorizes and directs the Commission to issue rules and regulations. Section 503 is a redesignation of current section 3603.

Section 504 of title 39 sets out rules governing the administration of the Commission. Section 504 is a redesignation of current section 3604.

In sum, section 501 of the bill recognizes the Commission's enhanced responsibilities by establishing the Commission in provisions set out in a chapter located in part I of title 39, dealing with general matters, rather than, as in current law, provisions set out in a subchapter of chapter 36, and dealing with rate regulation.

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

Section 502 of the bill amends section 504 of title 39 (i.e., section 3604 of current law as redesignated by section 501 of the bill). As amended, section 504 provides that Commissioners, any administrative law judge appointed by the Commission, and any designated employee of the Commission may administer oaths, examine witnesses, take depositions, and receive evidence. In addition, the Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the

Commission may issue subpoenas requiring the attendance and presentation of testimony by, or production of documentary or other evidence in the possession of, officers, employees, agents, or contractors of the Postal Service and to order the taking of depositions of and responses to written interrogatories by such persons. Such subpoena or order is allowed with respect to any proceeding conducted by the Commission under this title. Any subpoena requires the written concurrence of a majority of Commissioners then holding office in advance of its issuance. Failure to obey a subpoena may be referred to the appropriate United States District Court, and failure to obey a court order is punishable as a contempt of court.

The amendment also provides for the handling of information the Postal Service views as proprietary that is requested from the Postal Service by the Commission. As amended, section 504 provides that, if the Postal Service determines requested information is proprietary and so notifies the Commission in writing, the Commission may use the information only for the purpose supplied and must restrict access to the information to Commission officers and employees. However, the amendment authorizes the Commission to publicly disclose relevant information it deems necessary in furtherance of its duties, as long as it has adopted regulations establishing a procedure for affording appropriate confidentiality; this authority includes a mandate to the Commission to balance the nature and extent of likely commercial injury with the mandate for financial transparency of 101(d) of this Title. The amendment further provides for the possibility of discovery of such information by interested parties and requires the Commission to adopt rules to protect the confidentiality of such information similar to the rules that govern protective orders issued by the federal courts under the Federal Rules of Civil Procedure.

Sec. 503. Appropriations for the Postal Regulatory Commission

Section 503 of the bill further amends section 504 of title 39 to ensure the financial independence of the Postal Regulatory Commission. Under the amendment, funding for the Commission will be paid out of the Postal Service Fund, as under current law, but the budget of the Commission will no longer be subject to disapproval by the Governors.

Sec. 504. Redesignation of the Postal Rate Commission

Section 504 of the bill changes "Postal Rate Commission" to the "Postal Regulatory Commission" in various statutes.

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

Section 505 ensures that the existing role of a Consumer Advocate is maintained in all proceedings of the new Postal Regulatory Commission, to ensure that the interests of the general public are represented.

TITLE VI—INSPECTORS GENERAL

Sec. 601. Inspector General of the Postal Regulatory Commission

Section 601 of the bill amends the Inspector General Act of 1978 to provide for an Inspector General for the Postal Regulatory Commission.

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

Section 602 of the bill amends the Inspector General Act of 1978 to require appointment of the Postal Service's Inspector General by the President with Senate confirmation, in the same manner as the other presidentially appointed Inspectors General at major federal departments and agencies. In keeping with the intent of the Inspector General Act, the Inspector General is required to investigate internal criminal activity committed by Postal Service employees, including Inspection Service employees. By clarifying the investigative responsibilities of the Inspector General, this section complies with the Inspector General Act's requirement to avoid duplication and insure effective coordination and cooperation between the Inspection Service and the Office of the Inspector General. Section 602 provides that the current Inspector General will remain in office until the President appoints one pursuant to the new authority, although the Section makes clear that nothing in this act shall prevent the current Inspector General from being appointed by the President. In addition, the provision authorizes an appropriation for the Office of Inspector General rather than leaving its budget to the discretion of the agency it is charged with overseeing, consistent with the similar manner in which the Federal Deposit Insurance Corporation (FDIC) Inspector General receives a congressional appropriation from the FDIC's fund. Such a change is critical to recognizing the independence and objectivity of this key watchdog entity.

The bill also subjects the Postal Service, for the first time, to provisions of the Anti-Kickback Act, gives Postal Service contractor employees whistleblower protection, and requires the Postal Service to develop and issue purchasing regulations prohibiting the reimbursement of certain contractor costs. Under the Anti-Kickback Act, major postal contractors would have to maintain compliance systems that would detect and prevent kickbacks. In addition, whistleblower protection would apply to postal contractors' employees. Finally, the Postal Service would be required to develop and issue purchasing regulations that prohibit the reimbursement of contract costs not allowable under the Postal Service Procurement Manual.

TITLE VII—EVALUATIONS

Sec. 701. Universal Postal Service Study

Recognizing that the concept of universal postal service has never been defined in the United States, and yet is a critical component of assessing the future role of a national post office, section 701 directs the Postal Service to submit a report on universal postal service in the United States to the President, Congress, and the Postal Regulatory Commission. The report must include a review

of the history and development of universal service, an explanation of the current scope and standards of universal service and what will likely be required in the future, a description of groups not currently covered by universal service or receiving deficient service or quality, and such recommendations as the Postal Service deems appropriate. The Postal Regulatory Commission must then evaluate the Postal Service's study and issue its own report to the President and the Congress. That report must include, according to paragraph (b): (1) comments and observations on the matters raised in the Postal Service's report as the Commission considers appropriate; (2) an estimate of the cost attributable to the obligation to provide universal service under prior and current law; (3) an estimate of the likely cost of fulfilling the obligation to provide universal service; and (4) additional topics and recommendations as the Commission considers appropriate. According to paragraph (c), in preparing the reports required by section 701 the Postal Service and the Postal Regulatory Commission (1) shall consult with each other, other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of mail, and the general public; and (2) shall address in their respective reports any written comments received under this section.

Sec. 702. Assessments of ratemaking, classification and other provisions

Section 702 of the bill requires the Postal Regulatory Commission to report, in conjunction with the views of the Postal Service, to the President and the Congress, at least every 5 years, on the operation of the amendments made by this bill, with recommendations for any legislative or other measures necessary to improve the effectiveness or efficiency of the nation's postal laws. Specifically, at least the first report must include, under paragraph (c), information on (1) the operation of the Commission regulations applicable to rates for competitive products and relevant recommendations; (2) the competitive products fund; and (3) the assumed Federal income tax on the competitive products fund.

Sec. 703. Study on equal application of laws to competitive products

Section 703 of the bill requires the Federal Trade Commission to prepare a report detailing how federal and state laws apply differently to the Postal Service with respect to competitive products and private companies providing similar products. The Commission is directed to report within one year after enactment and to include recommendations for resolving any identified disparities in legal treatment. The Federal Trade Commission is to consult in preparing its report with the Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received.

Sec. 704. Greater diversity in Postal Service executive and administrative schedule management positions

Section 704 of the bill directs the Board of Governors to study and report to the President and Congress on the extent of representation by women and minorities in supervisory and management positions within the Postal Service. In addition, the Postal Service

is required, as part of its performance evaluations of supervisory and management employees, to give appropriate consideration to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans to achieve greater workforce diversity.

Sec. 705. Plan for assisting displaced workers

Section 705 of the bill requires the Postal Service to develop and be prepared to implement a plan for affording reemployment assistance to employees displaced by automation or privatization. The plan is to be provided to the Board of Governors and Congress within one year of enactment.

Sec. 706. Contracts with women, minorities and small businesses

Section 706 of the bill requires the Board of Governors, within one year, to study and report to the President and Congress on the number and value of contracts and subcontracts entered into with women, minorities, and small businesses.

Sec. 707. Rates for periodicals

Section 707 of the bill requires the Postal Service, acting jointly with the Postal Regulatory Commission and the General Accounting Office, to study and submit to the President and Congress a report concerning (1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and (2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate. The report shall include recommendations for any administrative action or legislation that might be appropriate.

Sec. 708. Assessment of certain rate deficiencies

Section 708 of the bill requires the Office of Inspector General of the Postal Service to study and submit to the President, the Congress, and the Postal Service a report concerning the Postal Service's administration of the reduced rate provisions of section 3626(k) of title 39. The study must specifically address the adequacy and fairness of the process by which assessments are determined and appealable, including whether the Postal Regulatory Commission or any other body outside the Postal Service should be assigned a role, and whether a statute of limitations should be established for the commencement of proceedings by the Postal Service.

Sec. 709. Postal processing and distribution network study

Section 709 requires the Postal Service to provide an annual report to the Postal Regulatory Commission, the Congress, and the Board of Governors on the processing, transportation, and distribution network of the Service, with an eye toward recommendations on improving the system's efficiency and effectiveness. Per subsection (b), the annual report would be publicly incorporated into the reports and plans required by the Government Performance and Results Act, whose reports are reviewed each year by the Post-

al Regulatory Commission under its annual determination of compliance required by new Sections 3652(g) and 3653. Subsection (c) emphasizes that the Postal Service shall take such actions it considers, in its sole discretion, necessary and appropriate to provide the Nation with a modern and efficient network for the processing, transportation, and distribution of mail. Nothing in this section shall prevent the Postal Service from making such improvements in the efficiency and effectiveness of the network, as it deems appropriate.

Sec. 710. Assessment of future business model of the Postal Service

Section 710 requires a comprehensive, two year study by an independent, impartial, and expert research organization appointed by the Comptroller General to assess the costs, benefits, effects, and future strategies for maintaining the Postal Service as wholly part of the Executive Branch, or transforming it into a private corporation in whole or in part. This should provide Congress the proper foundation to evaluate the appropriate long term business model for the Postal Service.

Section (a) outlines the process to be undertaken by the Comptroller General in selecting the research organization. Section (b) makes clear that the research organization shall not consider any strategy or other course of action that would pose a significant risk to the continued availability of affordable, universal postal service throughout the United States. Section (c) specifies the topics and matters to consider that will compromise the elements of the report. Subsection (d) permits the use of outside experts by the research organization, while Subsection (f) requires consultation with the wide range of postal stakeholders and inclusion of such comments in the final report. Subsection (e) provides funding from the Postal Service for the study.

Sec. 711. Study on certain proposed amendments

Section 711 of the bill directs the Government Accountability Office to study proposals in H.R. 22 (109th Congress), as introduced section 805, that would move to a market-based system for establishing rates for the carriage of international mail. The list of matters to evaluate are not intended to limit the GAO from considering additional issues that it deems appropriate to analyze.

Sec. 712. Definition

Section 712 of the bill declares that the term "Board of Governors" as used in this title shall have the same meaning as given in section 102 of title 39.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

Sec. 801. Employment of Postal Police Officers

Section 801 of the bill further amends section 404 and makes permanent the authority for the Postal Service to employ postal police officers to protect property owned or occupied by the Postal Service or under the charge and control of the Postal Service and to protect persons on the property. The Postal Service currently employs more than one thousand uniformed Postal Police Officers

who are assigned to critical postal facilities throughout the country. The officers provide perimeter security, escort high-value mail shipments, and perform other essential protective functions. To date, Congress has provided temporary authority for such officers each year in appropriations bills.

Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices

Section 802 of the bill further amends section 404 of title 39 to provide that the appeal to the Postal Regulatory Commission of a post office closing by any person shall be considered timely if it is postmarked within 30 days of notification of the closure to the appellant. The Commission testified that current law, which requires the appeal to be received by the Commission within 30 days, precludes adequate consideration of certain post office closings.

Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department

Section 803 of the bill amends section 8 of the Postal Reorganization Act of 1970 (39 U.S.C. 1001 note) and addresses the administrative status of employees affected by change made by Public Law105–33 (repealing the authority for transitional appropriations) by clarifying their status as officers and employees of the U.S. Postal Service with respect to compensation for work injuries.

Sec. 804. Obsolete provisions

Subsection 804(a) of the bill repeals chapter 52 of title 39, relating to contracts for the surface transportation of mail. Such contracts are now allowed under section 5005 of title 39.

Subsection 804(b) authorizes the Postal Service to lengthen the statutory four-year limitation on postal transportation contracts as it deems appropriate or advisable. The four-year limitations in current postal law date from President Grant's Administration and reflect the spoils system of that era by allowing a new President to assume control of the Post Office Department and its accompanying patronage.

The Committee has spent the last 10 years examining all aspects of the Postal Service with the thought of giving it the flexibility and the authority it needs to survive as a viable public institution well into the future. During our extensive review we have discovered some sound policies and programs of the Postal Service that have been quite successful, and the Committee recommends the Postal Service continue that which works for it. One such sound policy is the Postal Service's relationship with its Highway Contractors (Star Routes). For the last 56 years, the Postal Service has contracted with Highway Contractors for periods up to four years. Such contracts may be renewed for successive contract terms and may be adjusted, with the consent of the Contractor, for increased or decreased costs resulting from changed conditions occurring during the contract term.

The Postal Service has also provided indemnity payments for contracts cancelled for reasons other than default. This program has returned corresponding benefits to both the Postal Service and its Highway Contractors. The Postal Service has had the benefit of

continuity of service from a dedicated group of highway transportation suppliers, and the contractors have been able to amortize their costs over a longer period of time thus keeping their rates economic and efficient. These Highway Contractors have also provided efficient and reliable service in times of unanticipated increases in Postal mail volume. As a result of this program's highly successful history, the Committee recommends that the Postal Service maintain its 56 year old policy of renewing and adjusting Highway Contractors with indemnity provisions or liquidated damages. As noted, the Committee has included in this bill a provision that permits the Postal Service to contract for longer terms than 4 years.

The Postal Service is in the midst of a major transformation to improve and modernize its operations. The Postal Service has identified the procurement area, particularly improvements in its supply chain management, as an area in need of change and improvement.

The Committee requested that the Government Accountability Office (GAO) determine the Postal Service's progress in implementing supply chain management initiatives and whether these initiatives have had an effect on small businesses. Supply chain management is a process that has helped successful private-sector companies leverage their buying power and identify more efficient ways to procure goods and services.

In its report entitled "Progress in Implementing Supply Chain Management Initiatives," GAO–04–540, the GAO recommended that the Postal Service improve implementation of its bulk fuel program, consider adjustments to reverse auction procedures, and focus more attention on small, minority-owned, and woman-owned businesses in carrying out supply chain management initiatives. GAO also believes that the Postal Service should have a mechanism in place to ensure accountability and transparency in its small business contracting.

The Committee will continue its oversight of these programs and urges the Postal Service to move quickly to address issues identified by GAO in its report.

Sec. 805. Investments

Section 805 of the bill amends section 2003 of title 39 to prohibit the Postal Service from using funds from the Postal Service Fund to invest in "obligations or securities of a commercial entity." Under the bill's establishment of new section 2011(c) of title 39, such investments are permitted using funds from the Competitive Products Fund with the approval of the Secretary of the Treasury.

Sec. 806. Reduced rates

Section 806 makes changes related to the rates provided for "within county publications"—publications within the county in which they are published. These types of publications are predominantly small-circulation, local newspapers—family-owned or small group weeklies targeted toward the news and advertising needs of small communities or counties. Before the Postal Reorganization Act, within county publications, along with other classes of mail and types of mailers such as nonprofit periodicals and library matter, were allowed to mail at reduced rates of postage. In 1970, the

Postal Reorganization Act required that the products cover their attributable costs, but their institutional costs were paid for by annual appropriation. In 1993, Congress phased in rate increases so that after five years the reduced rate mailers would eventually pay half the institutional costs that comparable commercial mailers paid. Following the realization of some practical difficulties related to this "fifty percent markup rule," the law was changed in 2000 with respect to certain publications. Within county publications, however, remained subject to the fifty percent markup rule.

