

109TH CONGRESS
1ST SESSION

H. R. 22

To reform the postal laws of the United States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2005

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

A BILL

To reform the postal laws of the United States.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

Sec. 103. Financial transparency.

TITLE II—MODERN RATE REGULATION

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

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

- Sec. 301. Postal Service Competitive Products Fund.
- Sec. 302. Assumed Federal income tax on competitive products income.
- Sec. 303. Unfair competition prohibited.
- Sec. 304. Suits by and against the Postal Service.
- Sec. 305. International postal arrangements.
- Sec. 306. Redesignation.
- Sec. 307. Clarification.

TITLE IV—GENERAL PROVISIONS

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

TITLE V—ENHANCED REGULATORY COMMISSION

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

TITLE VI—INSPECTORS GENERAL

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

TITLE VII—EVALUATIONS

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

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING
AMENDMENTS

- Sec. 801. Employment of postal police officers.
 Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
 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. Expanded contracting authority.
 Sec. 806. Investments.
 Sec. 807. Repeal of section 5403.
 Sec. 808. Reduced rates.
 Sec. 809. Hazardous matter.
 Sec. 810. Provisions relating to cooperative mailings.
 Sec. 811. Technical and conforming amendments.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

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

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

3 **SEC. 101. DEFINITIONS.**

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

9 “(5) ‘postal service’ means the carriage of let-
 10 ters, printed matter, or mailable packages, including
 11 acceptance, collection, processing, delivery, or other
 12 services supportive or ancillary thereto;

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

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

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

9 “(9) ‘competitive product’ or ‘product in the
10 competitive category of mail’ means a product sub-
11 ject to subchapter II of chapter 36;

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

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

18 **SEC. 102. POSTAL SERVICES.**

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

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

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

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

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

11 **SEC. 103. FINANCIAL TRANSPARENCY.**

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

16 “(d) As an establishment that provides both market-
17 dominant and competitive products, the Postal Service
18 shall be subject to a high degree of transparency, including
19 in its finances and operations, to ensure fair treatment
20 of customers of the Postal Service’s market-dominant
21 products and companies competing with the Postal Serv-
22 ice’s competitive products.”.

23 (b) CONFORMING AMENDMENT.—Section 5001 of
24 title 39, United States Code, is amended by striking
25 “101(e) and (f)” and inserting “101(f) and (g)”.

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

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

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

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

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

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

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

15 “(C) special services;

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

18 “(3) periodicals;

19 “(4) standard mail;

20 “(5) media mail;

21 “(6) library mail; and

22 “(7) bound printed matter,

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

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

5 **“§ 3622. Modern rate regulation**

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

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

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

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

18 “(3) To maintain high quality service stand-
19 ards.

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

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

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

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

4 “(1) the establishment and maintenance of a
5 fair and equitable schedule for rates and classifica-
6 tion system;

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

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

16 “(4) the effect of rate increases upon the gen-
17 eral public, business mail users, and enterprises in
18 the private sector of the economy engaged in the de-
19 livery of mail matter other than letters;

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

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

1 and its effect upon reducing costs to the Postal
2 Service;

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

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

11 “(9) the importance of providing classifications
12 with extremely high degrees of reliability and speed
13 of delivery and of providing those that do not re-
14 quire high degrees of reliability and speed of deliv-
15 ery;

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

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

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

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

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

6 “(2) Cost-of-service regulation.

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

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

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

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

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

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

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

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

15 Chapter 36 of title 39, United States Code, is amend-
16 ed by inserting after section 3629 the following:

17 “SUBCHAPTER II—PROVISIONS RELATING TO
18 COMPETITIVE PRODUCTS

19 “§ 3631. **Applicability; definitions and updates**

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

22 “(1) priority mail;

23 “(2) expedited mail;

24 “(3) mailgrams;

25 “(4) international mail; and

1 “(5) parcel post,
2 subject to any changes the Postal Regulatory Commission
3 may make under section 3642.

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

8 “(c) RULE OF CONSTRUCTION.—Mail matter re-
9 ferred to in subsection (a) shall, for purposes of this sub-
10 chapter, be considered to have the meaning given to such
11 mail matter under the mail classification schedule.

12 **“§ 3632. Action of the Governors**

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

18 “(b) PROCEDURES.—

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

23 “(2) RATES OR CLASSES OF GENERAL APPLICA-
24 BILITY.—In the case of rates or classes of general
25 applicability in the Nation as a whole or in any sub-

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

7 “(3) RATES OR CLASSES NOT OF GENERAL AP-
8 PPLICABILITY.—In the case of rates or classes not of
9 general applicability in the Nation as a whole or in
10 any substantial region of the Nation, the Governors
11 shall cause each rate and class decision under this
12 section and the record of the proceedings in connec-
13 tion with such decision to be filed with the Postal
14 Regulatory Commission by such date before the ef-
15 fective date of any new rates or classes as the Gov-
16 ernors consider appropriate, but in no case less than
17 15 days.

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

1 “SUBCHAPTER III—PROVISIONS RELATING TO
2 EXPERIMENTAL AND NEW PRODUCTS

3 “§ 3641. Market tests of experimental products

4 “(a) AUTHORITY.—

5 “(1) IN GENERAL.—The Postal Service may
6 conduct market tests of experimental products in ac-
7 cordance with this section.

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

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

15 “(1) SIGNIFICANTLY DIFFERENT PRODUCT.—

16 The product is, from the viewpoint of the mail users,
17 significantly different from all products offered by
18 the Postal Service within the 2-year period preceding
19 the start of the test.

20 “(2) MARKET DISRUPTION.—The introduction
21 or continued offering of the product will not create
22 an unfair or otherwise inappropriate competitive ad-
23 vantage for the Postal Service or any mailer, par-
24 ticularly in regard to small business concerns (as de-
25 fined under subsection (h)).

1 “(3) CORRECT CATEGORIZATION.—The Postal
2 Service identifies the product, for the purpose of a
3 test under this section, as either market dominant or
4 competitive, consistent with the criteria under sec-
5 tion 3642(b)(1). Costs and revenues attributable to
6 a product identified as competitive shall be included
7 in any determination under section 3633(3) (relating
8 to provisions applicable to competitive products col-
9 lectively).

10 “(c) NOTICE.—

11 “(1) IN GENERAL.—At least 30 days before ini-
12 tiating a market test under this section, the Postal
13 Service shall file with the Postal Regulatory Com-
14 mission and publish in the Federal Register a no-
15 tice—

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

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

21 “(2) SAFEGUARDS.—For a competitive experi-
22 mental product, the provisions of section 504(g)
23 shall be available with respect to any information re-
24 quired to be filed under paragraph (1) to the same
25 extent and in the same manner as in the case of any

1 matter described in section 504(g)(1). Nothing in
2 paragraph (1) shall be considered to permit or re-
3 quire the publication of any information as to which
4 confidential treatment is accorded under the pre-
5 ceding sentence (subject to the same exception as set
6 forth in section 504(g)(3)).

7 “(d) DURATION.—

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

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

20 “(e) DOLLAR-AMOUNT LIMITATION.—

21 “(1) IN GENERAL.—A product may be tested
22 under this section only if the total revenues that are
23 anticipated, or in fact received, by the Postal Service
24 from such product do not exceed \$10,000,000 na-
25 tionwide in any year, subject to paragraph (2) and

1 subsection (g). In carrying out the preceding sen-
2 tence, the Postal Regulatory Commission may limit
3 the amount of revenues the Postal Service may ob-
4 tain from any particular geographic market as nec-
5 essary to prevent market disruption (as defined in
6 subsection (b)(2)).

7 “(2) EXEMPTION AUTHORITY.—The Postal
8 Regulatory Commission may, upon written applica-
9 tion of the Postal Service, exempt the market test
10 from the limit in paragraph (1) if the total revenues
11 that are anticipated, or in fact received, by the Post-
12 al Service from such product do not exceed
13 \$50,000,000 in any year, subject to subsection (g).
14 In reviewing an application under this paragraph,
15 the Postal Regulatory Commission shall approve
16 such application if it determines that—

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

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

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

23 “(f) CANCELLATION.—If the Postal Regulatory Com-
24 mission at any time determines that a market test under
25 this section fails, with respect to any particular product,

1 to meet one or more of the requirements of this section,
2 it may order the cancellation of the test involved or take
3 such other action as it considers appropriate. A determina-
4 tion under this subsection shall be made in accordance
5 with such procedures as the Commission shall by regula-
6 tion prescribe.

7 “(g) ADJUSTMENT FOR INFLATION.—For purposes
8 of each year following the year in which occurs the dead-
9 line for the Postal Service’s first report to the Postal Reg-
10 ulatory Commission under section 3652(a), each dollar
11 amount contained in this section shall be adjusted by the
12 change in the Consumer Price Index for such year (as de-
13 termined under regulations of the Commission).

14 “(h) DEFINITION OF A SMALL BUSINESS CON-
15 CERN.—The criteria used in defining small business con-
16 cerns or otherwise categorizing business concerns as small
17 business concerns shall, for purposes of this section, be
18 established by the Postal Regulatory Commission in con-
19 formance with the requirements of section 3 of the Small
20 Business Act.

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

1 **“§ 3642. New products and transfers of products be-**
2 **tween the market-dominant and competi-**
3 **tive categories of mail**

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

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

14 “(1) The market-dominant category of products
15 shall consist of each product in the sale of which the
16 Postal Service exercises sufficient market power that
17 it can effectively set the price of such product sub-
18 stantially above costs, raise prices significantly, de-
19 crease quality, or decrease output, without risk of
20 losing business to other firms offering similar prod-
21 ucts. The competitive category of products shall con-
22 sist of all other products.

23 “(2) EXCLUSION OF PRODUCTS COVERED BY
24 POSTAL MONOPOLY.—A product covered by the post-
25 al monopoly shall not be subject to transfer under
26 this section from the market-dominant category of

1 mail. For purposes of the preceding sentence, the
2 term ‘product covered by the postal monopoly’
3 means any product the conveyance or transmission
4 of which is reserved to the United States under sec-
5 tion 1696 of title 18, subject to the same exception
6 as set forth in the last sentence of section 409(e)(1).

7 “(3) ADDITIONAL CONSIDERATIONS.—In mak-
8 ing any decision under this section, due regard shall
9 be given to—

10 “(A) the availability and nature of enter-
11 prises in the private sector engaged in the deliv-
12 ery of the product involved;

13 “(B) the views of those who use the prod-
14 uct involved on the appropriateness of the pro-
15 posed action; and

16 “(C) the likely impact of the proposed ac-
17 tion on small business concerns (within the
18 meaning of section 3641(h)).

19 “(c) TRANSFERS OF SUBCLASSES AND OTHER SUB-
20 ORDINATE UNITS ALLOWABLE.—Nothing in this title
21 shall be considered to prevent transfers under this section
22 from being made by reason of the fact that they would
23 involve only some (but not all) of the subclasses or other
24 subordinate units of the class of mail or type of postal

1 service involved (without regard to satisfaction of min-
2 imum quantity requirements standing alone).

