

106TH CONGRESS  
1ST SESSION

# H. R. 2535

To preserve, protect, and promote the viability of the United States Postal Service.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1999

Mr. WAXMAN (for himself, Mr. FATTAH, Mr. OWENS, Mr. DAVIS of Illinois, Mrs. MALONEY of New York, Ms. NORTON, Mr. CUMMINGS, Mr. KUCINICH, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To preserve, protect, and promote the viability of the United States Postal Service.

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

3       **SEC. 1. SHORT TITLE.**

4       This Act may be cited as the “Postal Service En-  
5       hancement Act”.

# **TITLE I—RATEMAKING FLEXIBILITIES**

## **SEC. 101. COMPETITIVE AND NONCOMPETITIVE PRODUCTS DEFINED.**

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

“(5) ‘competitive product’ refers to any postal product which the Postal Rate Commission has determined, based on appropriate economic factors prescribed by the Commission, competes for business in a competitive market; and

“(6) ‘noncompetitive product’ refers to any postal product that is not a competitive product.”.

## **SEC. 102. RATES AND FEES FOR NONCOMPETITIVE PRODUCTS.**

(a) CURRENT RATEMAKING PROCEDURES CEASE TO APPLY WITH RESPECT TO COMPETITIVE PRODUCTS.—Section 3622(a) of title 39, United States Code, is amended by adding at the end the following: “This section shall apply only in the case of noncompetitive products.”.

(b) PROHIBITION ON SUBSIDIZING COMPETITIVE PRODUCTS.—Section 3622(b) of title 39, United States

1 Code, is amended by striking “and” at the end of para-  
 2 graph (8), by redesignating paragraph (9) as paragraph  
 3 (10), and by inserting after paragraph (8) the following:

4 “(9) the requirement that no rate or fee for a  
 5 noncompetitive product shall subsidize any rate or  
 6 fee for a competitive product; and”.

7 **SEC. 103. AUTHORITY TO INCREASE RATES FOR NON-**  
 8 **COMPETITIVE PRODUCTS INCREMENTALLY.**

9 Section 3624 of title 39, United States Code, is  
 10 amended by adding at the end the following:

11 “(e) If a request made by the Postal Service under  
 12 section 3622 proposes that one or more rates of postage  
 13 or fees for postal services be changed incrementally, the  
 14 recommended decision of the Commission may include  
 15 provisions responsive to that proposal.”.

16 **SEC. 104. NEGOTIATED SERVICE AGREEMENTS.**

17 Title 39, United States Code, is amended by inserting  
 18 after section 3642 the following:

19 **“§ 3643. Negotiated service agreements**

20 “(a) The Postal Service may enter into negotiated  
 21 service agreements with mail users under this section and  
 22 in accordance with the policies of this title.

23 “(b) A negotiated service agreement may not be en-  
 24 tered into unless each of the following conditions is met:

1           “(1) The agreement can reasonably be expected  
2           to result in net benefits to the operation of a nation-  
3           wide postal system.

4           “(2) The Postal Service remains willing and  
5           able to enter into similar negotiated service agree-  
6           ments with other similarly situated mail users (de-  
7           termined without regard to size).

8           “(3) Rates and fees payable during the term of  
9           the negotiated service agreement are reasonably cal-  
10          culated to yield to the Postal Service total revenues  
11          (after taking into account any costs avoided, and  
12          any additional costs incurred, by the Postal Service  
13          pursuant to the agreement) at least equal to the rev-  
14          enues that would be generated over that same period  
15          of time by application of the rate or rates chargeable  
16          under the classification or classifications of mail  
17          service most similar to the services performed under  
18          the agreement.

19          “(c) A negotiated service agreement that involves one  
20          or more noncompetitive products shall not become effec-  
21          tive unless the Postal Rate Commission first certifies, in  
22          accordance with such expedited procedures as the Com-  
23          mission shall by regulation establish, that the agreement  
24          meets the requirements of this section. Certifications

1 under this subsection may, notwithstanding section 3628,  
 2 be appealed to any court of appeals of the United States.

3 “(d) For purposes of this section, the term ‘nego-  
 4 tiated service agreement’ means an agreement between a  
 5 mail user and the Postal Service requiring performance  
 6 by the mail user, the Postal Service, or both, of any com-  
 7 bination of activities that, with respect to one or more  
 8 classes of mail, differs significantly from those that would  
 9 otherwise apply.”.

