## Calendar No. 674

108th CONGRESS 2D Session



[Report No. 108–318]

To reform the postal laws of the United States.

#### IN THE SENATE OF THE UNITED STATES

MAY 20, 2004

Ms. Collins (for herself, Mr. CARPER, Mr. STEVENS, Mr. VOINOVICH, Mr. SUNUNU, Mr. LIEBERMAN, Mr. AKAKA, Mr. DURBIN, Mr. LAUTENBERG, Mr. COLEMAN, Mr. BURNS, Mr. Allen, Mr. DODD, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

August 25, 2004

Reported, under authority of the order of the Senate of July 22, 2004, by Ms. COLLINS, with an amendment

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

# 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 eited as the
- 5 "Postal Accountability and Enhancement Act".

#### 1 (b) TABLE OF CONTENTS.—The table of contents for

#### 2 this Act is as follows:

See. 1. Short title; table of contents.

#### TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

#### TITLE II—MODERN RATE REGULATION

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

#### TITLE III—MODERN SERVICE STANDARDS

- See. 301. Establishment of modern service standards.
- Sec. 302. Postal service plan.

#### TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

- See. 401. Postal Service Competitive Products Fund.
- Sec. 402. Assumed Federal income tax on competitive products income.
- See. 403. Unfair competition prohibited.
- Sec. 404. Suits by and against the Postal Service.

#### TITLE V—GENERAL PROVISIONS

- See. 501. Qualification and term requirements for Governors.
- See. 502. Obligations.
- Sec. 503. Private carriage of letters.
- Sec. 504. Rulemaking authority.
- See. 505. Noninterference with collective bargaining agreements.

#### TITLE VI-ENHANCED REGULATORY COMMISSION

- Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
- Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.
- Sec. 603. Appropriations for the Postal Regulatory Commission.
- Sec. 604. Redesignation of the Postal Rate Commission.
- Sec. 605. Financial transparency.

#### TITLE VII-EVALUATIONS

- Sec. 701. Assessments of ratemaking, classification, and other provisions.
- See. 702. Report on universal postal service and the postal monopoly.
- See. 703. Study on equal application of laws to competitive products.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

See. 801. Short title.

See. 802. Civil Service Retirement System.

See. 803. Health insurance.

See. 804. Repeal of disposition of savings provision.

Sec. 805. Effective dates.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

See. 901. Temporary disability; continuation of pay. See. 902. Disability retirement for postal employees.

# TITLE I—DEFINITIONS; POSTAL 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 <u>"(5)</u> 'postal service' refers to the physical deliv-10 ery of letters, printed matter, or packages weighing 11 up to 70 pounds, including physical acceptance, col-12 lection, sorting, transportation, or other services an-13 eillary thereto;

14 <u>"(6) 'product' means a postal service with a</u>
15 distinct cost or market characteristic for which a
16 rate is applied;

17 <u>''(7)</u> 'rates', as used with respect to products,
18 includes fees for postal services;

19 <u>"(8) 'market-dominant product' or 'product in</u>
20 the market-dominant category of mail' means a
21 product subject to subchapter I of chapter 36;

1	
1	"(9) 'competitive product' or 'product in the
2	competitive category of mail' means a product sub-
3	ject to subchapter H of chapter 36; and
4	"(10) 'year', as used in chapter 36 (other than
5	subchapters I and VI thereof), means a fiscal year.".
6	SEC. 102. POSTAL SERVICES.
7	(a) IN GENERAL.—Section 404 of title 39, United
8	States Code, is amended—
9	(1) in subsection $(a)$ , by striking paragraph $(6)$
10	and by redesignating paragraphs (7) through (9) as
11	paragraphs (6) through (8), respectively; and
12	(2) by adding at the end the following:
13	"(c) Nothing in this title shall be considered to permit
14	or require that the Postal Service provide any special non-
15	postal or similar services.".
16	(b) Conforming Amendments.—(1) Section
17	1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98
18	Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by
19	striking "404(a)(8)" and inserting "404(a)(7)".
20	(2) Section 2003(b)(1) of title 39, United States

21 Code, is amended by striking "and nonpostal".

# TITLE II—MODERN RATE REGULATION

3 SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT

#### PRODUCTS.

5 (a) IN GENERAL.—Chapter 36 of title 39, United
6 States Code, is amended by striking sections 3621, 3622,
7 and 3623 and inserting the following:

#### 8 "§ 3621. Applicability; definitions

9 <u>"(a) APPLICABILITY.—This subchapter shall apply</u>

10 with respect to—

1

2

4

- 11 <u>"(1) first-class mail letters;</u>
- 12 <u>"(2) first-class mail cards;</u>
- 13  $\frac{\text{``(3) periodicals;}}{\text{``(3) periodicals;}}$
- 14  $\frac{\text{``(4) standard mail;}}{\text{mail;}}$
- 15  $\frac{\text{``(5) single-piece parcel post;}}{\text{``(5) single-piece parcel post;}}$
- 16  $\frac{\text{``(6)}}{\text{media mail;}}$
- 17  $\frac{\text{``(7) bound printed matter;}}{\text{ bound printed matter;}}$
- 18 <sup>...</sup>(8) library mail;
- 19  $\frac{(9)}{(9)}$  special services; and
- 20 <u>"(10) single-piece international mail,</u>

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

23 "(b) RULE OF CONSTRUCTION.—Mail matter re-24 ferred to in subsection (a) shall, for purposes of this subchapter, be considered to have the meaning given to such
 mail matter under the mail classification schedule.

#### 3 **<u>\*</u>§3622. Modern rate regulation**

4 "(a) AUTHORITY GENERALLY.—The Postal Regu-5 latory Commission shall, within 12 months after the date 6 of the enactment of this section, by regulation establish 7 (and may from time to time thereafter by regulation re-8 vise) a modern system for regulating rates and classes for 9 market-dominant products.

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

12 <u>"(1) To reduce the administrative burden and</u>
13 increase the transparency of the ratemaking process.
14 <u>"(2)</u> To create predictability and stability in
15 rates.

16 <u>"(3)</u> To maximize incentives to reduce costs
17 and increase efficiency.

18 <u>"(4)</u> To enhance mail security and deter ter 19 rorism by promoting secure, sender-identified mail.

20 <u>"(5)</u> To allow the Postal Service pricing flexi21 bility, including the ability to use pricing to promote
22 intelligent mail and encourage increased mail volume
23 during nonpeak periods.

24 <u>"(6)</u> To assure adequate revenues, including re 25 tained earnings, to maintain financial stability and

meet the service standards established under section
 3691.

3 "(7) To allocate the total institutional costs of
4 the Postal Service equitably between market-domi5 nant and competitive products.

6 "(c) FACTORS.—In establishing or revising such sys7 tem, the Postal Regulatory Commission shall take into ac8 count—

9 <u>"(1)</u> the establishment and maintenance of a 10 fair and equitable schedule for rates and elassifica-11 tion system;

12 "(2) the value of the mail service actually pro-13 vided each class or type of mail service to both the 14 sender and the recipient, including but not limited to 15 the collection, mode of transportation, and priority 16 of delivery;

17 "(3) the direct and indirect postal costs attrib18 utable to each class or type of mail service plus that
19 portion of all other costs of the Postal Service rea20 sonably assignable to such class or type;

21 "(4) the effect of rate increases upon the gen22 eral public, business mail users, and enterprises in
23 the private sector of the economy engaged in the de24 livery of mail matter other than letters;

1	${}(5)$ the available alternative means of sending
2	and receiving letters and other mail matter at rea-
3	sonable costs;
4	"(6) the degree of preparation of mail for deliv-
5	ery into the postal system performed by the mailer
6	and its effect upon reducing costs to the Postal
7	Service;
8	${}$ (7) simplicity of structure for the entire sched-
9	ule and simple, identifiable relationships between the
10	rates or fees charged the various classes of mail for
11	postal services;
12	$\frac{((8))}{(8)}$ the relative value to the people of the
13	kinds of mail matter entered into the postal system
14	and the desirability and justification for special clas-
15	sifications and services of mail;
16	${}$ (9) the importance of providing elassifications
17	with extremely high degrees of reliability and speed
18	of delivery and of providing those that do not re-
19	quire high degrees of reliability and speed of deliv-
20	<del>cry;</del>
21	${}(10)$ the desirability of special elassifications
22	from the point of view of both the user and of the
23	Postal Service;

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

4 <u>"(12)</u> the policies of this title as well as such
5 other factors as the Commission deems appropriate.
6 <u>"(d)</u> REQUIREMENTS.—The system for regulating
7 rates and classes for market-dominant products shall—

8 "(1) require the Postal Rate Commission to set 9 annual limitations on the percentage changes in 10 rates based on inflation using indices, such as the 11 Consumer Price Index, the Employment Cost Index, 12 the Gross Domestic Product Price Index, or any 13 similar measure as the Postal Rate Commission may 14 prescribe;

15 <u>"(2)</u> establish a schedule whereby rates, when
 16 necessary and appropriate, would increase at regular
 17 intervals by predictable amounts;

18 <u>"(3) not later than 45 days before the imple-</u>
19 mentation of any adjustment in rates under this sec20 tion—

21 <u>"(A) require the Postal Service to provide</u>
22 public notice of the adjustment;

23 <u>"(B) provide an opportunity for review by</u>
24 the Postal Rate Commission;

1	"(C) provide for the Postal Rate Commis-
2	sion to notify the Postal Service of any non-
3	compliance of the adjustment with the limita-
4	tion under paragraph (1); and
5	"(D) require the Postal Service to respond
6	to the notice provided under subparagraph (C)
7	and describe the actions to be taken to comply
8	with the limitation under paragraph $(1)$ ;
9	${}$ (4) notwithstanding any limitation set under
10	paragraphs (1) and (3), establish procedures where-
11	by rates may be adjusted on an expedited basis due
12	to unexpected and extraordinary circumstances.
13	"(e) Workshare Discounts.—
14	((1) DEFINITION.—In this subsection, the term
15	'workshare discount' refers to rate discounts pro-
16	vided to mailers for the presorting, prebarcoding,
17	handling, or transportation of mail, as further de-
18	fined by the Postal Regulatory Commission under
19	subsection (a).
20	${}$ (2) Regulations.—As part of the regulations
21	established under subsection (a), the Postal Regu-
22	latory Commission shall establish rules for
23	workshare discounts that ensure that such discounts
24	do not exceed the cost that the Postal Service avoids
25	as a result of workshare activity, unless—

1	"(A) the discount is—
2	"(i) associated with a new postal serv-
3	ice or with a change to an existing postal
4	service; and
5	"(ii) necessary to induce mailer behav-
6	ior that furthers the economically efficient
7	operation of the Postal Service;
8	"(B) a reduction in the discount would—
9	"(i) lead to a loss of volume in the af-
10	fected category of mail and reduce the ag-
11	gregate contribution to institutional costs
12	of the Postal Service from the mail matter
13	subject to the discount below what it other-
14	wise would have been if the discount had
15	not been reduced to costs avoided;
16	"(ii) result in a further increase in the
17	rates paid by mailers not able to take ad-
18	vantage of the discount; or
19	"(iii) impede the efficient operation of
20	the Postal Service;
21	"(C) the amount of the discount above
22	<del>costs</del> avoided—
23	"(i) is necessary to mitigate rate
24	shock; and
25	"(ii) will be phased out over time;

1 "(D) the workshare discount is provided in 2 connection with subclasses of mail consisting 3 exclusively of mail matter of educational, cul-4 tural, or scientific value; or "(E) the Postal Regulatory Commission 5 6 determines that such discounts are reasonable 7 and equitable and consistent with the objectives 8 and factors taken into account under sub-

9 sections (b) and (c).

"(3) REPORT.—Whenever the Postal Service es-10 11 tablishes or maintains a workshare discount, the 12 Postal Service shall, at the time it publishes the 13 workshare discount rate, submit to the Postal Regu-14 latory Commission a detailed report and explanation 15 of the Postal Service's reasons for establishing or 16 maintaining the rate, setting forth the data, eco-17 nomic analyses, and other information relied on by 18 the Postal Service to justify the rate.

19 "(f) TRANSITION RULE.—Until regulations under 20 this section first take effect, rates and classes for market-21 dominant products shall remain subject to modification in 22 accordance with the provisions of this chapter and section 23 407, as such provisions were last in effect before the date 24 of the enactment of this section.

1	<u>"§3623. Service agreements for market-dominant</u>
2	products
3	<del>"(a)</del> IN GENERAL.
4	"(1) AUTHORITY.—The Postal Service may
5	enter into service agreements with a customer or
6	group of customers that provide for the provision of
7	postal services under terms, conditions, or service
8	standards that differ from those that would apply
9	under the otherwise applicable classification of mar-
10	ket-dominant mail.
11	"(2) AGREEMENTS.—An agreement under this
12	section may involve—
13	${(A)}$ performance by the contracting mail
14	user of mail preparation, processing, transpor-
15	tation, or other functions;
16	"(B) performance by the Postal Service of
17	additional mail preparation, processing, trans-
18	portation, or other functions; or
19	((C) other terms and conditions that meet
20	the requirements of subsections (b) and (c).
21	"(b) Requirements.—A service agreement under
22	this section may be entered into only if each of the fol-
23	lowing conditions is met:
24	$\frac{(1)}{(1)}$ The total revenue generated under the
25	agreement—

1	"(A) will cover all Postal Service costs at-
2	tributable to the postal services covered by the
3	agreement; and
4	"(B) will result in no less contribution to
5	the institutional costs of the Postal Service than
6	would have been generated had the agreement
7	not been entered into.
8	${}(2)$ Rates or fees for other mailers will not in-
9	crease as a result of the agreement.
10	"(3) The agreement pertains exclusively to
11	products in the market-dominant category of mail.
12	"(4) The agreement will not preclude or materi-
13	ally hinder similarly situated mail users from enter-
14	ing into agreements with the Postal Service on the
15	same, or substantially the same terms or conditions,
16	and the Postal Service remains willing and able to
17	enter into such.
18	"(e) LIMITATIONS.—A service agreement under this
19	section shall—
20	${}$ (1) be for a term not to exceed 3 years; and
21	${}$ (2) provide that such agreement shall be sub-
22	ject to the cancellation authority of the Commission
23	under section 3662.
24	"(d) Notice Requirements.—

1	"(1) In general.—At least 30 days before a
2	service agreement under this section is to take ef-
3	feet, the Postal Service shall file with the Postal
4	Regulatory Commission and publish in the Federal
5	Register the following information with respect to
6	such agreement:
7	${(A)}$ A description of the postal services
8	the agreement involves.
9	${(B)}$ A description of the functions the
10	customer is to perform under the agreement.
11	$\frac{\text{``(C)}}{\text{C}}$ A description of the functions the
12	Postal Service is to perform under the agree-
13	ment.
14	"(D) The rates and fees payable by the
15	customer during the term of the agreement.
16	"(E) With respect to each condition under
17	subsection (b), information sufficient to dem-
18	onstrate the bases for the view of the Postal
19	Service that such condition would be met.
20	$\frac{2}{(2)}$ Agreements less than national in
21	SCOPE.—In the case of a service agreement under
22	this section that is less than national in scope, the
23	information described under paragraph (1) shall also
24	be published by the Postal Service in a manner de-
25	signed to afford reasonable notice to persons within

any geographic area to which such agreement (or any amendment to that agreement) pertains.

3 "(e) EQUAL TREATMENT REQUIRED.—If the Postal 4 Service enters into a service agreement with a mailer under this section, the Postal Service shall make such 5 agreement available to similarly situated mailers on fune-6 7 tionally equivalent terms and conditions consistent with 8 the regulatory system established under section 3622 9 without unreasonable distinctions based on mailer profiles, 10 provided that such distinctions, if ignored, would not 11 render any subsequent agreement uneconomic or imprac-12 tical.

13 "(f) COMPLAINTS.—Any person who believes that a 14 service agreement under this section is not in conformance 15 with the requirements of this section, or who is aggrieved 16 by a decision of the Postal Service not to enter into an 17 agreement under this section, may file a complaint with 18 the Postal Regulatory Commission in accordance with sec-19 tion 3662.

20 "(g) Postal Regulatory Commission Role.—

21 <u>"(1) REGULATIONS.</u>—The Postal Regulatory
 22 Commission may promulgate such regulations re 23 garding service agreements as the Commission de 24 termines necessary to implement the requirements of
 25 this section.

1

"(2) REVIEW.—The Postal Regulatory Commis sion may review any agreement or proposed agree ment under this section and may suspend, cancel, or
 prevent such agreement if the Commission finds that
 the agreement does not meet the requirements of
 this section.