3 “(d) NOTIFICATION AND PUBLICATION REQUIRE-
4 MENTS.—

5 “(1) NOTIFICATION REQUIREMENT.—The Post-
6 al Service shall, whenever it requests to add a prod-
7 uct or transfer a product to a different category, file
8 with the Postal Regulatory Commission and publish
9 in the Federal Register a notice setting out the basis
10 for its determination that the product satisfies the
11 criteria under subsection (b) and, in the case of a
12 request to add a product or transfer a product to
13 the competitive category of mail, that the product
14 meets the regulations promulgated by the Postal
15 Regulatory Commission pursuant to section 3633.
16 The provisions of section 504(g) shall be available
17 with respect to any information required to be filed.

18 “(2) PUBLICATION REQUIREMENT.—The Postal
19 Regulatory Commission shall, whenever it changes
20 the list of products in the market-dominant or com-
21 petitive category of mail, prescribe new lists of prod-
22 ucts. The revised lists shall indicate how and when
23 any previous lists (including the lists under sections
24 3621 and 3631) are superseded, and shall be pub-
25 lished in the Federal Register.

1 “(e) NOTIFICATION REQUIREMENT.—The Postal
2 Regulatory Commission shall, whenever it reaches a con-
3 clusion that a product or products should be transferred
4 between the list of market-dominant products under sec-
5 tion 3621 and the list of competitive products under sec-
6 tion 3631, immediately notify the appropriate committees
7 of the Congress. No such transfer may take effect less
8 than 12 months after such conclusion.

9 “(f) PROHIBITION.—Except as provided in section
10 3641, no product that involves the carriage of letters,
11 printed matter, or mailable packages may be offered by
12 the Postal Service unless it has been assigned to the mar-
13 ket-dominant or competitive category of mail (as appro-
14 priate) either—

15 “(1) under this subchapter; or

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

17 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**
18 **VISIONS.**

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

1 “SUBCHAPTER V—POSTAL SERVICES,
2 COMPLAINTS, AND JUDICIAL REVIEW”.

3 (b) REPORTS AND COMPLIANCE.—Chapter 36 of title
4 39, United States Code, is amended by inserting after sub-
5 chapter III the following:

6 “SUBCHAPTER IV—REPORTING
7 REQUIREMENTS AND RELATED PROVISIONS

8 **“§ 3651. Annual reports by the Commission**

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

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

20 “(1) postal services to areas of the Nation
21 where, in the judgment of the Postal Regulatory
22 Commission, the Postal Service either would not
23 provide services at all or would not provide such
24 services in accordance with the requirements of this
25 title if the Postal Service were not required to pro-

1 vide prompt, reliable, and efficient services to pa-
2 trons in all areas and all communities, including as
3 required under the first sentence of section 101(b);

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

6 “(3) other public services or activities which, in
7 the judgment of the Postal Regulatory Commission,
8 would not otherwise have been provided by the Post-
9 al Service but for the requirements of law.

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

13 “(c) INFORMATION FROM POSTAL SERVICE.—The
14 Postal Service shall provide the Postal Regulatory Com-
15 mission with such information as may, in the judgment
16 of the Commission, be necessary in order for the Commis-
17 sion to prepare its reports under this section.

18 **“§ 3652. Annual reports to the Commission**

19 “(a) COSTS, REVENUES, AND RATES.—Except as
20 provided in subsection (c), the Postal Service shall, no
21 later than 90 days after the end of each year, prepare and
22 submit to the Postal Regulatory Commission a report (to-
23 gether with such nonpublic annex thereto as the Commis-
24 sion may require under subsection (e))—

1 “(1) which shall analyze costs, revenues, and
2 rates, using such methodologies as the Commission
3 shall by regulation prescribe, and in sufficient detail
4 to demonstrate that the rates in effect for all prod-
5 ucts during such year complied with all applicable
6 requirements of this title; and

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

9 “(A) market information, including mail
10 volumes; and

11 “(B) measures of the quality of service af-
12 farded by the Postal Service in connection with
13 such product, including—

14 “(i) the service standard applicable to
15 such product;

16 “(ii) the level of service (described in
17 terms of speed of delivery and reliability)
18 provided; and

19 “(iii) the degree of customer satisfac-
20 tion with the service provided.

21 The Inspector General shall regularly audit the data col-
22 lection systems and procedures utilized in collecting infor-
23 mation and preparing such report (including any annex
24 thereto and the information required under subsection

1 (b)). The results of any such audit shall be submitted to
2 the Postal Service and the Postal Regulatory Commission.

3 “(b) INFORMATION RELATING TO WORKSHARE DIS-
4 COUNTS.—

5 “(1) IN GENERAL.—The Postal Service shall in-
6 clude, in each report under subsection (a), the fol-
7 lowing information with respect to each market-dom-
8 inant product for which a workshare discount was in
9 effect during the period covered by such report:

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

12 “(B) The percentage of such per-item cost
13 avoided that the per-item workshare discount
14 represents.

15 “(C) The per-item contribution made to in-
16 stitutional costs.

17 “(2) WORKSHARE DISCOUNT DEFINED.—For
18 purposes of this subsection, the term ‘workshare dis-
19 count’ has the meaning given such term under sec-
20 tion 3687.

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

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

3 “(2) shall report such data as the Postal Regu-
4 latory Commission requires.

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

11 “(e) CONTENT AND FORM OF REPORTS.—

12 “(1) IN GENERAL.—The Postal Regulatory
13 Commission shall, by regulation, prescribe the con-
14 tent and form of the public reports (and any non-
15 public annex and supporting matter relating thereto)
16 to be provided by the Postal Service under this sec-
17 tion. In carrying out this subsection, the Commis-
18 sion shall give due consideration to—

19 “(A) providing the public with adequate in-
20 formation to assess the lawfulness of rates
21 charged;

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

1 “(C) protecting the confidentiality of com-
2 mercially sensitive information.

3 “(2) REVISED REQUIREMENTS.—The Commis-
4 sion may, on its own motion or on request of an in-
5 terested party, initiate proceedings (to be conducted
6 in accordance with regulations that the Commission
7 shall prescribe) to improve the quality, accuracy, or
8 completeness of Postal Service data required by the
9 Commission under this subsection whenever it shall
10 appear that—

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

14 “(B) the quality of service data has be-
15 come significantly inaccurate or can be signifi-
16 cantly improved; or

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

20 “(f) CONFIDENTIAL INFORMATION.—

21 “(1) IN GENERAL.—If the Postal Service deter-
22 mines that any document or portion of a document,
23 or other matter, which it provides to the Postal Reg-
24 ulatory Commission in a nonpublic annex under this
25 section or pursuant to subsection (d) contains infor-

1 mation which is described in section 410(c) of this
2 title, or exempt from public disclosure under section
3 552(b) of title 5, the Postal Service shall, at the
4 time of providing such matter to the Commission,
5 notify the Commission of its determination, in writ-
6 ing, and describe with particularity the documents
7 (or portions of documents) or other matter for which
8 confidentiality is sought and the reasons therefor.

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

16 “(g) OTHER REPORTS.—The Postal Service shall
17 submit to the Postal Regulatory Commission, together
18 with any other submission that it is required to make
19 under this section in a year, copies of its then most re-
20 cent—

21 “(1) comprehensive statement under section
22 2401(e);

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

24 “(3) program performance reports under sec-
25 tion 2804.

1 **“§ 3653. Annual determination of compliance**

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

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

14 “(1) whether any rates or fees in effect during
15 such year (for products individually or collectively)
16 were not in compliance with applicable provisions of
17 this chapter (or regulations promulgated there-
18 under);

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

22 “(3) whether any market-dominant product
23 failed to meet any service standard during such
24 year.

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

4 “(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
5 year, a timely written determination of noncompliance is
6 made under subsection (b), the Postal Regulatory Com-
7 mission shall take appropriate action in accordance with
8 subsections (c)–(e) of section 3662 (as if a complaint aver-
9 ring such noncompliance had been duly filed and found
10 under such section to be justified).

11 “(d) REBUTTABLE PRESUMPTION.—A timely written
12 determination described in the last sentence of subsection
13 (b) shall, for purposes of any proceeding under section
14 3662, create a rebuttable presumption of compliance by
15 the Postal Service (with regard to the matters described
16 in paragraphs (1) through (3) of subsection (b)) during
17 the year to which such determination relates.”.

18 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND EN-**
19 **FORCEMENT.**

20 Chapter 36 of title 39, United States Code, is amend-
21 ed by striking sections 3662 and 3663 and inserting the
22 following:

23 **“§ 3662. Rate and service complaints**

24 “(a) IN GENERAL.—Interested persons (including an
25 officer of the Postal Regulatory Commission representing

1 the interests of the general public) who believe the Postal
2 Service is not operating in conformance with the require-
3 ments of chapter 1, 4, or 6, or this chapter (or regulations
4 promulgated under any of those chapters) may lodge a
5 complaint with the Postal Regulatory Commission in such
6 form and manner as the Commission may prescribe.

7 “(b) PROMPT RESPONSE REQUIRED.—

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

11 “(A) begin proceedings on such complaint;

12 or

13 “(B) issue an order dismissing the com-
14 plaint (together with a statement of the reasons
15 therefor).

16 “(2) TREATMENT OF COMPLAINTS NOT TIMELY
17 ACTED ON.—For purposes of section 3663, any com-
18 plaint under subsection (a) on which the Commis-
19 sion fails to act in the time and manner required by
20 paragraph (1) shall be treated in the same way as
21 if it had been dismissed pursuant to an order issued
22 by the Commission on the last day allowable for the
23 issuance of such order under paragraph (1).

24 “(c) ACTION REQUIRED IF COMPLAINT FOUND TO
25 BE JUSTIFIED.—If the Postal Regulatory Commission

1 finds the complaint to be justified, it shall order that the
2 Postal Service take such action as the Commission con-
3 siders appropriate in order to achieve compliance with the
4 applicable requirements and to remedy the effects of any
5 noncompliance (such as ordering unlawful rates to be ad-
6 justed to lawful levels, ordering the cancellation of market
7 tests, ordering the Postal Service to discontinue providing
8 loss-making products, or requiring the Postal Service to
9 make up for revenue shortfalls in competitive products).

10 “(d) SUSPENSION AUTHORITY.—The Postal Regu-
11 latory Commission may suspend implementation of rates
12 or classifications under section 3632(b)(3) for a limited
13 period of time pending expedited proceedings under this
14 section. In evaluating whether circumstances warrant sus-
15 pension, the Commission shall consider factors such as (1)
16 whether there is a substantial likelihood that such rate or
17 classification will violate the requirements of chapter 1,
18 4, or 6, or this chapter (or regulations promulgated under
19 any of those chapters), (2) whether any persons would suf-
20 fer substantial injury, loss, or damage absent a suspen-
21 sion, (3) whether the Postal Service or any other persons
22 would suffer substantial injury, loss, or damage under a
23 suspension, and (4) the public interest.

24 “(e) AUTHORITY TO ORDER FINES IN CASES OF DE-
25 LIBERATE NONCOMPLIANCE.—In addition, in cases of de-

1 liberate noncompliance by the Postal Service with the re-
2 quirements of this title, the Postal Regulatory Commission
3 may order, based on the nature, circumstances, extent,
4 and seriousness of the noncompliance, a fine (in the
5 amount specified by the Commission in its order) for each
6 incidence of noncompliance. Fines resulting from the pro-
7 vision of competitive products shall be paid out of the
8 Competitive Products Fund established in section 2011.
9 All receipts from fines imposed under this subsection shall
10 be deposited in the general fund of the Treasury of the
11 United States.