#### 10 **SEC. 105. COMPETITIVE PRODUCTS.**

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

#### 13 **“§ 3630. Competitive products**

14 “(a) The Postal Service may offer competitive prod-  
 15 ucts under this section and in accordance with the policies  
 16 of this title.

17 “(b) A competitive product may not be offered unless  
 18 each of the following conditions is met:

19 “(1) The product can reasonably be expected to  
 20 result in net benefits to the operation of a nation-  
 21 wide postal system.

22 “(2) The rates or fees for the product—

23 “(A) comply with the factors specified in  
 24 section 3622(b); and

1                   “(B) are not subsidized by any rates or  
2                   fees for noncompetitive products.

3           “(c)(1) Interested parties who believe the Postal  
4 Service is offering a competitive product which does not  
5 conform to the policies set out in this title may lodge a  
6 complaint with the Postal Rate Commission in such form  
7 and in such manner as it may prescribe. The Commission  
8 may, in its discretion, hold hearings on such complaint  
9 and may issue an order providing for such interim relief  
10 as the Commission considers appropriate. The Commis-  
11 sion shall issue an order deciding the complaint as expedi-  
12 tiously as possible.

13           “(2) The Postal Service shall comply with orders of  
14 the Commission under this subsection. Such orders may,  
15 notwithstanding section 3628, be appealed to any court  
16 of appeals of the United States.

17           “(3) Section 3662 shall not apply to complaints relat-  
18 ing to competitive products.”.

19 **SEC. 106. TECHNICAL AND CONFORMING AMENDMENTS.**

20           (a) The heading for section 3622 of title 39, United  
21 States Code, is amended to read as follows:

22 **“§ 3622. Rates and fees for noncompetitive products”.**

23           (b) The table of sections for chapter 36 of title 39,  
24 United States Code, is amended—

1 (1) by striking the item relating to section 3622  
 2 and inserting the following:

“3622. Rates and fees for noncompetitive products.”;

3 (2) by adding after the item relating to section  
 4 3629 the following:

“3630. Competitive products.”; and

5 (3) by inserting after the item relating to sec-  
 6 tion 3642 the following:

“3643. Negotiated service agreements.”.

7 **SEC. 107. SAVINGS PROVISIONS.**

8 (a) **POSTAL PRODUCTS; RATES AND FEES.**—Until  
 9 otherwise provided in accordance with title 39, United  
 10 States Code (as amended by this title or as deemed to  
 11 have remained in effect under subsection (b), as the case  
 12 may be)—

13 (1) all postal products offered immediately be-  
 14 fore this Act takes effect shall continue being of-  
 15 fered; and

16 (2) all rates and fees in effect under such title  
 17 immediately before this Act takes effect shall remain  
 18 in effect.

19 (b) **PROCEEDINGS PENDING.**—This title shall not af-  
 20 fect any proceedings pending immediately before the date  
 21 of enactment of this Act, and any such proceedings shall  
 22 continue under applicable provisions of title 39, United  
 23 States Code, as last in effect before such date of enact-

1 ment, until completed or terminated in accordance there-  
2 with.

3 **TITLE II—NATIONAL COMMIS-**  
4 **SION ON POSTAL EFFICIENCY**  
5 **AND ENHANCEMENT**

6 **SEC. 201. ESTABLISHMENT.**

7 There is established a commission to be known as the  
8 “National Commission on Postal Efficiency and Enhance-  
9 ment” (hereinafter in this title referred to as the “Com-  
10 mission”).

11 **SEC. 202. FUNCTIONS OF THE COMMISSION.**

12 The Commission shall review the present practices  
13 and organizational structure of the United States Postal  
14 Service, with a view toward identifying—

- 15 (1) areas of inefficiency or waste; and  
16 (2) methods for improving operations involved  
17 in the collection, processing, or delivery of mail.

18 **SEC. 203. MEMBERSHIP.**

19 (a) **NUMBER AND APPOINTMENT.**—The Commission  
20 shall be composed of 8 members appointed by the Presi-  
21 dent, except that of those members—

- 22 (1) 2 shall be appointed from among individuals  
23 recommended by the majority leader of the Senate;  
24 and



1           (2) 2 shall be appointed from among individuals  
2       recommended by the Speaker of the House of Rep-  
3       resentatives.