7 <del>"(h)</del> INTERPRETATION.—The determination <del>of</del> 8 whether the revenue generated under the agreement meets 9 the requirements of subsection (b)(1)(B) shall be based, 10 to the extent practicable, on the actual contribution of the mail involved, not on the average contribution made by 11 the mail elassification most similar to the services per-12 formed under the agreement. If mailer-specific data is not 13 available, the bases for the determination used shall be 14 15 provided and shall include a discussion of the suitability of the data used, in accordance with regulations estab-16 lished by the Postal Regulatory Commission.". 17

(b) REPEALED SECTIONS.—Sections 3624, 3625,
and 3628 of title 39, United States Code, are repealed.
(c) REDESIGNATION.—Chapter 36 of title 39, United
States Code (as in effect after the amendment made by
section 601, but before the amendment made by section
202) is amended by striking the heading for subchapter
H and inserting the following:

1	"SUBCHAPTER I—PROVISIONS RELATING TO
2	MARKET-DOMINANT PRODUCTS".
3	SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-
4	<del>UCTS.</del>
5	Chapter 36 of title 39, United States Code, is amend-
6	ed by inserting after section 3629 the following:
7	"SUBCHAPTER II—PROVISIONS RELATING TO
8	COMPETITIVE PRODUCTS
9	<u>"§3631. Applicability; definitions and updates</u>
10	"(a) Applicability.—This subchapter shall apply
11	with respect to—
12	<sup></sup> (1) priority mail;
13	$\frac{((2))}{(2)}$ expedited mail;
14	${}$ (3) bulk parcel post;
15	"(4) bulk international mail; and
16	$\frac{(5)}{(5)}$ mailgrams;
17	subject to subsection (d) and any changes the Postal Reg-
18	ulatory Commission may make under section 3642.
19	"(b) DEFINITION.—For purposes of this subchapter,
20	the term 'costs attributable', as used with respect to a
21	product, means the direct and indirect postal costs attrib-
22	utable to such product.
23	"(c) Rule of Construction.—Mail matter re-
24	ferred to in subsection (a) shall, for purposes of this sub-

chapter, be considered to have the meaning given to such
 mail matter under the mail classification schedule.

3 "(d) LIMITATION.—Notwithstanding any other provi4 sion of this section, nothing in this subchapter shall be
5 considered to apply with respect to any product then cur6 rently in the market-dominant category of mail.

#### 7 "§ 3632. Action of the Governors

8 "(a) AUTHORITY TO ESTABLISH RATES AND CLASS-9 ES.—The Governors, with the written concurrence of a 10 majority of all of the Governors then holding office, shall 11 establish rates and classes for products in the competitive 12 category of mail in accordance with the requirements of 13 this subchapter and regulations promulgated under sec-14 tion 3633.

15 <u>"(b)</u> PROCEDURES.

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

20 <u>"(2)</u> PUBLIC NOTICE; REVIEW; AND COMPLI 21 ANCE.—Not later than 30 days before the date of
 22 implementation of any adjustment in rates under
 23 this section—

1	"(A) the Governors shall provide public no-
2	tice of the adjustment and an opportunity for
3	review by the Postal Regulatory Commission;
4	"(B) the Postal Rate Commission shall no-
5	tify the Governors of any noncompliance of the
6	adjustment with section 3633; and
7	${(C)}$ the Governors shall respond to the
8	notice provided under subparagraph (B) and
9	describe the actions to be taken to comply with
10	section 3633.
11	"(c) TRANSITION RULE.—Until regulations under
12	section 3633 first take effect, rates and classes for com-
13	petitive products shall remain subject to modification in
14	accordance with the provisions of this chapter and section
15	407, as such provisions were as last in effect before the
16	date of the enactment of this section.
17	<u>"§3633. Provisions applicable to rates for competitive</u>
18	<b>products</b>
19	"The Postal Regulatory Commission shall, within
20	180 days after the date of the enactment of this section,
21	promulgate (and may from time to time thereafter revise)
22	regulations to-
23	"(1) prohibit the subsidization of competitive

24 products by market-dominant products;

1	(2) ensure that each competitive product cov-
2	ers its costs attributable; and
3	"(3) ensure that all competitive products collee-
4	tively cover their share of the institutional costs of
5	the Postal Service.".
6	SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND
7	NEW PRODUCTS.
8	Subchapter III of chapter 36 of title 39, United
9	States Code, is amended to read as follows:
10	"SUBCHAPTER III—PROVISIONS RELATING TO
11	EXPERIMENTAL AND NEW PRODUCTS
12	<u>"§3641. Market tests of experimental products</u>
13	"(a) AUTHORITY.—
14	"(1) IN GENERAL.—The Postal Service may
15	conduct market tests of experimental products in ac-
16	cordance with this section.
17	"(2) Provisions waived.—A product shall
18	not, while it is being tested under this section, be
19	subject to the requirements of sections 3622, 3633,
20	or 3642, or regulations promulgated under those
21	sections.
22	(b) Conditions.—A product may not be tested
23	under this section unless it satisfies each of the following:
24	"(1) Significantly different product.
25	The product is, from the viewpoint of the mail users,

significantly different from all products offered by
 the Postal Service within the 2-year period preceding
 the start of the test.

4 "(2) MARKET DISRUPTION.—The introduction
5 or continued offering of the product will not create
6 an unfair or otherwise inappropriate competitive ad7 vantage for the Postal Service or any mailer, par8 ticularly in regard to small business concerns (as de9 fined under subsection (h)).

"(3) CORRECT CATEGORIZATION.—The Postal 10 11 Service identifies the product, for the purpose of a 12 test under this section, as either market-dominant or 13 competitive, consistent with the criteria under sec-14 tion 3642(b)(1). Costs and revenues attributable to 15 a product identified as competitive shall be included 16 in any determination under section 3633(3)(relating 17 to provisions applicable to competitive products col-18 lectively). Any test that solely affects products cur-19 rently classified as competitive, or which provides 20 services ancillary to only competitive products, shall 21 be presumed to be in the competitive product cat-22 egory without regard to whether a similar ancillary 23 product exists for market-dominant products.

24 <u>"(c) NOTICE.</u>

1	"(1) IN GENERAL.—At least 30 days before ini-
2	tiating a market test under this section, the Postal
3	Service shall file with the Postal Regulatory Com-
4	mission and publish in the Federal Register a no-
5	tice
6	${(A)}$ setting out the basis for the Postal
7	Service's determination that the market test is
8	covered by this section; and
9	"(B) describing the nature and scope of
10	the market test.
11	"(2) SAFEGUARDS.—For a competitive experi-
12	mental product, the provisions of section $504(g)$
13	shall be available with respect to any information re-
14	quired to be filed under paragraph (1) to the same
15	extent and in the same manner as in the case of any
16	matter described in section $504(g)(1)$ . Nothing in
17	paragraph (1) shall be considered to permit or re-
18	quire the publication of any information as to which
19	confidential treatment is accorded under the pre-
20	ceding sentence (subject to the same exception as set
21	forth in section $504(g)(3)$ .
22	"(d) DURATION.—
23	"(1) IN GENERAL.—A market test of a product
24	under this section may be conducted over a period

under this section may be conducted over a period
of not to exceed 24 months.

1 "(2) EXTENSION AUTHORITY.—If necessary in 2 order to determine the feasibility or desirability of a 3 product being tested under this section, the Postal 4 Regulatory Commission may, upon written applica-5 tion of the Postal Service (filed not later than 60 6 days before the date as of which the testing of such 7 product would otherwise be scheduled to terminate 8 under paragraph (1)), extend the testing of such 9 product for not to exceed an additional 12 months. "(e) DOLLAR-AMOUNT LIMITATION. 10

11 "(1) IN GENERAL.—A product may only be 12 tested under this section if the total revenues that 13 are anticipated, or in fact received, by the Postal 14 such product Service from do not exceed 15  $\pm 10,000,000$  in any year, subject to paragraph (2) 16 and subsection (g).

17 EXEMPTION AUTHORITY.—The  $\frac{(2)}{(2)}$ Postal 18 Regulatory Commission may, upon written applica-19 tion of the Postal Service, exempt the market test 20 from the limit in paragraph (1) if the total revenues 21 that are anticipated, or in fact received, by the Post-22 al Service from such product do not exceed 23 \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, 24

1	the Postal Regulatory Commission shall approve
2	such application if it determines that—
3	"(A) the product is likely to benefit the
4	public and meet an expected demand;
5	"(B) the product is likely to contribute to
6	the financial stability of the Postal Service; and
7	$\frac{(C)}{(C)}$ the product is not likely to result in
8	unfair or otherwise inappropriate competition.
9	"(f) CANCELLATION.—If the Postal Regulatory Com-
10	mission at any time determines that a market test under
11	this section fails to meet 1 or more of the requirements
12	of this section, it may order the cancellation of the test
13	involved or take such other action as it considers appro-
14	priate. A determination under this subsection shall be
15	made in accordance with such procedures as the Commis-
16	sion shall by regulation prescribe.
17	"(g) Adjustment for Inflation.—For purposes
18	of each year following the year in which occurs the dead-
19	line for the Postal Service's first report to the Postal Reg-
20	ulatory Commission under section 3652(a), each dollar
21	amount contained in this section shall be adjusted by the
22	change in the Consumer Price Index for such year (as de-
22	

23 termined under regulations of the Commission).

24 "(h) DEFINITION OF A SMALL BUSINESS CON25 CERN.—The criteria used in defining small business con-

cerns or otherwise categorizing business concerns as small
 business concerns shall, for purposes of this section, be
 established by the Postal Regulatory Commission in con formance with the requirements of section 3 of the Small
 Business Act.

6 "(i) EFFECTIVE DATE.—Market tests under this 7 subchapter may be conducted in any year beginning with 8 the first year in which occurs the deadline for the Postal 9 Service's first report to the Postal Regulatory Commission 10 under section 3652(a).

# 11 "§ 3642. New products and transfers of products be tween the market-dominant and competi tive categories of mail

14 "(a) IN GENERAL.—Upon request of the Postal Serv-15 ice or users of the mails, or upon its own initiative, the 16 Postal Regulatory Commission may change the list of 17 market-dominant products under section 3621 and the list 18 of competitive products under section 3631 by adding new 19 products to the lists, removing products from the lists, or 20 transferring products between the lists.

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

24 <u>"(1)</u> The market-dominant category of products
 25 shall consist of each product in the sale of which the

Postal Service exercises sufficient market power that
 it can effectively set the price of such product sub stantially above costs, raise prices significantly, de erease quality, or decrease output, without risk of
 losing substantial business to other firms offering
 similar products. The competitive category of prod uets shall consist of all other products.

8 "(2) EXCLUSION OF PRODUCTS COVERED BY 9 POSTAL MONOPOLY.—A product covered by the post-10 al monopoly shall not be subject to transfer under 11 this section from the market-dominant category of 12 mail. For purposes of the preceding sentence, the 13 term 'product covered by the postal monopoly' 14 means any product the conveyance or transmission 15 of which is reserved to the United States under see-16 tion 1696 of title 18, subject to the same exception 17 as set forth in the last sentence of section 409(e)(1). 18 "(3) ADDITIONAL CONSIDERATIONS.-In mak-19 ing any decision under this section, due regard shall 20 be given to— 21

21 "(A) the availability and nature of enter22 prises in the private sector engaged in the deliv23 ery of the product involved;

1	"(B) the views of those who use the prod-
2	uct involved on the appropriateness of the pro-
3	posed action; and
4	"(C) the likely impact of the proposed ac-
5	tion on small business concerns (within the
6	meaning of section 3641(h)).
7	"(c) Transfers of Subclasses and Other Sub-
8	ORDINATE UNITS ALLOWABLE.—Nothing in this title
9	shall be considered to prevent transfers under this section

10 from being made by reason of the fact that they would 11 involve only some (but not all) of the subclasses or other 12 subordinate units of the class of mail or type of postal 13 service involved (without regard to satisfaction of min-14 imum quantity requirements standing alone).

15 "(d) NOTIFICATION AND PUBLICATION REQUIRE16 MENTS.—

17 "(1) NOTIFICATION REQUIREMENT.—The Post-18 al Service shall, whenever it requests to add a prod-19 uet or transfer a product to a different eategory, file 20 with the Postal Regulatory Commission and publish 21 in the Federal Register a notice setting out the basis 22 for its determination that the product satisfies the 23 eriteria under subsection (b) and, in the ease of a 24 request to add a product or transfer a product to 25 the competitive category of mail, that the product

meets the regulations promulgated by the Postal 1 2 Regulatory Commission under section 3633. The 3 provisions of section 504(g) shall be available with 4 respect to any information required to be filed. "(2) PUBLICATION REQUIREMENT.—The Postal 5 6 Regulatory Commission shall, whenever it changes 7 the list of products in the market-dominant or com-8 petitive category of mail, prescribe new lists of prod-9 uets. The revised lists shall indicate how and when 10 any previous lists (including the lists under sections 11 3621 and 3631) are superseded, and shall be pub-12 lished in the Federal Register. 13 "(e) PROHIBITION.—Except as provided in section

14 3641, no product that involves the physical delivery of let15 ters, printed matter, or packages may be offered by the
16 Postal Service unless it has been assigned to the market17 dominant or competitive category of mail (as appropriate)
18 either—

19  $\frac{((1))}{(1)}$  under this subchapter; or

20 <u>"(2)</u> by or under any other provision of law.".
21 SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO22 VISIONS.

23 (a) REDESIGNATION.—Chapter 36 of title 39, United
24 States Code (as in effect before the amendment made by
25 subsection (b)) is amended—

1	(1) by striking the heading for subchapter IV
2	and inserting the following:
3	<u>"SUBCHAPTER V—POSTAL SERVICES,</u>
4	COMPLAINTS, AND JUDICIAL REVIEW"; and
5	(2) by striking the heading for subchapter $V$
6	and inserting the following:
7	"SUBCHAPTER VI—GENERAL".
8	(b) Reports and Compliance.—Chapter 36 of title
9	39, United States Code, is amended by inserting after sub-
10	chapter III the following:
11	"SUBCHAPTER IV—REPORTING
12	REQUIREMENTS AND RELATED PROVISIONS
13	<u>"§3651. Annual reports by the Commission</u>
13 14	" <b>** 3651. Annual reports by the Commission</b> "(a) IN GENERAL.—The Postal Regulatory Commis-
14	
14	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and
14 15	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and
14 15 16 17	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and the Congress concerning the operations of the Commission
14 15 16 17	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations
14 15 16 17 18	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633,
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> </ol>	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691.
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691. "(b) INFORMATION FROM POSTAL SERVICE.—The
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> </ol>	"(a) IN GENERAL.—The Postal Regulatory Commis- sion shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622, 3633, and 3691. "(b) INFORMATION FROM POSTAL SERVICE.—The Postal Service shall provide the Postal Regulatory Com-

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### 1 "§ 3652. Annual reports to the Commission

2	"(a) Costs, Revenues, Rates, and Service.—Ex-
3	cept as provided in subsection (e), the Postal Service shall,
4	no later than 90 days after the end of each year, prepare
5	and submit to the Postal Regulatory Commission a report
6	(together with such nonpublic annex to the report as the
7	Commission may require under subsection (e))—
8	"(1) which shall analyze costs, revenues, rates,
9	and quality of service in sufficient detail to dem-
10	onstrate that all products during such year complied
11	with all applicable requirements of this title; and
12	$\frac{(2)}{(2)}$ which shall, for each market-dominant
13	product provided in such year, provide—
14	${(A)}$ product information, including mail
15	volumes; and
16	"(B) measures of the service afforded by
17	the Postal Service in connection with such prod-
18	uct, including—
19	"(i) the level of service (described in
20	terms of speed of delivery and reliability)
21	provided; and
22	"(ii) the degree of customer satisfac-
23	tion with the service provided.
24	Before submitting a report under this subsection (includ-
25	ing any annex to the report and the information required
26	under subsection (b)), the Postal Service shall have the

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information contained in such report (and annex) audited
 by the Inspector General. The results of any such audit
 shall be submitted along with the report to which it per tains.

5 "(b) INFORMATION RELATING TO WORKSHARE DIS-6 COUNTS.—The Postal Service shall include, in each report 7 under subsection (a), the following information with re-8 spect to each market-dominant product for which a 9 workshare discount was in effect during the period covered 10 by such report:

11 <u>"(1)</u> The per-item cost avoided by the Postal
12 Service by virtue of such discount.

13 <u>"(2)</u> The percentage of such per-item cost
14 avoided that the per-item workshare discount rep15 resents.

16 "(3) The per-item contribution made to institu17 tional costs.