12 **“§ 3663. Appellate review**

13 “A person adversely affected or aggrieved by a final
14 order or decision of the Postal Regulatory Commission
15 may, within 30 days after such order or decision becomes
16 final, institute proceedings for review thereof by filing a
17 petition in the United States Court of Appeals for the Dis-
18 trict of Columbia. The court shall review the order or deci-
19 sion in accordance with section 706 of title 5, and chapter
20 158 and section 2112 of title 28, on the basis of the record
21 before the Commission. For purposes of this section, the
22 term ‘person’ includes the Postal Service.

23 **“§ 3664. Enforcement of orders**

24 “The several district courts have jurisdiction specifi-
25 cally to enforce, and to enjoin and restrain the Postal

1 Service from violating, any order issued by the Postal Reg-
2 ulatory Commission.”.

3 **SEC. 206. WORKSHARE DISCOUNTS.**

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

7 **“§ 3687. Workshare discounts**

8 “(a) IN GENERAL.—As part of the regulations estab-
9 lished under section 3622(a), the Postal Regulatory Com-
10 mission shall establish rules for workshare discounts that
11 ensure that workshare discounts do not exceed the cost
12 that the Postal Service avoids as the result of private sec-
13 tor workshare activity, except—

14 “(1) where the discount is associated with a
15 new product or service or with a change to an exist-
16 ing product or service and is necessary, over a pe-
17 riod of time not to exceed 4 years, to induce mailer
18 behavior that will enable the new or changed product
19 or service in furtherance of the overall economically
20 efficient operation of the Postal Service;

21 “(2) to the extent that a reduction in the dis-
22 count would lead to a loss of volume in the affected
23 category and reduce the aggregate contribution to
24 institutional costs of the Postal Service, from the
25 mail matter subject to the discount, below what it

1 otherwise would have been if the discount had not
2 been reduced to costs avoided; would result in a fur-
3 ther increase in the rates paid by mailers not able
4 to take advantage of the discount; or would impede
5 the efficient operation of the Postal Service;

6 “(3) where the amount of the discount above
7 costs avoided is necessary to mitigate rate shock and
8 will be phased out over time; or

9 “(4) where the workshare discount is provided
10 in connection with subclasses of mail consisting ex-
11 clusively of mail matter of educational, cultural, sci-
12 entific, or informational value.

13 “(b) REPORTING REQUIREMENT.—Whenever the
14 Postal Service establishes or maintains a workshare dis-
15 count, the Postal Service shall, at the time it publishes
16 the workshare discount rate, file with the Postal Regu-
17 latory Commission a detailed report and explanation of its
18 reasons for establishing or maintaining the rate, setting
19 forth the data, economic analyses, and other information
20 relied on by the Postal Service to justify the rate.

21 “(c) DEFINITION.—For purposes of this section, the
22 term ‘workshare discount’ refers to rate discounts pro-
23 vided to mailers for presorting, prebarcoding, handling, or
24 transportation, as further defined by the Postal Regu-

1 latory Commission as part of regulations established
2 under section 3622(a).”.

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

“3687. Workshare discounts.”.

7 **SEC. 207. CLERICAL AMENDMENT.**

8 Chapter 36 of title 39, United States Code, is amend-
9 ed by striking the heading and analysis for such chapter
10 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.

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

“3661. Postal services.

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

“SUBCHAPTER VI—GENERAL

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

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

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

5 (a) PROVISIONS RELATING TO POSTAL SERVICE
 6 COMPETITIVE PRODUCTS FUND AND RELATED MAT-
 7 TERS.—

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

11 **“§ 2011. Provisions relating to competitive products**

12 “(a) There is established in the Treasury of the
 13 United States a revolving fund, to be called the Postal
 14 Service Competitive Products Fund, which shall be avail-
 15 able to the Postal Service without fiscal year limitation
 16 for the payment of—

17 “(1) costs attributable to competitive products;
 18 and

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

1 For purposes of this subsection, the term ‘costs attrib-
2 utable’ has the meaning given such term by section 3631.

3 “(b) There shall be deposited in the Competitive
4 Products Fund, subject to withdrawal by the Postal Serv-
5 ice—

6 “(1) revenues from competitive products;

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

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

11 “(4) any other receipts of the Postal Service
12 (including from the sale of assets), to the extent al-
13 locable to competitive products.

14 “(c) If the Postal Service determines that the moneys
15 of the Competitive Products Fund are in excess of current
16 needs, it may invest such amounts as it considers appro-
17 priate in—

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

20 “(2) in accordance with regulations which the
21 Secretary of the Treasury shall prescribe (by not
22 later than 18 months after the date of the enact-
23 ment of the Postal Accountability and Enhancement
24 Act), such other obligations or securities as it deems
25 appropriate.

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

5 “(e)(1) Subject to the limitations specified in section
6 2005(a), the Postal Service is authorized to borrow money
7 and to issue and sell such obligations as it determines nec-
8 essary to provide for competitive products and deposit
9 such amounts in the Competitive Products Fund, except
10 that the Postal Service may pledge only assets related to
11 the provision of competitive products (as determined
12 under subsection (h) or, for purposes of any period before
13 accounting practices and principles under subsection (h)
14 have been established and applied, the best information
15 available from the Postal Service, including the audited
16 statements required by section 2008(e)), and the revenues
17 and receipts from such products, for the payment of the
18 principal of or interest on such obligations, for the pur-
19 chase or redemption thereof, and for other purposes inci-
20 dental thereto, including creation of reserve, sinking, and
21 other funds which may be similarly pledged and used, to
22 such extent and in such manner as it deems necessary or
23 desirable.

24 “(2) The Postal Service may enter into binding cov-
25 enants with the holders of such obligations, and with the

1 trustee, if any, under any agreement entered into in con-
2 nection with the issuance thereof with respect to—

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

5 “(B) application and use of revenues and re-
6 ceipts of the Competitive Products Fund;

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

11 “(D) such other matters as the Postal Service
12 considers necessary or desirable to enhance the mar-
13 ketability of such obligations.

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

16 “(A) may not be purchased by the Secretary of
17 the Treasury;

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

21 “(C) shall not be obligations of, nor shall pay-
22 ment of the principal thereof or interest thereon be
23 guaranteed by, the Government of the United
24 States, and the obligations shall so plainly state; and

1 “(D) notwithstanding the provisions of the Fed-
2 eral Financing Bank Act of 1973 or any other provi-
3 sion of law (except as specifically provided by ref-
4 erence to this subparagraph in a law enacted after
5 this subparagraph takes effect), shall not be eligible
6 for purchase by, commitment to purchase by, or sale
7 or issuance to, the Federal Financing Bank.

8 “(4)(A) This paragraph applies with respect to the
9 period beginning on the date of the enactment of this
10 paragraph and ending at the close of the 5-year period
11 which begins on the date on which the Secretary of the
12 Treasury makes the submission required under subsection
13 (h)(1).

14 “(B) During the period described in subparagraph
15 (A), nothing in subparagraph (A) or (D) of paragraph (3)
16 or the last sentence of section 2006(b) shall, with respect
17 to any obligations sought to be issued by the Postal Serv-
18 ice under this subsection, be considered to affect such obli-
19 gations’ eligibility for purchase by, commitment to pur-
20 chase by, or sale or issuance to, the Federal Financing
21 Bank.

22 “(C) The Federal Financing Bank may elect to pur-
23 chase such obligations under such terms, including rates
24 of interest, as the Bank and the Postal Service may agree,
25 but at a rate of yield no less than the prevailing yield on

1 outstanding marketable securities of comparable maturity
2 issued by entities with the same credit rating as the rating
3 then most recently obtained by the Postal Service under
4 subparagraph (D), as determined by the Bank.

5 “(D) In order to be eligible to borrow under this
6 paragraph, the Postal Service shall first obtain a credit
7 rating from a nationally recognized credit rating organiza-
8 tion. Such rating—

9 “(i) shall be determined taking into account
10 only those assets and activities of the Postal Service
11 which are described in section 3634(a)(2) (relating
12 to the Postal Service’s assumed taxable income from
13 competitive products); and

14 “(ii) may, before final rules of the Postal Regu-
15 latory Commission under subsection (h) are issued
16 (or deemed to have been issued), be based on the
17 best information available from the Postal Service,
18 including the audited statements required by section
19 2008(e).

20 “(f) The receipts and disbursements of the Competi-
21 tive Products Fund shall be accorded the same budgetary
22 treatment as is accorded to receipts and disbursements of
23 the Postal Service Fund under section 2009a.

24 “(g) A judgment against the Postal Service or the
25 Government of the United States (or settlement of a

1 claim) shall, to the extent that it arises out of activities
2 of the Postal Service in the provision of competitive prod-
3 ucts, be paid out of the Competitive Products Fund.

4 “(h)(1) The Secretary of the Treasury, in consulta-
5 tion with the Postal Service and an independent, certified
6 public accounting firm and such other advisors as the Sec-
7 retary considers appropriate, shall develop recommenda-
8 tions regarding—

9 “(A) the accounting practices and principles
10 that should be followed by the Postal Service with
11 the objectives of (i) identifying and valuing the as-
12 sets and liabilities of the Postal Service associated
13 with providing, and the capital and operating costs
14 incurred by the Postal Service in providing, competi-
15 tive products, and (ii) preventing the subsidization
16 of such products by market-dominant products; and

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

22 Such recommendations shall be submitted to the Postal
23 Regulatory Commission no earlier than 6 months, and no
24 later than 12 months, after the effective date of this sec-
25 tion.

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

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

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

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

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

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

1 retary of the Treasury makes his submission to the Com-
2 mission under paragraph (1) (or by such later date as the
3 Commission and the Postal Service may agree to). The
4 Commission is authorized to promulgate regulations revis-
5 ing such rules.

6 “(C) Reports described in subparagraph (B)(iii) shall
7 be submitted at such time and in such form, and shall
8 include such information, as the Commission by rule re-
9 quires. The Commission may, on its own motion or on re-
10 quest of an interested party, initiate proceedings (to be
11 conducted in accordance with such rules as the Commis-
12 sion shall prescribe) to improve the quality, accuracy, or
13 completeness of Postal Service data under such subpara-
14 graph whenever it shall appear that—

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

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

21 “(D) A copy of each report described in subpara-
22 graph (B)(iii) shall also be transmitted by the Postal Serv-
23 ice to the Secretary of the Treasury and the Inspector
24 General of the United States Postal Service.

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

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

“2011. Provisions relating to competitive products.”.

15 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

21 “(2) ‘Competitive Products Fund’ means the
22 Postal Service Competitive Products Fund estab-
23 lished by section 2011; and”.

24 (2) CAPITAL OF THE POSTAL SERVICE.—Sec-
25 tion 2002(b) of title 39, United States Code, is

1 amended by striking “Fund,” and inserting “Fund
2 and the balance in the Competitive Products Fund,”.

3 (3) POSTAL SERVICE FUND.—

4 (A) PURPOSES FOR WHICH AVAILABLE.—

5 Section 2003(a) of title 39, United States Code,
6 is amended by striking “title.” and inserting
7 “title (other than any of the purposes, func-
8 tions, or powers for which the Competitive
9 Products Fund is available).”.

10 (B) DEPOSITS.—Section 2003(b) of title

11 39, United States Code, is amended by striking
12 “There” and inserting “Except as otherwise
13 provided in section 2011, there”.