This bill correctly discontinues the fifty percent markup rule for within county publications. Continuing such a rule could unduly limit the flexibility available to the Postal Regulatory Commission in creating a new rate-setting approach. This section at the same time preserves the preferred status of within county publication rates by tracking the phrasing of the current statute. The intent of the change is to maintain the special status of within county publications while replacing the fifty percent markup rule with a more general statement that within county rates should reflect the mail's "preferred status." Because of the local nature of within county publications, they have low costs compared to many national publications. As a result, the current approach toward within county publications is for them to have their own subclass status, which keeps them from having their costs averaged together with more costly national mail. This section is not intended to require the Commission or Postal Service to delete the within county subclass; rather, it is intended to maintain authority for preferred treatment of within county publications in terms of rates.

Sec. 807. Hazardous matter

Section 807 provides for penalties regarding illegal use of the mails to transport hazardous matter. It adds a new section 3018 to title 39 that prohibits the mailing of hazardous material, the causing of hazardous material to be mailed, and the manufacture, distribution, or sale of containers, packaging kits or other devices (for use in mailing hazardous materials) that fail to conform with relevant standards. Subsection (c) states that persons knowingly violating hazardous material mailing provisions shall be liable for civil penalties, clean up charges, and damages. Subsection (d) states that there must be notice and an opportunity for hearing before the Postal Service can determine a violation to the hazardous material provisions has occurred. Subsection (e) states what matters the Postal Service shall consider before determining the amount of civil penalties to violators of the hazardous material provisions. Subsections (f), (g) and (h) outline the procedures for collecting and depositing such penalties, costs and damages.

Sec. 808. Provisions relating to cooperative mailings

Section 808 directs the Postal Regulatory Commission to study the Postal Service's Cooperative Mail Rule to determine whether it contains adequate safeguards to protect against abuses of rates for nonprofit mail and deception of consumers. The Cooperative Mail Rule is a long-standing postal regulation designed to prevent the commercial exploitation of the nonprofit rate by prohibiting for-profit mail matter such as advertisements for products and services from being sent at the nonprofit rate. It has also been applied to

prevent abusive relationships between commercial fundraisers and nonprofits, and to otherwise regulate those relationships. If the Postal Regulatory Commission determines that the Cooperative Mail Rule does not adequately safeguard against abuse of the nonprofit rate, section 810 authorizes the Commission to promulgate such regulations as it deems necessary.

Sec. 809. Technical and conforming amendments

Miscellaneous technical and conforming amendments required by the bill's changes to Title 39.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

In 2003, the Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18 or the Act) was enacted to change the calculation of Postal Service contributions to the Civil Service Retirement System (CSRS). The Act credited the Postal Service for the real value of contributions it had made in the past and changed how contributions would be computed in the future. The Act provided immediate financial relief to the Postal Service, allowing the Postal Service to use the savings resulting from the change in FY 2003–2005 to reduce its debt and hold postage rates steady. After FY 2005, the Act required that the savings go into an escrow account, absent any additional congressional action.

P.L. 108–18 was enacted quickly to avert a financial crisis at the Postal Service, which had indicated that, absent a change, a rate increase would have been necessary within a year. However, the Act left two issues unresolved. First, the Act did not address whether the escrow account would be used to pay down debt, prefund retiree health benefits, or for some other purpose. Second, there was disagreement about what entity should be responsible for paying the costs of retirement benefits related to military service. Under previous law, the Treasury Department had paid those benefits for CSRS retirees. P.L. 108–18 shifted the responsibility for these military costs to the Postal Service, both prospectively and retrospectively.

This bill addresses both of these issues. The bill removes the requirement in P.L. 108–18 that funds be collected and placed in an escrow account, and requires the Treasury Department to pay the costs of retirement benefits related to military service. Returning the responsibility for military costs to Treasury will result in an immediate overfunding of the CSRS fund. The bill directs the Postal Service to use that overfunding and other savings to address both its short- and long-term financial needs and ensures that the Postal Service reduces its growing unfunded liability for retiree health benefits. In its 2003 annual report, the Postal Service estimated that liability as being between $47 and $57 billion.

Sec. 901. Civil Service Retirement System

Section 901 restores the responsibility to the Treasury Department for paying retirement costs related to military service. Because such a change will result in an immediate overfunding of the Postal Service's portion of the CSRS Fund, the section terminates the Postal Service's obligation to make CSRS contributions. The Office of Personnel Management is required to determine whether there is a postal surplus or a supplemental liability by June 15,

2006. If there is a surplus, as anticipated, the Office must transfer that amount to the Postal Service Retiree Health Benefits Fund. If there is a supplemental liability, the Office must establish an amortization schedule to liquidate the liability by the end of FY 2043. All determinations and redeterminations made by the Office are subject to review by the Postal Regulatory Commission at the Postal Service's request. The Commission must submit the results of its review to the Office, the Postal Service, and Congress. The Office must reconsider its decision in light of the Commission's review and make appropriate adjustments.

Subsection (c) ensures that the monetary impact of restoring to Treasury the responsibility for military costs is retroactive, as if the relevant provision of P.L. 108–18 had not been enacted. It directs the Office to transfer to the CSRS Fund amounts that it would otherwise have paid for FY 2003–2005 and earnings on those amounts.

Sec. 902. Health insurance

Section 902 would change the way the Postal Service finances its share of the cost of providing health care to retirees. The Postal Service must pay a portion of health care premiums for currently retired employees eligible to participate in the Federal Employees Health Benefits (FEHB) program. Currently, the Postal Service pays only its portion of the health premiums incurred by current retirees each year. Under section 902, the Postal Service would begin paying for estimated costs of retiree health care as such costs are accrued by current workers.

The bill creates a new on-budget account, the Postal Service Retiree Health Benefits Fund (PSRHBF), which would earn interest at the same rate as the CSRS Fund. The bill also requires calculation of the unfunded liability for health care costs of current and future retirees, which would be the difference between the assets held in the PSRHBF and the net present value of accrued liabilities projected for retiree health care.

Starting in 2006, the bill requires the Postal Service to make payments equal to the annual increase in the unfunded liability attributable to current employees. The Postal Service also would pay annual interest costs on the unfunded liability (attributable to current and future retirees). These payments, made at the end of each fiscal year, would be deposited into the PSRHBF. The Postal Service's share of health care premiums for current retirees would be paid out of the PSRHBF as soon as adequate funds are available in the account to do so.

The bill directs the Office of Personnel Management to compute the required prefunding and interest payments after consultation with the Postal Service. All computations or other determinations made by the Office, along with any relevant regulations established by the office, are subject to review by the Postal Regulatory Commission at the Postal Service's request. The Commission must submit the results of its review to the Office, the Postal Service, and Congress. The Office must reconsider its decision in light of the Commission's review and make appropriate adjustments.

Sec. 903. Repealer

Section 903 repeals section 3 of the Postal Civil Service Retirement System Funding Reform Act, related to the disposition of savings accruing to the Postal Service. This change removes the requirement that savings be placed in an escrow account.

Sec. 904. Ensuring appropriate use of escrow and military savings

Section 904 requires that for the ten years beginning in FY 2006, two-thirds of the "total savings"—the amount of money the Postal Service would have had to pay to the CSRS Fund if P.L. 108–18 and this bill had not been enacted, less any amortization payments required to the CSRS Fund for any supplemental liability as described above—be used to address the Postal Service's long-term needs of prefunding retiree health benefits and paying down its debt. Amounts that would otherwise have been paid into the Fund established under 8909a(a) under this paragraph, but that are used to reduce the postal debt may not exceed a total of $3 billion for fiscal years 2006–2015.

A safety valve is also put in place to allow the Postal Service to appeal to the Postal Regulatory Commission for relief from the requirement that two-thirds of the savings be allocated for such purposes.

After FY 2015, there is not a specific statutory requirement related to the total savings. Instead, the Committee expects that the Postal Service will use its best judgment in promoting its long-term viability (by further reducing the unfunded liability for retiree health benefits, debt repayment, and other measures) while moderating postage rate increases. The absence of a specific requirement after FY 2015 should not be interpreted by the Postal Service as a sign that it no longer needs to be concerned with the outstanding unfunded liability for retiree health benefits.

Sec. 905. Effective dates

Title IX will take effect on October 1, 2005.

EXPLANATION OF AMENDMENTS

The Committee adopted an amendment in the nature of a substitute offered by Chairman Davis when it considered the bill on April 13, 2005. The amendment contained the following changes to H.R. 22, as introduced:

- Required SEC-like financial reporting by the Postal Service: The substitute amendment requires the Postal Service to file with the PRC the same public financial statements and reports required of private companies by the Securities and Exchange Commission, including a breakdown of costs and revenues by segment as defined by USPS in consultation with the PRC.
- Network Optimization: The substitute amendment requires annual assessment of network optimization, which would be publicly incorporated into the reports and plans required by the Government Performance and Results Act.
- Worksharing: The substitute amendment conforms H.R. 22 with S. 662 (109th Congress), as introduced, eliminating the House bill's four-year limit on new worksharing discounts that

exceed the costs avoided by the Postal Service and instead requiring such discounts to apply for only a limited time period.

• Banking, Borrowing and Investing: The substitute amendment limits the Postal Service's Competitive Products fund to banking, borrowing and investing with the U.S. Treasury, rather than with the private sector.

• Treatment of Confidential Information: The substitute amendment provides the Postal Regulatory Commission, rather than the Postal Service, with the authority to decide what regulatory information will be protected from public disclosure on grounds of commercial sensitivity.

• Rate Discrimination: The substitute amendment maintains the current law prohibition on undue or unreasonable rate discrimination.

• Salary Cap Flexibility: The substitute amendment establishes a more efficient process for the Postal Service's authority to offer bonuses and other compensation to its employees, consistent with similar performance incentive programs in other sectors.

• Business Model Study: The substitute amendment requires the Government Accountability Office to assess the costs, benefits, effects, and future strategies for maintaining the Postal Service as wholly part of the Executive Branch, or transforming it into a private corporation in whole or in part.

• Outside Auditor: The substitute amendment removes a provision from H.R. 22 that would have required the Inspector General—rather than an independent accounting firm selected by the Board—to certify the Postal Service's annual financial statements.

• Technical Changes: The substitute amendment makes a technical change to the definition of a "postal service," and moves the directive that the PRC take the fairness and equity of the rate structure into account from the list of the factors to be considered in regulation to the list of objectives.

In addition, two sections of the bill were struck following adoption of an amendment offered by Mr. LaTourette. Mr. LaTourette's amendment struck sections 805 and 807 of the legislation and instead created a new study in Title VII of H.R. 22 for the Government Accountability Office (GAO) to evaluate aspects of the matter. Mr. LaTourette's amendment was adopted by voice vote.

For more than 20 years, the air transportation of U.S. mail to domestic destinations has been open to competitive bidding. However, air transport of international mail is subject to the same regulatory control of the U.S. Department of Transportation (DOT) that has been in place since the late 1970s. Section 805 would have permitted the Postal Service the same opportunity to contract for the transportation of international mail that it has had domestically for decades. Also, Section 805 protected domestic carriers from unfair competition by ensuring that any foreign carrier competing for a contract must be from a country whose nation provides the same opportunity for U.S. carriers to deliver its mail. Fifty-one countries already contract with U.S. carriers to move mail for their post offices, and in fact, the Postal Service pays more for the air transportation of mail to the U.S. carriers than what those same U.S. carriers charge a foreign post to transport their mail. Section 807 of

the bill, which would have repealed the Postal Service's ability to unilaterally fine air carriers for delays in moving international mail because such authority would be inappropriate in a negotiated contracting environment, was also deleted under Mr. LaTourette's amendment in order to reflect the amendment's repeal of the flexibilities that would have been provided by section 805.

Mr. LaTourette's amendment replaces these sections with a section mandating a Government Accountability Office study of the matter, including an assessment of the impact of such reforms on the domestic airlines. This study should build on the GAO's April 8, 2005 report on this subject.

COMMITTEE CONSIDERATION

H.R. 22 is derived from H.R. 3717, introduced in the 104th Congress, H.R. 22, introduced in the 105th and 106th Congresses, H.R. 4970 introduced in the 107th Congress, and H.R. 4341 introduced in the 108th Congress.

In the 104th Congress, the former Postal Service Subcommittee, chaired by Mr. McHugh, held oversight hearings on the Postal Service and, in particular, its calls for greater commercial flexibility, on February 23, March 2 and 8, May 23, June 7, 14, and 28, and November 15, 1995, and January 25 (with the Senate Committee on Governmental Affairs) and March 13 and 19, 1996. In addition, on November 15, 1995, the Subcommittee held a legislative hearing on H.R. 210, a bill to provide for privatization of the Postal Service.

On June 25, 1996, Subcommittee Chairman McHugh introduced H.R. 3717, the Postal Reform Act of 1996. The Subcommittee held legislative hearings on H.R. 3717 on July 10 and 18 and September 17 and 26, 1996.

In the 105th Congress, on January 7, 1997, Subcommittee Chairman McHugh reintroduced former H.R. 3717 as H.R. 22, the Postal Reform Act of 1997. The Subcommittee held a legislative hearing on H.R. 22 on April 16, 1997. The Subcommittee also held a general oversight hearing on April 24, 1997. On December 12, 1997, Mr. McHugh issued a comprehensive, section-by-section plan for revision of H.R. 22. In late February 1998, Mr. McHugh announced that the Subcommittee was actively soliciting written comments through early April on proposed revisions to H.R. 22. The Subcommittee received 47 written submissions. The 47 comments subsequently received were shared with all Subcommittee Members for review, and they were posted on the Subcommittee's web page for public examination. In addition, the Subcommittee received extensive additional comments more informally from representatives of interested parties. Through this process, the Subcommittee attempted to ensure that the public and all postal stakeholders had repeated opportunities to provide input on the revisions as proposed December 1997.

After carefully evaluating all of the comments received, Postal Service Subcommittee Chairman McHugh released the text of a comprehensive amendment to H.R. 22 on September 2, 1998, which was also posted on the Subcommittee's web page. On September 24, 1998, the Subcommittee on the Postal Service voted to approve H.R. 22, renamed the Postal Modernization Act of 1998, as amended by the comprehensive amendment announced by Subcommittee

Chairman McHugh on September 2, 1998, and to send it to the Committee on Government Reform and Oversight for further consideration, which did not occur before the 105th Congress adjourned.

With the beginning of the 106th Congress, Postal Service Subcommittee Chairman McHugh introduced a revised version of H.R. 22, and the Subcommittee convened a final round of hearings on the bill on February 11 and March 4, 1999. After incorporating further modifications from these hearings, on April 29, 1999, the Postal Service Subcommittee approved H.R. 22 again and reported it to the Committee on Government Reform. However, the Committee did not consider the bill before the 106th Congress expired. The Subcommittee did convene additional hearings throughout 1999 and 2000 that continued to explore and underscore the need for reform.