18 "(c) SERVICE AGREEMENTS AND MARKET TESTS.— 19 In carrying out subsections (a) and (b) with respect to 20 service agreements (including service agreements entered 21 into under section 3623) and experimental products of-22 fered through market tests under section 3641 in a year, 23 the Postal Service—

"(1) may report summary data on the costs, 1 2 revenues, and quality of service by service agreement 3 and market test; and 4 "(2) shall report such data as the Postal Regu-5 latory Commission requires. "(d) SUPPORTING MATTER.—The Postal Regulatory 6 7 Commission shall have access, in accordance with such 8 regulations as the Commission shall prescribe, to the 9 working papers and any other supporting matter of the 10 Postal Service and the Inspector General in connection with any information submitted under this section. 11 12 "(c) CONTENT AND FORM OF REPORTS.— 13 "(1) IN GENERAL.—The Postal Regulatory 14 Commission shall, by regulation, prescribe the con-15 tent and form of the public reports (and any non-16 public annex and supporting matter relating to the 17 report) to be provided by the Postal Service under 18 this section. In earrying out this subsection, the 19 Commission shall give due consideration to— 20 "(A) providing the public with timely, ade-21 quate information to assess the lawfulness of 22 rates charged; 23 "(B) avoiding unnecessary or unwarranted 24 administrative effort and expense on the part of 25 the Postal Service; and

"(C) protecting the confidentiality of com-
mercially sensitive information.
"(2) Revised requirements.—The Commis-
sion may, on its own motion or on request of an in-
terested party, initiate proceedings (to be conducted
in accordance with regulations that the Commission
shall prescribe) to improve the quality, accuracy, or
completeness of Postal Service data required by the
Commission under this subsection whenever it shall
appear that—
${(A)}$ the attribution of costs or revenues to
products has become significantly inaccurate or
can be significantly improved;
"(B) the quality of service data has be-
come significantly inaccurate or can be signifi-
cantly improved; or
"(C) such revisions are, in the judgment of
the Commission, otherwise necessitated by the
public interest.
"(f) Confidential Information.—
"(1) IN GENERAL.—If the Postal Service deter-
mines that any document or portion of a document,
or other matter, which it provides to the Postal Reg-
ulatory Commission in a nonpublic annex under this
section or under subsection (d) contains information

which is described in section 410(c) of this title, or 1 2 exempt from public disclosure under section 552(b) 3 of title 5, the Postal Service shall, at the time of 4 providing such matter to the Commission, notify the 5 Commission of its determination, in writing, and de-6 scribe with particularity the documents (or portions 7 of documents) or other matter for which confiden-8 tiality 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 the Postal Service is re-19 quired to make under this section in a year, copies of its 20 then most recent—

21 <u>"(1) comprehensive statement under section</u>
22 <u>2401(e);</u>

23  $\frac{\text{``(2) strategic plan under section 2802;}}{\text{ strategic plan under section 2802;}}$ 

24 <u>"(3) performance plan under section 2803; and</u>

1 <u>"(4) program performance reports under sec-</u> 2 tion 2804.

#### 3 "§ 3653. Annual determination of compliance

4 "(a) OPPORTUNITY FOR PUBLIC COMMENT.—After 5 receiving the reports required under section 3652 for any 6 year, the Postal Regulatory Commission shall promptly 7 provide an opportunity for comment on such reports by 8 users of the mails, affected parties, and an officer of the 9 Commission who shall be required to represent the inter-10 ests of the general public.

11 "(b) DETERMINATION OF COMPLIANCE OR NON-12 COMPLIANCE.—Not later than 90 days after receiving the 13 submissions required under section 3652 with respect to 14 a year, the Postal Regulatory Commission shall make a 15 written determination as to—

16 "(1) whether any rates or fees in effect during 17 such year (for products individually or collectively) 18 were not in compliance with applicable provisions of 19 this chapter (or regulations promulgated there-20 under); or

21 <u>"(2)</u> whether any service standards in effect
22 during such year were not met.

23 If, with respect to a year, no instance of noncompliance
24 is found under this subsection to have occurred in such
25 year, the written determination shall be to that effect.
"(e) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
 year, a timely written determination of noncompliance is
 made under subsection (b), the Postal Regulatory Com mission shall take any appropriate remedial action author ized by section 3662(e).

6 "(d) REBUTTABLE PRESUMPTION.—A timely written 7 determination described in the last sentence of subsection 8 (b) shall, for purposes of any proceeding under section 9 3662, create a rebuttable presumption of compliance by 10 the Postal Service (with regard to the matters described 11 in paragraphs (1) through (3) of subsection (b)) during 12 the year to which such determination relates.".

## 13 SEC. 205. COMPLAINTS; APPELLATE REVIEW AND EN-14FORCEMENT.

15 Chapter 36 of title 39, United States Code, is amend16 ed by striking sections 3662 and 3663 and inserting the
17 following:

#### 18 "§ 3662. Rate and service complaints

19 "(a) IN GENERAL.—Interested persons (including an 20 officer of the Postal Regulatory Commission representing 21 the interests of the general public) who believe the Postal 22 Service is not operating in conformance with the require-23 ments of chapter 1, 4, or 6, or this chapter (or regulations 24 promulgated under any of those chapters) may lodge a

1	complaint with the Postal Regulatory Commission in such	
2	form and manner as the Commission may prescribe.	
3	"(b) Prompt Response Required.—	
4	"(1) In GENERAL.—The Postal Regulatory	
5	Commission shall, within 90 days after receiving a	
6	complaint under subsection (a), either—	
7	"(A) begin proceedings on such complaint;	
8	<del>OP</del>	
9	"(B) issue an order dismissing the com-	
10	plaint (together with a statement of the reasons	
11	therefor).	
12	$\frac{2}{(2)}$ Treatment of complaints not timely	
13	ACTED ON.—For purposes of section 3663, any com-	
14	plaint under subsection (a) on which the Commis-	
15	sion fails to act in the time and manner required by	
16	paragraph (1) shall be treated in the same way as	
17	if it had been dismissed under an order issued by	
18	the Commission on the last day allowable for the	
19	issuance of such order under paragraph (1).	
20	"(c) Action Required If Complaint Found To	
21	BE JUSTIFIED.—If the Postal Regulatory Commission	
22	finds the complaint to be justified, it shall order that the	
23	Postal Service take such action as the Commission con-	
24	siders appropriate in order to achieve compliance with the	
25	applicable requirements and to remedy the effects of any	

noncompliance including ordering unlawful rates to be ad justed to lawful levels, ordering the cancellation of market
 tests, ordering the Postal Service to discontinue providing
 loss-making products, and requiring the Postal Service to
 make up for revenue shortfalls in competitive products.

"(d) AUTHORITY TO ORDER FINES IN CASES OF DE-6 7 LIBERATE NONCOMPLIANCE.—In addition, in cases of de-8 liberate noncompliance by the Postal Service with the re-9 quirements of this title, the Postal Regulatory Commission 10 may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the 11 amount specified by the Commission in its order) for each 12 incidence of noncompliance. Fines resulting from the pro-13 vision of competitive products shall be paid out of the 14 15 Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall 16 be deposited in the general fund of the Treasury of the 17 United States. 18

#### 19 "§ 3663. Appellate review

20 "A person, including the Postal Service, adversely af-21 fected or aggrieved by a final order or decision of the Post-22 al Regulatory Commission may, within 30 days after such 23 order or decision becomes final, institute proceedings for 24 review thereof by filing a petition in the United States 25 Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with sec tion 706 of title 5, and chapter 158 and section 2112 of

3 title 28, on the basis of the record before the Commission.

#### 4 "§ 3664. Enforcement of orders

5 <u>"The several district courts have jurisdiction specifi-</u>

6 cally to enforce, and to enjoin and restrain the Postal

7 Service from violating, any order issued by the Postal Reg-

8 ulatory Commission.".

#### 9 SEC. 206. CLERICAL AMENDMENT.

10 Chapter 36 of title 39, United States Code, is amend-

11 ed by striking the heading and analysis for such chapter

12 and inserting the following:

#### "CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

<u>"See.</u>
<u>"3621. Applicability; definitions.</u>
<u>"3622. Modern rate regulation.</u>
<u>"3623. Service agreements for market-dominant products.</u>
<u>"[3624. Repealed.]</u>
<u>"[3625. Repealed.]</u>
<u>"3626. Reduced Rates.</u>
<u>"3627. Adjusting free rates.</u>
<u>"[3628. Repealed.]</u>
<u>"[3629. Reduced rates for voter registration purposes.</u>

## "SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

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

#### "SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

<u>"3641. Market tests of experimental products.</u>

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

### "SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

<u>"3651. Annual reports by the Commission.</u> <u>"3652. Annual reports to the Commission.</u> <u>"3653. Annual determination of compliance.</u>

#### "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

<u>"3681. Reimbursement.</u> <u>"3682. Size and weight limits.</u>

"3683. Uniform rates for books; films, other materials.

<u>"3684.</u> Limitations.

"3685. Filing of information relating to periodical publications.

"3686. Bonus authority.

"SUBCHAPTER VII—MODERN SERVICE STANDARDS

"3691. Establishment of modern service standards.".

# 1**TITLE III—MODERN SERVICE**2**STANDARDS**

3 SEC. 301. ESTABLISHMENT OF MODERN SERVICE STAND-

ARDS.

4

9

5 Chapter 36 of title 39, United States Code, as 6 amended by this Act, is further amended by adding at the 7 end the following:

8 <u>"SUBCHAPTER VII—MODERN SERVICE</u>

**STANDARDS** 

#### 10 "§ 3691. Establishment of modern service standards

"(a) AUTHORITY GENERALLY.—The Postal Regu latory Commission shall, within 12 months after the date
 of the enactment of this section, by regulation establish

1	(and may from time to time thereafter by regulation re-
2	vise) a set of service standards for market-dominant prod-
3	ucts consistent with sections 101 (a) and (b) and 403.
4	"(b) OBJECTIVES.—Such standards shall be designed
5	to achieve the following objectives:
6	"(1) To enhance and preserve the value of post-
7	al services to both senders and recipients.
8	"(2) To provide a system of objective external
9	performance measurements for each market-domi-
10	nant product as a basis for measurement of Postal
11	Service performance.
12	<del>"(3)</del> To guarantee Postal Service customers de-
13	livery reliability, speed and frequency consistent with
14	reasonable rates and best business practices.
15	"(e) FACTORS.—In establishing or revising such
16	standards, the Postal Regulatory Commission shall take
17	into account—
18	${}(1)$ the actual level of service that Postal Serv-
19	ice customers receive under any service guidelines
20	previously established by the Postal Service or serv-
21	ice standards established under this section;
22	(2) the degree of customer satisfaction with
23	Postal Service performance in the acceptance, proc-
24	essing and delivery of mail;

"(3) mail volume and revenues projected for fu-	
ture years;	
${}$ (4) the projected growth in the number of ad-	
dresses the Postal Service will be required to serve	
in future years;	
${(5)}$ the current and projected future cost of	

8 "(6) the effect of changes in technology, demo-9 graphics and population distribution on the efficient 10 and reliable operation of the postal delivery system; 11 and

serving Postal Service customers;

12  $\frac{((7))}{(7)}$  the policies of this title as well as such 13 other factors as the Commission determines appro-14 priate.".

#### 15 SEC. 302. POSTAL SERVICE PLAN.

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16 (a) IN GENERAL.—Within 6 months after the establishment of the service standards under section 3691 of 17 title 39, United States Code, as added by this Act, the 18 Postal Service shall, in consultation with the Postal Regu-19 20 latory Commission, develop and submit to Congress a plan 21 for meeting those standards.

#### 22 (b) CONTENT.—The plan under this section shall—

23 (1) establish performance goals;

24 (2) describe any changes to the Postal Service's 25 processing, transportation, delivery, and retail networks necessary to allow the Postal Service to meet
 the performance goals; and

3 (3) describe any changes to planning and per4 formance management documents previously sub5 mitted to Congress to reflect new performance goals.
6 (c) POSTAL FACILITIES.—The Postal Service plan
7 shall include a description of its long-term vision for
8 rationalizing its infrastructure and workforce and how it
9 intends to implement that vision, including—

(1) a strategy for how it intends to rationalize
the postal facilities network and remove excess processing capacity and space from the network, including estimated timeframes, criteria and processes to
be used for making changes to the facilities network,
and the process for engaging policy makers and the
public in related decisions;

17 (2) an update on how postal decisions related to
18 mail changes, security, automation initiatives,
19 worksharing, information technology systems, and
20 other areas will impact network rationalization
21 plans;

22 (3) a discussion of what impact any facility
23 changes may have on the postal workforce and
24 whether the Postal Service has sufficient flexibility
25 to make needed workforce changes; and

	10
1	(4) an identification of anticipated costs, cost
2	savings, and other benefits associated with the infra-
3	structure rationalization alternatives discussed in the
4	<del>plan.</del>
5	(d) ALTERNATE RETAIL OPTIONS.—The Postal Serv-
6	ice plan shall include plans to expand and market retail
7	access to postal services, in addition to post offices, includ-
8	ing-
9	(1) vending machines;
10	(2) the Internet;
11	(3) Postal Service employees on delivery routes;
12	and
13	(4) retail facilities in which overhead costs are
14	shared with private businesses and other government
15	agencies.
16	(c) Reemployment Assistance and Retirement
17	BENEFITS.—The Postal Service plan shall include—
18	(1) a plan under which reemployment assist-
19	ance shall be afforded to employees displaced as a
20	result of the automation or privatization of any of
21	its functions or the closing and consolidation of any
22	of its facilities; and
23	(2) a plan, developed in consultation with the
24	Office of Personnel Management, to offer early re-
25	tirement benefits.

1	(f) Inspector General Report.—
2	(1) IN GENERAL.—Before submitting the plan
3	under this section to Congress, the Postal Service
4	shall submit the plan to the Inspector General of the
5	United States Postal Service in a timely manner to
6	carry out this subsection.
7	(2) REPORT.—The Inspector General shall pre-
8	pare a report describing the extent to which the
9	Postal Service plan—
10	(A) is consistent with the continuing obli-
11	gations of the Postal Service under title 39,
12	United States Code; and
13	(B) provides for the Postal Service to meet
14	the service standards established under section
15	$\frac{3691}{2}$
16	(3) SUBMISSION OF REPORT.—The Postal Serv-
17	ice shall submit the report of the Inspector General
18	under this subsection with the plan submitted to
19	Congress under subsection (a).

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

3 SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS 4 FUND.

5 (a) PROVISIONS RELATING TO POSTAL SERVICE
6 Competitive Products Fund and Related Mat7 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 <u>"(1) costs attributable to competitive products;</u>
18 and

19 "(2) all other costs incurred by the Postal Serv20 ice, to the extent allocable to competitive products.
21 For purposes of this subsection, the term 'costs attrib22 utable' has the meaning given such term by section 3631.
23 "(b) There shall be deposited in the Competitive
24 Products Fund, subject to withdrawal by the Postal Serv25 ice—

1 "(1) revenues from competitive products; 2 "(2) amounts received from obligations issued 3 by the Postal Service under subsection (e); 4 "(3) interest and dividends earned on invest-5 ments of the Competitive Products Fund; and 6 "(4) any other receipts of the Postal Service 7 (including from the sale of assets), to the extent al-8 locable to competitive products. 9 "(e) If the Postal Service determines that the moneys 10 of the Competitive Products Fund are in excess of current 11 needs, it may invest such amounts as it considers appro-12 priate in accordance with regulations which the Secretary 13 of the Treasury shall prescribe within 12 months after the date of enactment of the Postal Accountability and En-14 15 hancement Act. 16 "(d) The Postal Service may, in its sole discretion,

16 <sup>(d)</sup> The Postal Service may, in its sole discretion,
17 provide that moneys of the Competitive Products Fund be
18 deposited in a Federal Reserve bank or a depository for
19 public funds.

20 "(e)(1) Subject to the limitations specified in section 21 2005(a), the Postal Service is authorized to borrow money 22 and to issue and sell such obligations as it determines nec-23 essary to provide for competitive products and deposit 24 such amounts in the Competitive Products Fund, except 25 that the Postal Service may pledge only assets related to

the provision of competitive products (as determined 1 under subsection (h) or, for purposes of any period before 2 accounting practices and principles under subsection (h) 3 have been established and applied, the best information 4 5 available from the Postal Service, including the audited statements required by section 2008(c)), and the revenues 6 7 and receipts from such products, for the payment of the 8 principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes inci-9 10 dental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to 11 12 such extent and in such manner as the Postal Service determines necessary or desirable. 13

14 "(2) The Postal Service may enter into binding cov-15 enants with the holders of such obligations, and with the 16 trustee, if any, under any agreement entered into in con-17 nection with the issuance thereof with respect to—

18 <u>"(A)</u> the establishment of reserve, sinking, and
19 other funds;

20 "(B) application and use of revenues and re21 ceipts of the Competitive Products Fund;

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

1	"(D) such other matters as the Postal Service
2	considers necessary or desirable to enhance the mar-
3	ketability of such obligations.
4	"(3) Obligations issued by the Postal Service under
5	this subsection—
6	"(A) may not be purchased by the Secretary of
7	the Treasury;
8	"(B) shall not be exempt either as to principal
9	or interest from any taxation now or hereafter im-
10	posed by any State or local taxing authority;
11	"(C) shall not be obligations of, nor shall pay-
12	ment of the principal thereof or interest thereon be
13	guaranteed by, the Government of the United
14	States, and the obligations shall so plainly state; and
15	"(D) notwithstanding the provisions of the Fed-
16	eral Financing Bank Act of 1973 or any other provi-
17	sion of law (except as specifically provided by ref-
18	erence to this subparagraph in a law enacted after
19	this subparagraph takes effect), shall not be eligible
20	for purchase by, commitment to purchase by, or sale
21	or issuance to, the Federal Financing Bank.
22	(4)(A) This paragraph applies with respect to the
23	period beginning on the date of the enactment of this
24	paragraph and ending at the close of the 5-year period

which begins on the date on which the Postal Service
 makes its submission under subsection (h)(1).