14 (4) RELATIONSHIP BETWEEN THE TREASURY
15 AND THE POSTAL SERVICE.—Section 2006 of title
16 39, United States Code, is amended—

17 (A) in subsection (b), by adding at the end
18 the following: “Nothing in this chapter shall be
19 considered to permit or require the Secretary of
20 the Treasury to purchase any obligations of the
21 Postal Service other than those issued under
22 section 2005.”; and

23 (B) in subsection (c), by inserting “under
24 section 2005” before “shall be obligations”.

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

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

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

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

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

15 “(2) the term ‘assumed taxable income from
16 competitive products’, with respect to a year, refers
17 to the amount representing what would be the tax-
18 able income of a corporation under the Internal Rev-
19 enue Code of 1986 for the year, if—

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

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

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

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

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

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

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

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

19 **“§ 404a. Specific Limitations**

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

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

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

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

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

16 “(b) The Postal Regulatory Commission shall pre-
17 scribe regulations to carry out this section.

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

22 (b) CONFORMING AMENDMENTS.—

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

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

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

7 (c) CLERICAL AMENDMENT.—The analysis for chap-
8 ter 4 of title 39, United States Code, is amended by insert-
9 ing after the item relating to section 404 the following:
“404a. Specific limitations.”.

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

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

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

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

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

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

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

4 “(B) the provisions of section 5 of the Federal
5 Trade Commission Act to the extent that such sec-
6 tion 5 applies to unfair or deceptive acts or prac-
7 tices.

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

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

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

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

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

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

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

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

16 “(2) Each building constructed or altered by the
17 Postal Service shall be constructed or altered only after
18 consideration of all requirements (other than procedural
19 requirements) of zoning laws, land use laws, and applica-
20 ble environmental laws of a State or subdivision of a State
21 which would apply to the building if it were not a building
22 constructed or altered by an establishment of the Govern-
23 ment of the United States.

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

4 “(A) in preparing plans for the building, con-
5 sult with appropriate officials of the State or polit-
6 ical subdivision, or both, in which the building will
7 be located;

8 “(B) upon request, submit such plans in a
9 timely manner to such officials for review by such
10 officials for a reasonable period of time not exceed-
11 ing 30 days; and

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

17 “(i) a copy of such schedule before con-
18 struction of the building is begun; and

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

22 Nothing in this subsection shall impose an obligation on
23 any State or political subdivision to take any action under
24 the preceding sentence, nor shall anything in this sub-
25 section require the Postal Service or any of its contractors

1 to pay for any action taken by a State or political subdivi-
2 sion to carry out this subsection (including reviewing
3 plans, carrying out on-site inspections, issuing building
4 permits, and making recommendations).

5 “(4) Appropriate officials of a State or a political
6 subdivision of a State may make recommendations to the
7 Postal Service concerning measures necessary to meet the
8 requirements of paragraphs (1) and (2). Such officials
9 may also make recommendations to the Postal Service
10 concerning measures which should be taken in the con-
11 struction or alteration of the building to take into account
12 local conditions. The Postal Service shall give due consid-
13 eration to any such recommendations.

14 “(5) In addition to consulting with local and State
15 officials under paragraph (3), the Postal Service shall es-
16 tablish procedures for soliciting, assessing, and incor-
17 porating local community input on real property and land
18 use decisions.

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

23 “(g)(1) Notwithstanding any other provision of law,
24 legal representation may not be furnished by the Depart-
25 ment of Justice to the Postal Service in any action, suit,

1 or proceeding arising, in whole or in part, under any of
2 the following:

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

4 “(B) Subsection (f) or (g) of section 504 (relat-
5 ing to administrative subpoenas by the Postal Regu-
6 latory Commission).

7 “(C) Section 3663 (relating to appellate re-
8 view).

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

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

22 “(3)(A) In any action, suit, or proceeding in a court
23 of the United States arising in whole or in part under any
24 of the provisions of law referred to in subparagraph (B)
25 or (C) of paragraph (1), and to which the Commission

1 is not otherwise a party, the Commission shall be per-
2 mitted to appear as a party on its own motion and as
3 of right.

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

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

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

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

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

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

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

1 “(1) to promote and encourage communications
2 between peoples by efficient operation of inter-
3 national postal services and other international deliv-
4 ery services for cultural, social, and economic pur-
5 poses;

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

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

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

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

1 clude treaties, conventions and amendments related to
2 international postal services and other international deliv-
3 ery services, except that the Secretary may not conclude
4 any treaty, convention, or other international agreement
5 (including those regulating international postal services)
6 if such treaty, convention, or agreement would, with re-
7 spect to any competitive product, grant an undue or un-
8 reasonable preference to the Postal Service, a private pro-
9 vider of international postal or delivery services, or any
10 other person.

11 “(2) In carrying out the responsibilities specified in
12 paragraph (1), the Secretary of State shall exercise pri-
13 mary authority for the conduct of foreign policy with re-
14 spect to international postal services and international de-
15 livery services, including the determination of United
16 States positions and the conduct of United States partici-
17 pation in negotiations with foreign governments and inter-
18 national bodies. In exercising this authority, the Sec-
19 retary—

20 “(A) shall coordinate with other agencies as ap-
21 propriate, and in particular, shall give full consider-
22 ation to the authority vested by law or Executive
23 order in the Postal Regulatory Commission, the De-
24 partment of Commerce, the Department of Trans-

1 portation, and the Office of the United States Trade
2 Representative in this area;

3 “(B) shall maintain continuing liaison with
4 other executive branch agencies concerned with post-
5 al and delivery services;

6 “(C) shall maintain continuing liaison with the
7 Committee on Government Reform of the House of
8 Representatives and the Committee on Govern-
9 mental Affairs of the Senate;

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

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

1 “(3) The Secretary of State shall establish an advi-
2 sory committee (within the meaning of the Federal Advi-
3 sory Committee Act) to perform such functions as the Sec-
4 retary considers appropriate in connection with carrying
5 out subparagraphs (A) through (D) of paragraph (2).

6 “(c)(1) Before concluding any treaty, convention, or
7 amendment that establishes a rate or classification for a
8 product subject to subchapter I of chapter 36, the Sec-
9 retary of State shall request the Postal Regulatory Com-
10 mission to submit a decision on whether such rate or clas-
11 sification is consistent with the standards and criteria es-
12 tablished by the Commission under section 3622.

13 “(2) The Secretary shall ensure that each treaty, con-
14 vention, or amendment concluded under subsection (b) is
15 consistent with a decision of the Commission adopted
16 under paragraph (1), except if, or to the extent, the Sec-
17 retary determines, by written order, that considerations of
18 foreign policy or national security require modification of
19 the Commission’s decision.

20 “(d) Nothing in this section shall be considered to
21 prevent the Postal Service from entering into such com-
22 mercial or operational contracts related to providing inter-
23 national postal services and other international delivery
24 services as it deems appropriate, except that—

1 “(1) any such contract made with an agency of
2 a foreign government (whether under authority of
3 this subsection or otherwise) shall be solely contrac-
4 tual in nature and may not purport to be inter-
5 national law; and

6 “(2) a copy of each such contract between the
7 Postal Service and an agency of a foreign govern-
8 ment shall be transmitted to the Secretary of State
9 and the Postal Regulatory Commission not later
10 than the effective date of such contract.

11 “(e)(1) With respect to shipments of international
12 mail that are competitive products within the meaning of
13 section 3631 that are exported or imported by the Postal
14 Service, the Bureau of Customs and Border Protection of
15 the Department of Homeland Security and other appro-
16 priate Federal agencies shall apply the customs laws of
17 the United States and all other laws relating to the impor-
18 tation or exportation of such shipments in the same man-
19 ner to both shipments by the Postal Service and similar
20 shipments by private companies.

21 “(2) For purposes of this subsection, the term ‘pri-
22 vate company’ means a private company substantially
23 owned or controlled by persons who are citizens of the
24 United States.

1 “(3) In exercising the authority pursuant to sub-
2 section (b) to conclude new treaties, conventions and
3 amendments related to international postal services and
4 to renegotiate such treaties, conventions and amendments,
5 the Secretary of State shall, to the maximum extent prac-
6 ticable, take such measures as are within the Secretary’s
7 control to encourage the governments of other countries
8 to make available to the Postal Service and private compa-
9 nies a range of nondiscriminatory customs procedures that
10 will fully meet the needs of all types of American shippers.
11 The Secretary of State shall consult with the United
12 States Trade Representative and the Commissioner of
13 Customs, Department of Homeland Security in carrying
14 out this paragraph.

15 “(4) The provisions of this subsection shall take ef-
16 fect 6 months after the date of the enactment of this sub-
17 section or such earlier date as the Bureau of Customs and
18 Border Protection of the Department of Homeland Secu-
19 rity may determine in writing.”.

20 (b) EFFECTIVE DATE.—Notwithstanding any provi-
21 sion of the amendment made by subsection (a), the au-
22 thority of the United States Postal Service to establish
23 the rates of postage or other charges on mail matter con-
24 veyed between the United States and other countries shall
25 remain available to the Postal Service until—

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

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

9 **SEC. 306. REDESIGNATION.**

10 Chapter 36 of title 39, United States Code (as in ef-
11 fect before the amendment made by section 204(a)) is
12 amended by striking the heading for subchapter V and in-
13 serting the following:

14 “SUBCHAPTER VI—GENERAL”.

15 **SEC. 307. CLARIFICATION.**

16 Section 403(c) of title 39, United States Code, is
17 amended by adding after “user.” the following: “The pro-
18 hibition in this subsection shall not be construed to pre-
19 vent the establishment of rates that vary with volume if
20 such rates will be made available to similarly situated per-
21 sons and will increase the aggregate contribution to the
22 institutional costs of the Postal Service.”.

1 **TITLE IV—GENERAL**
2 **PROVISIONS**

3 **SEC. 401. QUALIFICATION REQUIREMENTS FOR GOV-**
4 **ERNORS.**

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

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

21 “(2) In selecting the individuals described in para-
22 graph (1) for nomination for appointment to the position
23 of Governor, the President should consult with the Speak-
24 er of the House of Representatives, the minority leader

1 of the House of Representatives, the majority leader of
2 the Senate, and the minority leader of the Senate.”.

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

6 “(2)(A) Notwithstanding any other provision of this
7 section, in the case of the office of the Governor the term
8 of which is the first one scheduled to expire at least 4
9 months after the date of the enactment of this para-
10 graph—

11 “(i) such office may not, in the case of any per-
12 son commencing service after that expiration date,
13 be filled by any person other than an individual cho-
14 sen from among persons nominated for such office
15 with the unanimous concurrence of all labor organi-
16 zations described in section 206(a)(1); and

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

21 “(B) Except as provided in subparagraph (A), an ap-
22 pointment under this paragraph shall be made in conform-
23 ance with all provisions of this section that would other-
24 wise apply.”.

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

15 **SEC. 402. OBLIGATIONS.**

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

22 (b) LIMITATION ON NET ANNUAL INCREASE IN OB-
23 LIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third
24 sentence of section 2005(a)(1) of title 39, United States
25 Code, is amended to read as follows: “In any one fiscal

1 year, the net increase in the amount of obligations out-
2 standing issued for the purpose of capital improvements
3 and the net increase in the amount of obligations out-
4 standing issued for the purpose of defraying operating ex-
5 penses of the Postal Service shall not exceed a combined
6 total of \$3,000,000,000.” .