In the 107th Congress, the Postal Service Subcommittee was abolished and postal issues became the focus of the full Government Reform Committee. After several full Committee hearings on the Postal Service's worsening financial situation—the General Accounting Office added the Service to its watch-list of "high risk" agencies—the Committee marked up a revised postal reform bill, H.R. 4970, introduced by Mr. McHugh. H.R. 4970, the Postal Accountability and Enhancement Act, was the product of a nearly year long bipartisan effort of the Committee staff to address remaining concerns and objections that certain stakeholders expressed with previous versions of the postal reform legislation. Despite support for the legislation, there was disagreement among some Committee members over the timing of moving the bill forward. As a result, in a mark-up on June 20, 2002, H.R. 4970 failed on a vote of 6 ayes, 20 no, and 9 voting "present." Nine Members did not vote.

In the 108th Congress, the Government Reform Committee's Special Panel on Postal Reform and Oversight, chaired by Mr. McHugh, held three hearings in a two week period to examine the need to modernize our nation's postal laws following the work of the President's Commission. On January 28, 2004, the Panel heard from the Treasury Department, the Postal Service, the Postal Rate Commission, and the General Accounting Office. On February 5, the Panel traveled to Chicago, Illinois for a hearing in which the Presidents of all postal unions and employee groups testified. The Panel held a final hearing on February 11 in which nine CEOs of competitors, commercial and nonprofit mailers, and postal reliant businesses testified. On March 23, 2004, the Committee held a joint hearing with the Senate Governmental Affairs Committee, in which it heard testimony from the Secretary of the Treasury and the Postal Service.

All witnesses stated support for the Administration's broad principles on postal reform, and the hearings underscored that universal postal service is at risk and reform is urgently needed to minimize the danger of significant taxpayer bailout or dramatic postal rate increases. As the General Accounting Office emphasized, the Postal Service's current business model, formulated as it was in 1970, is no longer sustainable in the 21st century.

On May 12, 2004, the Committee met in open session and ordered reported favorably the bill introduced by Mr. McHugh, H.R.

4341, by roll call vote, a quorum being present, with a vote of 40 yeas and 0 nays. The Committee filed its report to accompany H.R. 4341 on September 8, 2004, as Report 108–672 Part I. The Judiciary Committee then sought referral of the bill to address matters within its jurisdiction. On September 15, 2004, the Judiciary Committee considered H.R. 4341 and ordered the bill reported with several amendments by voice vote (see Report 108–672 Part II filed September 23, 2004). The bill was then placed on the Union Calendar, Calendar No. 427. The 108th Congress adjourned before further action was taken on H.R. 4341.

On January 4, 2005, Mr. McHugh and Chairman Davis introduced H.R. 22. On April 13, 2005, the Committee on Government Reform ordered the bill reported to the House, as amended, by a recorded vote.

ROLLCALL VOTE

Representatives	Aye	Nay	Present	Dem.	Aye	Nay	Present
Mr. Davis (VA), (chairman)	X			Mr. Waxman	X		
Mr. Shays	X			Mr. Lantos	X		
Mr. Burton	X			Mr. Owens	X		
Mrs. Ros-Lehtinen	X			Mr. Towns	X		
Mr. McHugh	X			Mr. Kanjorski	X		
Mr. Mica	X			Mr. Sanders	X		
Mr. Gutknecht	X			Mrs. Maloney	X		
Mr. Souder	X			Mr. Cummings	X		
Mr. LaTourette	X			Mr. Kucinich	X		
Mr. Platts	X			Mr. Davis (IL)	X		
Mr. Cannon	X			Mr. Clay	X		
Mr. Duncan	X			Ms. Watson	X		
Mrs. Miller (MI)	X			Mr. Lynch	X		
Mr. Turner (OH)	X			Mr. Van Hollen	X		
Mr. Issa	X			Ms. Sanchez	X		
Mrs. Brown-Waite	X			Mr. Ruppersberger			
Mr. Porter	X			Mr. Higgins	X		
Mr. Marchant	X			Ms. Norton	X		
Mr. Westmoreland	X						
Mr. McHenry	X						
Mr. Dent	X						
Mrs. Foxx	X						
Vacancy							

Totals: Ayes 39, Nays 0, Present 0.

CORRESPONDENCE

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, April 25, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
Rayburn Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 22, the Postal Accountability and Enhancement Act.

Our committee recognizes the importance of H.R. 22 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I will agree not to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legis-

lation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee, and that a copy of this letter and of your response acknowledging our valid jurisdictional interest will be included in the Committee report and in the Congressional Record when the bill is considered on the House Floor.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG,
Chairman.

Hon. DON YOUNG,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Committee on Transportation and Infrastructure's jurisdictional interest in H.R. 22, the Postal Accountability and Enhancement Act, and your willingness to forego consideration of H.R. 22 by the Committee on Transportation and Infrastructure.

I agree that the Committee on Transportation and Infrastructure has a valid jurisdictional interest in H.R. 22 and that the committee's jurisdiction will not be adversely affected by your decision to not request a sequential referral of H.R. 22. In addition, I will support your request for the appointment of outside conferees from the Committee on Transportation and Infrastructure to a House-Senate conference committee on this or similar legislation should such a conference be convened.

As you have requested, I will include a copy of your letter and this response in the Government Reform Committee's report on H.R. 22 and in the Congressional Record during consideration of the legislation on the House floor. Thank you for your assistance as I work towards the enactment of H.R. 22.

Sincerely,

TOM DAVIS,
Chairman.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and institutes improvements to the collective bargaining process.

Legislative branch employees and their families, to the extent that they are otherwise eligible for the benefits provided by this legislation, have equal access to its benefits.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee's performance goals and objectives are reflected in the descriptive portions of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 22. Article I, Section 8, Clause 7 of the Constitution of the United States grants the Congress the power to establish post offices.

FEDERAL ADVISORY COMMITTEE ACT

Section 305 of H.R. 22 establishes an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. Appendix 2). The functions of the advisory committee are reflected in the descriptive portions of this report.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement on whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office included herein.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 22. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the

Committee has received the following cost estimate for H.R. 22 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 25, 2005.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 22, the Postal Accountability and Enhancement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for Postal Service costs), Geoffrey Gerhardt (for retirement costs), and Julie Christensen (for health care costs).

Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

H.R. 22—Postal Accountability and Enhancement Act

Summary: H.R. 22 would change the laws that govern the operation of the United States Postal Service (USPS), particularly those regarding the cost of pensions and health care benefits of retired workers and the requirement to hold certain funds in escrow. CBO estimates that enacting this legislation would result in on-budget savings of $35.7 billion and off-budget costs of $41.6 billion over the 2006–2015 period. (The net expenditures of the USPS are classified as "off-budget.") Thus, CBO estimates the net cost to the unified budget would be $5.9 billion over the 2006–2015 period. All of those effects reflect changes in direct spending. In addition, we estimate that implementing H.R. 22 would have discretionary costs of about $1.6 billion over the 2006–2015 period, assuming appropriation of the necessary amounts. (Enacting the bill would not affect federal revenues.)

Enacting H.R. 22 would not affect how much the federal government spends on pension or health care benefits for USPS retirees. By increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow account requirements, however, the bill would increase future budget deficits as measured by the unified federal budget. Eliminating the escrow account requirement for the USPS would allow that agency to increase spending for capital improvements or other projects, pay down its outstanding debt, postpone or diminish future rate increases, or some combination of these options. Enacting the bill also would reduce direct spending by making the costs of the Postal Rate Commission and the USPS Office of the Inspector General subject to appropriation.

H.R. 22 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Major provisions of H.R. 22 would:

Eliminate a requirement in Public Law 108–18 (P.L. 108–18), the Postal Civil Service Retirement Funding Reform Act of

2003, that the Postal Service place savings from reduced pension contributions in escrow.

Transfer from the Postal Service to the Department of the Treasury responsibility for paying pension costs associated with military service credits.

Replace direct payments the Postal Service is making for retiree health care costs with payments designed to prefund some of the health care costs of current employees when they retire.

Revise the procedure for raising postal rates.

Strengthen the USPS Board of Governors and the Postal Rate Commission, which would be redesignated the Postal Regulatory Commission (PRC).

Make other changes designed to increase the Postal Service's competitiveness with private industry.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 22 is summarized in Table 1. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 550 (health), 900 (net interest), and 950 (undistributed offsetting receipts).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 22

	By fiscal year, in billions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING										
On-Budget Effects:										
Estimated Budget Authority	−2.9	−3.0	−3.1	−3.3	−3.4	−3.6	−3.8	−4.0	−4.2	−4.4
Estimated Outlays	−2.9	−3.0	−3.1	−3.3	−3.4	−3.6	−3.8	−4.0	−4.2	−4.4
Off-Budget Effects:										
Estimated Budget Authority	2.9	3.2	3.5	3.6	3.9	4.3	4.5	4.9	5.3	5.6
Estimated Outlays	2.9	3.2	3.5	3.6	3.9	4.3	4.5	4.9	5.3	5.6
Total Unified Budget Effect:										
Estimated Budget Authority	0.0	0.2	0.3	0.4	0.5	0.7	0.7	0.9	1.1	1.1
Estimated Outlays	0.0	0.2	0.3	0.4	0.5	0.7	0.7	0.9	1.1	1.1
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Estimated Outlays	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2

Note.—Components may not add to totals because of rounding.

Basis of estimate

For this estimate, CBO assumes that H.R. 22 will be enacted near the start of fiscal year 2006. For direct spending, CBO estimates that enacting the bill would result in on-budget savings of $35.7 billion and off-budget costs of $41.6 billion over the 2006–2015 period, for a net cost to the unified budget of $5.9 billion over the 10-year period. In addition, we estimate that implementing H.R. 22 would cost about $1.6 billion over the 2006–2015 period, assuming appropriation of the necessary amounts, mostly to fund the USPS Office of the Inspector General.

Background

The following paragraphs present background information relating to the major provisions of H.R. 22, mostly for postal finances affected by the bill.

Budgetary Treatment of USPS. Although the Postal Service is a federal agency, its financial operations are classified as off-budget.

Despite this treatment, federal budget documents present the net income (gross income minus expenses) of the agency in the unified budgetary totals for the federal government. The Postal Service is required by law to set postage rates to cover its full costs, although from year to year its net income may be positive or negative. In fiscal year 2004, the Postal Service generated $69.6 billion in collections, mostly from postage and user fees, and had $65.5 billion in expenses, for a net cash surplus of $4.1 billion in that year. CBO projects that the USPS will end 2005 with a cash surplus of $3.8 billion.

USPS and Federal Retirement Plans. Postal Service employees participate in the federal government's two main defined benefit pension programs. Those workers initially hired prior to 1984 are covered by the Civil Service Retirement System (CSRS) while those initially hired after 1983, as well as former CSRS workers who elected to change federal retirement plans in 1987 or 1998, participate in the Federal Employees' Retirement System (FERS). In 2004, about 25 percent of the USPS workforce was covered by CSRS, and the rest were under FERS.

The Postal Service and its employees each make payroll contributions toward the civilian retirement system (CSRS and FERS). Unlike other agencies, the agency contribution rate for most CSRS employees is 17.4 percent of basic pay (most other agencies contribute 7 percent), while the employee contribution rate is 7 percent.[1] For FERS employees, the agency contribution rate for most employees is 10.7 percent, while the employee rate is 0.8 percent, plus Social Security payroll taxes on both employers and employees. Workers in CSRS receive generally higher benefits than those in FERS, but unlike FERS, those in CSRS do not participate in Social Security and do not receive agency contributions toward the Thrift Savings Plan. In addition to its payroll contributions, the Postal Service also makes annual amortization payments toward an unfunded liability within CSRS. In 2004, that payment was about $250 million.

USPS and Federal Health Benefits. The Postal Service also pays a portion of health care premiums for currently retired USPS employees who are eligible to participate in the Federal Employees Health Benefits (FEHB) program. Currently, there are over 400,000 Postal Service retirees who participate in the FEHB program. On average, the Postal Service currently pays about 45 percent of the health care premiums for its retirees. Retirees pay about 30 percent of their FEHB premiums with general revenues accounting for the remaining amount, roughly 25 percent. In 2004, the Postal Service paid $1.3 billion to FEHB for premiums for current retirees.

USPS Escrow Fund. Starting in fiscal year 2006, the Postal Service will be required under current law to begin holding funds in an escrow account equal to the difference between what the Postal Service currently pays toward CSRS and what it would have paid for CSRS benefits prior to the enactment P.L. 108–18. Under cur-

[1] P.L. 108–18 increased the contribution rate the Postal Service pays for its CSRS employees from 7 percent to 17.4 percent. That legislation also eliminated a series of amortization payments the Postal Service was required to make for unfunded CSRS liabilities. For more details, see CBO's cost estimates of the Postal Civil Service Retirement System Funding Reform Act of 2003 (S. 380 and H.R. 735 from the 108th Congress). These estimates are posted on www.cbo.gov.

rent law, CBO estimates the Postal Service will need to hold in escrow nearly $3 billion in 2006 and $43 billion over the 2006–2015 period. H.R. 22 would eliminate the requirement that USPS collect and hold such funds in escrow.

Effects on the unified budget

H.R. 22 would not affect how much the federal government spends on pension or health benefits for USPS retirees. However, by increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow requirements, the bill would increase future budget deficits as measured by the unified federal budget.

Off-budget payments made by the Postal Service for CSRS and FEHB are transfers to on-budget federal accounts, and are counted as offsetting receipts (a credit against direct spending). Eliminating the USPS transfer to CSRS would reduce on-budget offsetting receipts by $11.7 billion over the 2006–2015 period. Under the bill, that reduction would be more than offset by a $47.4 billion increase in on-budget offsetting receipts paid by the Postal Service for the new health benefits fund. Thus, the bill would increase on-budget offsetting receipts by $35.7 billion over the 2006–2015 period.

The collection of funds to be held in escrow by the Postal Service is recorded as an off-budget offsetting receipt (i.e., simply reflecting the payment by the USPS into escrow). Eliminating the requirement to fund the escrow account would allow the USPS to pay down debt, increase spending for capital improvements or other projects, postpone or diminish future rate increases, or some combination of these activities. CBO estimates that this provision would increase off-budget spending by $43.2 billion over the 2006–2015 period. Making the costs of the PRC and the USPS Office of the Inspector General subject to appropriation would reduce direct spending by the Postal Service by $1.6 billion over the next 10 years.

The combined effect of the $35.7 billion net increase in on-budget receipts, the $43.2 billion reduction in off-budget offsetting receipts, and a $1.6 billion reduction in USPS direct spending would produce a $5.9 billion cost to the unified budget deficit over the 2006–2015 period. Those effects are presented in Table 2 and explained in more detail below.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING FOR H.R. 22

	By fiscal year, outlays in billions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
CHANGES IN DIRECT SPENDING										
On-Budget Effects										
Civil Service Retirement System	1.8	1.7	1.6	1.4	1.3	1.1	1.0	0.8	0.6	0.4
Postal Service Retiree Health Benefits Fund net of retiree premium payments to FEHB [a]	−4.7	−4.7	−4.7	−4.7	−4.7	−4.7	−4.7	−4.8	−4.8	−4.8
Total On-Budget Effects	−2.9	−3.0	−3.1	−3.3	−3.4	−3.6	−3.8	−4.0	−4.2	−4.4
Off-Budget Effects										
Eliminate Escrow Account	3.1	3.3	3.6	3.8	4.1	4.4	4.6	5.0	5.4	5.7
Funding for PRC and USPS Inspector General Office Costs Subject to Appropriation	−0.1	−0.1	−0.2	−0.2	−0.2	−0.2	−0.2	−0.2	−0.2	−0.2

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING FOR H.R. 22—Continued

	By fiscal year, outlays in billions of dollars—									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total Off-Budget Effects	2.9	3.2	3.5	3.6	3.9	4.3	4.5	4.9	5.3	5.6
Total Unified Budget Effects	0.0	0.2	0.3	0.4	0.5	0.7	0.7	0.9	1.1	1.1
Memorandum										
Payments from the Postal Service received by PSRHBF	−5.2	−6.7	−7.0	−7.3	−7.6	−7.9	−8.2	−8.6	−9.0	−9.4
FEHB premiums paid from PSRHBF	0.4	2.0	2.3	2.6	2.9	3.2	3.5	3.8	4.2	4.6
Net outlays of PSRHBF	−4.7	−4.7	−4.7	−4.7	−4.7	−4.7	−4.7	−4.8	−4.8	−4.8

a. Starting in July 2006, CBO assumes that payments of FEHB premiums for Postal Service retirees would be paid out of the Postal Service Retiree Health Benefits Fund instead of being paid directly by the Postal Service as under current law. The bill would have no effect on spending by the FEHB program for health benefits for Postal Service annuitants.