3 "(B) During the period described in subparagraph (A), nothing in subparagraph (A) or (D) of paragraph (3) 4 or the last sentence of section 2006(b) shall, with respect 5 to any obligations sought to be issued by the Postal Serv-6 7 ice under this subsection, be considered to affect such obli-8 gations' eligibility for purchase by, commitment to pur-9 chase by, or sale or issuance to, the Federal Financing 10 Bank.

11 "(C) The Federal Financing Bank may elect to pur-12 chase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, 13 but at a rate of yield no less than the prevailing yield on 14 outstanding marketable securities of comparable maturity 15 issued by entities with the same credit rating as the rating 16 then most recently obtained by the Postal Service under 17 subparagraph (D), as determined by the Bank. 18

19 "(D) In order to be eligible to borrow under this 20 paragraph, the Postal Service shall first obtain a credit 21 rating from a nationally recognized credit rating organiza-22 tion. Such rating—

23 <u>"(i) shall be determined taking into account</u>
24 only those assets and activities of the Postal Service
25 which are described in section 3634(a)(2) (relating

to the Postal Service's assumed taxable income from
 competitive products); and

3 "(ii) may, before final rules of the Postal Regu4 latory Commission under subsection (h) are issued
5 (or deemed to have been issued), be based on the
6 best information available from the Postal Service,
7 including the audited statements required by section
8 2008(e).

9 "(f) The receipts and disbursements of the Competi-10 tive Products Fund shall be accorded the same budgetary 11 treatment as is accorded to receipts and disbursements of 12 the Postal Service Fund under section 2009a.

13 "(g) A judgment against the Postal Service or the 14 Government of the United States (or settlement of a 15 elaim) shall, to the extent that it arises out of activities 16 of the Postal Service in the provision of competitive prod-17 uets, be paid out of the Competitive Products Fund.

18 "(h)(1) The Postal Service, in consultation with an 19 independent, certified public accounting firm and such 20 other advisors as it considers appropriate, shall develop 21 recommendations regarding—

22 "(A) the accounting practices and principles 23 that should be followed by the Postal Service with 24 the objectives of identifying the capital and oper-25 ating costs incurred by the Postal Service in providing competitive products, and preventing the
 cross-subsidization of such products by market-domi nant products; and

4 "(B) the substantive and procedural rules that
5 should be followed in determining the Postal Serv6 ice's assumed Federal income tax on competitive
7 products income for any year (within the meaning of
8 section 3634).

9 Such recommendations shall be submitted to the Postal
10 Regulatory Commission no later than 12 months after the
11 effective date of this section.

((2)(A) Upon receiving the recommendations of the 12 13 Postal Service under paragraph (1), the Commission shall give interested parties, including the Postal Service, enter-14 15 prises in the private sector of the economy engaged in the delivery of mail matter other than letters, users of the 16 mails, and an officer of the Commission who shall be re-17 quired to represent the interests of the general public, an 18 opportunity to present their views on those recommenda-19 20 tions through submission of written data, views, or arguments with or without opportunity for oral presentation, 21 22 or in such other manner as the Commission considers ap-23 propriate.

1	"(B) After due consideration of the views and other
2	information received under subparagraph (A), the Com-
3	mission shall by rule—
4	"(i) provide for the establishment and applica-
5	tion of the accounting practices and principles which
6	shall be followed by the Postal Service;
7	"(ii) provide for the establishment and applica-
8	tion of the substantive and procedural rules de-
9	scribed in paragraph (1)(B); and
10	"(iii) provide for the submission by the Postal
11	Service to the Postal Regulatory Commission of an-
12	nual and other periodic reports setting forth such in-
13	formation as the Commission may require.
14	Final rules under this subparagraph shall be issued not
15	later than 12 months after the date on which the Postal
16	Service makes its submission to the Commission under
17	paragraph (1) (or by such later date as the Commission
18	and the Postal Service may agree to). If final rules are
19	not issued by the Commission by the deadline under the
20	preceding sentence, the recommendations submitted by
21	the Postal Service under paragraph (1) shall be treated
22	as the final rules. The Commission is authorized to pro-
23	mulgate regulations revising such rules.

24 <u>"(C) Reports described in subparagraph (B)(iii) shall</u>
25 be submitted at such time and in such form, and shall

include such information, as the Commission by rule re quires. The Commission may, on its own motion or on re quest of an interested party, initiate proceedings (to be
 conducted in accordance with such rules as the Commis sion shall prescribe) to improve the quality, accuracy, or
 completeness of Postal Service data under such subpara graph whenever it shall appear that—

8 <sup>((i)</sup> the quality of the information furnished in 9 those reports has become significantly inaccurate or 10 can be significantly improved; or

11 <u>"(ii) such revisions are, in the judgment of the</u>
12 Commission, otherwise necessitated by the public in13 terest.

14 "(D) A copy of each report described in subpara15 graph (B)(iii) shall also be transmitted by the Postal Serv16 ice to the Secretary of the Treasury and the Inspector
17 General of the United States Postal Service.

"(i) The Postal Service shall render an annual report 18 to the Secretary of the Treasury concerning the operation 19 20 of the Competitive Products Fund, in which it shall ad-21 dress such matters as risk limitations, reserve balances, 22 allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy 23 24 of its then most recent report under this subsection shall 25 be included with any other submission that it is required to make to the Postal Regulatory Commission under sec tion 3652(g).".

(2) CLERICAL AMENDMENT.—The analysis for
chapter 20 of title 39, United States Code, is
amended by adding after the item relating to section
2010 the following:
"2011. Provisions relating to competitive products.".
(b) Technical and Conforming Amendments.—
(1) DEFINITION.—Section 2001 of title 39,
United States Code, is amended by striking "and"
at the end of paragraph (1), by redesignating para-
graph $(2)$ as paragraph $(3)$ , and by inserting after
paragraph (1) the following:
"(2) Competitive Products Fund' means the
Postal Service Competitive Products Fund estab-
lished by section 2011; and".
(2) Capital of the postal service.—See-
tion 2002(b) of title 39, United States Code, is
amended by striking "Fund," and inserting "Fund
and the balance in the Competitive Products
Fund,".
(3) Postal service fund.—
(A) Purposes for which available.—
Section 2003(a) of title 39, United States Code,
is amended by striking "title." and inserting
"title (other than any of the purposes, func-

1	tions, or powers for which the Competitive
2	Products Fund is available).".
3	(B) DEPOSITS.—Section 2003(b) of title
4	<del>39, United States Code, is amended by striking</del>
5	"There" and inserting "Except as otherwise
6	provided in section 2011, there".
7	(4) Relationship between the treasury
8	AND THE POSTAL SERVICE.—Section 2006 of title
9	<del>39, United States Code, is amended</del>
10	(A) in subsection $(b)$ , by adding at the end
11	the following: "Nothing in this chapter shall be
12	considered to permit or require the Secretary of
13	the Treasury to purchase any obligations of the
14	Postal Service other than those issued under
15	section 2005."; and
16	(B) in subsection (c), by inserting "under
17	section 2005" before "shall be obligations".
18	SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETI-
19	TIVE PRODUCTS INCOME.
20	Subchapter II of chapter 36 of title 39, United States
21	Code, as amended by section 202, is amended by adding
22	at the end the following:
23	"§3634. Assumed Federal income tax on competitive
24	products income
25	"(a) DEFINITIONS.—For purposes of this section—

${}$ (1) the term 'assumed Federal income tax on
competitive products income' means the net income
tax that would be imposed by chapter 1 of the Inter-
nal Revenue Code of 1986 on the Postal Service's
assumed taxable income from competitive products
for the year; and
$\frac{((2))}{(2)}$ the term 'assumed taxable income from
competitive products', with respect to a year, refers
to the amount representing what would be the tax-
able income of a corporation under the Internal Rev-
enue Code of 1986 for the year, if—
${(\Lambda)}$ the only activities of such corporation
were the activities of the Postal Service allo-
cable under section 2011(h) to competitive
products; and
"(B) the only assets held by such corpora-
tion were the assets of the Postal Service allo-
cable under section 2011(h) to such activities.
"(b) Computation and Transfer Require-
MENTS.—The Postal Service shall, for each year beginning
with the year in which occurs the deadline for the Postal
Service's first report to the Postal Regulatory Commission
under section 3652(a)—
${}(1)$ compute its assumed Federal income tax

25 on competitive products income for such year; and

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

4 "(c) DEADLINE FOR TRANSFERS.—Any transfer re-5 quired to be made under this section for a year shall be 6 due on or before the January 15th next occurring after 7 the close of such year.".

#### 8 SEC. 403. UNFAIR COMPETITION PROHIBITED.

9 (a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39,
10 United States Code, is amended by adding after section
11 404 the following:

#### 12 **"§404a. Specific limitations**

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

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

22 <u>"(2) compel the disclosure, transfer, or licens-</u>
23 ing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets,
24 and proprietary information); or

1	${}$ (3) obtain information from a person that pro-
2	vides (or seeks to provide) any product, and then
3	offer any postal service that uses or is based in
4	whole or in part on such information, without the
5	consent of the person providing that information,
6	unless substantially the same information is obtained
7	(or obtainable) from an independent source or is
8	otherwise obtained (or obtainable).
9	"(b) The Postal Regulatory Commission shall pre-
10	scribe regulations to carry out this section.
11	"(c) Any party (including an officer of the Commis-
12	sion representing the interests of the general public) who
13	believes that the Postal Service has violated this section
14	may bring a complaint in accordance with section 3662.".
15	(b) Conforming Amendments.—
16	(1) GENERAL POWERS.—Section 401 of title
17	<del>39, United States Code, is amended by striking</del>
18	"The" and inserting "Subject to the provisions of
19	section 404a, the".
20	(2) Specific powers.—Section 404(a) of title
21	<del>39, United States Code, is amended by striking</del>
22	"Without" and inserting "Subject to the provisions
23	of section 404a, but otherwise without".

(c) CLERICAL AMENDMENT.—The analysis for chap ter 4 of title 39, United States Code, is amended by insert ing after the item relating to section 404 the following:
 <u>"404a. Specific limitations."</u>.

#### 4 SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.

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

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

11 <u>"(A) shall be considered to be a 'person', as</u>
12 used in the provisions of law involved; and

13 "(B) shall not be immune under any other doe-14 trine of sovereign immunity from suit in Federal 15 court by any person for any violation of any of those 16 provisions of law by any officer or employee of the 17 Postal Service.

18 <u>"(2)</u> This subsection applies with respect to—

19 <u>''(A)</u> the Act of July 5, 1946 (commonly re20 ferred to as the 'Trademark Act of 1946' (15 U.S.C.
21 1051 and following)); and

22 "(B) the provisions of section 5 of the Federal
23 Trade Commission Act to the extent that such sec24 tion 5 applies to unfair or deceptive acts or prac-

 $25 ext{tices.}$ 

1 "(e)(1) To the extent that the Postal Service, or other 2 Federal agency acting on behalf of or in concert with the 3 Postal Service, engages in conduct with respect to any 4 product which is not reserved to the United States under 5 section 1696 of title 18, the Postal Service or other Fed-6 eral agency (as the case may be)—

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

11 "(B) shall be considered to be a person (as de12 fined in subsection (a) of the first section of the
13 Clayton Act) for purposes of—

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

16 "(ii) section 5 of the Federal Trade Com17 mission Act to the extent that such section 5
18 applies to unfair methods of competition.

19 For purposes of the preceding sentence, any private car20 riage of mail allowable by virtue of section 601 shall not
21 be considered a service reserved to the United States
22 under section 1696 of title 18.

23 "(2) No damages, interest on damages, costs or at24 torney's fees may be recovered under the antitrust laws
25 (as so defined) from the Postal Service or any officer or

employee thereof acting in an official capacity for any con duct with respect to a product in the market-dominant
 category of mail.

4 <u>"(3)</u> This subsection shall not apply with respect to
5 conduct occurring before the date of the enactment of this
6 subsection.

7 "(f) To the extent that the Postal Service engages
8 in conduct with respect to the provision of competitive
9 products, it shall be considered a person for the purposes
10 of the Federal bankruptcy laws.

11 "(g)(1) Each building constructed or altered by the 12 Postal Service shall be constructed or altered, to the max-13 imum extent feasible as determined by the Postal Service, 14 in compliance with 1 of the nationally recognized model 15 building codes and with other applicable nationally recog-16 nized codes.

17 (2) Each building constructed or altered by the 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 24 ment of the United States.

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

4 "(A) in preparing plans for the building, con5 sult with appropriate officials of the State or polit6 ical subdivision, or both, in which the building will
7 be located;

8 <sup>((B)</sup> 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 <u>"(i)</u> a copy of such schedule before con18 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 sub25 section require the Postal Service or any of its contractors

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

5 "(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the 6 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 construction or alteration of the building to take into account 11 local conditions. The Postal Service shall give due consid-12 eration to any such recommendations. 13

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 "(h)(1) Notwithstanding any other provision of law,
24 legal representation may not be furnished by the Depart25 ment of Justice to the Postal Service in any action, suit,

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

3 "(A) Subsection (d) or (e) of this section.
4 "(B) Subsection (f) or (g) of section 504 (relat5 ing to administrative subpoenas by the Postal Regu6 latory Commission).

7 <u>"(C) Section 3663 (relating to appellate re-</u>
8 view).

9 The Postal Service may, by contract or otherwise, employ
10 attorneys to obtain any legal representation that it is pre11 cluded from obtaining from the Department of Justice
12 under this paragraph.

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

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

4 "(B) The Department of Justice shall, under such 5 terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commis-6 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 "(i) 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 "Ex19 cept as provided in section 3628 of this title," and insert20 ing "Except as otherwise provided in this title,".

### 21 TITLE V—GENERAL PROVISIONS

### 22 SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR

#### 23 GOVERNORS.

24 (a) QUALIFICATIONS.

1 (1) IN GENERAL.—Section 202(a) of title 39, 2 United States Code, is amended by striking "(a)" and inserting ((a)(1)) and by striking the fourth 3 sentence and inserting the following: "The Gov-4 5 ernors shall represent the public interest generally, 6 and shall be chosen solely on the basis of their dem-7 onstrated ability in managing organizations or cor-8 porations (in either the public or private sector) of 9 substantial size. The Governors shall not be rep-10 resentatives of specific interests using the Postal 11 Service, and may be removed only for eause.".

12 (2) APPLICABILITY.—The amendment made by 13 paragraph (1) shall not affect the appointment or 14 tenure of any person serving as a Governor of the 15 United States Postal Service under an appointment 16 made before the date of the enactment of this Act; 17 however, when any such office becomes vacant, the 18 appointment of any person to fill that office shall be 19 made in accordance with such amendment. The re-20 quirement set forth in the fourth sentence of section 21 202(a)(1) of title 39, United States Code (as amend-22 ed by subsection (a)) shall be met beginning not 23 later than 9 years after the date of the enactment 24 of this Act.

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

4 "(2) In selecting the individuals described in para-5 graph (1) for nomination for appointment to the position 6 of Governor, the President should consult with the Speak-7 er of the House of Representatives, the minority leader 8 of the House of Representatives, the majority leader of 9 the Senate, and the minority leader of the Senate.".

10 (e) <u>5-YEAR TERMS.</u>

(1) IN GENERAL.—Section 202(b) of title 39,
 United States Code, is amended in the first sentence
 by striking "9 years" and inserting "5 years".

14 (2) APPLICABILITY.

15 (A) CONTINUATION BY INCUMBENTS.— 16 The amendment made by paragraph (1) shall 17 not affect the tenure of any person serving as 18 a Governor of the United States Postal Service 19 on the date of enactment of this Act and such 20 person may continue to serve the remainder of 21 the applicable term.