7 (c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

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

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

22 (2) CONFORMING AMENDMENT.—The second
23 sentence of section 2005(a)(1) of title 39, United
24 States Code, is amended by striking “any such obli-

1 gations” and inserting “obligations issued by the
2 Postal Service which may be”.

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

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

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

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

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

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

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

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

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

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

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

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

1 “(c) Any regulations necessary to carry out this sec-
2 tion shall be promulgated by the Postal Regulatory Com-
3 mission.”.

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

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

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

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

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

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

1 States Code, the National Labor Relations Act, any hand-
2 book or manual affecting employee labor relations within
3 the United States Postal Service, or any collective bar-
4 gaining agreement.

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

10 **SEC. 406. BONUS AUTHORITY.**

11 Subchapter VI of chapter 36 of title 39, United
12 States Code (as so redesignated by section 306) is amend-
13 ed by adding at the end the following:

14 **“§ 3686. Bonus authority**

15 “(a) IN GENERAL.—The Postal Service may establish
16 one or more programs to provide bonuses or other rewards
17 to officers and employees of the Postal Service to achieve
18 the objectives of this chapter.

19 “(b) WAIVER OF LIMITATION ON COMPENSATION.—

20 “(1) IN GENERAL.—Under any such program,
21 the Postal Service may award a bonus or other re-
22 ward in excess of the limitation set forth in the last
23 sentence of section 1003(a), if such program has
24 been approved under paragraph (2).

1 “(2) APPROVAL PROCESS.—If the Postal Serv-
2 ice wishes to have the authority, under any program
3 described in subsection (a), to award bonuses or
4 other rewards in excess of the limitation referred to
5 in paragraph (1)—

6 “(A) the Postal Service shall make an ap-
7 propriate request to the Postal Regulatory
8 Commission, in such form and manner as the
9 Commission requires; and

10 “(B) the Postal Regulatory Commission
11 shall approve any such request if it finds that
12 the program is likely to achieve the objectives of
13 this chapter.

14 “(3) REVOCATION AUTHORITY.—If the Postal
15 Regulatory Commission finds that a program pre-
16 viously approved under paragraph (2) is not achiev-
17 ing the objectives of this chapter, the Commission
18 may revoke or suspend the authority of the Postal
19 Service to continue such program until such time as
20 appropriate corrective measures have, in the judg-
21 ment of the Commission, been taken.

22 “(c) REPORTING REQUIREMENT RELATING TO BO-
23 NUSES OR OTHER REWARDS.—Included in its comprehen-
24 sive statement under section 2401(e) for any period shall
25 be—

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

5 “(2) the amount of the bonus or other reward;
6 and

7 “(3) the amount by which the limitation re-
8 ferred to in subsection (b)(1) was exceeded as a re-
9 sult of such bonus or other reward.”.

10 **SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DIS-**
11 **PUTES.**

12 (a) **IN GENERAL.**—Section 1207(b) of title 39,
13 United States Code, is amended by striking all that follows
14 “the Director of the Federal Mediation and Conciliation
15 Service shall” and inserting “, within 10 days appoint a
16 mediator of nationwide reputation and professional stat-
17 ure, and who is also a member of the National Academy
18 of Arbitrators. The parties shall cooperate with the medi-
19 ator in an effort to reach an agreement and shall meet
20 and negotiate in good faith at such times and places that
21 the mediator, in consultation with the parties, shall di-
22 rect.”.

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

1 (1) in paragraph (1)—

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

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

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

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

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

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

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

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

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

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

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

4 **“§ 501. Establishment**

5 “The Postal Regulatory Commission is an inde-
6 pendent establishment of the executive branch of the Gov-
7 ernment of the United States.

8 **“§ 502. Commissioners**

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

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

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

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

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

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

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

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

1 “Such rules shall include procedures which balance, inter
2 alia, the need for protecting due process rights and ensur-
3 ing expeditious decision-making.”.

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

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

“5. Postal Regulatory Commission 501”.

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

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

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

1 sion may administer oaths, examine witnesses, take depo-
2 sitions, and receive evidence.

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

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

12 “(B) order the taking of depositions and re-
13 sponses to written interrogatories by a covered per-
14 son.

15 The written concurrence of a majority of the Commis-
16 sioners then holding office shall, with respect to each sub-
17 poena under subparagraph (A), be required in advance of
18 its issuance.

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

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

3 “(4) For purposes of this subsection, the term ‘cov-
4 ered person’ means an officer, employee, agent, or con-
5 tractor of the Postal Service.

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

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

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

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

1 amended to read as follows: “The budget program
2 shall also include separate statements of the amounts
3 which (1) the Postal Service requests to be appro-
4 priated under subsections (b) and (c) of section 2401,
5 (2) the Office of Inspector General of the United
6 States Postal Service requests to be appropriated, out
7 of the Postal Service Fund, under section 8J(e) of
8 the Inspector General Act of 1978, and (3) the Postal
9 Regulatory Commission requests to be appropriated,
10 out of the Postal Service Fund, under section 504(d)
11 of this title.”.

12 (2) CONFORMING AMENDMENT.—Section
13 2003(e)(1) of title 39, United States Code, is
14 amended by striking the first sentence and inserting
15 the following: “The Fund shall be available for the
16 payment of (A) all expenses incurred by the Postal
17 Service in carrying out its functions as provided by
18 law, subject to the same limitation as set forth in
19 the parenthetical matter under subsection (a); (B)
20 all expenses of the Postal Regulatory Commission,
21 subject to the availability of amounts appropriated
22 pursuant to section 504(d); and (C) all expenses of
23 the Office of Inspector General, subject to the avail-
24 ability of amounts appropriated pursuant to section
25 8J(e) of the Inspector General Act of 1978.”.

1 (c) EFFECTIVE DATE.—

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

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

11 **SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMIS-**
12 **SION.**

13 (a) AMENDMENTS TO TITLE 39, UNITED STATES
14 CODE.—Title 39, United States Code, is amended in sec-
15 tions 404, 503–504 (as so redesignated by section 501),
16 1001, and 1002 by striking “Postal Rate Commission”
17 each place it appears and inserting “Postal Regulatory
18 Commission”.

19 (b) AMENDMENTS TO TITLE 5, UNITED STATES
20 CODE.—Title 5, United States Code, is amended in sec-
21 tions 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item
22 relating to Chairman, Postal Rate Commission), 5315 (in
23 the item relating to Members, Postal Rate Commission),
24 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),
25 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking

1 “Postal Rate Commission” and inserting “Postal Regu-
2 latory Commission”.

3 (c) AMENDMENT TO THE ETHICS IN GOVERNMENT
4 ACT OF 1978.—Section 101(f)(6) of the Ethics in Govern-
5 ment Act of 1978 (5 U.S.C. App.) is amended by striking
6 “Postal Rate Commission” and inserting “Postal Regu-
7 latory Commission”.

8 (d) AMENDMENT TO THE REHABILITATION ACT OF
9 1973.—Section 501(b) of the Rehabilitation Act of 1973
10 (29 U.S.C. 791(b)) is amended by striking “Postal Rate
11 Office” and inserting “Postal Regulatory Commission”.

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

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

1 **SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMIS-**
 2 **SION REPRESENTING THE GENERAL PUBLIC.**

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

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

8 “The Postal Regulatory Commission shall designate
 9 an officer of the Postal Regulatory Commission in all pub-
 10 lic proceedings (such as developing rules, regulations, and
 11 procedures) who shall represent the interests of the gen-
 12 eral public.”.

13 (b) CLERICAL AMENDMENT.—The analysis for chap-
 14 ter 5 of title 39, United States Code (as amended by sec-
 15 tion 501(a)(1)) is amended by adding after the item relat-
 16 ing to section 504 the following:

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

17 **TITLE VI—INSPECTORS**
 18 **GENERAL**

19 **SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGU-**
 20 **LATORY COMMISSION.**

21 (a) IN GENERAL.—Paragraph (2) of section 8G(a)
 22 of the Inspector General Act of 1978 is amended by insert-
 23 ing “the Postal Regulatory Commission,” after “the
 24 United States International Trade Commission,”.

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

5 “(h)(1) Notwithstanding any other provision of this
6 title or of the Inspector General Act of 1978, the authority
7 to select, appoint, and employ officers and employees of
8 the Office of Inspector General of the Postal Regulatory
9 Commission, and to obtain any temporary or intermittent
10 services of experts or consultants (or an organization of
11 experts or consultants) for such Office, shall reside with
12 the Inspector General of the Postal Regulatory Commis-
13 sion.

14 “(2) Except as provided in paragraph (1), any exer-
15 cise of authority under this subsection shall, to the extent
16 practicable, be in conformance with the applicable laws
17 and regulations that govern selections, appointments and
18 employment, and the obtaining of any such temporary or
19 intermittent services, within the Postal Regulatory Com-
20 mission.”.

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

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

1 (2) the Office of Inspector General of the Post-
2 al Regulatory Commission shall be established.

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

6 (a) DEFINITIONAL AMENDMENTS TO THE INSPEC-
7 TOR GENERAL ACT OF 1978.—Section 11 of the Inspector
8 General Act of 1978 is amended—

9 (1) in paragraph (1)—

10 (A) by striking “or” before “the President
11 of the Export-Import Bank;” and

12 (B) by inserting “or the Governors of the
13 United States Postal Service (within the mean-
14 ing of section 102(3) of title 39, United States
15 Code);” after “the President of the Export-Im-
16 port Bank;”; and

17 (2) in paragraph (2)—

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

20 (B) by inserting “or the United States
21 Postal Service,” after “the Export-Import
22 Bank,”.

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

1 (1) IN GENERAL.—The Inspector General Act
2 of 1978 is amended—

3 (A) by redesignating section 8J as section
4 8K; and

5 (B) by inserting after section 8I the fol-
6 lowing:

7 “SPECIAL PROVISIONS CONCERNING THE UNITED STATES
8 POSTAL SERVICE

9 “SEC. 8J. (a) In carrying out the duties and respon-
10 sibilities specified in this Act, the Inspector General of the
11 United States Postal Service shall have oversight responsi-
12 bility for all activities of the Postal Inspection Service, in-
13 cluding any internal investigation performed by the Postal
14 Inspection Service. The Chief Postal Inspector shall
15 promptly report any significant activities being carried out
16 by the Postal Inspection Service to such Inspector Gen-
17 eral. The Postmaster General shall promptly report to
18 such Inspector General all allegations of theft, fraud, or
19 misconduct by Postal Service officers or employees, and
20 entities or individuals doing business with the Postal Serv-
21 ice.

22 “(b) In the case of any report that the Governors of
23 the United States Postal Service (within the meaning of
24 section 102(3) of title 39, United States Code) are re-
25 quired to transmit under the second sentence of section
26 5(d), such sentence shall be applied by deeming the term

1 ‘appropriate committees of Congress’ to mean the Com-
2 mittee on Government Reform of the House of Represent-
3 atives, the Committee on Governmental Affairs of the Sen-
4 ate, and such other committees or subcommittees of Con-
5 gress as may be appropriate.

6 “(c) Notwithstanding any provision of paragraph (7)
7 or (8) of section 6(a), the Inspector General of the United
8 States Postal Service may select, appoint, and employ
9 such officers and employees as may be necessary for car-
10 rying out the functions, powers, and duties of the Office
11 of Inspector General and to obtain the temporary or inter-
12 mittent services of experts or consultants or an organiza-
13 tion of experts or consultants, subject to the applicable
14 laws and regulations that govern such selections, appoint-
15 ments, and employment, and the obtaining of such serv-
16 ices, within the United States Postal Service.