Notes.—FEHB = Federal Employees Health Benefits program; PSRHBF = Postal Service Retiree Health Benefits Fund; PRC = Postal Regulatory Commission; USPS = United States Postal Service.

Components may not add to totals because of rounding.

Amounts in the table represent net changes in offsetting receipts, which are recorded in the budget as changes in direct spending. A positive sign indicates lower offsetting receipts, thus an increase in outlays; negative numbers represent increased offsetting receipts, or a reduction in net outlays.

On-budget effects (direct spending)

CBO estimates the on-budget effect of the pension and health care provisions in H.R. 22 would be a net increase in offsetting receipts of $2.9 billion in 2006, $15.8 billion over the 2006–2010 period, and $35.7 billion over the 2006–2015 period. That increase in on-budget collections (i.e., reduction in direct spending) would come from increased transfers (off-budget outlays) coming from the USPS. (The off-budget effects are discussed in the following section.)

Civil Service Retirement Contributions. H.R. 22 would change the way the Postal Service finances retirement benefits for current and retired employees. Starting in October 2005, the bill would transfer financial responsibility for military service credits earned by Postal Service employees and retirees participating in CSRS from the Postal Service to the Department of the Treasury. Military service credits represent time served in the U.S. military that is credited toward benefits under the civilian retirement system. Most federal agencies are not responsible for the cost to the pension system of the military service credits incurred by their CSRS employees, but P.L. 108–18 transferred responsibility for military service credits from the Treasury to the Postal Service beginning in June 2004.

The Office of Personnel Management (OPM) estimates that transferring responsibility for military service credits from the Postal Service back to the Treasury would cause the Postal Service to have overfunded its obligation to CSRS by about $20.3 billion through September 2005.[2] Consequently, under H.R. 22 the Postal Service would no longer be obligated to make either agency contributions or any further annual amortization payments for CSRS. (Employee contributions would continue at 7 percent of basic pay and retirement benefits under CSRS would not change.)

[2] This overfunding, which is calculated on a net-present-value basis, represents an estimate of the total amount of money the Postal Service will have contributed toward CSRS from 1971 through September 30, 2005, minus the agency's CSRS liabilities if USPS bears no financial responsibility for the pension costs associated with military service credits. The projected overfunding is due primarily to larger-than-expected returns on assets held in the CSRDF.

Spending by the Postal Service—including amounts paid into other federal accounts—is considered off-budget spending. However, the Civil Service Retirement and Disability Fund (CSRDF) is an on-budget account, so the amounts the CSRDF collects from the Postal Service are on-budget offsetting receipts. Reducing payments the Postal Service makes to the CSRDF would result in a reduction in off-budget spending and a reduction in on-budget offsetting receipts. CBO estimates transferring responsibility for military service credits, and the attendant reduction in CSRS contributions such a change would bring, would reduce onbudget receipts by $1.8 billion in 2006 and $11.7 billion over the 2006–2015 period. Although the Treasury Department would then be responsible for the costs associated with those pension liabilities under the bill, the Treasury payment and receipt by CSRDF are both on-budget intragovernmental transactions. That is, the bill would replace one intragovernmental transfer with another. Instead of a transfer from the off-budget Postal Service to the on-budget CSRDF, there would be a transfer from the Treasury to the CSRDF.

Postal Service Retiree Health Benefits Fund. H.R. 22 also would change the way the Postal Service finances its share of the cost of providing health care to retirees. Instead of directly paying a portion of the health premiums incurred by current retirees each year, the USPS would begin paying for estimated costs of retiree health care as such costs are accrued by current workers. Starting in 2006, H.R. 22 would require the USPS to make payments equal to the annual increase in retiree health care liabilities accrued by current employees. These payments would be deposited into a new on-budget account, the Postal Service Retiree Health Benefits Fund (PSRHBF), which would earn interest at the same rate as the CSRDF. CBO currently projects that the CSRDF fund will earn about 5.75 percent next year. The Postal Service's share of health care premiums for current retirees would be paid out of the PSRHBF as soon as adequate funds are available in the account to do so.

Under H.R. 22, any overfunding toward CSRS liabilities (after financial responsibility for military service credits reverts to the Treasury) would be transferred from the CSRDF to the PSRHBF by June 30, 2006. Based on information provided by OPM, CBO anticipates that the transfer to the new fund would total $21.2 billion and would occur in June 2006. This amount reflects the $20.3 billion in estimated CSRS overfunding plus interest that would accrue between the end of the valuation period in September 2005 and when CBO assumes the asset transfer would take place in June 2006.

Under the bill, the Postal Service also would pay annual interest costs on the unfunded liabilities for health care costs of both current and future retirees. The unfunded liability would be the difference between the assets held in the PSRHBF and the net present value of accrued liabilities projected for retiree health care. The bill would direct OPM to compute the required prefunding and interest payments after consultation with the Postal Service, subject to review by the PRC. The bill specifies that payments would be made at the end of each fiscal year.

Based on information provided by OPM and using CBO's current projections of long-term interest rates, CBO anticipates the net

present value of the unfunded liability for the health care costs of retirees would amount to about $49 billion at the end of 2006 and remain roughly at that level through the end of 2015. CBO estimates that payments by the Postal Service for prefunding health care costs of retirees and interest on the remaining unfunded liability would be $5.2 billion in 2006 (net of the 2006 premium adjustment described below), $33.8 billion over the 2006–2010 period, and $76.8 billion over the 2006–2015 period. Those amounts could change significantly if future rates are much different than currently projected by CBO.

For fiscal year 2006, H.R. 22 would reduce the initial prefunding and interest payments otherwise due at the end of the year under the bill. The reduction would reflect all contributions directly paid to the FEHB program by the Postal Service in fiscal year 2006 for its share of premiums for current annuitants—about $1.3 billion in that year. (Such contributions would be made by June 30, 2006, prior to the transfer of assets from the CSRDF into the PSRHBF.) Before applying the offset, CBO estimates that the total payments required under the bill for prefunding retiree health costs and interest on the remaining unfunded liability would be $6.5 billion in 2006. The final payment required under the bill, net of the adjustment for specified 2006 premium contributions, would be $5.2 billion in 2006 as stated above.

CBO expects that the transfer of $21.2 billion from the CSRDF to the PSRHBF resulting from the shift in responsibility for military service credits would occur in June 2006. Therefore, the Postal Service would cease making payments under current law for its share of FEHB premiums for annuitants beginning in July 2006; with those premium payments instead being drawn from the PSRHBF. (As mentioned earlier, the bill also would direct the Postal Service to deduct all fiscal year 2006 contributions toward its share of health premiums for current retirees made prior to July 2006 from initial prefunding and interest payments otherwise due under the bill for fiscal year 2006.) CBO estimates that change in the funding mechanism for retiree health benefits would reduce off-budget payments by the Postal Service for FEHB premiums by $0.4 billion in 2006 (which reflects premium payments, under current law, for the last three months of 2006), $10.2 billion over the 2006–2010 period, and $29.4 billion over the 2006–2015 period. On-budget payments for those amounts would then be transferred from the PSRHBF to the FEHB program to pay the Postal Service's share of health care costs for retirees.

The bill would require a minimum level of prefunding by the Postal Service through 2015, after accounting for disbursements for health premiums from the PSRHBF. To achieve the annual or cumulative prefunding target, payments from the Postal Service to the PSRHBF—net of premiums paid by the PSRHBF—must total at least two-thirds of the amount the Postal Service would have paid toward CSRS prior to the enactment of P.L. 108–18. If the threshold is not met, additional prefunding payments would be required to make up the shortfall. Those payments also could be used to reduce postal debt (up to $3 billion) in lieu of contributions to the fund. The requirement could be waived completely by the PRC under certain conditions. CBO anticipates that the threshold estab-

lished under the bill would be met and no additional payments would be required through 2015.

Health premiums paid by the Postal Service for FEHB and any payments that would be made into the new PSRHBF would be considered on-budget offsetting receipts. CBO estimates the increase in on-budget receipts as a result of changes in how the Postal Service finances its health care obligations would be $4.7 billion in 2006, $23.6 billion over the 2006–2010 period, and $47.4 billion over the 2006–2015 period.

Off-budget effects (direct spending)

CBO estimates that enacting H.R. 22 would result in net off-budget costs $2.9 billion in fiscal year 2006, $17.2 billion over the 2006–2010 period, and $41.6 billion over the 2006–2015 period. Those amounts reflect the effects of allowing the Postal Service to increase other spending, reduce postal rates, or some combination of these actions because the bill would eliminate the requirement for the Postal Service to fund the escrow account. The net costs also reflect off-budget savings from a provision in the bill to make the costs of the PRC and the USPS Office of the Inspector General subject to appropriation, thus reducing direct spending by about $1.6 billion over the next 10 years. The bill contains many other provisions that could affect USPS cash flows in each year, but we estimate they would not have a significant net effect on the USPS over the long term.

Elimination of Escrow Fund. P.L. 108–18 permanently reduced payments by the USPS to the CSRDF. As a result of that act, USPS payments to the CSRDF declined by $2.5 billion to $5.5 billion annually, beginning in 2003. For fiscal years starting in 2006, P.L. 108–18 requires that savings resulting from reduced payments to the CSRDF be considered an operating expense of the Postal Service and held in escrow, remaining unavailable for obligation unless authorized by subsequent legislation.

H.R. 22 would amend P.L. 108–18 to eliminate the escrow fund requirement. As a result of this provision, the Postal Service could lower rates and thus reduce its revenues from the levels expected under current law, or maintain rates and increase spending, or some combination of these actions. The net outlays of the Postal Service would increase because collections would not be deposited in escrow. CBO estimates that eliminating the escrow requirement would increase net off-budget spending by about $3.1 billion in 2006, $17.9 billion over the 2006–2010 period, and $43.2 billion over the 2006–2015 period. Much of the spending would go toward making new payments to the on-budget account for health care costs.

Make Cost of PRC and USPS IG Subject to Appropriation. Under current law, the PRC and the Inspector General of the Postal Service are funded from the Postal Service Fund without annual Congressional appropriation. In total, these offices spent about $140 million in 2004. H.R. 22 would authorize the appropriation of such sums as may be necessary from the Postal Service Fund for these offices. Thus, enacting this legislation would reduce direct spending—and therefore, increase spending subject to appropriation—by about $140 million annually beginning in fiscal year 2006.

Changes to USPS Rate-Setting Procedures. Under the bill the Postal Service would be directed to define the cost basis for the different products and services it supplies. These products and services would broadly be categorized as market-dominant products and competitive products. Different rate-setting procedures would apply to these different categories of products and services.

Market-Dominant Products. Under H.R. 22, market-dominant products would include: first class mail, special services, periodicals, standard mail, media mail, library mail, and bound printed matter.

H.R. 22 would require the PRC to establish, within two years of enactment, a new system for regulating postage rates for market-dominant products. The bill would permit the new system to involve price caps, revenue targets, or other forms of incentive or cost-of-service regulation. However, the legislation would mandate that the average rate for any market dominant product could not rise more than the annual increase in the Consumer Price Index (CPI), unless a larger increase would be necessary to ensure the viability of the Postal Service.

Since 1970, increases in postage rates have largely tracked the rate of inflation. Over the past 10 years, rates were increased in 1995, 1999, 2001, and 2002 as a result of rate cases, and the Postal Service has begun preparation for a rate increase in 2006. Under the bill, we expect that the Postal Service would increase rates for market-dominant mail services more frequently than under current law, but by smaller increments (as limited by the CPI). Over the long term, CBO does not expect that enacting H.R. 22 would significantly change the revenues from market-dominant products that the Postal Service would be expected to receive under current law.

Competitive Products. Under H.R. 22, competitive products would include the following: priority mail, express mail, mailgrams, international mail, and parcel post. Currently, the competitive products contribute less than 15 percent of total postal revenues.

H.R. 22 would direct the PRC to prohibit subsidizing competitive products by market dominant products, ensure that each competitive product covers its attributable costs, and ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service. After these requirements have been implemented, the USPS could change rates for competitive products without consulting the PRC, as long as the cost coverage requirements are met. The Postal Service, however, would have to provide public notice and justification of changes in rates.

In addition, H.R. 22 would require the Postal Service to establish a new off-budget fund, the Competitive Products Fund, solely for revenues and expenditures associated with competitive products. We expect that it could be difficult to differentiate postal expenses related only to competitive products, as USPS uses the same employees and facilities to handle both market dominant and competitive products.

CBO cannot predict the bill's effect on Postal Service revenues from competitive products because the agency could set and change prices with few restrictions, although we would expect that yearly cash flows under the bill would differ from those estimated under current law. CBO also cannot predict how successfully the Postal

Service might compete in the open market. However, the highly competitive nature of the mailing industry would tend to keep prices and revenues down, while the labor-intensive cost structure of the USPS would maintain upward pressure on expenses. Thus, over the long term under this legislation, CBO expects the Postal Service to attempt to recover its costs and break even as it did before the enactment of P.L. 108–18.

Other Off-Budget Effects. H.R. 22 would make many other changes to the laws governing the Postal Service, the PRC, and the delivery of mail and other postal products. Some of these provisions, such as the expansion of USPS contracting authority for the interstate air transportation of mail, would yield savings. Other provisions, including the requirement for additional USPS reports and the establishment of an inspector general for the PRC, would increase costs. In total, CBO does not expect the net effects of these provisions to be significant.

Spending subject to appropriation

H.R. 22 would authorize the appropriation of such sums as may be necessary, out of the Postal Service Fund, for the PRC and the Inspector General of the Postal Service. (Currently, these offices are funded out the Postal Service Fund without Congressional action.) Beginning in 2006, this provision would entail about $140 million a year in spending, subject to appropriation of the necessary amounts. (Spending after 2006 would increase to reflect anticipated inflation.) Enacting the bill would reduce direct spending by the same amounts. Spending on these activities would likely still be considered off-budget, since funds would come from the Postal Service Fund.

In addition, H.R. 22 would require OPM to make actuarial computations related to the CSRS and PSRHBF trust funds and would increase OPM' s administrative workload to comply with the requirements under the bill. CBO estimates that such activities would cost less than $500,000 annually, assuming the availability of appropriated funds.