22 (B) VACANCY BY INCUMBENT BEFORE 5
23 YEARS OF SERVICE.—If a person who is serving
24 as a Governor of the United States Postal Serv25 ice on the date of enactment of this Act resigns,

	• •
1	is removed, or dies before the expiration of the
2	9-year term of that Governor, and that Gov-
3	ernor has served less than 5 years of that term,
4	the resulting vacancy in office shall be treated
5	<del>as a vacancy in a 5-year term.</del>
6	(C) VACANCY BY INCUMBENT AFTER 5
7	YEARS OF SERVICE.—If a person who is serving
8	as a Governor of the United States Postal Serv-
9	ice on the date of enactment of this Act resigns,
10	is removed, or dies before the expiration of the
11	9-year term of that Governor, and that Gov-
12	ernor has served 5 years or more of that term,
13	that term shall be deemed to have been a 5-year
14	term beginning on its commencement date for
15	purposes of determining vacancies in office. Any
16	appointment to the vacant office shall be for a
17	5-year term beginning at the end of the original
18	9-year term determined without regard to the
19	deeming under the preceding sentence. Nothing
20	in this subparagraph shall be construed to af-
21	fect any action or authority of any Governor or
22	the Board of Governors during any portion of
23	a 9-year term deemed to be a 5-year term
24	under this subparagraph.
25	

25 (d) TERM LIMITATION.

1	(1) IN GENERAL.—Section 202(b) of title 39,
2	United States Code, is amended—
3	(A) by inserting "(1)" after "(b)"; and
4	(B) by adding at the end the following:
5	$\frac{(2)}{(2)}$ No person may serve more than 3 terms
6	as a Governor.".
7	(2) APPLICABILITY.—The amendments made
8	by paragraph (1) shall not affect the tenure of any
9	person serving as a Governor of the United States
10	Postal Service on the date of enactment of this Act
11	with respect to the term which that person is serving
12	on that date. Such person may continue to serve the
13	remainder of the applicable term, after which the
14	amendments made by paragraph (1) shall apply.
15	SEC. 502. 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) Increase Relating to Obligations Issued

(b) INCREASE RELATING TO OBLIGATIONS ISSUED
FOR CAPITAL IMPROVEMENTS. Section 2005(a)(1) of
title 39, United States Code, is amended by striking the
third sentence.

1 (c) Amounts Which May Be Pledged.—

2	(1) Obligations to which provisions
3	APPLY.—The first sentence of section $2005(b)$ of
4	title 39, United States Code, is amended by striking
5	"such obligations," and inserting "obligations issued
6	by the Postal Service under this section,".
7	(2) Assets, revenues, and receipts to
8	WHICH PROVISIONS APPLY.—Subsection (b) of sec-
9	tion 2005 of title 39, United States Code, is amend-
10	ed by striking "(b)" and inserting "(b)(1)", and by
11	adding at the end the following:
12	${}(2)$ Notwithstanding any other provision of this sec-
13	tion—
13 14	tion— <u> "(A) the authority to pledge assets of the Post-</u>
14	"(A) the authority to pledge assets of the Post-
14 15	"(A) the authority to pledge assets of the Post- al Service under this subsection shall be available
14 15 16	"(A) the authority to pledge assets of the Post- al Service under this subsection shall be available only to the extent that such assets are not related
14 15 16 17	"(A) the authority to pledge assets of the Post- al Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as deter-
14 15 16 17 18	"(A) the authority to pledge assets of the Post- al Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as deter- mined under section 2011(h) or, for purposes of any
14 15 16 17 18 19	"(A) the authority to pledge assets of the Post- al Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as deter- mined under section 2011(h) or, for purposes of any period before accounting practices and principles
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	"(A) the authority to pledge assets of the Post- al Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as deter- mined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and ap-

24 "(B) any authority under this subsection relat25 ing to the pledging or other use of revenues or re-
ceipts of the Postal Service shall be available only to 1 2 the extent that they are not revenues or receipts of 3 the Competitive Products Fund.". 4 SEC. 503. PRIVATE CARRIAGE OF LETTERS. 5 (a) IN GENERAL.—Section 601 of title 39, United States Code, is amended by striking subsection (b) and 6 7 inserting the following: 8 "(b) A letter may also be carried out of the mails 9 when-"(1) the amount paid for the private carriage of 10 11 the letter is at least the amount equal to 6 times the 12 rate then currently charged for the 1st ounce of a 13 single-piece first class letter; 14  $\frac{(2)}{(2)}$  the letter weighs at least  $\frac{121}{2}$  ounces; or 15 "(3) such carriage is within the scope of serv-16 ices described by regulations of the United States 17 Postal Service (as in effect on July 1, 2001) that 18 purport to permit private carriage by suspension of 19 the operation of this section (as then in effect). 20 "(e) Any regulations necessary to carry out this seetion shall be promulgated by the Postal Regulatory Com-21 22 mission.". 23 (b) EFFECTIVE DATE.—This section shall take effect 24 on the date as of which the regulations promulgated under

section 3633 of title 39, United States Code (as amended
 by section 202) take effect.

#### 3 SEC. 504. RULEMAKING AUTHORITY.

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

6 "(2) to adopt, amend, and repeal such rules 7 and regulations, not inconsistent with this title, as 8 may be necessary in the execution of its functions 9 under this title and such other functions as may be 10 assigned to the Postal Service under any provisions 11 of law outside of this title;".

12 SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-13 GAINING AGREEMENTS.

14 (a) LABOR DISPUTES.—Section 1207 of title 39,
15 United States Code, is amended to read as follows:

### 16 **"§1207. Labor disputes**

17 "(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or mod-18 ify such agreement unless the party desiring such termi-19 nation or modification serves written notice upon the other 20 party to the agreement of the proposed termination or 21 22 modification not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time 23 it is proposed to make such termination or modification. 24 The party serving such notice shall notify the Federal Me-25

diation and Conciliation Service of the existence of a dis pute within 45 days of such notice, if no agreement has
 been reached by that time.

4 "(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute 5 by the expiration date of the agreement in effect, or the 6 7 date of the proposed termination or modification, the Di-8 rector of the Federal Mediation and Conciliation Service 9 shall within 10 days appoint a mediator of nationwide rep-10 utation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties 11 12 shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at 13 such times and places that the mediator, in consultation 14 15 with the parties, shall direct.

16  $\frac{(e)(1)}{1}$  If no agreement is reached within 60 days 17 after the expiration or termination of the agreement or the date on which the agreement became subject to modi-18 fication under subsection (a) of this section, or if the par-19 ties decide upon arbitration but do not agree upon the pro-20 ecdures therefore, an arbitration board shall be established 21 22 consisting of 3 members, 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of 23 24 the employees, and the third by the 2 thus selected. If 25 either of the parties fails to select a member, or if the

1 members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection 2 shall be made from a list of names provided by the Diree-3 tor. This list shall consist of not less then 9 names of arbi-4 5 trators of nationwide reputation and professional nature, who are also members of the National Academy of Arbi-6 7 trators, and whom the Director has determined are avail-8 able and willing to serve.

9  $\frac{(2)}{(2)}$  The arbitration board shall give the parties a 10 full and fair hearing, including an opportunity to present 11 evidence in support of their claims, and an opportunity 12 to present their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration 13 board shall be conclusive and binding upon the parties. 14 15 The arbitration board shall render its decision within 45 days after its appointment. 16

17 "(3) Costs of the arbitration board and mediation
18 shall be shared equally by the Postal Service and the bar19 gaining representative.

20 "(d) In the case of a bargaining unit whose recog-21 nized collective-bargaining representative does not have an 22 agreement with the Postal Service, if the parties fail to 23 reach the agreement within 90 days of the commencement 24 of collective bargaining, a mediator shall be appointed in 25 accordance with the terms in subsection (b) of this section,

unless the parties have previously agreed to another proce-1 dure for a binding resolution of their differences. If the 2 parties fail to reach agreement within 180 days of the 3 4 commencement of collective bargaining, and if they have 5 not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive 6 7 and binding arbitration in accordance with the terms of 8 subsection (c) of this section.".

(b) Noninterference With Collective Bar-9 GAINING AGREEMENTS.—Except as otherwise provided by 10 the amendment made by subsection (a), nothing in this 11 Act shall restrict, expand, or otherwise affect any of the 12 rights, privileges, or benefits of either employees of or 13 labor organizations representing employees of the United 14 15 States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any hand-16 book or manual affecting employee labor relations within 17 the United States Postal Service, or any collective bar-18 19 gaining agreement.

20 (c) FREE MAILING PRIVILEGES CONTINUE UN21 CHANGED.—Nothing in this Act or any amendment made
22 by this Act shall affect any free mailing privileges ac23 corded under section 3217 or sections 3403 through 3406
24 of title 39, United States Code.

#### TITLE VI-ENHANCED REGULATORY COMMISSION 2 3 SEC. 601. REORGANIZATION AND MODIFICATION OF CER-

TAIN PROVISIONS RELATING TO THE POSTAL

#### **REGULATORY COMMISSION.**

6 (a) TRANSFER AND REDESIGNATION.—Title 39,

United States Code, is amended— 7

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

#### "CHAPTER 5—POSTAL REGULATORY 9

#### **COMMISSION** 10

"See. <u>"501.</u> Establishment. <u>"502.</u> Commissioners. "503. Rules; regulations; procedures. "504. Administration.

#### 11 "§ 501. Establishment

1

4

5

12 "The Postal Regulatory Commission is an independent establishment of the executive branch of the Gov-13 ernment of the United States. 14

#### "§ 502. Commissioners 15

"(a) The Postal Regulatory Commission is composed 16 of 5 Commissioners, appointed by the President, by and 17 18 with the advice and consent of the Senate. The Commis-19 sioners shall be chosen solely on the basis of their technical 20 qualifications, professional standing, and demonstrated 21 expertise in economics, accounting, law, or public adminis-22 tration, and may be removed by the President only for

cause. Each individual appointed to the Commission shall
 have the qualifications and expertise necessary to carry
 out the enhanced responsibilities accorded Commissioners
 under the Postal Accountability and Enhancement Act.
 Not more than 3 of the Commissioners may be adherents
 of the same political party.

7 "(b) No Commissioner shall be financially interested
8 in any enterprise in the private sector of the economy en9 gaged in the delivery of mail matter.

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

15 "(d) One of the Commissioners shall be designated
16 as Chairman by, and shall serve in the position of Chair17 man at the pleasure of, the President.

18 "(e) The Commissioners shall by majority vote des19 ignate a Vice Chairman of the Commission. The Vice
20 Chairman shall act as Chairman of the Commission in the
21 absence of the Chairman.

22 <u>"(f)</u> The Commissioners shall serve for terms of 6
23 years.";

24 (2) by striking, in subchapter I of chapter 36
25 (as in effect before the amendment made by section

1	201(c)), the heading for such subchapter I and all
2	that follows through section 3602; and

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

7 (b) APPLICABILITY.—The amendment made by sub-8 section (a)(1) shall not affect the appointment or tenure 9 of any person serving as a Commissioner on the Postal 10 Regulatory Commission (as so redesignated by section 11 604) under an appointment made before the date of the 12 enactment of this Act or any nomination made before that date, but, when any such office becomes vacant, the ap-13 pointment of any person to fill that office shall be made 14 15 in accordance with such amendment.

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

19 SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-

20 SION TO ISSUE SUBPOENAS.

Section 504 of title 39, United States Code (as so
redesignated by section 601) is amended by adding at the
end the following:

24 "(f)(1) Any Commissioner of the Postal Regulatory
25 Commission, any administrative law judge appointed by
•S 2468 RS

the Commission under section 3105 of title 5, and any
 employee of the Commission designated by the Commis sion may administer oaths, examine witnesses, take depo sitions, and receive evidence.

5 "(2) The Chairman of the Commission, any Commis6 sioner designated by the Chairman, and any administra7 tive law judge appointed by the Commission under section
8 3105 of title 5 may, with respect to any proceeding con9 ducted by the Commission under this title—

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

14 "(B) order the taking of depositions and re15 sponses to written interrogatories by a covered per16 son.

17 The written concurrence of a majority of the Commis18 sioners then holding office shall, with respect to each sub19 poena under subparagraph (A), be required in advance of
20 its issuance.

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

5 <u>"(4)</u> For purposes of this subsection, the term 'cov6 ered person' means an officer, employee, agent, or con7 tractor of the Postal Service.

 $\frac{(g)(1)}{(g)(1)}$  If the Postal Service determines that any doe-8 9 ument or other matter it provides to the Postal Regulatory 10 Commission under a subpoena issued under subsection (f), or otherwise at the request of the Commission in connec-11 12 tion with any proceeding or other purpose under this title, contains information which is described in section 410(e) 13 of this title, or exempt from public disclosure under see-14 tion 552(b) of title 5, the Postal Service shall, at the time 15 of providing such matter to the Commission, notify the 16 17 Commission, in writing, of its determination (and the reasons therefor). 18

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

23 <u>"(A) use such information for purposes other</u>
24 than the purposes for which it is supplied; or

1 <u>"(B)</u> permit anyone who is not an officer or 2 employee of the Commission to have access to any 3 such information.

4  $\frac{(3)(A)}{(3)(A)}$  Paragraph (2) shall not prohibit the 5 Commission from publicly disclosing relevant infor-6 mation in furtherance of its duties under this title, 7 provided that the Commission has adopted regula-8 tions under section 553 of title 5, that establish a 9 procedure for according appropriate confidentiality 10 to information identified by the Postal Service under 11 paragraph (1). In determining the appropriate de-12 gree of confidentiality to be accorded information 13 identified by the Postal Service under paragraph (1), 14 the Commission shall balance the nature and extent 15 of the likely commercial injury to the Postal Service 16 against the public interest in maintaining the finan-17 cial transparency of a government establishment 18 competing in commercial markets.

19 "(B) Paragraph (2) shall not prevent the Com20 mission from requiring production of information in
21 the course of any discovery procedure established in
22 connection with a proceeding under this title. The
23 Commission shall, by regulations based on rule 26(c)
24 of the Federal Rules of Civil Procedure, establish

1	procedures for ensuring appropriate confidentiality
2	for information furnished to any party.".
•	

## 3 SEC. 603. APPROPRIATIONS FOR THE POSTAL REGU-4 LATORY COMMISSION.

5 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-6 section (d) of section 504 of title 39, United States Code 7 (as so redesignated by section 601) is amended to read 8 as follows:

9 "(d) There are authorized to be appropriated, out of 10 the Postal Service Fund, such sums as may be necessary for the Postal Regulatory Commission. In requesting an 11 12 appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress 13 under section 2009 a budget of the Commission's ex-14 15 penses, including expenses for facilities, supplies, compensation, and employee benefits.". 16

17 (b) BUDGET PROGRAM.

18 (1) IN GENERAL.—The next to last sentence of 19 section 2009 of title 39, United States Code, is 20 amended to read as follows: "The budget program 21 shall also include separate statements of the 22 amounts which (1) the Postal Service requests to be 23 appropriated under subsections (b) and (c) of section 24 2401, (2) the Office of Inspector General of the 25 United States Postal Service requests to be appro-

1	priated, out of the Postal Service Fund, under see-
2	tion 8G(f) of the Inspector General Act of 1978, and
3	(3) the Postal Regulatory Commission requests to be
4	appropriated, out of the Postal Service Fund, under
5	section 504(d) of this title.".

6 (2)CONFORMING AMENDMENT.—Section 7 2003(e)(1) of title 39, United States Code, is 8 amended by striking the first sentence and inserting 9 the following: "The Fund shall be available for the 10 payment of (A) all expenses incurred by the Postal 11 Service in carrying out its functions as provided by 12 law, subject to the same limitation as set forth in 13 the parenthetical matter under subsection (a); (B) 14 all expenses of the Postal Regulatory Commission, 15 subject to the availability of amounts appropriated 16 under section 504(d); and (C) all expenses of the 17 Office of Inspector General, subject to the avail-18 ability of amounts appropriated under section SG(f)19 of the Inspector General Act of 1978.".

20 (c) EFFECTIVE DATE.

21 (1) IN GENERAL.—The amendments made by
22 this section shall apply with respect to fiscal years
23 beginning on or after October 1, 2002.

24 (2) SAVINGS PROVISION. The provisions of
25 title 39, United States Code, that are amended by

this section shall, for purposes of any fiscal year be fore the first fiscal year to which the amendments
 made by this section apply, continue to apply in the
 same way as if this section had never been enacted.
 SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMIS-

SION.

6

7 (a) AMENDMENTS TO TITLE 39, UNITED STATES 8 CODE.—Title 39, United States Code, is amended in sec-9 tions 404, 503 and 504 (as so redesignated by section 10 601), 1001 and 1002, by striking "Postal Rate Commis-11 sion" each place it appears and inserting "Postal Regu-12 latory Commission".

(b) AMENDMENTS TO TITLE 5, UNITED STATES 13 14 CODE.—Title 5, United States Code, is amended in seetions 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item 15 relating to Chairman, Postal Rate Commission), 5315 (in 16 the item relating to Members, Postal Rate Commission), 17 7342(a)(1)(A), 18 <del>5514(a)(5)(B),</del> <del>7511(a)(1)(B)(ii),</del> 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking 19 "Postal Rate Commission" and inserting "Postal Regu-20 latory Commission". 21

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

"Postal Rate Commission" and inserting "Postal Regu latory Commission".