17 “(d) Nothing in this Act shall restrict, eliminate, or
18 otherwise adversely affect any of the rights, privileges, or
19 benefits of employees of the United States Postal Service,
20 or labor organizations representing employees of the
21 United States Postal Service, under chapter 12 of title 39,
22 United States Code, the National Labor Relations Act,
23 any handbook or manual affecting employee labor rela-
24 tions with the United States Postal Service, or any collec-
25 tive bargaining agreement.

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

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

7 (c) EXERCISE OF CERTAIN POWERS.—Section
8 6(e)(3) of the Inspector General Act of 1978 is amended—

9 (1) by striking “and the” before “Tennessee
10 Valley Authority”; and

11 (2) by inserting “, and United States Postal
12 Service” after “Tennessee Valley Authority”.

13 (d) PUBLIC CONTRACTS.—

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

17 (A) in subparagraph (A), by striking
18 “and” after the semicolon; and

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

21 “(C) the Anti-Kickback Act of 1986 (41
22 U.S.C. 51 and following), other than sub-
23 sections (a) and (b) of 7 and section 8 of that
24 Act; and

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

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

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

14 (e) AUDITS OF THE POSTAL SERVICE.—

15 (1) AUDITS.—Subsection (e) of section 2008 of
16 title 39, United States Code, is amended to read as
17 follows:

18 “(e)(1) At least once each year beginning with the
19 fiscal year commencing after the date of the enactment
20 of the Postal Accountability and Enhancement Act, the
21 financial statements of the Postal Service (including those
22 used in determining and establishing postal rates) shall
23 be audited by the Inspector General or by an independent
24 external auditor selected by the Inspector General.

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

4 “(3) Upon completion of the audit required by this
5 subsection, the person who audits the statement shall sub-
6 mit a report on the audit to the Postmaster General.”.

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

14 (3) COORDINATION PROVISIONS.—Section
15 2008(d) of title 39, United States Code, is amend-
16 ed—

17 (A) by striking “(d) Nothing” and insert-
18 ing “(d)(1) Except as provided in paragraph
19 (2), nothing”; and

20 (B) by adding at the end the following:

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

24 (4) TRANSITION PROVISION.—For purposes of
25 any fiscal year preceding the first fiscal year com-

1 mencing after the date of the enactment of this Act,
2 the provisions of title 39, United States Code, shall
3 be applied as if the amendments made by this sub-
4 section had never been enacted.

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

9 (g) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (h) EFFECTIVE DATE; TRANSITION PROVISIONS.—

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

13 (2) TRANSITION PROVISIONS.—

14 (A) PRESIDENTIAL APPOINTMENT AU-
15 THORITY AVAILABLE IMMEDIATELY.—The au-
16 thority to appoint an Inspector General of the
17 United States Postal Service in accordance with
18 the amendments made by this section shall be
19 available as of the effective date of this section.

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

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

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

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

17 (C) AUTHORIZATION OF APPROPRIA-
18 TIONS.—

19 (i) IN GENERAL.—Notwithstanding
20 any other provision of this subsection, sec-
21 tion 8J(e) of the Inspector General Act of
22 1978 (as amended by this section) shall be
23 effective for purposes of fiscal years begin-
24 ning on or after October 1, 2005.

1 (ii) SAVINGS PROVISION.—For pur-
2 poses of the fiscal year ending on Sep-
3 tember 30, 2005, funding for the Office of
4 Inspector General of the United States
5 Postal Service shall be made available in
6 the same manner as if this Act had never
7 been enacted.

8 (D) ELIGIBILITY OF PRIOR INSPECTOR
9 GENERAL.—Nothing in this Act shall prevent
10 any individual who has served as Inspector
11 General of the United States Postal Service at
12 any time before the date of the enactment of
13 this Act from being appointed to that position
14 pursuant to the amendments made by this sec-
15 tion.

16 **TITLE VII—EVALUATIONS**

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

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

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

5 (2) The scope and standards of universal serv-
6 ice provided under current law (including sections
7 101 and 403 of title 39, United States Code) and
8 current rules, regulations, policy statements, and
9 practices of the Postal Service.

10 (3) A description of any geographic areas, pop-
11 ulations, communities, organizations, or other
12 groups or entities not currently covered by universal
13 service or that are covered but that are receiving
14 services deficient in scope or quality or both.

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

21 (5) Such recommendations as the Postal Serv-
22 ice considers appropriate.

23 (b) REPORT BY THE POSTAL REGULATORY COMMIS-
24 SION.—The Postal Regulatory Commission shall, within
25 12 months after receiving the report of the Postal Service

1 under subsection (a), submit to the President and the
2 Congress a written report evaluating the report of the
3 Postal Service. The report of the Commission shall include
4 at least the following:

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

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

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

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

16 (B) such other assumptions or sets of as-
17 sumptions as the Commission considers plau-
18 sible.

19 (4) Such additional topics and recommenda-
20 tions as the Commission considers appropriate.

21 (c) CONSULTATION.—In preparing the reports re-
22 quired by this section, the Postal Service and the Postal
23 Regulatory Commission—

24 (1) shall consult with each other, other Federal
25 agencies, users of the mails, enterprises in the pri-

1 vate sector engaged in the delivery of mail, and the
2 general public; and

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

5 (d) CLARIFYING PROVISION.—Nothing in this section
6 shall be considered to relate to any services that are not
7 postal services (within the meaning of section 102 of title
8 39, United States Code, as amended by section 101).

9 **SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICA-**
10 **TION, AND OTHER PROVISIONS.**

11 (a) IN GENERAL.—The Postal Regulatory Commis-
12 sion shall, at least every 5 years, submit a report to the
13 President and the Congress concerning—

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

17 (2) recommendations for any legislation or
18 other measures necessary to improve the effective-
19 ness or efficiency of the postal laws of the United
20 States.

21 (b) POSTAL SERVICE VIEWS.—A report under this
22 section shall be submitted only after reasonable oppor-
23 tunity has been afforded to the Postal Service to review
24 such report and to submit written comments thereon. Any
25 comments timely received from the Postal Service under

1 the preceding sentence shall be attached to the report sub-
2 mitted under subsection (a).

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

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

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

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

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

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

22 (B) any suggestions as to how the oper-
23 ation of such Fund might be improved; and

24 (C) a description and assessment of alter-
25 native accounting or financing mechanisms that

1 might be used to achieve the objectives of such
2 Fund.

3 (3) ASSUMED FEDERAL INCOME TAX ON COM-
4 PETITIVE PRODUCTS FUND.—With respect to section
5 3634 of title 39, United States Code (as amended by
6 this Act), in consultation with the Secretary of the
7 Treasury—

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

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

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

15 (a) IN GENERAL.—The Federal Trade Commission
16 shall prepare and submit to the President, the Congress,
17 and the Postal Regulatory Commission, within 1 year
18 after the date of the enactment of this Act, a comprehen-
19 sive report identifying Federal and State laws that apply
20 differently to the United States Postal Service with re-
21 spect to the competitive category of mail (within the mean-
22 ing of section 102 of title 39, United States Code, as
23 amended by section 101) and private companies providing
24 similar products.

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

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

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

21 **SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECU-**
22 **TIVE AND ADMINISTRATIVE SCHEDULE MAN-**
23 **AGEMENT POSITIONS.**

24 (a) STUDY.—The Board of Governors shall study
25 and, within 1 year after the date of the enactment of this

1 Act, submit to the President and Congress a report con-
2 cerning the extent to which women and minorities are rep-
3 resented in supervisory and management positions within
4 the United States Postal Service. Any data included in the
5 report shall be presented in the aggregate and by pay level.

6 (b) PERFORMANCE EVALUATIONS.—The United
7 States Postal Service shall, as soon as practicable, take
8 such measures as may be necessary to ensure that, for
9 purposes of conducting performance appraisals of super-
10 visory or managerial employees, appropriate consideration
11 shall be given to meeting affirmative action goals, achiev-
12 ing equal employment opportunity requirements, and im-
13 plementation of plans designed to achieve greater diversity
14 in the workforce.

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

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

22 (b) REPORT.—Not later than 1 year after the date
23 of the enactment of this Act, the United States Postal
24 Service shall submit to its Board of Governors and Con-

1 gress a written report describing its plan under this sec-
2 tion.

3 **SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND**
4 **SMALL BUSINESSES.**

5 The Board of Governors shall study and, within 1
6 year after the date of the enactment of this Act, submit
7 to the President and the Congress a report concerning the
8 number and value of contracts and subcontracts the Post-
9 al Service has entered into with women, minorities, and
10 small businesses.

11 **SEC. 707. RATES FOR PERIODICALS.**

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

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

20 (2) any opportunities that might exist for im-
21 proving efficiencies in the collection, handling, trans-
22 portation, or delivery of periodicals by the Postal
23 Service, including any pricing incentives for mailers
24 that might be appropriate.

1 (b) RECOMMENDATIONS.—The report shall include
2 recommendations for any administrative action or legisla-
3 tion that might be appropriate.

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

5 (a) IN GENERAL.—Within 12 months after the date
6 of the enactment of this Act, the Office of Inspector Gen-
7 eral of the United States Postal Service shall study and
8 submit to the President, the Congress, and the United
9 States Postal Service, a report concerning the administra-
10 tion of section 3626(k) of title 39, United States Code.

11 (b) SPECIFIC REQUIREMENTS.—The study and re-
12 port shall specifically address the adequacy and fairness
13 of the process by which assessments under section 3626(k)
14 of title 39, United States Code, are determined and ap-
15 pealable, including—

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

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

22 **SEC. 709. POSTAL PROCESSING AND DISTRIBUTION NET-**
23 **WORK STUDY.**

24 The United States Postal Service shall, within 16
25 months after the date of the enactment of this Act, submit

1 to the President, the Congress, and the Board of Gov-
2 ernors of the United States Postal Service a written report
3 on the postal processing and distribution network. Such
4 report shall include at least the following:

5 (1) Recommendations to improve the efficiency
6 and effectiveness of the processing and distribution
7 network while preserving the timely delivery of post-
8 al services.

9 (2) Identification of excess capacity (if any)
10 within the processing and distribution network and
11 opportunities for savings through realignment or
12 consolidation of facilities.

13 (3) Report of the Postal Service’s plans for
14 dealing with the recommendations and findings iden-
15 tified in paragraphs (1) and (2).

16 (4) Statutory or regulatory obstacles preventing
17 the Postal Service from taking action to realign or
18 consolidate facilities identified in paragraph (2).

19 (5) Such additional topics and recommenda-
20 tions as the Postal Service considers appropriate.

21 **SEC. 710. DEFINITION.**

22 For purposes of this title, the term “Board of Gov-
23 ernors” has the meaning given such term by section 102
24 of title 39, United States Code.

1 **TITLE VIII—MISCELLANEOUS;**
2 **TECHNICAL AND CON-**
3 **FORMING AMENDMENTS**

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

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

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

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

16 “(A) enforce Federal laws and regulations for
17 the protection of persons and property;

18 “(B) carry firearms; and

19 “(C) make arrests without a warrant for any
20 offense against the United States committed in the
21 presence of the officer or for any felony cognizable
22 under the laws of the United States if the officer has
23 reasonable grounds to believe that the person to be
24 arrested has committed or is committing a felony.