Intergovernmental and private-sector impact: H.R. 22 contains no intergovemmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Mark Grabowicz for USPS costs; Geoffrey Gerhardt for retirement costs; and Julia Christensen for health care costs; impact on state, local, and tribal governments: Sarah Puro; impact on the private sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 39, UNITED STATES CODE

* * * * * * *

PART I—GENERAL

Chap.		Sec.
1.	**Postal Policy and Definitions**	**101**
*	*	*
5.	***Postal Regulatory Commission***	***501***

CHAPTER 1—POSTAL POLICY AND DEFINITIONS

* * * * * * *

§ 101. Postal policy

(a) * * *

* * * * * * *

(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.

[(d)**]** *(e)* Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

[(e)**]** *(f)* In determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

[(f)**]** *(g)* In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation to the destination of important letter mail to all parts of the Nation shall be a primary goal of postal operations.

[(g)**]** *(h)* In planning and building new postal facilities, the Postal Service shall emphasize the need for facilities and equipment designed to create desirable working conditions for its officers and employees, a maximum degree of convenience for efficient postal services, proper access to existing and future air and surface transportation facilities, and control of costs to the Postal Service.

§ 102. Definitions

As used in this title—

(1) * * *

* * * * * * *

(3) "Governors" means the 9 members of the Board of Governors appointed by the President, by and with the advice and consent of the Senate, under section 202(a) of this title; **[**and**]**

[(4) "Inspector General" means the Inspector General appointed under section 202(e) of this title;**]**

(4) "Inspector General" means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;

(5) "postal service" means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other functions supportive or ancillary thereto;

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

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

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

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

(10) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

(11) "year", as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.

CHAPTER 2—ORGANIZATION

* * * * * * *

§ 202. Board of Governors

(a)*(1)* The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 11 members appointed in accordance with this section. Nine of the members, to be known as Governors, shall be appointed by the President, by and with the advice and consent of the Senate, not more than 5 of whom may be adherents of the same political party. The Governors shall elect a Chairman from among the members of the Board. **[**The Governors shall be chosen to represent the public interest generally, and shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.**]** *The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.* Each Governor shall receive a salary of $30,000 a year plus $300 a day for not more than 42 days of meetings each year and shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board. Nothing in the preceding sentence shall be construed to limit the number of days of meetings each year to 42 days.

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

tives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

(b)*(1)* The terms of the 9 Governors shall be 9 years, except that the terms of the 9 Governors first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 9 years, following the appointment of the first of them. Any Governor appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term. A Governor may continue to serve after the expiration of his term until his successor has qualified, but not to exceed one year.

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

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

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

(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.

* * * * * * *

[(e)(1) The Governors shall appoint and shall have the power to remove the Inspector General.

[(2) The Inspector General shall be appointed—

[(A) for a term of 7 years;

[(B) without regard to political affiliation; and

[(C) solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

[(3) The Inspector General may at any time be removed upon the written concurrence of at least 7 Governors, but only for cause. Nothing in this subsection shall be considered to exempt the Governors from the requirements of section 8G(e) of the Inspector General Act of 1978.**]**

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CHAPTER 4—GENERAL AUTHORITY

Sec.
401. General powers of the Postal Service.

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404a. Specific limitations.

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§ 401. General powers of the Postal Service

[The] *Subject to the provisions of section 404a, the* Postal Service shall have the following general powers:

(1) * * *

[(2) to adopt, amend, and repeal such rules and regulations as it deems necessary to accomplish the objectives of this title;]

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

* * * * * * *

§ 404. Specific powers

(a) [Without] *Subject to the provisions of section 404a, but otherwise without* limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

(1) * * *

* * * * * * *

[(6) to provide, establish, change, or abolish special nonpostal or similar services;]

[(7)] *(6)* to investigate postal offenses and civil matters relating to the Postal Service;

[(8)] *(7)* to offer and pay rewards for information and services in connection with violation of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues, or property, to the person informing for the same, and to pay the other one-half into the Postal Service Fund; and

[(9)] *(8)* to authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service.

(b) Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of chapter 36. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

[(b)] *(d)*(1) * * *

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(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the [Postal Rate] *Postal Regulatory* Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

(A) * * *

* * * * * * *

(6) For purposes of paragraph (5), any appeal received by the Commission shall—

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

(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).

(e) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of January 4, 2005.

§ 404a. Specific Limitations

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

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

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

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

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

(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Serv-

ice has violated this section may bring a complaint in accordance with section 3662.

* * * * * * *

[§ 407. International Postal Arrangements.

[(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

[(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

[(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

[(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

[(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

[(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

[(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other persons as the Secretary or the Postal Service considers appropriate.]

§ 407. International postal arrangements

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

(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

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

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

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

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

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

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

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

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

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

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

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

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

(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

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

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

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

(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

(2) For purposes of this subsection, the term "private company" means a private company substantially owned or controlled by persons who are citizens of the United States.

(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

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

* * * * * * *

§ 409. Suits by and against the Postal Service

(a) [Except as provided in section 3628 of this title,] *Except as otherwise provided in this title,* the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed

to the appropriate United States district court under the provisions of chapter 89 of title 28.

* * * * * * *

[(d) The Department of Justice shall furnish, under section 411 of this title, the Postal Service such legal representation as it may require, but with the prior consent of the Attorney General the Postal Service may employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

[(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.]

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

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

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

(2) This subsection applies with respect to—

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

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

(e)(1) To the extent that the Postal Service, or other Federal agency acting on behalf of or in concert with the Postal Service, engages in conduct with respect to any competitive product, the Postal Service or other Federal agency (as the case may be)—

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

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

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

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

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

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

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

(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all re-

quirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

* * * * * * *

§ 410. Application of other laws

(a) * * *

(b) The following provisions shall apply to the Postal Service:

(1) * * *

* * * * * * *

(5) the following provisions of title 41:

(A) sections 35–45 (known as the Walsh-Healey Act, relating to wages and hours); **[**and**]**

(B) chapter 6 (the Service Contract Act of 1965);

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

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

* * * * * * *

(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.

* * * * * * *

CHAPTER 5—POSTAL REGULATORY COMMISSION

Sec.
501. Establishment.
502. Commissioners.

503. Rules; regulations; procedures.
504. Administration.
505. Officer of the Postal Regulatory Commission representing the general public.

§ 501. Establishment

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

§ 502. Commissioners

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

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

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

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

(e) The Commissioners shall serve for terms of 6 years.

[§ 3603.] *§ 503.* Rules; regulations; procedures

The [Postal Rate] *Postal Regulatory* Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this [chapter] *title*. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service. *Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.*

[§ 3604.] *§ 504.* Administration

(a) The Chairman of the [Postal Rate] *Postal Regulatory* Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed

under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

* * * * * * *

[(d)(1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

[(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

[(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget.

Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.

[(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service fund established under section 2003 of this title.]

(d) There are authorized to be appropriated, out of the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.

* * * * * * *

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

(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

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

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

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

(4) For purposes of this subsection, the term "covered person" means an officer, employee, agent, or contractor of the Postal Service.

(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

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

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

(B) permit anyone who is not an officer or employee of the Commission to have access to any such information.

(3)(A) Paragraph (2) shall not prevent the Commission from publicly disclosing relevant information in furtherance of its duties under this title if the Commission has adopted regulations under section 553 of title 5 that establish a procedure for according appropriate confidentiality to information identified by the Postal Service under paragraph (1). In determining the appropriate degree of confidentiality to be accorded information identified by the Postal Service under paragraph (1), the Commission shall balance the nature and extent of the likely commercial injury to the Postal Service against the public interest, as required by section 101(d) of this title for financial transparency of a government establishment.

(B) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.

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

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

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

The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such

as developing rules, regulations, and procedures) who shall represent the interests of the general public.

CHAPTER 6—PRIVATE CARRIAGE OF LETTERS

* * * * * * *

§ 601. Letters carried out of the mail

(a) * * *

[(b) The Postal Service may suspend the operation of any part of this section upon any mail route where the public interest requires the suspension.]

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

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

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

(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2004) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

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

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PART II—PERSONNEL

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CHAPTER 10—EMPLOYMENT WITHIN THE POSTAL SERVICE

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§ 1001. Appointment and status

(a) * * *

* * * * * * *

(d) Notwithstanding section 5533, 5535, or 5536 of title 5, or any other provision of law, any officer or employee of the Government of the United States is eligible to serve and receive pay concurrently as an officer or employee of the Postal Service (other than as a member of the Board or of the [Postal Rate] *Postal Regulatory* Commission) and as an officer or employee of any other department, agency, or establishment of the Government of the United States.

* * * * * * *

§ 1002. Political recommendations

(a) Except as provided in subsection (e) of this section, each appointment, promotion, assignment, transfer, or designation, interim or otherwise, of an officer or employee in the Postal Service (except a Governor or member of the [Postal Rate] *Postal Regulatory* Commission) shall be made without regard to any recommendation or

statement, oral or written, with respect to any person who requests or is under consideration for such appointment, promotion, assignment, transfer, or designation, made by—

(1) * * *

* * * * * * *

§ 1003. Employment policy

(a) Except as provided under [chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law,] *chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law,* the Postal Service shall classify and fix the compensation and benefits of all officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5.

(b) Compensation and benefits for all officers and employees serving in or under the Office of Inspector General of the United States Postal Service shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the [respective] *other* Offices of Inspector General of the various establishments named in section 11(2) of the Inspector General Act of 1978.

(c) Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term "Postal Inspector" [included] *includes* any agent to whom any investigative powers are granted under section 3061 of title 18.

* * * * * * *

§ 1005. Applicability of laws relating to Federal employees

(a) * * *

* * * * * * *

(d)(1) * * *

(2) The provisions of [subsection (g) of section 5532,] subsections (i) and (l)(2) of section 8344[,] and subsections (f) and (i)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions—

(A) * * *

* * * * * * *

CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS

* * * * * * *

§ 1207. Labor disputes

(a) * * *

(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration

date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall [direct the establishment of a factfinding panel consisting of 3 persons. For this purpose, he shall submit to the parties a list of not less than 15 names, from which list each party, within 10 days, shall select 1 person. The 2 so selected shall then choose from the list a third person who shall serve as chairman of the factfinding panel. If either of the parties fails to select a person or if the 2 members are unable to agree on the third person within 3 days, the selection shall be made by the Director. The factfinding panel shall issue after due investigation a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.], *within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.*

(c)(1) If no agreement is reached within [90] *60* days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefor, an arbitration board shall be established consisting of 3 members, [not members of the factfinding panel,] 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made [by the Director. If the parties do not agree on the framing of the issues to be submitted, the factfinding panel shall frame the issues and submit them to the arbitration board.] *from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.*

* * * * * * *

(3) Costs of the arbitration board and [factfinding panel] *mediation* shall be shared equally by the Postal Service and the bargaining representative.

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

ing arbitration in accordance with the terms of subsection (c) of this section.

* * * * * * *

PART III—MODERNIZATION AND FISCAL ADMINISTRATION

Chap.	Sec.
20. Finance	**2001**
* * * * * * *	
[28. Strategic planning and performance management	**2801]**
28. Strategic Planning and Performance Management	*2801*

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CHAPTER 20—FINANCE

Sec.
2001. Definitions.

* * * * * * *

2011. Provisions relating to competitive products.

§ 2001. Definitions

As used in this chapter—

(1) "Fund" means the Postal Service Fund established by section 2003 of this chapter; [and]

(2) "Competitive Products Fund" means the Postal Service Competitive Products Fund established by section 2011; and

[(2)] *(3)* "obligations", when referring to debt instruments issued by the Postal Service, means notes, bonds, debentures, mortgages, and any other evidence of indebtedness.

§ 2002. Capital of the Postal Service

(a) * * *

(b) The capital of the Postal Service at any time shall consist of its assets, including the balance in the [Fund,] *Fund and the balance in the Competitive Products Fund,* less its liabilities.

* * * * * * *

§ 2003. The Postal Service Fund

(a) There is established in the Treasury of the United States a revolving fund to be called the Postal Service Fund which shall be available to the Postal Service without fiscal-year limitation to carry out the purposes, functions, and powers authorized by this [title.] *title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).*

(b) [There] *Except as otherwise provided in section 2011, there* shall be deposited in the Fund, subject to withdrawal by check by the Postal Service—

(1) * * *

* * * * * * *

(7) amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service; [and]

(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes[.]*; and*

(9) any amounts collected under section 3018.

[(c) If] *(c)(1) Except as provided in paragraph (2), if* the Postal Service determines that the moneys of the Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as it deems appropriate.

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

(B) For purposes of this paragraph, the term "commercial entity" means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.

* * * * * * *

(e)(1) [The Fund shall be available for the payment of all expenses incurred by the Postal Service in carrying out its functions as provided by law and, subject to the provisions of section 3604 of this title, all of the expenses of the Postal Rate Commission.] *The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8L(e) of the Inspector General Act of 1978.* The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service. Neither the Fund nor any of the funds credited to it shall be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31.

* * * * * * *

§ 2005. Obligations

(a)(1) The Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this [title.] *title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.* The aggregate amount of [any such obligations] *obligations issued by the Postal Service which may be* outstanding at any one time shall not exceed the maximum amount then allowable under paragraph (2) of this subsection. [In any one fiscal year the net increase in the amount of obligations outstanding issued for the purpose of capital improvements shall not

exceed $2,000,000,000, and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed $1,000,000,000.] *In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of $3,000,000,000.*

* * * * * * *

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

(b)*(1)* The Postal Service may pledge the assets of the Postal Service and pledge and use its revenues and receipts for the payment of the principal of or interest on [such obligations,] *obligations issued by the Postal Service under this section,* for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it deems necessary or desirable. The Postal Service is authorized to enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to the establishment of reserve, sinking, and other funds, application and use of revenues and receipts of the Postal Service, stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service and such other matters as the Postal Service deems necessary or desirable to enhance the marketability of such obligations.

(2) Notwithstanding any other provision of this section—

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

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

* * * * * * *

§ 2006. Relationship between the Treasury and the Postal Service

(a) At least 15 days before selling any issue of obligations under section 2005 *or section 2011* of this title, the Postal Service shall advise the Secretary of the Treasury of the amount, proposed date of sale, maturities, terms and conditions, and expected maximum rates of interest of the proposed issue in appropriate detail and shall consult with him or his designee thereon. The Secretary may elect to purchase such obligations under such terms, including rates of interest, as he and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable Treasury securities of comparable maturity, as determined by the Secretary. If the Secretary does not purchase such obligations, the Postal Service may proceed to issue and sell them to a party or parties other than the Secretary upon notice to the Secretary and upon consultation as to the date of issuance, maximum rates of interest, and other terms and conditions.

(b) Subject to the conditions of subsection (a) of this section, the Postal Service may require the Secretary of the Treasury to purchase obligations of the Postal Service *under section 2005* in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $2,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Postal Service *under section 2005* in excess of such amount.

(c) Notwithstanding section 2005(d)(5) *or section 2011(e)(4)(E)* of this title, obligations issued by the Postal Service *under section 2005* shall be obligations of the Government of the United States, and payment of principal and interest thereon shall be fully guaranteed by the Government of the United States, such guaranty being expressed on the face thereof, if and to the extent that—

(1) * * *

* * * * * * *

§ 2009. Annual budget

The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Service may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fiscal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and

operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings. [The budget program shall also include separate statements of the amounts which the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401 of this title.] *The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8L(e) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.* The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.

* * * * * * *

§ 2011. Provisions relating to competitive products

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

(1) costs attributable to competitive products; and

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

For purposes of this subsection, the term "costs attributable" has the meaning given such term by section 3631.

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

(1) revenues from competitive products;

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

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

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

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

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

(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund. Any such borrowings by the Postal Service shall be supported and serviced by the revenues and receipts from competitive products

and the assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e), but in either case subject to paragraph (5)).