4       (b) QUALIFICATIONS.—An individual appointed to  
5       serve on the Commission shall have expertise in mail deliv-  
6       ery, organizational efficiency, labor relations, or other rel-  
7       evant subject areas.

8       (c) INITIAL APPOINTMENTS.—It is the sense of the  
9       Congress that the members of the Commission should be  
10      appointed within 90 days after the date of enactment of  
11      this Act.

12      (d) CHAIRMAN.—The Chairman of the Commission  
13      shall be designated by the President.

14      (e) PAY.—Members shall be paid at a rate to be es-  
15      tablished by the President, not to exceed the rate payable  
16      for level I of the Executive Schedule under section 5312  
17      of title 5, United States Code.

18      **SEC. 204. ADMINISTRATION.**

19      (a) IN GENERAL.—The Chairman of the Commission  
20      shall exercise the executive and administrative functions  
21      of the Commission, and may appoint such staff as may  
22      be necessary for the operation of the Commission.

23      (b) INFORMATION FROM AGENCIES.—The Commis-  
24      sion may secure from any department, agency, inde-  
25      pendent establishment, or other instrumentality of the

1 United States, any information necessary to enable it to  
2 carry out its functions under this title. Upon receiving a  
3 request under the preceding sentence, the head of the in-  
4 strumentality involved shall, to the extent authorized by  
5 law, furnish such information directly to the Commission.

6 **SEC. 205. REPORTING REQUIREMENTS.**

7 The Commission shall transmit to the President and  
8 the Congress, within 2 years after the date of enactment  
9 of this Act, a report containing a detailed statement of  
10 the findings and conclusions of the Commission, together  
11 with its recommendations for any legislation or adminis-  
12 trative actions which the Commission considers appro-  
13 priate.

14 **SEC. 206. TERMINATION.**

15 The Commission shall terminate as of the date on  
16 which the work of the Commission has been completed.

17 **TITLE III—ENHANCED AUTHORI-**  
18 **TIES FOR THE POSTAL RATE**  
19 **COMMISSION**

20 **SEC. 301. ENHANCED AUTHORITIES.**

21 Section 3604 of title 39, United States Code, is  
22 amended by adding at the end the following:

23 “(f)(1) Any Commissioner of the Postal Rate Com-  
24 mission, any administrative law judge appointed by the  
25 Commission under section 3105 of title 5, and any em-

1 ployee of the Commission designated by the Commission,  
2 may administer oaths, examine witnesses, take deposi-  
3 tions, and receive evidence.

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

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

13 “(B) order the taking of depositions or re-  
14 sponses to written interrogatories by a covered indi-  
15 vidual.

16 “(3) In the case of contumacy or failure to obey a  
17 subpoena or order issued under this subsection, upon ap-  
18 plication by the Commission, the district court of the  
19 United States for the district in which the person to whom  
20 the subpoena or order is addressed resides or is served  
21 may issue an order requiring such person to appear at  
22 any designated place to testify or produce documentary  
23 or other evidence. Any failure to obey the order of the  
24 court may be punished by the court as a contempt thereof.

1       “(4) For purposes of this subsection, the term ‘cov-  
2   ered individual’ means an officer or employee or agent of  
3   the Postal Service or of a contractor of the Postal Service.

4       “(g)(1) If the Postal Service determines that any tes-  
5   timony, document, or other matter provided pursuant to  
6   a subpoena or order issued under subsection (f), or other-  
7   wise provided by the Postal Service to the Postal Rate  
8   Commission in connection with any proceeding or other  
9   purpose under this title, contains information which is de-  
10   scribed in section 410(c) of this title, or exempt from pub-  
11   lic disclosure under section 552(b) of title 5, the Postal  
12   Service shall, at the time such matter is provided to the  
13   Commission, notify the Commission, in writing, of its de-  
14   termination (and the reasons therefor).

15       “(2) The Commission shall establish procedures for  
16   ensuring, where appropriate, the confidentiality of any in-  
17   formation as to which it has been notified under para-  
18   graph (1).”.

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