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

4 “(A) serve warrants and subpoenas issued
5 under the authority of the United States; and

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

10 “(4)(A) As to such property, the Postmaster General
11 may prescribe regulations necessary for the protection and
12 administration of property owned or occupied by the Post-
13 al Service and persons on the property. The regulations
14 may include reasonable penalties, within the limits pre-
15 scribed in subparagraph (B), for violations of the regula-
16 tions. The regulations shall be posted and remain posted
17 in a conspicuous place on the property.

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

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

4 (a) IN GENERAL.—Section 404(b) of title 39, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

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

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

13 “(B) if otherwise lawfully delivered to the Com-
14 mission, be considered to have been received on the
15 date determined based on any appropriate docu-
16 mentation or other indicia (as determined under reg-
17 ulations of the Commission).”.

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

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

5 (a) IN GENERAL.—Section 8 of the Postal Reorga-
6 nization Act (39 U.S.C. 1001 note) is amended by insert-
7 ing “(a)” after “8.” and by adding at the end the fol-
8 lowing:

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

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

19 **SEC. 804. OBSOLETE PROVISIONS.**

20 (a) REPEAL.—

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

23 (2) CONFORMING AMENDMENTS.—(A) Section
24 5005(a) of title 39, United States Code, is amend-
25 ed—

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

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

7 (B) Section 5005(b) of such title 39 is amended
8 by striking “(a)(4)” each place it appears and in-
9 serting “(a)(3)”.

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

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

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

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

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

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

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

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

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

16 “(B) Notwithstanding subsections (a) through (d),
17 the Postal Service may contract with any air carrier or
18 foreign air carrier for the transportation of mail by air-
19 craft in foreign air transportation, including the rates
20 therefor, either through negotiations or competitive bid-
21 ding, except that—

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

1 foreign air carrier holding a permit required by section
2 41301 of title 49 or an exemption therefrom issued
3 by the Secretary of Transportation, or (III) a com-
4 bination of such air carriers or foreign air carriers
5 (or both);

6 “(ii) mail transported under any such contract
7 shall not be subject to any duty-to-carry requirement
8 imposed by any provision of subtitle VII of title 49
9 or by any certificate, permit, or corresponding ex-
10 exemption authority issued by the Secretary of Trans-
11 portation under that subtitle;

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

20 “(iv) the Postmaster General shall consult with
21 the Secretary of Defense concerning actions that af-
22 fect the carriage of military mail transported in for-
23 eign air transportation.

24 “(C) Subparagraph (B) shall not be interpreted as
25 suspending or otherwise diminishing the authority of the

1 Secretary of Transportation under section 41310 of title
2 49.”.

3 (2) DEFINITIONS.—Paragraph (2) of section
4 5402(a) of title 39, United States Code, is amended
5 to read as follows:

6 “(2) the terms ‘air carrier’, ‘air transportation’,
7 ‘foreign air carrier’, ‘foreign air transportation’,
8 ‘interstate air transportation’, and ‘mail’ shall have
9 the meanings given such terms in section 40102 of
10 title 49;”.

11 (b) AMENDMENTS TO TITLE 49, UNITED STATES
12 CODE.—

13 (1) AUTHORITY OF POSTAL SERVICE TO PRO-
14 VIDE FOR INTERSTATE AIR TRANSPORTATION OF
15 MAIL.—Section 41901(a) of title 49, United States
16 Code, is amended to read as follows:

17 “(a) TITLE 39.—The United States Postal Service
18 may provide for the transportation of mail by aircraft in
19 air transportation under this chapter and under chapter
20 54 of title 39.”.

21 (2) SCHEDULES FOR CERTAIN TRANSPOR-
22 TATION OF MAIL.—Section 41902(b)(1) of title 49,
23 United States Code, is amended by inserting before
24 the semicolon at the end the following: “(other than
25 foreign air transportation of mail)”.

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

4 (A) by striking “(a) LIMITATIONS.—”; and

5 (B) by striking subsection (b).

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

11 **SEC. 806. INVESTMENTS.**

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

14 (1) by striking “(c) If” and inserting “(c)(1)
15 Except as provided in paragraph (2), if”; and

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

17 “(2)(A) Nothing in this section shall be considered
18 to authorize any investment in any obligations or securi-
19 ties of a commercial entity.

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

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

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

4 (b) CLERICAL AMENDMENT.—The analysis for chap-
5 ter 54 of title 39, United States Code, is amended by re-
6 pealing the item relating to section 5403.

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

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

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

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

17 “(2) For the purpose of this subsection, the term
18 ‘regular-rate category’ means any class of mail or kind of
19 mailer, other than a class or kind referred to in section
20 2401(c).

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

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

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

10 “(4)(A) In the case of an issue of a publication, any
11 number of copies of which are mailed at the rates of post-
12 age for a class of mail or kind of mailer under former
13 section 4358(a) through (c) of this title, any copies of such
14 issue which are distributed outside the county of publica-
15 tion (excluding any copies subject to paragraph (3)) shall
16 be subject to rates of postage provided for under this para-
17 graph.

18 “(B) The rates of postage applicable to mail under
19 this paragraph shall be established in accordance with sec-
20 tion 3622.

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

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

2 “(n) In the administration of this section, matter that
3 satisfies the circulation standards for requester publica-
4 tions shall not be excluded from being mailed at the rates
5 for mail under former section 4358 solely because such
6 matter is designed primarily for free circulation or for cir-
7 culation at nominal rates, or fails to meet the require-
8 ments of former section 4354(a)(5).”.

9 **SEC. 809. HAZARDOUS MATTER.**

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

12 (1) by redesignating subsection (n) as sub-
13 section (o); and

14 (2) by inserting after subsection (m) the fol-
15 lowing:

16 “(n)(1) Except as otherwise authorized by law or reg-
17 ulations of the Postal Service, hazardous material is non-
18 mailable.

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

22 (b) MAILABILITY.—Chapter 30 of title 39, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 **“§ 3018. Hazardous material**

2 “(a) IN GENERAL.—The Postal Service shall pre-
3 scribe regulations for the safe transportation of hazardous
4 material in the mail.

5 “(b) PROHIBITIONS.—No person may—

6 “(1) mail or cause to be mailed hazardous ma-
7 terial that has been declared by statute or Postal
8 Service regulation to be nonmailable;

9 “(2) mail or cause to be mailed hazardous ma-
10 terial in violation of any statute or Postal Service
11 regulation restricting the time, place, or manner in
12 which hazardous material may be mailed; or

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

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

18 “(B) fails to conform with any statute or
19 Postal Service regulation setting forth stand-
20 ards for a container, packaging kit, or similar
21 device used for the mailing of hazardous mate-
22 rial.

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

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

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

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

8 “(C) damages.

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

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

13 “(B) a reasonable person acting in the cir-
14 cumstances and exercising reasonable care
15 would have had that knowledge.

16 “(3) SEPARATE VIOLATIONS.—

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

22 “(B) SEPARATE ITEMS.—A separate viola-
23 tion under this subsection occurs for each item
24 containing hazardous material that is mailed or

1 caused to be mailed in noncompliance with this
2 section.

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

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

11 “(1) the nature, circumstances, extent, and
12 gravity of the violation;

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

17 “(3) the impact on Postal Service operations;
18 and

19 “(4) any other matters that justice requires.

20 “(f) CIVIL ACTIONS TO COLLECT.—

21 “(1) IN GENERAL.—In accordance with section
22 409(d), a civil action may be commenced in an ap-
23 propriate district court of the United States to col-
24 lect a civil penalty, clean-up costs, and damages as-
25 sessed under subsection (c).

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

7 “(g) CIVIL JUDICIAL PENALTIES.—

8 “(1) IN GENERAL.—At the request of the Post-
9 al Service, the Attorney General may bring a civil
10 action in an appropriate district court of the United
11 States to enforce this section or a regulation pre-
12 scribed under this section.

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

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

21 “(h) DEPOSIT OF AMOUNTS COLLECTED.—

22 “(1) POSTAL SERVICE FUND.—Except as pro-
23 vided under paragraph (2), amounts collected under
24 subsection (c)(1)(B) and (C) shall be deposited into
25 the Postal Service Fund under section 2003.

1 safeguards to protect against (1) abuses of rates for non-
2 profit mail and (2) deception of consumers.

3 (b) REGULATIONS.—If the Postal Regulatory Com-
4 mission determines that section E670.5.3 of the Domestic
5 Mail Manual does not contain adequate safeguards as de-
6 scribed in the preceding subsection, the Commission shall
7 promulgate such regulations as may be necessary to en-
8 sure such safeguards.

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

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

15 (a) REIMBURSEMENT.—Section 3681 of title 39,
16 United States Code, is amended by striking “section
17 3628” and inserting “sections 3662 through 3664”.

18 (b) SIZE AND WEIGHT LIMITS.—Section 3682 of title
19 39, United States Code, is amended to read as follows:

20 **“§ 3682. Size and weight limits**

21 “The Postal Service may establish size and weight
22 limitations for mail matter in the market-dominant cat-
23 egory of mail consistent with regulations the Postal Regu-
24 latory Commission may prescribe under section 3622. The
25 Postal Service may establish size and weight limitations

1 for mail matter in the competitive category of mail con-
2 sistent with its authority under section 3632.”.

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

5 (1) in section 503 (as so redesignated by sec-
6 tion 501), by striking “this chapter.” and inserting
7 “this title.”; and

8 (2) in section 2401(d), by inserting “(as last in
9 effect before enactment of the Postal Accountability
10 and Enhancement Act)” after “3626(a)” and after
11 “3626(a)(3)(B)(ii)”.

12 (d) APPROPRIATIONS AND REPORTING REQUIRE-
13 MENTS.—

14 (1) APPROPRIATIONS.—Subsection (e) of sec-
15 tion 2401 of title 39, United States Code, is amend-
16 ed—

17 (A) by striking “Committee on Post Office
18 and Civil Service” each place it appears and in-
19 serting “Committee on Government Reform”;
20 and

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

23 (2) REPORTING REQUIREMENTS.—Sections
24 2803(a) and 2804(a) of title 39, United States Code,

1 are amended by striking “2401(g)” and inserting
2 “2401(e)”.

3 (e) AUTHORITY TO FIX RATES AND CLASSES GEN-
4 ERALLY; REQUIREMENT RELATING TO LETTERS SEALED
5 AGAINST INSPECTION.—Section 404 of title 39, United
6 States Code (as amended by section 102) is further
7 amended by redesignating subsections (b) and (c) as sub-
8 sections (d) and (e), respectively, and by inserting after
9 subsection (a) the following:

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

20 “(c) The Postal Service shall maintain one or more
21 classes of mail for the transmission of letters sealed
22 against inspection. The rate for each such class shall be
23 uniform throughout the United States, its territories, and
24 possessions. One such class shall provide for the most ex-
25 peditious handling and transportation afforded mail mat-

1 ter by the Postal Service. No letter of such a class of do-
2 mestic origin shall be opened except under authority of
3 a search warrant authorized by law, or by an officer or
4 employee of the Postal Service for the sole purpose of de-
5 termining an address at which the letter can be delivered,
6 or pursuant to the authorization of the addressee.”.