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

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

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

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

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

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

(A) shall be in such forms and denominations;

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

(C) shall mature at such time or times;

(D) shall be sold at such prices;

(E) shall bear such rates of interest;

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

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

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

as the Postal Service determines.

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

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

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

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

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

(E) except as provided in section 2006(c) of this title, shall not be obligations of, nor shall payment of the principal thereof or

interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state.

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

(A) the assets related to the provision of competitive products; or

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

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

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

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

(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) subject to subsection (e)(5), preventing the subsidization of such products by market-dominant products; and

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

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

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

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

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

(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

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

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

(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

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

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

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

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

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CHAPTER 24—APPROPRIATIONS AND ANNUAL REPORT

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§ 2401. Appropriations

(a) * * *

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(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a) *(as last in effect before enactment of the Postal Accountability and Enhancement Act)*, for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of

section 3626(a)(3)(B)(ii) *(as last in effect before enactment of the Postal Accountability and Enhancement Act)* were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service $29,000,000 for each of fiscal years 1994 through 2035.

(e) The Postal Service shall present to the Committee on Governmental Affairs of the Senate and the ⟦Committee on Post Office and Civil Service⟧ *Committee on Government Reform* of the House of Representatives and the Committees on Appropriations of the Senate and the House of Representatives, at the same time it submits its annual budget under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated, and a comprehensive statement relating to the following matters:

(1) * * *

* * * * * * *

⟦Not later than March 15 of each year,⟧ *Each year,* the Postal Service shall appear before the Committee on Governmental Affairs of the Senate and the ⟦Committee on Post Office and Civil Service⟧ *Committee on Government Reform* of the House of Representatives to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to such budget and statement. Each such committee shall take such action as it considers appropriate and shall advise the Postal Service of such action.

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CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT

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§ 2803. Performance plans

(a) The Postal Service shall prepare an annual performance plan covering each program activity set forth in the Postal Service budget, which shall be included in the comprehensive statement presented under section ⟦2401(g)⟧ *2401(e)* of this title. Such plan shall—

(1) * * *

* * * * * * *

§ 2804. Program performance reports

(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section ⟦2401(g)⟧ *2401(e)* of this title.

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PART IV—MAIL MATTER

* * * * * * *

CHAPTER 30—NONMAILABLE MATTER

Sec.
3001. Nonmailable matter.
* * * * * * *
3018. Hazardous material.

§ 3001. Nonmailable matter

(a) * * *

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(n)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

(2) In this subsection, the term "hazardous material" means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.

[(n)] *(o)* The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

* * * * * * *

§ 3005. False representations; lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable [under 3001(d),] *under section 3001(d),* (h), (i), (j), or (k) of this title, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) * * *

* * * * * * *

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For purposes of the preceding sentence, the mailing of matter which is nonmailable [under such 3001(d),] *under such section 3001(d),* (h), (i), (j), or (k) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

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§ 3013. Semiannual reports on investigative activities of the Postal Service

The [Postmaster General] *Chief Postal Inspector* shall submit semiannual reports to the Inspector General summarizing the investigative activities of the Postal Service. One semiannual report shall be submitted for the reporting period beginning on October 1

and ending on March 31, and the other semiannual report shall be submitted for the reporting period beginning on April 1 and ending on September 30. Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved and shall include with respect to such reporting period—

(1) * * *

* * * * * * *

The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the [Postmaster General] *Chief Postal Inspector* under this section include any information relating to activities of the Inspector General.

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§ 3018. Hazardous material

(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

(b) PROHIBITIONS.—No person may—

(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

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

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

(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

(1) IN GENERAL.—A person who knowingly violates this section or a regulation prescribed under this section shall be liable for—

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

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

(C) damages.

(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

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

(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

(3) SEPARATE VIOLATIONS.—

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

(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

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

(1) the nature, circumstances, extent, and gravity of the violation;

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

(3) the impact on Postal Service operations; and

(4) any other matters that justice requires.

(f) CIVIL ACTIONS TO COLLECT.—

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

(2) COMPROMISE.—The Postal Service may compromise the amount of a civil penalty, clean-up costs, and damages assessed under subsection (c) before commencing a civil action with respect to such civil penalty, clean-up costs, and damages under paragraph (1).

(g) CIVIL JUDICIAL PENALTIES.—

(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

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

(h) DEPOSIT OF AMOUNTS COLLECTED.—

(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.

CHAPTER 32—PENALTY AND FRANKED MAIL

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§ 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials

(a)(1) * * *

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(6)(A) * * *

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(C) No Member of the Senate may mail any mass mailing as franked mail if such mass mailing [is mailed fewer] *is postmarked fewer* than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any national, State or local office in which such Member is a candidate for election.

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[CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

[SUBCHAPTER I—POSTAL RATE COMMISSION

[Sec.
[3601. Establishment.
[3602. Terms of office.
[3603. Rules; regulations; procedures.
[3604. Administration.

[SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

[3621. Authority to fix rates and classes.
[3622. Rates and fees.
[3623. Mail classification.
[3624. Recommended decisions of Commission.
[3625. Action of the Governors.
[3626. Reduced rates.
[3627. Adjusting free rates.
[3628. Appellate review.
[3629. Reduced rates for voter registration purposes.

[SUBCHAPTER III—TEMPORARY RATES AND CLASSES

[3641. Temporary changes in rates and classes.
[3642. Special authority relating to reduced-rate categories of mail.

[SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS

[3661. Postal services.
[3662. Rate and service complaints.
[3663. Annual report on international services.

[SUBCHAPTER V—GENERAL

[3681. Reimbursement.
[3682. Size and weight limits.
[3683. Uniform rates for books; films; other materials.
[3684. Limitations.
[3685. Filing of information relating to periodical publications.

[SUBCHAPTER I—POSTAL RATE COMMISSION

[§ 3601. Establishment

[(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, ap-

pointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

[(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

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

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

[§ 3602. Terms of office

[The Commissioners of the Postal Rate Commission shall serve for terms of 6 years except that—

[(1) the terms of the Commissioners first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 2 years, 2 at the end of 4 years, and 2 at the end of 6 years, following the appointment of the first of them; and

[(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

[SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

[§ 3621. Authority to fix rates and classes

[Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of this chapter. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service. For purposes of this section, "total estimated costs" shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and expense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.

[§ 3622. Rates and fees

[(a) From time to time the Postal Service shall request the Postal Rate Commission to submit a recommended decision on changes

in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of this title. The Postal Service may submit such suggestions for rate adjustments as it deems suitable.

[(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees in each class of mail or type of service in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable schedule;

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

[(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

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

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

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

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

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

[(9) such other factors as the Commission deems appropriate.

[(c) Regular rates for each class or subclass of mail that includes 1 or more special rate categories for mail under former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the corresponding special rate categories authorized by former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title.

[(d) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.

[§ 3623. Mail classification

[(a) Within 2 years after the effective date of this subchapter, the Postal Service shall request the Postal Rate Commission to make a recommended decision on establishing a mail classification schedule in accordance with the provisions of this section.

[(b) Following the establishment of the mail classification schedule requested under subsection (a) of this section, the Postal Service may from time to time request that the Commission submit, or the Commission may submit to the Governors on its own initiative, a recommended decision on changes in the mail classification schedule.

[(c) The Commission shall make a recommended decision on establishing or changing the schedule in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable classification system for all mail;

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

[(3) the importance of providing classifications with extremely high degrees of reliability and speed of delivery;

[(4) the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery;

[(5) the desirability of special classifications from the point of view of both the user and of the Postal Service; and

[(6) such other factors as the Commission may deem appropriate.

[(d) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

[§ 3624. Recommended decisions of Commission

[(a) The Postal Rate Commission shall promptly consider a request made under section 3622 or 3623 of this title, except that the Commission shall not recommend a decision until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public.

[(b) In order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties, the Commission may (without limitation) adopt rules which provide for—

[(1) the advance submission of written direct testimony;

[(2) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;

[(3) discovery both from the Postal Service and the parties to the proceedings;

[(4) limitation of testimony; and

[(5) the conduct of the entire proceedings off the record with the consent of the parties.

[(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

[(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in paragraph (1) of this subsection by one day for each day of such delay.

[(d) The Commission shall transmit its recommended decision in a rate, fee, or classification matter to the Governors. The recommended decision shall include a statement specifically responsive to the criteria established under section 3622 or 3623, as the case may be.

[§ 3625. Action of the Governors

[(a) Upon receiving a recommended decision from the Postal Rate Commission, the Governors may approve, allow under protest, reject, or modify that decision in accordance with the provisions of this section.

[(b) The Governors may approve the recommended decision and order the decision placed in effect.

[(c) The Governors may, under protest, allow a recommended decision of the Commission to take effect and (1) seek judicial review thereof under section 3628 of this title, or (2) return the recommended decision to the Commission for reconsideration and a further recommended decision, which shall be acted upon under this section and subject to review in accordance with section 3628 of this title.

[(d) The Governors may reject the recommended decision of the Commission and the Postal Service may resubmit its request to the Commission for reconsideration. Upon resubmission, the request shall be reconsidered, and a further recommended decision of the Commission shall be acted upon under this section and subject to review in accordance with section 3628 of this title. However, with the unanimous written concurrence of all of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission under this subsection if the Governors expressly find that (1) such modification is in accord with the record and the policies of this chapter, and (2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.

[(e) The decision of the Governors to approve, allow under protest, reject, or modify a recommended decision of the Commission shall be in writing and shall include an estimate of anticipated revenue and a statement of explanation and justification. The decision, the record of the Commission's hearings, and the Commission's recommended decision shall be made generally available at the time the decision is issued and shall be printed and made

available for sale by the Public Printer within 10 days following the day the decision is issued.

[(f) The Board shall determine the date on which the new rates, fees, the mail classification schedule, and changes in such schedule under this subchapter shall become effective.]

CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

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SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

§ 3621. Applicability; definitions

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

(1)(A) single piece first-class letters (both domestic and international);

(B) single piece first-class cards (both domestic and international); and

(C) special services;

(2) all first-class mail not included under paragraph (1);

(3) periodicals;

(4) standard mail;

(5) media mail;

(6) library mail; and

(7) bound printed matter,

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

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

§ 3622. Modern rate regulation

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

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

(1) To establish and maintain a fair and equitable schedule for rates and classification.

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

(3) To create predictability and stability in rates.

(4) To maintain high quality service standards.

(5) To allow the Postal Service pricing flexibility.

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

(7) To reduce the administrative burden of the ratemaking process.

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

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

(2) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

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

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

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

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

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

(8) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of pro-

viding those that do not require high degrees of reliability and speed of delivery;

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

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

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

(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

(1) Price caps, revenue targets, or other form of incentive regulation.

(2) Cost-of-service regulation.

(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

§ 3626. Reduced rates

[(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with the applicable provisions of this chapter.

[(2) For the purpose of this subsection—

[(A) the term "costs attributable", as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

[(B) the term "regular-rate category" means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (3)(A) or section 2401(c); and

[(C) the term "institutional-costs contribution", as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

[(3)(A) Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358 of this title shall be established in a manner such that the esti-

mated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

[(i) the estimated costs attributable to such class of mail or kind of mailer; and

[(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

[(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

[(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents relative to the estimated costs attributable to such category of mail, times

[(ii)(I) one-twelfth, for fiscal year 1994;

[(II) one-sixth, for fiscal year 1995;

[(III) one-fourth, for fiscal year 1996;

[(IV) one-third, for fiscal year 1997;

[(V) five-twelfths, for fiscal year 1998; and

[(VI) one-half, for any fiscal year after fiscal year 1998.

[(C) Temporary special authority to permit the timely implementation of the preceding provisions of this paragraph is provided under section 3642.

[(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting "one-half".]

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

(2) For the purpose of this subsection, the term "regular-rate category" means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).

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

* * * * * * *

(g)(1) * * *

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

(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3))

shall be subject to rates of postage provided for under this paragraph.

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

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

* * * * * * *

(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).

[§ 3627. Adjusting free and reduced rates]

§ 3627. Adjusting free rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent free of postage under section 3217 or 3403–3406 the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

[§ 3628. Appellate review

[A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission and the Governors. The court may affirm the decision or order that the entire matter be returned for further consideration, but the court may not modify the decision. The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision made by the Commission or Governors under this chapter except as provided in this section.**]**

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SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

§ 3631. Applicability; definitions and updates

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

(1) priority mail;

(2) expedited mail;

(3) mailgrams;

(4) international mail; and

(5) parcel post,

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

(b) DEFINITION.—For purposes of this subchapter, the term "costs attributable", as used with respect to a product, means the direct and indirect postal costs attributable to such product.

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

§ 3632. Action of the Governors

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

(b) PROCEDURES.—

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

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

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

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

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

§ 3633. Provisions applicable to rates for competitive products

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

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

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

(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.

§ 3634. Assumed Federal income tax on competitive products income

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

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

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

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

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

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

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

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

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

[SUBCHAPTER III—TEMPORARY RATES AND CLASSES

[§ 3641. Temporary changes in rates and classes

[(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days' notice in the Federal Register.

[(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated

income, including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

[(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

[(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commission transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

[(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

[(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.

[§ 3642. Special authority relating to reduced-rate categories of mail

[(a) In order to permit the timely implementation of section 3626(a)(3), the Postal Service may establish temporary rates of postage for any class of mail or kind of mailer referred to in section 3626(a)(3)(A).

[(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

[(1) All attributable costs and institutional-costs contributions assumed shall be the same as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

[(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

[(A) such a rate may take effect only after 10 days' notice in the Federal Register; and

[(B) no such rate may take effect after September 30, 1998.

[(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

[(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for a particular class of mail or kind of mailer, except as provided in paragraph (5).

[(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

[(A) the rates established for such class of mail or kind of mailer by the earlier adjustment are superseded by new rates established under subchapter II; and

[(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

[(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.

[(d) Notwithstanding any provision of section 3626(a)(3)(B) or subsection (a) of this section, any temporary rates established under this section for non-letter-shaped mail under former section 4452(b) or 4452(c) of this title shall not be lower than the rates in effect for such mail on September 30, 1993.]

SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

§ 3641. Market tests of experimental products

(a) AUTHORITY.—

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

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

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

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

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

(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable

to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

(c) NOTICE.—

(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

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

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

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

(d) DURATION.—

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

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

(e) DOLLAR-AMOUNT LIMITATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

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

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

(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

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

(1) under this subchapter; or

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

SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

§ 3651. Annual reports by the Commission

(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the ex-

tent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

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

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

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

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

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

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

§ 3652. Annual reports to the Commission

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

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

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

(A) market information, including mail volumes; and

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

(i) the service standard applicable to such product;

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

(iii) the degree of customer satisfaction with the service provided.

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

(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

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

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

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

(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term "workshare discount" has the meaning given such term under section 3687.

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

(1) may report summary data on the costs, revenues, and quality of service by market test; and

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

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

(e) CONTENT AND FORM OF REPORTS.—

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

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

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

(C) protecting the confidentiality of commercially sensitive information.

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

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

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

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

(f) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it

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

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

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

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

(2) performance plan under section 2803; and

(3) program performance reports under section 2804.

§ 3653. Annual determination of compliance

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

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

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

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

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

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

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

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

scribed in paragraphs (1) through (3) of subsection (b)) during the year to which such determination relates.