3 (d) AMENDMENT TO THE REHABILITATION ACT OF
4 1973.—Section 501(b) of the Rehabilitation Act of 1973
5 (29 U.S.C. 791(b)) is amended by striking "Postal Rate
6 Office" and inserting "Postal Regulatory Commission".

7 (e) AMENDMENT TO TITLE 44, UNITED STATES
8 CODE.—Section 3502(5) of title 44, United States Code,
9 is amended by striking "Postal Rate Commission" and in10 serting "Postal Regulatory Commission".

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

#### 17 SEC. 605. FINANCIAL TRANSPARENCY.

18 Section 101 of title 39, United States Code, is
19 amended—

20 (1) by redesignating subsections (d) through (g)
21 as subsections (e) through (h), respectively; and

22 (2) by inserting after subsection (c) the fol23 lowing:

24 "(d) As an independent establishment of the execu25 tive branch of the Government of the United States, the

Postal Service shall be subject to a high degree of trans parency to ensure fair treatment of customers of the Post al Service's market-dominant products and companies
 competing with the Postal Service's competitive prod uets.".

# 6 **TITLE VII—EVALUATIONS** 7 SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICA-8 TION, AND OTHER PROVISIONS.

9 (a) IN GENERAL.—The Postal Regulatory Commis10 sion shall, at least every 3 years, submit a report to the
11 President and Congress concerning—

12 (1) the operation of the amendments made by
13 this Act; and

14 (2) recommendations for any legislation or
15 other measures necessary to improve the effective16 ness or efficiency of the postal laws of the United
17 States.

18 (b) POSTAL SERVICE VIEWS.—A report under this 19 section shall be submitted only after reasonable oppor-20 tunity has been afforded to the Postal Service to review 21 the report and to submit written comments on the report. 22 Any comments timely received from the Postal Service 23 under the preceding sentence shall be attached to the re-24 port submitted under subsection (a). 1 SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND

#### THE POSTAL MONOPOLY.

2

3 (a) Report by the Postal Service.—

4 (1) IN GENERAL.—Not later than 12 months 5 after the date of enactment of this Act, the Postal 6 Regulatory Commission shall submit a report to the 7 President and Congress on universal postal service 8 and the postal monopoly in the United States (in 9 this section referred to as "universal service and the postal monopoly"), including the monopoly on the 10 11 delivery of mail and on access to mailboxes.

12 (2) CONTENTS.—The report under this sub13 section shall include—

14(A) a comprehensive review of the history15and development of universal service and the16postal monopoly, including how the scope and17standards of universal service and the postal18monopoly have evolved over time for the Nation19and its urban and rural areas;

20 (B) the scope and standards of universal
21 service and the postal monopoly provided under
22 current law (including sections 101 and 403 of
23 title 39, United States Code), and current
24 rules, regulations, policy statements, and prac25 tices of the Postal Service;

1(C) a description of any geographic areas,2populations, communities (including both urban3and rural communities), organizations, or other4groups or entities not currently covered by uni-5versal service or that are covered but that are6receiving services deficient in scope or quality7or both; and

8 (D) the scope and standards of universal 9 service and the postal monopoly likely to be re-10 quired in the future in order to meet the needs 11 and expectations of the United States public, 12 including all types of mail users, based on dis-13 cussion of such assumptions, alternative sets of 14 assumptions, and analyses as the Postal Service 15 considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERV17 ICE AND THE MONOPOLY.—The Postal Regulatory Com18 mission shall include in the report under subsection (a),
19 and in all reports submitted under section 701 of this
20 Act—

(1) any recommended changes to universal service and the postal monopoly as the Commission considers appropriate, including changes that the Commission may implement under current law and
changes that would require changes to current law,

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1	with estimated effects of the recommendations on
2	the service, financial condition, rates, and security of
3	mail provided by the Postal Service;
4	(2) with respect to each recommended change
5	described under paragraph (1)—
6	$(\Lambda)$ an estimate of the costs of the Postal
7	Service attributable to the obligation to provide
8	universal service under current law; and
9	(B) an analysis of the likely benefit of the
10	current postal monopoly to the ability of the
11	Postal Service to sustain the current scope and
12	standards of universal service, including esti-
13	mates of the financial benefit of the postal mo-
14	nopoly to the extent practicable, under current
15	<del>law;</del> and
16	(3) such additional topics and recommendations
17	as the Commission considers appropriate, with esti-
18	mated effects of the recommendations on the service,
19	financial condition, rates, and the security of mail
20	provided by the Postal Service.
21	SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO
22	COMPETITIVE PRODUCTS.
23	(a) IN GENERAL.—The Federal Trade Commission
24	
27	shall prepare and submit to the President and Congress,

after the date of the enactment of this Act, a comprehen sive report identifying Federal and State laws that apply
 differently to the United States Postal Service with re spect to the competitive category of mail (within the mean ing of section 102 of title 39, United States Code, as
 amended by section 101) and similar products provided
 by private companies.

8 (b) RECOMMENDATIONS.—The Federal Trade Com-9 mission shall include such recommendations as it con-10 siders appropriate for bringing such legal discrimination 11 to an end, and in the interim, to account under section 12 3633 of title 39, United States Code (as added by this 13 Act), for the net economic advantages provided by those 14 laws.

15 (c) CONSULTATION.—In preparing its report, the 16 Federal Trade Commission shall consult with the United 17 States Postal Service, the Postal Regulatory Commission, 18 other Federal agencies, mailers, private companies that 19 provide delivery services, and the general public, and shall 20 append to such report any written comments received 21 under this subsection.

22 (d) COMPETITIVE PRODUCT REGULATION.—The
23 Postal Regulatory Commission shall take into account the
24 recommendations of the Federal Trade Commission in

promulgating or revising the regulations required under
 section 3633 of title 39, United States Code.

# 3 TITLE VIII—POSTAL SERVICE 4 RETIREMENT AND HEALTH 5 BENEFITS FUNDING

#### 6 SEC. 801. SHORT TITLE.

7 This title may be cited as the "Postal Civil Service
8 Retirement and Health Benefits Funding Amendments of
9 2004".

#### 10 SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.

11 (a) IN GENERAL.—Chapter 83 of title 5, United
12 States Code, is amended—

13 (1) in section 8334(a)(1)(B), by striking clause
14 (ii) and inserting the following:

15 "(ii) In the case of an employee of the United States
16 Postal Service, no amount shall be contributed under this
17 subparagraph."; and

18 (2) by amending section 8348(h) to read as fol19 lows:

20 "(h)(1) In this subsection, the term 'Postal surplus
21 or supplemental liability' means the estimated difference,
22 as determined by the Office, between—

23 <u>"(A) the actuarial present value of all future</u>
24 benefits payable from the Fund under this sub25 chapter to current or former employees of the

United States Postal Service and attributable to ei vilian employment with the United States Postal
 Service; and

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

10 "(ii) that portion of the Fund balance, as 11 of the date the Postal surplus or supplemental 12 liability is determined, attributable to payments 13 to the Fund by the United States Postal Serv-14 ice and its employees, minus benefit payments 15 attributable to eivilian employment with the 16 United States Postal Service, plus the earnings 17 on such amounts while in the Fund; and

18 "(iii) any other appropriate amount, as de19 termined by the Office in accordance with gen20 erally accepted actuarial practices and prin21 eiples.

22 "(2)(A) Not later than June 30, 2006, the Office
23 shall determine the Postal surplus or supplemental liabil24 ity, as of September 30, 2005. If that result is a surplus,
25 the amount of the surplus shall be transferred to the Post-

al Service Retiree Health Benefits Fund established under
 section 8909a. If the result is a supplemental liability, the
 Office shall establish an amortization schedule, including
 a series of annual installments commencing September 30,
 2006, which provides for the liquidation of such liability
 by September 30, 2043.

7 "(B) The Office shall redetermine the Postal surplus 8 or supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2006, 9 10 through the fiscal year ending September 30, 2038. If the 11 result is a surplus, that amount shall remain in the Fund 12 until distribution is authorized under subparagraph (C), and any prior amortization schedule for payments shall 13 be terminated. If the result is a supplemental liability, the 14 15 Office shall establish a new amortization schedule, including a series of annual installments commencing on Sep-16 tember 30 of the subsequent fiscal year, which provides 17 for the liquidation of such liability by September 30, 2043. 18

19 "(C) As of the close of the fiscal years ending Sep-20 tember 30, 2015, 2025, 2035, and 2039, if the result is 21 a surplus, that amount shall be transferred to the Postal 22 Service Retiree Health Benefits Fund, and any prior am-23 ortization schedule for payments shall be terminated.

24 "(D) Amortization schedules established under this
25 paragraph shall be set in accordance with generally accept-

ed actuarial practices and principles, with interest com puted at the rate used in the most recent valuation of the
 Civil Service Retirement System.

4 "(E) The United States Postal Service shall pay the
5 amounts so determined to the Office, with payments due
6 not later than the date scheduled by the Office.

7 "(3) Notwithstanding any other provision of law, in 8 computing the amount of any payment under any other 9 subsection of this section that is based upon the amount 10 of the unfunded liability, such payment shall be computed 11 disregarding that portion of the unfunded liability that the 12 Office determines will be liquidated by payments under 13 this subsection.".

14 (b) CREDIT ALLOWED FOR MILITARY SERVICE.—In the application of section 8348(g)(2) of title 5, United 15 States Code, for the fiscal year 2006, the Office of Per-16 17 sonnel Management shall include, in addition to the amount otherwise computed under that paragraph, the 18 amounts that would have been included for the fiscal years 19 20 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Serv-21 ice as though the Postal Civil Service Retirement System 22 Funding Reform Act of 2003 (Public Law 108–18) had 23 not been enacted, and the Secretary of the Treasury shall 24

make the required transfer to the Civil Service Retirement
 and Disability Fund based on that amount.

#### 3 SEC. 803. HEALTH INSURANCE.

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

6 (1) in section 8906(g)(2)(A), by striking "shall 7 be paid by the United States Postal Service." and 8 inserting "shall be paid first from the Postal Service 9 Retiree Health Benefits Fund up to the amount con-10 tained in the Fund, with any remaining amount paid 11 by the United States Postal Service."; and

12 (2) by inserting after section 8909 the fol13 lowing:

#### 14 "§ 8909a. Postal Service Retiree Health Benefits Fund

15 "(a) There is in the Treasury of the United States
16 a Postal Service Retiree Health Benefits Fund which is
17 administered by the Office of Personnel Management.

18 "(b) The Fund is available without fiscal year limita-19 tion for payments required under section 8906(g)(2)(A). 20 "(c) The Secretary of the Treasury shall immediately 21 invest, in interest-bearing securities of the United States 22 such currently available portions of the Fund as are not 23 immediately required for payments from the Fund. Such 24 investments shall be made in the same manner as investments for the Civil Service Retirement and Disability
 Fund under section 8348.

3 "(d)(1) Not later than December 31, 2006, and by 4 December 31 of each succeeding year, the Office shall 5 compute the net present value of the future payments re-6 quired under section 8906(g)(2)(A) and attributable to 7 the service of Postal Service employees during the most 8 recently ended fiscal year.

9 "(2)(A) Not later than December 31, 2006, the Of-10 fice shall compute, and by December 31 of each suc-11 ceeding year, the Office shall recompute the difference be-12 tween—

13 "(i) the net present value of the excess of fu-14 ture payments required under section 8906(g)(2)(A) 15 for current and future United States Postal Service 16 annuitants as of the end of the fiscal year ending on 17 September 30 of that year; and

18 "(ii)(I) the value of the assets of the Postal Re-19 tiree Health Benefits Fund as of the end of the fis-20 cal year ending on September 30 of that year; and 21 "(II) the net present value computed under 22 paragraph (1).

23 "(B) Not later than December 31, 2006, the Office
24 shall compute, and by December 31 of each succeeding
25 year shall recompute, an amortization schedule including

a series of annual installments which provide for the liq uidation by January 31, 2046, or within 15 years, which ever is later, of the net present value determined under
 subparagraph (A), including interest at the rate used in
 that computation.

6 "(3) Not later than January 31, 2007, and by Janu7 ary 31 of each succeeding year, the United States Postal
8 Service shall pay into such Fund—

9 <u>"(A)</u> the net present value computed under 10 paragraph (1); and

11 <u>"(B) the annual installment computed under</u>
12 paragraph (2)(B).

13 "(4) Computations under this subsection shall be 14 made consistent with the assumptions and methodology 15 used by the Office for financial reporting under sub-16 chapter H of chapter 35 of title 31.

17 "(5) After consultation with the United States Postal
18 Service, the Office shall promulgate any regulations the
19 Office determines necessary under this subsection.".

20 (b) TECHNICAL AND CONFORMING AMENDMENT.
21 The table of sections for chapter 89 of title 5, United
22 States Code, is amended by inserting after the item relat23 ing to section 8909 the following:

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

1 SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION. 2 Section 3 of the Postal Civil Service Retirement System Funding Reform Act of 2003 (Public Law 108–18) 3 is repealed. 4 5 SEC. 805. EFFECTIVE DATES. 6 (a) IN GENERAL.-Except as provided under sub-7 section (b), this title shall take effect on October 1, 2005. 8 (b) TERMINATION OF EMPLOYER CONTRIBUTION. The amendment made by paragraph (1) of section 802(a) 9 shall take effect on the first day of the first pay period 10 beginning on or after October 1, 2005. 11 TITLE IX—COMPENSATION FOR 12 WORK INJURIES 13 14 SEC. 901. TEMPORARY DISABILITY: CONTINUATION OF PAY. (a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of 15 title 5, United States Code, is amended— 16

17 (1) by striking "An employee" and inserting
18 "(a) An employee other than a Postal Service em19 ployee"; and

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

21 "(b) A Postal Service employee is not entitled to com22 pensation or continuation of pay for the first 3 days of
23 temporary disability. A Postal Service employee may use
24 annual leave, sick leave, or leave without pay during that
25 3-day period.".

1	(b) Technical and Conforming Amendment.—
2	Section 8118(b)(1) of title 5, United States Code, is
3	amended to read as follows:
4	"(1) without a break in time, except as pro-
5	vided under section 8117;".
6	SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-
7	EES.
8	(a) TOTAL DISABILITY.—Section 8105 of title 5,
9	United States Code, is amended—
10	(1) in subsection (a), by adding at the end the
11	following: "This section applies to a Postal Service
12	employee, except as provided under subsection (e).";
13	and
14	(2) by adding at the end the following:
15	$\frac{(c)(1)}{1}$ In this subsection, the term 'retirement age'
16	has the meaning given under section $216(l)(1)$ of the So-
17	cial Security Act (42 U.S.C. 416( <i>l</i> )(1)).
18	
19	any injury occurring on or after the date of enactment
20	of the Postal Accountability and Enhancement Act, and
21	for any new claim for a period of disability commencing
22	on or after that date, the compensation entitlement for
23	total disability is converted to 50 percent of the monthly
24	pay of the employee on the later of—

	10-
1	${(A)}$ the date on which the injured employee
2	reaches retirement age; or
3	"(B) 1 year after the employee begins receiving
4	compensation.".
5	(b) PARTIAL DISABILITY.—Section 8106 of title 5,
6	United States Code, is amended—
7	(1) in subsection (a), by adding at the end the
8	following: "This section applies to a Postal Service
9	employee, except as provided under subsection (d).";
10	and
11	(2) by adding at the end the following:
12	$\frac{(d)(1)}{(d)(1)}$ In this subsection, the term 'retirement age'
13	has the meaning given under section $216(l)(1)$ of the So-
14	cial Security Act (42 U.S.C. 416( <i>l</i> )(1)).
15	${}(2)$ Notwithstanding any other provision of
16	law, for any injury occurring on or after the date of
17	enactment of this subsection, and for any new claim
18	for a period of disability commencing on or after
19	that date, the compensation entitlement for partial
20	disability is converted to 50 percent of the difference
21	between the monthly pay of an employee and the
22	monthly wage earning capacity of the employee after
23	the beginning of partial disability on the later of—
24	${(A)}$ the date on which the injured em-
25	ployee reaches retirement age; or

1	"(B) 1 year after the employee begins re-
2	ceiving compensation.".

#### **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.

#### 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. Clerical amendment.

#### TITLE III—MODERN SERVICE STANDARDS

- Sec. 301. Establishment of modern service standards.
- Sec. 302. Postal service plan.

#### TITLE IV-PROVISIONS RELATING TO FAIR COMPETITION

- Sec. 401. Postal Service Competitive Products Fund.
- Sec. 402. Assumed Federal income tax on competitive products income.
- Sec. 403. Unfair competition prohibited.
- Sec. 404. Suits by and against the Postal Service.
- Sec. 405. International postal arrangements.

#### TITLE V—GENERAL PROVISIONS

- Sec. 501. Qualification and term requirements for Governors.
- Sec. 502. Obligations.
- Sec. 503. Private carriage of letters.
- Sec. 504. Rulemaking authority.
- Sec. 505. Noninterference with collective bargaining agreements.