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

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

12 (1) in section 1005(d)(2)—

13 (A) by striking “subsection (g) of section
14 5532,”; and

15 (B) by striking “8344,” and inserting
16 “8344”;

17 (2) in the analysis for part III, by striking the
18 item relating to chapter 28 and inserting the fol-
19 lowing:

“28. Strategic Planning and Performance Management 2801”;

20 (3) in section 3005(a)—

21 (A) in the matter before paragraph (1), by
22 striking all that follows “nonmailable” and pre-
23 cedes “(h),” and inserting “under section
24 3001(d),”; and

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

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

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

11 **“§ 3627. Adjusting free rates”.**

12 **TITLE IX—POSTAL PENSION**
13 **FUNDING REFORM AMEND-**
14 **MENTS**

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

16 (a) TERMINATION OF OBLIGATION TO PAY GOVERN-
17 MENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of
18 title 5, United States Code, is amended by striking all that
19 follows “be equal to” and inserting “zero.”.

20 (b) DETERMINATION AND DISPOSITION OF POSTAL
21 SURPLUS OR SUPPLEMENTAL LIABILITY.—Section
22 8348(h) of title 5, United States Code, is amended to read
23 as follows:

1 “(h)(1) For purposes of this subsection, a Postal sur-
2 plus (or supplemental liability) is the amount, as esti-
3 mated by the Office, by which—

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

10 “(B) the sum of—

11 “(i) the actuarial present value of deduc-
12 tions to be withheld from the future basic pay
13 of employees of the Postal Service currently
14 subject to this subchapter pursuant to section
15 8334;

16 “(ii) that portion of the Fund balance, as
17 of the date such surplus or supplemental liabil-
18 ity is determined, attributable to payments to
19 the Fund by the Postal Service and its employ-
20 ees, plus the earnings on such amounts while in
21 the Fund; and

22 “(iii) any other appropriate amount, as de-
23 termined by the Office in accordance with gen-
24 erally accepted actuarial practices and prin-
25 ciples.

1 “(2)(A)(i) Not later than June 15, 2006, the Office
2 shall determine the Postal surplus or supplemental liabil-
3 ity as of September 30, 2005.

4 “(ii) If a supplemental liability is determined under
5 this subparagraph for fiscal year 2005, the Office shall
6 establish an amortization schedule, including a series of
7 equal annual installments commencing September 30,
8 2006, which provides for the liquidation of such liability
9 by September 30, 2043.

10 “(iii) If a surplus is determined under this subpara-
11 graph for fiscal year 2005, the amount of the surplus shall
12 be transferred to the Postal Service Retiree Health Bene-
13 fits Fund by June 30, 2006.

14 “(B)(i) For each of fiscal years 2006 through 2038,
15 the Office shall determine the Postal surplus or supple-
16 mental liability as of the close of such fiscal year, with
17 each such determination to be made by June 15th of the
18 following fiscal year.

19 “(ii) If a supplemental liability is determined under
20 this subparagraph for a fiscal year, the Office shall estab-
21 lish an amortization schedule, including a series of equal
22 annual installments commencing on September 30 of the
23 following fiscal year, which provides for the liquidation of
24 such liability by September 30, 2043.

1 “(iii)(I) If a surplus of \$500,000,000 or more is de-
2 termined under this subparagraph for a fiscal year, the
3 amount of the surplus shall be transferred to the Postal
4 Service Retiree Health Benefits Fund by June 30th of the
5 following fiscal year.

6 “(II) If a surplus of less than \$500,000,000 is deter-
7 mined under this subparagraph for a fiscal year, the sur-
8 plus shall remain in the Fund, subject to transfer in a
9 subsequent fiscal year under subclause (I) or subpara-
10 graph (C)(iii).

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

14 “(ii) If a supplemental liability is determined under
15 this subparagraph for fiscal year 2039, the Office shall
16 establish an amortization schedule, including a series of
17 equal annual installments commencing September 30,
18 2040, which provides for the liquidation of such liability
19 by September 30, 2043.

20 “(iii) If a surplus is determined under this subpara-
21 graph for fiscal year 2039, the amount of the surplus—

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

1 “(II) to the extent that any portion of such sur-
2 plus remains after the application of subclause (I),
3 shall, not later than June 30, 2040, be transferred
4 to the Postal Service Retiree Health Benefits Fund.

5 “(D) An amortization schedule under this para-
6 graph—

7 “(i) shall be established in accordance with gen-
8 erally accepted actuarial practices and principles,
9 with interest computed at the rate used in the most
10 recent valuation of the Civil Service Retirement Sys-
11 tem;

12 “(ii) shall supersede any amortization schedule
13 previously established under this paragraph; and

14 “(iii) shall not be taken into account, for pur-
15 poses of any determination of Postal surplus or sup-
16 plemental liability, except to the extent of any
17 amounts under such schedule actually paid.

18 “(E)(i) The Postal Service shall pay to the Office the
19 amounts due under any amortization schedule established
20 under this paragraph, to the extent not superseded or can-
21 celed.

22 “(ii) A determination under subparagraph (B)(i) or
23 (C)(i) that no supplemental liability exists shall cancel any
24 amortization schedule previously established under this
25 paragraph, to the extent of any amounts first coming due

1 after the close of the fiscal year to which such determina-
2 tion relates.

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

10 “(4) As used in this subsection, ‘Postal Service Re-
11 tiree Health Benefits Fund’ refers to the Postal Service
12 Retiree Health Benefits Fund, as established by section
13 8909a.”.

14 (c) PROVISIONS RELATING TO AMOUNTS FOR MILI-
15 TARY SERVICE.—In the application of paragraph (2) of
16 section 8348(g) of title 5, United States Code, for fiscal
17 year 2006, the Office of Personnel Management shall in-
18 clude, in addition to the amount otherwise computed
19 under that paragraph, the amounts that would have been
20 included for fiscal years 2003 through 2005 with respect
21 to credit for military service of former employees of the
22 United States Postal Service if Public Law 108-18 had
23 not been enacted (including earnings thereon) and the
24 Secretary of the Treasury shall make the required transfer

1 to the Civil Service Retirement and Disability Fund based
2 on that amount.

3 (d) REVIEW.—

4 (1) IN GENERAL.—Notwithstanding any other
5 provision of this section, any determination or rede-
6 termination made by the Office of Personnel Man-
7 agement under this section shall, upon request of
8 the United States Postal Service, be subject to re-
9 view by the Postal Regulatory Commission. The
10 Commission shall submit a report containing the re-
11 sults of any such review to the Postal Service, the
12 Office of Personnel Management, and the Congress.

13 (2) RESPONSE.—Upon receiving the report of
14 the Postal Regulatory Commission, the Office of
15 Personnel Management shall reconsider its deter-
16 mination or redetermination in light of such report,
17 and shall make any appropriate adjustments. The
18 Office shall submit a report containing the results of
19 its reconsideration to the Commission, the Postal
20 Service, and the Congress.

21 **SEC. 902. HEALTH INSURANCE.**

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

24 (1) in section 8906(g)(2)(A), by striking “by
25 the United States Postal Service.” and inserting

1 “first from the Postal Service Retiree Health Bene-
2 fits Fund up to the amount contained therein, with
3 any remaining amount paid by the United States
4 Postal Service.”;

5 (2) by inserting after section 8909 the fol-
6 lowing:

7 **“§ 8909a. Postal Service Retiree Health Benefits Fund**

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

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

21 “(c)(1) Not later than June 30, 2006, and by June
22 30 of each succeeding year, the Office of Personnel Man-
23 agement shall compute the net present value of the excess
24 of future payments required by section 8906(g)(2)(A) for
25 current and future United States Postal Service annu-

1 itants over the value of the assets of the Fund as of the
2 end of the fiscal year ending on September 30 of that year.
3 The actuarial costing method to be used by the Office and
4 all actuarial assumptions shall be established by the Office
5 after consultation with the United States Postal Service
6 and must be in accordance with generally accepted actu-
7 arial practices and principles.

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

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

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

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

24 “(3)(A) Any computation or other determination of
25 the Office under this subsection shall, upon request of the

1 Postal Service, be subject to review by the Postal Regu-
2 latory Commission. The Commission shall submit a report
3 containing the results of any such review to the Postal
4 Service, the Office of Personnel Management, and the
5 Congress.

6 “(B) Upon receiving the report of the Postal Regu-
7 latory Commission, the Office of Personnel Management
8 shall reconsider its computation or other determination in
9 light of such report, and shall make any appropriate ad-
10 justments. The Office shall submit a report containing the
11 results of its reconsideration to the Commission, the Post-
12 al Service, and the Congress.

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

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

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

18 (b) REVIEW.—

19 (1) IN GENERAL.—Any regulation established
20 under section 8909a(c)(4) of title 5, United States
21 Code (as amended by subsection (a)) shall, upon re-
22 quest of the Postal Service, be subject to review by
23 the Postal Regulatory Commission. The Commission
24 shall submit a report containing the results of any

1 such review to the Postal Service, the Office of Per-
2 sonnel Management, and the Congress.

3 (2) RESPONSE.—Upon receiving the report of
4 the Postal Regulatory Commission, the Office of
5 Personnel Management shall reconsider its regula-
6 tion in light of such report, and shall take such ac-
7 tion as it considers appropriate. The Office shall
8 submit a report containing the results of its recon-
9 sideration to the Commission, the Postal Service,
10 and the Congress.

11 **SEC. 903. REPEALER.**

12 Section 3 of Public Law 108–18 is repealed.

13 **SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND**
14 **MILITARY SAVINGS.**

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

18 (1) the amount of contributions that the Postal
19 Service would otherwise have been required to make
20 to the Civil Service Retirement and Disability Fund
21 under subchapter III of chapter 83 of title 5, United
22 States Code, for such fiscal year if Public Law 108-
23 18 and this Act had not been enacted, minus

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

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

6 (1) Not later than January 31 of the fiscal year
7 following the fiscal year involved, the Office of Per-
8 sonnel Management (in consultation with the Postal
9 Service) shall determine the total savings for the fis-
10 cal year.

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

15 (A) the amount the Postal Service paid for
16 that fiscal year into the Postal Service Retiree
17 Health Benefits Fund in accordance with
18 8909a(c)(2) of title 5, United States Code, ex-
19 ceeds (if at all)

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

24 (c) REQUIREMENTS.—

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

6 (2) IF THRESHOLD IS NOT MET.—

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

14 (B) ALLOWABLE ALTERNATIVE.—

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

22 (ii) LIMITATION.—Amounts used to
23 reduce the postal debt under this subpara-
24 graph may not exceed a total of
25 \$3,000,000,000.

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

11 (d) REPORTING REQUIREMENT.—The Office of Per-
12 sonnel Management shall submit a report containing the
13 results of its calculations under subsection (b) to the Post-
14 al Service, the Postal Regulatory Commission, and the
15 Congress.

16 (e) WAIVER AUTHORITY.—The requirements of sub-
17 section (c)(2)(A) may, upon application of the Postal Serv-
18 ice, be waived by the Postal Regulatory Commission, to
19 the extent that the Commission determines that such
20 waiver is reasonable and equitable and necessary to enable
21 the Postal Service, under best practices of honest, effi-
22 cient, and economical management, to maintain and con-
23 tinue the development of postal services of the kind and
24 quality adapted to the needs of the United States.

1 **SEC. 905. EFFECTIVE DATES.**

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

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

○