§ 3654. Additional financial reporting

(a) ADDITIONAL FINANCIAL REPORTING.—

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

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

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

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

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

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

(b) FINANCIAL REPORTING.—

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

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

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

(C) components of net periodic costs;

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

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

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

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

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

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

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

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

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

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

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

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

(f) CONFIDENTIAL INFORMATION.—

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

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

[SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS]

SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

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[§ 3662. Rate and service complaints

[Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Postal Rate Commission in such form and in such manner as it may prescribe. The Commission may in its discretion hold hearings on such complaint. If the Commission, in a matter covered by subchapter II of this chapter, determines the complaint to be justified, it shall, after proceedings in conformity with section 3624 of this title, issue a recommended decision which shall be acted upon in accordance with the provisions of section 3625 of this title and subject to review in accordance with the provisions of section 3628 of this title. If a matter not covered by subchapter II of this chapter is involved, and the Commission after hearing finds the complaint to be justified, it shall render a public report thereon to the Postal Service which shall take such action as it deems appropriate.

[§ 3663. Annual report on international services

[(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

[(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.]

§ 3662. Rate and service complaints

(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

(b) PROMPT RESPONSE REQUIRED.—

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

(A) begin proceedings on such complaint; or

(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

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

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

(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

§ 3663. Appellate review

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

§ 3664. Enforcement of orders

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

[SUBCHAPTER V—GENERAL]

SUBCHAPTER VI—GENERAL

§ 3681. Reimbursement

No mailer may be reimbursed for any amount paid under any rate or fee which, after such payment, is determined to have been unlawful after proceedings in accordance with the provisions of [section 3628] *sections 3662 through 3664* of this title, or is superseded by a lower rate or fee established under subchapter II of this chapter.

[§ 3682. Size and weight limits

[The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.]

§ 3682. Size and weight limits

The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.

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§ 3684. Limitations

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision [of section 3682 or 3683 or chapter 30, 32, or 34 of this title.] *of this title.*

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§ 3686. Bonus authority

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

(b) LIMITATION ON TOTAL COMPENSATION.—

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

(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a),

to award bonuses or other rewards in excess of the limitation set forth in the last sentence of section 1003(a)—

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

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

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

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

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

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

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

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

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

§ 3687. Workshare discounts

(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that such discounts do not exceed the cost that the Postal Service avoids as the result of workshare activity, unless—

(1) the discount is—

(A) associated with a new postal service, a change to an existing postal service, or a new workshare initiative related to an existing postal service; and

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

(2) a reduction in the discount would—

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

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

(C) impede the efficient operation of the Postal Service;

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

(A) is necessary to mitigate rate shock; and

(B) will be phased out over time; or

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

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

(1) explains the Postal Service's reasons for establishing or maintaining the rate;

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

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

(c) DEFINITION.—For purposes of this section, the term "workshare discount" refers to rate discounts provided to mailers for the presorting, prebarcoding, handling, or transportation of mail, as further defined by the Postal Regulatory Commission under section 3622(a).

PART V—TRANSPORTATION OF MAIL

Chap.		Sec.
50.	**General**	**5001**
[52.	**Transportation of Mail by Surface Carrier**	**5201]**

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CHAPTER 50—GENERAL

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§ 5001. Provisions for carrying mail

The Postal Service shall provide for the transportation of mail in accordance with the policies established under section **[**101(e) and (f)**]** *101(f) and (g)* of this title and the provisions of this chapter. Notwithstanding any other provision of this title, the Postal Service may make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emer-

gency arises. Such arrangements shall terminate when the emergency ceases and the Postal Service is promptly able to secure transportation services under other provisions of this title.

* * * * * * *

§ 5005. Mail transportation

(a) The Postal Service may obtain mail transportation service—

[(1) from common carriers by rail and motor vehicle or persons as provided in chapter 52 of this title;**]**

[(2)**]** *(1)* from air carriers as provided in chapter 54 of this title;

[(3)**]** *(2)* from water carriers as provided in chapter 56 of this title; and

[(4)**]** *(3)* by contract from any person **[**(as defined in section 5201(6) of this title)**]** or carrier for surface and water transportation under such terms and conditions as it deems appropriate, subject to the provisions of this section.

(b)(1) Contracts for the transportation of mail procured under subsection **[**(a)(4)**]** *(a)(3)* of this section shall be for periods not in excess of 4 years **[**(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)**]** *(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)* and shall be entered into only after advertising a sufficient time previously for proposals. The Postal Service, with the consent of the holder of any such contract, may adjust the compensation allowed under that contract for increased or decreased costs resulting from changed conditions occurring during the term of the contract.

(2) A contract under subsection **[**(a)(4)**]** *(a)(3)* of this section may be renewed at the existing rate by mutual agreement between the contractor or subcontractor and the Postal Service.

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(c) The Postal Service, in determining whether to obtain transportation of mail **[**by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or**]** *by contract under subsection (a)(3) of this section or* by Government motor vehicle, shall use the mode of transportation which best serves the public interest, due consideration being given to the cost of the transportation service under each mode.

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[CHAPTER 52—TRANSPORTATION OF MAIL BY SURFACE CARRIER

[Sec.
[5201. Definitions.
[5202. Applicability.
[5203. Authorization of service by carrier.
[5204. Changes in service; placement of equipment.
[5205. Evidence of service.
[5206. Fines and deductions.
[5207. Surface Transportation Board to fix rates.
[5208. Procedures.
[5209. Special rates.
[5210. Intermodal transportation.
[5211. Statistical studies.

[5212. Special contracts.
[5213. Carrier operations; receipts; expenditures.
[5214. Agreements with passenger common carriers by motor vehicle.
[5215. Star route certification.

[§ 5201. Definitions

[For purposes of this chapter—

[(1) "Board" means the Surface Transportation Board;

[(2) "carrier" and "regulated surface carrier" mean a railroad, a freight forwarder, or a motor carrier;

[(3) "railroad" means a railway common carrier, including an electric urban and interurban railway common carrier;

[(4) "freight forwarder" means any regulated freight forwarder which holds itself out to the general public as a carrier to transport or provide transportation of property as authorized by a registration issued by the Board;

[(5) "motor carrier" means a motor carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 13102(12) of title 49, that holds a registration issued by the Board;

[(6) "person" includes any person other than a carrier holding a certificate or registration issued by the Board; and

[(7) "mail" includes equipment and supplies of the Postal Service.

[§ 5202. Applicability

[This chapter applies to mail transportation performed by any person or carrier or carrier combination regardless of the mode of transportation actually used to provide the service.

[§ 5203. Authorization of service by carrier

[(a) The Postal Service may establish mail routes and authorize mail transportation service thereon.

[(b) A carrier shall transport mail offered for transportation by the Postal Service in the manner, under the conditions, and with the service prescribed by the Postal Service. A carrier is entitled to receive fair and reasonable compensation for the transportation and service connected therewith.

[(c) The Postal Service shall determine the trains or motor vehicles upon which mail shall be transported, except that no carrier shall be compelled to transport mail on any train or vehicle which is operated exclusively for the transportation of passengers and their baggage.

[(d) A carrier shall transport with due speed such mail as the Postal Service directs under this section.

[(e) No carrier shall be required to serve territory it is not otherwise authorized to serve, to provide service for the Postal Service at a rate which is less than compensatory cost, or to provide service at a detriment to the carrier or its other customers.

[(f) Any order or determination of the Postal Service providing for the transportation of mail by a motor carrier shall be filed with the Board. If the Board finds, within 90 days after the filing, that the order or determination will be detrimental to the motor carrier or its other customers, or that such carrier does not operate equipment suitable for the transportation of mail, the order or determination shall be terminated.

[(g) An order or determination of the Postal Service under this section shall be consistent with the orders of the Board under sections 5207 and 5208 of this title.

[§ 5204. Changes in service; placement of equipment

[(a) The Postal Service may authorize, according to the need therefor, new or additional mail transportation service by carriers at the rate or compensation fixed under this chapter. It may reduce or discontinue service with pro rata reductions in compensation and indemnity for the loss of reasonable investment in equipment used exclusively for mail.

[(b) A railroad shall place cars used for full or apartment post office service in position at such times before departure as the Postal Service directs.

[§ 5205. Evidence of service

[A carrier shall submit evidence of its performance of mail transportation service, signed by an authorized official, in such form and at such times as the Postal Service requires. Mail transportation service is considered that of the carrier performing it regardless of the ownership of the property used by the carrier.

[§ 5206. Fines and deductions

[(a) The Postal Service may fine any carrier an amount not to exceed $500 for each day the carrier refuses to perform mail transportation services required by it at rates or compensation established under this chapter.

[(b) The Postal Service shall fine a carrier an amount it deems reasonable for failure or refusal by that carrier to transport mail as required by the Postal Service under section 5203 of this title.

[(c) The Board may make deductions from the compensation of a carrier for failure to perform mail transportation service as required under section 5203 of this title. If the failure to perform is due to the fault of the carrier, it may deduct a sum not exceeding twice the compensation applying to such service. Such deductions shall not be made prior to the expiration of 60 days following service upon the carrier by the Board of notice of intention to assess a fine or make a deduction and of the basis therefor.

[§ 5207. Surface Transportation Board to fix rates

[(a) The Board shall determine and fix the fair and reasonable rates or compensation for the transportation of mail by carrier and the service connected therewith, and shall prescribe the method of computing such rates or compensation. The Board shall publish its orders stating its determination under this section which shall remain in force until changed by it after notice and hearing.

[(b) For the purpose of determining and fixing rates or compensation under this section, the Board may make just and reasonable classifications of carriers and, where just and equitable, fix general rates applicable to carriers in the same classification.

[(c) In determining and fixing fair and reasonable rates or compensation under this section, the Board shall consider the relation between the Government and carriers as public service corporations, and the nature of public service as distinguished, if there is

a distinction, from the ordinary transportation business of the carriers.

[(d) Initial rates or compensation for mail transportation service by any carrier or carriers shall be those agreed to by the Postal Service and the carrier or carriers, and such rates or compensation shall continue in effect until such time as the Board fixes the rates or compensation under subsection (a) of this section.

[§ 5208. Procedures

[(a) At any time after 6 months from the entry of an order stating the Board's determination under section 5207 of this title, the Postal Service or an interested carrier may apply for a reexamination and substantially similar proceedings as have theretofore been had shall be followed with respect to the rates of compensation for services covered by the application. At the conclusion of the hearing the Board shall enter an order stating its determination.

[(b) Except as authorized by sections 5207(d), 5209, 5210, and 5212 of this title, the Postal Service shall pay a carrier the rates or compensation so determined and fixed for application at such stated times as named in the order.

[(c) The Postal Service may file with the Board a comprehensive plan stating—

[(1) its requirements for the transportation of mail by carrier;

[(2) the character and speed of the trains or motor vehicles which are to carry the various kinds of mail;

[(3) the service, both terminal and en route, which carriers are to render;

[(4) what it believes to be the fair and reasonable rates or compensation for the services required; and

[(5) all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the Board.

[(d) When a comprehensive plan is filed, the Board shall give notice of not less than 30 days to each carrier required by the Postal Service to transport mail pursuant to such plan. A carrier may file its answer at the time fixed by the Board, but not later than 30 days after the expiration date fixed by the Board in the notice, and the Board shall proceed with the hearing.

[§ 5209. Special rates

[Upon petition by the Postal Service, the Board shall determine and fix carload or truckload, or less than carload or truckload, rates for the transportation of mail not entitled to high priority in transportation. A carrier shall perform the service at the rates so determined when requested to do so and under the conditions prescribed by the Postal Service.

[§ 5210. Intermodal transportation

[The Postal Service may permit a carrier to perform mail transportation by any form of transportation it deems appropriate at rates or compensation not exceeding those allowable for similar service by the designated form of transportation.

[§ 5211. Statistical studies

[The Postal Service may arrange for weighing and measuring mail transported on carrier mail routes and make other computations for statistical and administrative purposes to carry out the purposes of this chapter.

[§ 5212. Special contracts

[The Postal Service may enter into special contracts with any carrier or person, without advertising, for bids and for periods not in excess of 4 years. It may contract to pay lower rates or compensation or, where in its judgment conditions warrant, higher rates or compensation than those determined or fixed by the Board. The fact that the Board has not prescribed rates or compensation for the carrier involved, under section 5207 of this title, shall not preclude execution of a contract under this section. Such contracts may be negotiated only after reasonable notice has been posted in advance in post offices on the post roads to be served, and other carriers or persons have been given an opportunity to offer to negotiate for the transportation of mail.

[§ 5213. Carrier operations; receipts; expenditures

[The Postal Service shall request any carrier transporting the mails to furnish, under seal, such data relating to the operations, receipts, and expenditures of such carrier as may, in its judgment, be deemed necessary to enable it to ascertain the cost of mail transportation and the proper compensation to be paid for such service.

[§ 5214. Agreements with passenger common carriers by motor vehicle

[The Postal Service may enter into contracts under such terms and conditions as it shall prescribe and without advertising for bids for the transportation of mail, in passenger-carrying motor vehicles, by passenger common carriers, or by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

[§ 5215. Star route certification

[(a) Any person who was a contractor under a star route, mail messenger, or contract motor vehicle service contract on the effective date of this section (or successor in interest to any such person), shall, upon application to the Board for the territory within which such contractor operated on or before the effective date of this section be issued a certificate of public convenience and necessity as a motor carrier for the transportation of mail by the Board without the Board's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

[(b) Applications of persons who were not contractors on the effective date of this section shall be decided in accordance with applicable Board procedure.

[(c) For purposes of this section, the term "person" has the same meaning given that term under section 1 of title 1.]

CHAPTER 54—TRANSPORTATION OF MAIL BY AIR

* * * * * * *

§ 5402. Contracts for transportation of mail by air

(a) * * *

* * * * * * *

(d) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points in foreign air transportation is not adequate for its purposes, it may contract [for a period of not more than 4 years], without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate, with any air taxi operator or combination thereof for such air transportation service. Contracts made under this subsection may be renewed at the existing rate by mutual agreement between the holder and the Postal Service. The Postal Service, with the consent of the air taxi operator, may adjust the compensation under such contracts for increased or decreased costs occasioned by changed conditions occurring during the contract term. The Postal Service shall cancel such a contract when the Secretary authorizes an additional certificated carrier or carriers to provide service between any pair or pairs of points covered by the contract, and such carrier or carriers inaugurate schedules adequate for its purposes.

* * * * * * *

CHAPTER 56—TRANSPORTATION OF MAIL BY VESSEL

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§ 5605. Contracts for transportation of mail by vessel

The Postal Service may contract for the transportation of mail by vessel without advertising for bids [for periods of not in excess of 4 years].

SECTION 1402 OF THE VICTIMS OF CRIME ACT OF 1984

CRIME VICTIMS FUND

SEC. 1402. (a) * * *

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) * * *

(B) fines to be paid into—

(i) * * *

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section [404(a)(8)] *404(a)(7)* of such title 39;

* * * * * * *

TITLE 5, UNITED STATES CODE

* * * * * * *

PART I—THE AGENCIES GENERALLY

* * * * * * *

CHAPTER 1—ORGANIZATION

* * * * * * *

§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

(1) an establishment in the executive branch (other than the United States Postal Service or the [Postal Rate] *Postal Regulatory* Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and

* * * * * * *

CHAPTER 3—POWERS

* * * * * * *

§ 306. Strategic plans

(a) * * *

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(f) For purposes of this section the term "agency" means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the [Postal Rate] *Postal Regulatory* Commission.