#### TITLE VI-ENHANCED REGULATORY COMMISSION

- Sec. 601. Reorganization and modification of certain provisions relating to the Postal Regulatory Commission.
- Sec. 602. Authority for Postal Regulatory Commission to issue subpoenas.
- Sec. 603. Appropriations for the Postal Regulatory Commission.

Sec. 604. Redesignation of the Postal Rate Commission.

Sec. 605. Financial transparency.

#### TITLE VII-EVALUATIONS

Sec. 701. Assessments of ratemaking, classification, and other provisions.

Sec. 702. Report on universal postal service and the postal monopoly.

Sec. 703. Study on equal application of laws to competitive products.

Sec. 704. Report on postal workplace safety and workplace-related injuries.

Sec. 705. Study on recycled paper.

#### TITLE VIII—POSTAL SERVICE RETIREMENT AND HEALTH BENEFITS FUNDING

- Sec. 801. Short title.
- Sec. 802. Civil Service Retirement System.

Sec. 803. Health insurance.

Sec. 804. Repeal of disposition of savings provision.

Sec. 805. Effective dates.

#### TITLE IX—COMPENSATION FOR WORK INJURIES

Sec. 901. Temporary disability; continuation of pay. Sec. 902. Disability retirement for postal employees.

#### TITLE X—MISCELLANEOUS

Sec. 1001. Employment of postal police officers. Sec. 1002. Expanded contracting authority.

# *TITLE I—DEFINITIONS; POSTAL SERVICES*

#### 3 SEC. 101. DEFINITIONS.

4 Section 102 of title 39, United States Code, is amended
5 by striking "and" at the end of paragraph (3), by striking
6 the period at the end of paragraph (4) and inserting a semi7 colon, and by adding at the end the following:

8 "(5) 'postal service' refers to the physical deliv-9 ery of letters, printed matter, or packages weighing 10 up to 70 pounds, including physical acceptance, col-11 lection, sorting, transportation, or other services an-12 cillary thereto;

1	"(6) 'product' means a postal service with a dis-
2	tinct cost or market characteristic for which a rate or
3	rates are applied;
4	"(7) 'rates', as used with respect to products, in-
5	cludes fees for postal services;
6	"(8) 'market-dominant product' or 'product in
7	the market-dominant category of mail' means a prod-
8	uct subject to subchapter I of chapter 36; and
9	"(9) 'competitive product' or 'product in the
10	competitive category of mail' means a product subject
11	to subchapter II of chapter 36; and
12	"(10) 'year', as used in chapter 36 (other than
13	subchapters I and VI thereof), means a fiscal year.".
14	SEC. 102. POSTAL SERVICES.
15	(a) IN GENERAL.—Section 404 of title 39, United
16	States Code, is amended—
17	(1) in subsection (a), by striking paragraph (6)
18	and by redesignating paragraphs (7) through (9) as
19	paragraphs (6) through (8), respectively; and
20	(2) by adding at the end the following:
21	"(c) Except as provided in section 411, nothing in this
22	title shall be considered to permit or require that the Postal
23	Service provide any special nonpostal or similar services.".
24	(b) Conforming Amendments.—(1) Section
25	1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98)

1	Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by
2	striking "404(a)(8)" and inserting "404(a)(7)".
3	(2) Section 2003(b)(1) of title 39, United States Code,
4	is amended by striking "and nonpostal".
5	TITLE II—MODERN RATE
6	REGULATION
7	SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT
8	PRODUCTS.
9	(a) IN GENERAL.—Chapter 36 of title 39, United
10	States Code, is amended by striking sections 3621, 3622,
11	and 3623 and inserting the following:
12	"§3621. Applicability; definitions
13	"(a) APPLICABILITY.—This subchapter shall apply
14	with respect to—
15	"(1) first-class mail letters and sealed parcels;
16	"(2) first-class mail cards;
17	"(3) periodicals;
18	"(4) standard mail;
19	"(5) single-piece parcel post;
20	"(6) media mail;
21	"(7) bound printed matter;
22	"(8) library mail;
23	"(9) special services; and
24	"(10) single-piece international mail,

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

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

#### 7 "§3622. Modern rate regulation

8 "(a) AUTHORITY GENERALLY.—The Postal Regulatory 9 Commission shall, within 12 months after the date of the 10 enactment of this section, by regulation establish (and may 11 from time to time thereafter by regulation revise) a modern 12 system for regulating rates and classes for market-dominant 13 products.

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

"(1) To reduce the administrative burden and
increase the transparency of the ratemaking process
while affording reasonable opportunities for interested
parties to participate in that process.

20 "(2) To create predictability and stability in
21 rates.

22 "(3) To maximize incentives to reduce costs and
23 increase efficiency.

24 "(4) To enhance mail security and deter ter25 rorism by promoting secure, sender-identified mail.

1	"(5) To allow the Postal Service pricing flexi-
2	bility, including the ability to use pricing to promote
3	intelligent mail and encourage increased mail volume
4	during nonpeak periods.
5	"(6) To assure adequate revenues, including re-
6	tained earnings, to maintain financial stability and
7	meet the service standards established under section
8	3691.
9	"(7) To allocate the total institutional costs of
10	the Postal Service equitably between market-dominant
11	and competitive products.
12	"(c) FACTORS.—In establishing or revising such sys-
13	tem, the Postal Regulatory Commission shall take into ac-
14	count—
15	"(1) the establishment and maintenance of a fair
16	and equitable schedule for rates and classification sys-
17	tem;
18	"(2) the value of the mail service actually pro-
19	vided each class or type of mail service to both the
20	sender and the recipient, including but not limited to
21	the collection, mode of transportation, and priority of
22	delivery;
23	"(3) the requirement that each class of mail or
24	type of mail service bear the direct and indirect post-
25	al costs attributable to each class or type of mail serv-
1	ice plus that portion of all other costs of the Postal
----	---
2	Service reasonably assignable to such class or type;
3	"(4) the effect of rate increases upon the general
4	public, business mail users, and enterprises in the
5	private sector of the economy engaged in the delivery
6	of mail matter other than letters;
7	"(5) the available alternative means of sending
8	and receiving letters and other mail matter at reason-
9	able costs;
10	"(6) the degree of preparation of mail for deliv-
11	ery into the postal system performed by the mailer
12	and its effect upon reducing costs to the Postal Serv-
13	ice;
14	"(7) simplicity of structure for the entire sched-
15	ule and simple, identifiable relationships between the
16	rates or fees charged the various classes of mail for
17	postal services;
18	"(8) the relative value to the people of the kinds
19	of mail matter entered into the postal system and the
20	desirability and justification for special classifica-
21	tions and services of mail;
22	"(9) the importance of providing classifications
23	with extremely high degrees of reliability and speed of
24	delivery and of providing those that do not require
25	high degrees of reliability and speed of delivery;

1	"(10) the desirability of special classifications
2	from the point of view of both the user and of the
3	Postal Service;
4	"(11) the educational, cultural, scientific, and
5	informational value to the recipient of mail matter;
6	and
7	"(12) the policies of this title as well as such
8	other factors as the Commission deems appropriate.
9	"(d) REQUIREMENTS.—The system for regulating rates
10	and classes for market-dominant products shall—
11	"(1) require the Postal Regulatory Commission
12	to set annual limitations on the percentage changes in
13	rates based on inflation using indices, such as the
14	Consumer Price Index, the Employment Cost Index,
15	the Gross Domestic Product Price Index, or any simi-
16	lar measure as the Postal Regulatory Commission
17	may prescribe;
18	"(2) establish a schedule whereby rates, when
19	necessary and appropriate, would change at regular
20	intervals by predictable amounts;
21	"(3) not later than 45 days before the implemen-
22	tation of any adjustment in rates under this sec-
23	tion—
24	"(A) require the Postal Service to provide
25	public notice of the adjustment;

1	"(B) provide an opportunity for review by
2	the Postal Regulatory Commission;
3	"(C) provide for the Postal Regulatory
4	Commission to notify the Postal Service of any
5	noncompliance of the adjustment with the limi-
6	tation under paragraph (1); and
7	"(D) require the Postal Service to respond
8	to the notice provided under subparagraph (C)
9	and describe the actions to be taken to comply
10	with the limitation under paragraph (1).
11	"(4) notwithstanding any limitation set under
12	paragraphs (1) and (3), establish procedures whereby
13	rates may be adjusted on an expedited basis due to
14	unexpected and extraordinary circumstances.
15	"(e) Workshare Discounts.—
16	"(1) DEFINITION.—In this subsection, the term
17	'workshare discount' refers to rate discounts provided
18	to mailers for the presorting, prebarcoding, handling,
19	or transportation of mail, as further defined by the
20	Postal Regulatory Commission under subsection (a).
21	"(2) Regulations.—As part of the regulations
22	established under subsection (a), the Postal Regu-
23	latory Commission shall establish rules for workshare
24	discounts that ensure that such discounts do not ex-

1	ceed the cost that the Postal Service avoids as a result
2	of workshare activity, unless—
3	"(A) the discount is—
4	"(i) associated with a new postal serv-
5	ice or with a change to an existing postal
6	service; and
7	"(ii) necessary, over a period of time
8	not to exceed 4 years, to induce mailer be-
9	havior that furthers the economically effi-
10	cient operation of the Postal Service;
11	"(B) a reduction in the discount would—
12	"(i) lead to a loss of volume in the af-
13	fected category of mail and reduce the ag-
14	gregate contribution to institutional costs of
15	the Postal Service from the mail matter
16	subject to the discount below what it other-
17	wise would have been if the discount had
18	not been reduced to costs avoided;
19	"(ii) result in a further increase in the
20	rates paid by mailers not able to take ad-
21	vantage of the discount; or
22	"(iii) impede the efficient operation of
23	the Postal Service;
24	(C) the amount of the discount above costs
25	avoided—

- 1 "(i) is necessary to mitigate rate shock; 2 and "(ii) will be phased out over time; or 3 4 "(D) the workshare discount is provided in 5 connection with subclasses of mail consisting ex-6 clusively of mail matter of educational, cultural, 7 or scientific value. 8 "(3) REPORT.—Whenever the Postal Service es-9 tablishes or maintains a workshare discount, the Post-10 al Service shall, at the time it publishes the workshare 11 discount rate, submit to the Postal Regulatory Com-12 mission a detailed report and explanation of the Post-13 al Service's reasons for establishing or maintaining 14 the rate, setting forth the data, economic analyses, 15 and other information relied on by the Postal Service
- 16 to justify the rate.

17 "(f) TRANSITION RULE.—Until regulations under this
18 section first take effect, rates and classes for market-domi19 nant products shall remain subject to modification in ac20 cordance with the provisions of this chapter and section
21 407, as such provisions were last in effect before the date
22 of the enactment of this section.

23 "§3623. Service agreements for market-dominant

- 24 products
- 25 "(a) IN GENERAL.—

1	"(1) AUTHORITY.—The Postal Service may enter
2	into service agreements with a customer or group of
3	customers that provide for the provision of postal
4	services under terms, conditions, or service standards
5	that differ from those that would apply under the oth-
6	erwise applicable classification of market-dominant
7	mail.
8	"(2) AGREEMENTS.—An agreement under this
9	section may involve—
10	"(A) performance by the contracting mail
11	user of mail preparation, processing, transpor-
12	tation, or other functions;
13	"(B) performance by the Postal Service of
14	additional mail preparation, processing, trans-
15	portation, or other functions; or
16	(C) other terms and conditions that meet
17	the requirements of subsections (b) and (c).
18	"(b) REQUIREMENTS.—A service agreement under this
19	section may be entered into only if each of the following
20	conditions is met:
21	"(1) The total revenue generated under the agree-
22	ment—
23	"(A) will cover all Postal Service costs at-
24	tributable to the postal services covered by the
25	agreement; and

1	(B) will result in no less contribution to
2	the institutional costs of the Postal Service than
3	would have been generated had the agreement not
4	been entered into.
5	"(2) Rates or fees for other mailers will not in-
6	crease as a result of the agreement.
7	"(3) The agreement pertains exclusively to prod-
8	ucts in the market-dominant category of mail.
9	"(4) The agreement will not preclude or materi-
10	ally hinder similarly situated mail users from enter-
11	ing into agreements with the Postal Service on the
12	same, or substantially the same terms or conditions,
13	and the Postal Service remains willing and able to
14	enter into such.
15	"(c) LIMITATIONS.—A service agreement under this
16	section shall—
17	"(1) be for a term not to exceed 3 years; and
18	"(2) provide that such agreement shall be subject
19	to the cancellation authority of the Commission under
20	section 3662.
21	"(d) Notice Requirements.—
22	"(1) In general.—At least 30 days before a
23	service agreement under this section is to take effect,
24	the Postal Service shall file with the Postal Regu-
25	latory Commission and publish in the Federal Reg-

1	ister the following information with respect to such
2	agreement:
3	"(A) A description of the postal services the
4	agreement involves.
5	(B) A description of the functions the cus-
6	tomer is to perform under the agreement.
7	"(C) A description of the functions the Post-
8	al Service is to perform under the agreement.
9	(D) The rates and fees payable by the cus-
10	tomer during the term of the agreement.
11	"( $E$ ) With respect to each condition under
12	subsection (b), information sufficient to dem-
13	onstrate the bases for the view of the Postal Serv-
14	ice that such condition would be met.
15	"(2) AGREEMENTS LESS THAN NATIONAL IN
16	SCOPE.—In the case of a service agreement under this
17	section that is less than national in scope, the infor-
18	mation described under paragraph (1) shall also be
19	published by the Postal Service in a manner designed
20	to afford reasonable notice to persons within any geo-
21	graphic area to which such agreement (or any amend-
22	ment to that agreement) pertains.
23	"(e) Equal Treatment Required.—If the Postal
24	Service enters into a service agreement with a mailer under
25	this section, the Postal Service shall make such agreement

available to similarly situated mailers on functionally
 equivalent terms and conditions consistent with the regu latory system established under section 3622 without unrea sonable distinctions based on mailer profiles, provided that
 such distinctions, if ignored, would not render any subse quent agreement uneconomic or impractical.

7 "(f) COMPLAINTS.—Any person who believes that a 8 service agreement under this section is not in conformance 9 with the requirements of this section, or who is aggrieved 10 by a decision of the Postal Service not to enter into an 11 agreement under this section, may file a complaint with 12 the Postal Regulatory Commission in accordance with sec-13 tion 3662.

14 "(g) POSTAL REGULATORY COMMISSION ROLE.—

15 "(1) REGULATIONS.—The Postal Regulatory
16 Commission may promulgate such regulations regard17 ing service agreements as the Commission determines
18 necessary to implement the requirements of this sec19 tion.

20 "(2) REVIEW.—The Postal Regulatory Commis21 sion may review any agreement or proposed agree22 ment under this section and may suspend, cancel, or
23 prevent such agreement if the Commission finds that
24 the agreement does not meet the requirements of this
25 section.

1 "(h) INTERPRETATION.—The determination of whether 2 the revenue generated under the agreement meets the requirements of subsection (b)(1)(B) shall be based, to the ex-3 4 tent practicable, on the actual contribution of the mail involved, not on the average contribution made by the mail 5 classification most similar to the services performed under 6 7 the agreement. If mailer-specific data is not available, the 8 bases for the determination used shall be provided and shall 9 include a discussion of the suitability of the data used, in 10 accordance with regulations established by the Postal Regulatory Commission.". 11

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

(c) REDESIGNATION.—Chapter 36 of title 39, United
States Code (as in effect after the amendment made by section 601, but before the amendment made by section 202)
is amended by striking the heading for subchapter II and
inserting the following:

19 "SUBCHAPTER I—PROVISIONS RELATING TO

20 MARKET-DOMINANT PRODUCTS".

21 SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-

22 **UCTS**.

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

1191 "SUBCHAPTER II—PROVISIONS RELATING TO 2 **COMPETITIVE PRODUCTS** 3 "§ 3631. Applicability; definitions and updates "(a) APPLICABILITY.—This subchapter shall apply 4 5 with respect to— 6 "(1) priority mail; 7 "(2) expedited mail: 8 "(3) bulk parcel post; 9 "(4) bulk international mail; and 10 "(5) mailgrams; 11 subject to subsection (d) and any changes the Postal Regulatory Commission may make under section 3642. 12 13 "(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a prod-14 15 uct, means the direct and indirect postal costs attributable to such product. 16 17 "(c) RULE OF CONSTRUCTION.—Mail matter referred to in subsection (a) shall, for purposes of this subchapter, 18 be considered to have the meaning given to such mail matter 19 under the mail classification schedule. 20 21 "(d) LIMITATION.—Notwithstanding any other provi-22 sion of this section, nothing in this subchapter shall be con-23 sidered to apply with respect to any product then currently in the market-dominant category of mail. 24

4 in the market-abminant category of m

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#### 1 "§3632. Action of the Governors

2 "(a) AUTHORITY TO ESTABLISH RATES AND CLASS3 ES.—The Governors, with the written concurrence of a ma4 jority of all of the Governors then holding office, shall estab5 lish rates and classes for products in the competitive cat6 egory of mail in accordance with the requirements of this
7 subchapter and regulations promulgated under section
8 3633.