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PART III—EMPLOYEES

Subpart A—General Provisions

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CHAPTER 21—DEFINITIONS

* * * * * * *

§ 2104. Officer

(a) * * *

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the [Postal Rate] *Postal Regulatory* Commission is deemed not an officer for purposes of this title.

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Subpart B—Employment and Retention

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CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

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SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES

§ 3371. Definitions

For the purpose of this subchapter—

(1) * * *

* * * * * * *

(3) "Federal agency" means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the [Postal Rate] *Postal Regulatory* Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management; and

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

* * * * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

* * * * * * *

Chairman, [Postal Rate] *Postal Regulatory* Commission.

* * * * * * *

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

* * * * * * *

Members, [Postal Rate] *Postal Regulatory* Commission (4).

* * * * * * *

CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER II—WITHHOLDING PAY

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§ 5514. Installment deduction for indebtedness to the United States

(a)(1) * * *

* * * * * * *

(5) For purposes of this subsection—

(A) * * *

(B) "agency" includes executive departments and agencies, the United States Postal Service, the [Postal Rate] *Postal Regulatory* Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

* * * * * * *

Subpart F—Labor-Management and Employee Relations

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CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

* * * * * * *

SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

§ 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the [Postal Rate] *Postal Regulatory* Commission;

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CHAPTER 75—ADVERSE ACTIONS

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SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

§ 7511. Definitions; application

(a) For the purpose of this subchapter—

(1) "employee" means—

(A) * * *

(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

(i) in an Executive agency; or

(ii) in the United States Postal Service or [Postal Rate] *Postal Regulatory* Commission; and

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Subpart G—Insurance and Annuities

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CHAPTER 83—RETIREMENT

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SUBCHAPTER III—CIVIL SERVICE RETIREMENT

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§ 8334. Deductions, contributions, and deposits

(a)(1)(A) * * *

(B)(i) * * *

(ii) In the case of an employee of the United States Postal Service, the amount to be contributed under this subparagraph shall (instead of the amount described in clause (i)) be equal to [the product derived by multiplying the employee's basic pay by the percentage equal to—

[(I) the normal-cost percentage for the applicable employee category listed in subparagraph (A), minus

[(II) the percentage deduction rate that applies with respect to such employee under subparagraph (A).] *zero.*

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§ 8348. Civil Service Retirement and Disability Fund

(a) * * *

* * * * * * *

[(h)(1)(A) For purposes of this subsection, "Postal supplemental liability" means the estimated excess, as determined by the Office, of—

[(i) the actuarial present value of all future benefits payable from the Fund under this subchapter attributable to the service of current or former employees of the United States Postal Service, over

[(ii) the sum of—

[(I) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United

States Postal Service currently subject to this subchapter pursuant to section 8334;

[(II) the actuarial present value of the future contributions to be made pursuant to section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter;

[(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, including earnings on those payments; and

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

[(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

[(ii) Military service so included shall not be included in the computation of any amount under subsection (g)(2).

[(2)(A) Not later than June 30, 2004, the Office shall determine the Postal supplemental liability as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.

[(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

[(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning after September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.

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

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

[(F) An amortization schedule established under subparagraph (B) or (C) shall supersede any amortization schedule previously established under this paragraph.

[(3) Notwithstanding any other provision of law, in computing the amount of any payment under any other subsection of this section that is based upon the amount of the unfunded liability, such

payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.

[(4) Notwithstanding any other provision of this subsection, any determination or redetermination made by the Office under this subsection shall, upon request of the Postal Service, be subject to reconsideration and review (including adjustment by the Board of Actuaries of the Civil Service Retirement System) to the same extent and in the same manner as provided under section 8423(c).]

(h)(1) For purposes of this subsection, a Postal surplus (or supplemental liability) is the amount, as estimated by the Office, by which—

(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, is less than (or greater than)

(B) the sum of—

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

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

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

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

(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2005, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2006, which provides for the liquidation of such liability by September 30, 2043.

(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

(iii)(I) If a surplus of $500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

(II) If a surplus of less than $500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

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

(ii) If a supplemental liability is determined under this subparagraph for fiscal year 2039, the Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2040, which provides for the liquidation of such liability by September 30, 2043.

(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

(I) shall be applied first toward reducing the amount of any supplemental liability described in section 8423(b)(1)(B); and

(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

(D) An amortization schedule under this paragraph—

(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

(ii) shall supersede any amortization schedule previously established under this paragraph; and

(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

(E)(i) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph, to the extent not superseded or canceled.

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

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

(4) As used in this subsection, "Postal Service Retiree Health Benefits Fund" refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.

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CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

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SUBCHAPTER I—GENERAL PROVISIONS

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§ 8402. Federal Employees' Retirement System; exclusions

(a) * * *

* * * * * * *

(c)(1) The Office may exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the [Postal Rate] *Postal Regulatory* Commission, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).

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SUBCHAPTER II—BASIC ANNUITY

* * * * * * *

§ 8423. Government contributions

(a) * * *

(b)(1) The Office shall compute—

(A) the amount of the supplemental liability of the Fund with respect to individuals other than those to whom subparagraph (B) relates, and

(B) the amount of the supplemental liability of the Fund with respect to current or former employees of the United States Postal Service (and the [Postal Rate] *Postal Regulatory* Commission) and their survivors;

as of the close of each fiscal year beginning after September 30, 1987.

* * * * * * *

SUBCHAPTER VII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

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§ 8474. Executive Director

(a) * * *

* * * * * * *

(c) The Executive Director may—

(1) * * *

* * * * * * *

(4) secure directly from an Executive agency, the United States Postal Service, or the [Postal Rate] *Postal Regulatory* Commission any information necessary to carry out the provisions of this subchapter or subchapter III of this chapter and policies of the Board;

* * * * * * *

CHAPTER 89—HEALTH INSURANCE

Sec.
8901. Definitions.

* * * * * * *

8909a. Postal Service Retiree Health Benefits Fund.

* * * * * * *

§ 8906. Contributions

(a) * * *

* * * * * * *

(g)(1) * * *

(2)(A) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971, while employed by the United States Postal Service, shall be paid [by the United States Postal Service.] *first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.*

* * * * * * *

§ 8909a. Postal Service Retiree Health Benefits Fund

(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the "Fund") which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

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

(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

(A) the portion of the net present value described in paragraph (1) attributable to the current year's service of Postal Service employees; and

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

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

(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

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

(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection.

* * * * * * *

SECTION 101 OF THE ETHICS IN GOVERNMENT ACT OF 1978

PERSONS REQUIRED TO FILE

SEC. 101. (a) * * *

* * * * * * *

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) * * *

* * * * * * *

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or [Postal Rate] *Postal Regulatory* Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

* * * * * * *

SECTION 501 OF THE REHABILITATION ACT OF 1973

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

SEC. 501. (a) * * *

(b) Each department, agency, and instrumentality (including the United States Postal Service and the [Postal Rate Office] *Postal Regulatory Commission*) in the executive branch and the Smithso-

nian Institution shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

* * * * * * *

SECTION 3502 OF TITLE 44, UNITED STATES CODE

§ 3502. Definitions

As used in this subchapter—

(1) * * *

* * * * * * *

(5) the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the [Postal Rate] *Postal Regulatory* Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

* * * * * * *

INSPECTOR GENERAL ACT OF 1978

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AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) * * *

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(e)(1) * * *

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(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Depart-

ment of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, [and the] Tennessee Valley Authority*, and United States Postal Service* are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

* * * * * * *

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) Notwithstanding section 11 of this Act, as used in this section—

(1) * * *

(2) the term "designated Federal entity" means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission, [and the United States Postal Service;] *and the Postal Regulatory Commission;*

* * * * * * *

(4) the term "head of the designated Federal entity" means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, [except that—

[(A) with respect to the National Science Foundation, such term means the National Science Board; and

[(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);] *except that,*

with respect to the National Science Foundation, such term means the National Science Board;

* * * * * * *

(c) [Except as provided under subsection (f) of this section, the] *The* Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

* * * * * * *

[(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

[(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the "Inspector General") shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

[(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

[(I) ongoing civil or criminal investigations or proceedings;

[(II) undercover operations;

[(III) the identity of confidential sources, including protected witnesses;

[(IV) intelligence or counterintelligence matters; or

[(V) other matters the disclosure of which would constitute a serious threat to national security.

[(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

[(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

[(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

[(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

[(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

[(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

[(3) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

[(4) As used in this subsection, the term "Governors" has the meaning given such term by section 102(3) of title 39, United States Code.]

* * * * * * *

RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

SEC. 8J. The special provisions under section 8, 8A, 8B, 8C, 8D, [8E or 8F] *8E, 8F, 8H, or 8L* of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8G(a).

* * * * * * *

SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

SEC. 8L. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term "appropriate committees of Congress" to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

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

* * * * * * *

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Board of Directors of the Tennessee Valley Authority; **[**or**]** the President of the Export-Import Bank; *or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);* as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the Environmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the Na-

tional Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or the Veterans' Administration, the Social Security Administration, the Tennessee Valley Authority, [or] the Export-Import Bank, *or the United States Postal Service,* as the case may be;

* * * * * * *

SECTION 160 OF THE ENERGY POLICY ACT OF 1992

SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.)[, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100–504)] shall—

(1) * * *

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TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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CHAPTER 83—POSTAL SERVICE

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§ 1716. Injurious articles as nonmailable

(a) All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, *hazardous materials,* inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

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PART II—CRIMINAL PROCEDURE

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CHAPTER 203—ARREST AND COMMITMENT

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§ 3061. Investigative powers of Postal Service personnel

(a) * * *

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(c)(1) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

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

(A) enforce Federal laws and regulations for the protection of persons and property;

(B) carry firearms; and

(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

(A) serve warrants and subpoenas issued under the authority of the United States; and

(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

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

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SECTION 8 OF THE POSTAL REORGANIZATION ACT

TRANSFER OF POST OFFICE DEPARTMENT PERSONNEL

SEC. 8. *(a)* Officers and employees of the Post Office Department shall become officers and employees of the United States Postal

Service on the effective date of this section. The provisions of this section shall not apply to persons occupying the positions of Postmaster General, Deputy Postmaster General, Assistant Postmasters General, General Counsel, or Judicial Officer. This section shall not be construed, however, to prohibit the appointment of such persons to positions in the Postal Service.

(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.

SECTION 3 OF THE POSTAL CIVIL SERVICE RETIREMENT SYSTEM FUNDING REFORM ACT OF 2003

(Public Law 108–18)

* * * * * * *

[SEC. 3. DISPOSITION OF SAVINGS ACCRUING TO THE UNITED STATES POSTAL SERVICE.

[(a) IN GENERAL.—Savings accruing to the United States Postal Service as a result of the enactment of this Act—

[(1) shall, to the extent that such savings are attributable to fiscal year 2003 or 2004, be used to reduce the postal debt (in consultation with the Secretary of the Treasury), and the Postal Service shall not incur additional debt to offset the use of the savings to reduce the postal debt in fiscal years 2003 and 2004;

[(2) shall, to the extent that such savings are attributable to fiscal year 2005, be used to continue holding postage rates unchanged and to reduce the postal debt, to such extent and in such manner as the Postal Service shall specify (in consultation with the Secretary of the Treasury); and

[(3) to the extent that such savings are attributable to any fiscal year after fiscal year 2005, shall be considered to be operating expenses of the Postal Service and, until otherwise provided for by law, shall be held in escrow and may not be obligated or expended.

[(b) AMOUNTS SAVED.—

[(1) IN GENERAL.—The amounts representing any savings accruing to the Postal Service in any fiscal year as a result of the enactment of this Act shall be computed by the Office of Personnel Management for each such fiscal year in accordance with paragraph (2).

[(2) METHODOLOGY.—Not later than July 31, 2003, the Office of Personnel Management shall—

[(A) formulate a plan specifically enumerating the actuarial methods and assumptions by which the Office shall make its computations under paragraph (1); and

[(B) submit such plan to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

[(3) REQUIREMENTS.—The plan shall be formulated in consultation with the Postal Service and shall include the oppor-

tunity for the Postal Service to request reconsideration of computations under this subsection, and for the Board of Actuaries of the Civil Service Retirement System to review and make adjustments to such computations, to the same extent and in the same manner as provided under section 8423(c) of title 5, United States Code.

[(c) REPORTING REQUIREMENT.—The Postal Service shall include in each report rendered under section 2402 of title 39, United States Code, the amount applied toward reducing the postal debt, and the size of the postal debt before and after the application of subsection (a), during the period covered by such report.

[(d) SENSE OF CONGRESS.—It is the sense of the Congress that—

[(1) the savings accruing to the Postal Service as a result of the enactment of this Act will be sufficient to allow the Postal Service to fulfill its commitment to hold postage rates unchanged until at least 2006;

[(2) because the Postal Service still faces substantial obligations related to postretirement health benefits for its current and former employees, some portion of the savings referred to in paragraph (1) should be used to address those unfunded obligations; and

[(3) none of the savings referred to in paragraph (1) should be used in the computation of any bonuses for Postal Service executives.

[(e) POSTAL SERVICE PROPOSAL.—

[(1) IN GENERAL.—The United States Postal Service shall, by September 30, 2003, prepare and submit to the President, the Congress, and the General Accounting Office its proposal detailing how any savings accruing to the Postal Service as a result of the enactment of this Act, which are attributable to any fiscal year after fiscal year 2005, should be expended.

[(2) MATTERS TO CONSIDER.—In preparing its proposal under this subsection, the Postal Service shall consider—

[(A) whether, and to what extent, those future savings should be used to address—

[(i) debt repayment;

[(ii) prefunding of postretirement healthcare benefits for current and former postal employees;

[(iii) productivity and cost saving capital investments;

[(iv) delaying or moderating increases in postal rates; and

[(v) any other matter; and

[(B) the work of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).

[(3) GAO REVIEW AND REPORT.—Not later than 60 days after the Postal Service submits its proposal pursuant to paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of such proposal to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

[(4) LEGISLATIVE ACTION.—Not later than 180 days after it has received both the proposal of the Postal Service and the evaluation of such proposal by the General Accounting Office

under this subsection, Congress shall revisit the question of how the savings accruing to the Postal Service as a result of the enactment of this Act should be used.

[(f) DETERMINATION AND DISPOSITION OF SURPLUS.—

[(1) IN GENERAL.—If, as of the date under paragraph (2), the Office of Personnel Management determines (after consultation with the Postmaster General) that the computation under section 8348(h)(1)(A) of title 5, United States Code, yields a negative amount (hereinafter referred to as a "surplus")—

[(A) the Office shall inform the Postmaster General of its determination, including the size of the surplus so determined; and

[(B) the Postmaster General shall submit to the Congress a report describing how the Postal Service proposes that such surplus be used, including a draft of any legislation that might be necessary.

[(2) DETERMINATION DATE.—The date to be used for purposes of paragraph (1) shall be September 30, 2025, or such earlier date as, in the judgment of the Office, is the date by which all postal employees under the Civil Service Retirement System will have retired.

[(g) DEFINITIONS.—For purposes of this section—

[(1) the savings accruing to the Postal Service as a result of the enactment of this Act shall, for any fiscal year, be equal to the amount (if any) by which—

[(A) the contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund for such fiscal year if this Act had not been enacted, exceed

[(B) the contributions made by the Postal Service to such Fund for such fiscal year; and

[(2) the term "postal debt" means the outstanding obligations of the Postal Service, as determined under chapter 20 of title 39, United States Code.]