9 "(b) PROCEDURES.—

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

14 "(2) PUBLIC NOTICE; REVIEW; AND COMPLI15 ANCE.—Not later than 30 days before the date of im16 plementation of any adjustment in rates under this
17 section—

"(A) the Governors shall provide public notice of the adjustment and an opportunity for review by the Postal Regulatory Commission;
"(B) the Postal Regulatory Commission
shall notify the Governors of any noncompliance
of the adjustment with section 3633; and
"(C) the Governors shall respond to the no-

25 tice provided under subparagraph (B) and de-

3 "(c) TRANSITION RULE.—Until regulations under sec4 tion 3633 first take effect, rates and classes for competitive
5 products shall remain subject to modification in accordance
6 with the provisions of this chapter and section 407, as such
7 provisions were as last in effect before the date of the enact8 ment of this section.

### 9 "\$3633. Provisions applicable to rates for competitive 10 products

11 "The Postal Regulatory Commission shall, within 180
12 days after the date of the enactment of this section, promul13 gate (and may from time to time thereafter revise) regula14 tions to—

- 15 "(1) prohibit the subsidization of competitive
  16 products by market-dominant products;
- 17 "(2) ensure that each competitive product covers
  18 its costs attributable; and
- 19 "(3) ensure that all competitive products collec20 tively cover their share of the institutional costs of the

21 Postal Service.".

### 22 SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND 23 NEW PRODUCTS.

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

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 con-
6	duct market tests of experimental products in accord-
7	ance with this section.
8	"(2) Provisions WAIVED.—A product shall not,
9	while it is being tested under this section, be subject
10	to the requirements of sections 3622, 3633, or 3642,
11	or regulations promulgated under those sections.
12	"(b) CONDITIONS.—A product may not be tested under
13	this section unless it satisfies each of the following:
13 14	this section unless it satisfies each of the following: "(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The
_	
14	"(1) Significantly different product.—The
14 15	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig-
14 15 16	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig- nificantly different from all products offered by the
14 15 16 17	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig- nificantly different from all products offered by the Postal Service within the 2-year period preceding the
14 15 16 17 18	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig- nificantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test.
14 15 16 17 18 19	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig- nificantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test. "(2) MARKET DISRUPTION.—The introduction or
<ol> <li>14</li> <li>15</li> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> </ol>	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig- nificantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test. "(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an
14 15 16 17 18 19 20 21	"(1) SIGNIFICANTLY DIFFERENT PRODUCT.—The product is, from the viewpoint of the mail users, sig- nificantly different from all products offered by the Postal Service within the 2-year period preceding the start of the test. "(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advan-

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1	"(3) CORRECT CATEGORIZATION.—The Postal
2	Service identifies the product, for the purpose of a test
3	under this section, as either market-dominant or com-
4	petitive, consistent with the criteria under section
5	3642(b)(1). Costs and revenues attributable to a prod-
6	uct identified as competitive shall be included in any
7	determination under section 3633(3)(relating to pro-
8	visions applicable to competitive products collec-
9	tively). Any test that solely affects products currently
10	classified as competitive, or which provides services
11	ancillary to only competitive products, shall be pre-
12	sumed to be in the competitive product category with-
13	out regard to whether a similar ancillary product ex-
14	ists for market-dominant products.
15	"(c) Notice.—
16	"(1) IN GENERAL.—At least 30 days before initi-
17	ating a market test under this section, the Postal
18	Service shall file with the Postal Regulatory Commis-
19	sion and publish in the Federal Register a notice—
20	((A) setting out the basis for the Postal
21	Service's determination that the market test is
22	covered by this section; and

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

"(2) SAFEGUARDS.—For a competitive experi-1 2 mental product, the provisions of section 504(g) shall 3 be available with respect to any information required 4 to be filed under paragraph (1) to the same extent 5 and in the same manner as in the case of any matter 6 described in section 504(q)(1). Nothing in paragraph 7 (1) shall be considered to permit or require the publi-8 cation of any information as to which confidential 9 treatment is accorded under the preceding sentence 10 (subject to the same exception as set forth in section 11 504(q)(3)).

12 "(*d*) DURATION.—

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

"(2) EXTENSION AUTHORITY.—If necessary in 16 17 order to determine the feasibility or desirability of a 18 product being tested under this section, the Postal 19 Regulatory Commission may, upon written applica-20 tion of the Postal Service (filed not later than 60 days 21 before the date as of which the testing of such product 22 would otherwise be scheduled to terminate under 23 paragraph (1)), extend the testing of such product for 24 not to exceed an additional 12 months.

25 "(e) DOLLAR-AMOUNT LIMITATION.—

1	"(1) IN GENERAL.—A product may only be test-
2	ed under this section if the total revenues that are an-
3	ticipated, or in fact received, by the Postal Service
4	from such product do not exceed \$10,000,000 in any
5	year, subject to paragraph $(2)$ and subsection $(g)$ .
6	"(2) EXEMPTION AUTHORITY.—The Postal Regu-
7	latory Commission may, upon written application of
8	the Postal Service, exempt the market test from the
9	limit in paragraph (1) if the total revenues that are
10	anticipated, or in fact received, by the Postal Service
11	from such product do not exceed \$50,000,000 in any
12	year, subject to subsection (g). In reviewing an appli-
13	cation under this paragraph, the Postal Regulatory
14	Commission shall approve such application if it de-
15	termines that—
16	"(A) the product is likely to benefit the pub-
17	lic and meet an expected demand;
18	"(B) the product is likely to contribute to
19	the financial stability of the Postal Service; and
20	"(C) the product is not likely to result in
21	unfair or otherwise inappropriate competition.
22	"(f) CANCELLATION.—If the Postal Regulatory Com-
23	mission at any time determines that a market test under
24	this section fails to meet 1 or more of the requirements of
25	this section, it may order the cancellation of the test in-

volved or take such other action as it considers appropriate.
 A determination under this subsection shall be made in ac cordance with such procedures as the Commission shall by
 regulation prescribe.

5 "(g) ADJUSTMENT FOR INFLATION.—For purposes of 6 each year following the year in which occurs the deadline 7 for the Postal Service's first report to the Postal Regulatory 8 Commission under section 3652(a), each dollar amount con-9 tained in this section shall be adjusted by the change in 10 the Consumer Price Index for such year (as determined 11 under regulations of the Commission).

12 "(h) DEFINITION OF A SMALL BUSINESS CONCERN.—
13 The criteria used in defining small business concerns or oth14 erwise categorizing business concerns as small business con15 cerns shall, for purposes of this section, be established by
16 the Postal Regulatory Commission in conformance with the
17 requirements of section 3 of the Small Business Act.

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

# \$3642. New products and transfers of products be tween the market-dominant and competi tive categories of mail

4 "(a) IN GENERAL.—Upon request of the Postal Service
5 or users of the mails, or upon its own initiative, the Postal
6 Regulatory Commission may change the list of market-dom7 inant products under section 3621 and the list of competi8 tive products under section 3631 by adding new products
9 to the lists, removing products from the lists, or transferring
10 products between the lists.

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

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 substan-18 tially above costs, raise prices significantly, decrease 19 quality, or decrease output, without risk of losing sub-20 stantial 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 postal
25 monopoly shall not be subject to transfer under this
26 section from the market-dominant category of mail.
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1	For purposes of the preceding sentence, the term
2	'product covered by the postal monopoly' means any
3	product the conveyance or transmission of which is
4	reserved to the United States under section 1696 of
5	title 18, subject to the same exception as set forth in
6	the last sentence of section $409(e)(1)$ .
7	"(3) Additional considerations.—In making
8	any decision under this section, due regard shall be
9	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 product
14	involved on the appropriateness of the proposed
15	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 Subor-
20	DINATE UNITS ALLOWABLE.—Nothing in this title shall be
21	considered to prevent transfers under this section from being
22	made by reason of the fact that they would involve only
23	some (but not all) of the subclasses or other subordinate
24	units of the class of mail or type of postal service involved

(without regard to satisfaction of minimum quantity re quirements standing alone).

3 "(d) NOTIFICATION AND PUBLICATION REQUIRE4 MENTS.—

"(1) NOTIFICATION REQUIREMENT.—The Postal 5 6 Service shall, whenever it requests to add a product 7 or transfer a product to a different category, file with 8 the Postal Regulatory Commission and publish in the 9 Federal Register a notice setting out the basis for its 10 determination that the product satisfies the criteria 11 under subsection (b) and, in the case of a request to 12 add a product or transfer a product to the competi-13 tive category of mail, that the product meets the requ-14 lations promulgated by the Postal Regulatory Com-15 mission under section 3633. The provisions of section 16 504(q) shall be available with respect to any informa-17 tion required to be filed.

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

1	"(e) Prohibition.—Except as provided in section
2	3641, no product that involves the physical delivery of let-
3	ters, printed matter, or packages may be offered by the Post-
4	al Service unless it has been assigned to the market-domi-
5	nant or competitive category of mail (as appropriate) ei-
6	ther—
7	"(1) under this subchapter; or
8	"(2) by or under any other provision of law.".
9	SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-
10	VISIONS.
11	(a) Redesignation.—Chapter 36 of title 39, United
12	States Code (as in effect before the amendment made by sub-
13	section (b)) is amended—
14	(1) by striking the heading for subchapter $IV$
15	and inserting the following:
16	"SUBCHAPTER V—POSTAL SERVICES,
17	COMPLAINTS, AND JUDICIAL REVIEW"; and
18	(2) by striking the heading for subchapter V and
19	inserting the following:
20	"SUBCHAPTER VI—GENERAL".
21	(b) Reports and Compliance.—Chapter 36 of title
22	39, United States Code, is amended by inserting after sub-
23	chapter III the following:

### "SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

#### 3 "§3651. Annual reports by the Commission

4 "(a) IN GENERAL.—The Postal Regulatory Commis5 sion shall submit an annual report to the President and
6 the Congress concerning the operations of the Commission
7 under this title, including the extent to which regulations
8 are achieving the objectives under sections 3622, 3633, and
9 3691.

10 "(b) INFORMATION FROM POSTAL SERVICE.—The
11 Postal Service shall provide the Postal Regulatory Commis12 sion with such information as may, in the judgment of the
13 Commission, be necessary in order for the Commission to
14 prepare its reports under this section.

#### 15 "§3652. Annual reports to the Commission

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

"(1) which shall analyze costs, revenues, rates,
and quality of service in sufficient detail to demonstrate that all products during such year complied
with all applicable requirements of this title; and

1	"(2) which shall, for each market-dominant
2	product provided in such year, provide—
3	"(A) product information, including mail
4	volumes; and
5	``(B) measures of the service afforded by the
6	Postal Service in connection with such product,
7	including—
8	"(i) the level of service (described in
9	terms of speed of delivery and reliability)
10	provided; and
11	"(ii) the degree of customer satisfaction
12	with the service provided.
13	Before submitting a report under this subsection (including
14	any annex to the report and the information required under
15	subsection (b)), the Postal Service shall have the informa-
16	tion contained in such report (and annex) audited by the
17	Inspector General. The results of any such audit shall be
18	submitted along with the report to which it pertains.
19	"(b) Information Relating to Workshare Dis-
20	COUNTS.—The Postal Service shall include, in each report
21	under subsection (a), the following information with respect
22	to each market-dominant product for which a workshare
23	discount was in effect during the period covered by such
24	report:

"(1) The per-item cost avoided by the Postal 1 2 Service by virtue of such discount. 3 "(2) The percentage of such per-item cost avoided 4 that the per-item workshare discount represents. 5 "(3) The per-item contribution made to institu-6 tional costs. 7 "(c) Service Agreements and Market Tests.—In 8 carrying out subsections (a) and (b) with respect to service 9 agreements (including service agreements entered into under section 3623) and experimental products offered 10 11 through market tests under section 3641 in a year, the Postal Service— 12 13 "(1) may report summary data on the costs, rev-14 enues, and quality of service by service agreement and 15 market test; and "(2) shall report such data as the Postal Regu-16 17 latory Commission requires. 18 "(d) SUPPORTING MATTER.—The Postal Regulatory 19 Commission shall have access, in accordance with such reg-20 ulations as the Commission shall prescribe, to the working 21 papers and any other supporting matter of the Postal Serv-22 ice and the Inspector General in connection with any infor-23 mation submitted under this section. "(e) CONTENT AND FORM OF REPORTS.— 24

1	"(1) IN GENERAL.—The Postal Regulatory Com-
2	mission shall, by regulation, prescribe the content and
3	form of the public reports (and any nonpublic annex
4	and supporting matter relating to the report) to be
5	provided by the Postal Service under this section. In
6	carrying out this subsection, the Commission shall
7	give due consideration to—
8	"(A) providing the public with timely, ade-
9	quate information to assess the lawfulness of
10	rates charged;
11	``(B) avoiding unnecessary or unwarranted
12	administrative effort and expense on the part of
13	the Postal Service; and
14	(C) protecting the confidentiality of com-
15	mercially sensitive information.
16	"(2) Revised requirements.—The Commis-
17	sion may, on its own motion or on request of an in-
18	terested party, initiate proceedings (to be conducted
19	in accordance with regulations that the Commission
20	shall prescribe) to improve the quality, accuracy, or
21	completeness of Postal Service data required by the
22	Commission under this subsection whenever it shall
23	appear that—

1	"(A) the attribution of costs or revenues to
2	products has become significantly inaccurate or
3	can be significantly improved;
4	"( $B$ ) the quality of service data has become
5	significantly inaccurate or can be significantly
6	improved; or
7	(C) such revisions are, in the judgment of
8	the Commission, otherwise necessitated by the
9	public interest.
10	"(f) Confidential Information.—
11	"(1) IN GENERAL.—If the Postal Service deter-
12	mines that any document or portion of a document,
13	or other matter, which it provides to the Postal Regu-
14	latory Commission in a nonpublic annex under this
15	section or under subsection (d) contains information
16	which is described in section 410(c) of this title, or ex-
17	empt from public disclosure under section 552(b) of
18	title 5, the Postal Service shall, at the time of pro-
19	viding such matter to the Commission, notify the
20	Commission of its determination, in writing, and de-
21	scribe with particularity the documents (or portions
22	of documents) or other matter for which confiden-
23	tiality is sought and the reasons therefor.
24	"(2) TREATMENT.—Any information or other
25	matter described in paragraph (1) to which the Com-

mission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the
same way as if the Commission had received notification with respect to such matter under section
504(g)(1).

6 "(g) OTHER REPORTS.—The Postal Service shall sub7 mit to the Postal Regulatory Commission, together with any
8 other submission that the Postal Service is required to make
9 under this section in a year, copies of its then most recent—
10 "(1) comprehensive statement under section

11 2401(e);

12

"(2) strategic plan under section 2802;

13 "(3) performance plan under section 2803; and
14 "(4) program performance reports under section
15 2804.

#### 16 "§3653. Annual determination of compliance

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

24 "(b) DETERMINATION OF COMPLIANCE OR NONCOMPLI25 ANCE.—Not later than 90 days after receiving the submis-

sions required under section 3652 with respect to a year,
 the Postal Regulatory Commission shall make a written de termination as to—

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

9 "(2) whether any service standards in effect dur10 ing such year were not met.

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

14 "(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
15 year, a timely written determination of noncompliance is
16 made under subsection (b), the Postal Regulatory Commis17 sion shall take any appropriate remedial action authorized
18 by section 3662(c).

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

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

#### 6 "§3662. Rate and service complaints

7 "(a) IN GENERAL.—Any person (including an officer 8 of the Postal Regulatory Commission representing the inter-9 ests of the general public) who believes the Postal Service is not operating in conformance with the requirements of 10 chapter 1, 4, or 6, or this chapter (or regulations promul-11 gated under any of those chapters) may lodge a complaint 12 with the Postal Regulatory Commission in such form and 13 manner as the Commission may prescribe. 14

15 "(b) Prompt Response Required.—

- 16 "(1) IN GENERAL.—The Postal Regulatory Com17 mission shall, within 90 days after receiving a com18 plaint under subsection (a), either—
- 19 "(A) begin proceedings on such complaint;
  20 or

21 "(B) issue an order dismissing the com22 plaint (together with a statement of the reasons
23 therefor).

24 "(2) TREATMENT OF COMPLAINTS NOT TIMELY
25 ACTED ON.—For purposes of section 3663, any com26 plaint under subsection (a) on which the Commission

fails to act in the time and manner required by para graph (1) shall be treated in the same way as if it
 had been dismissed under an order issued by the
 Commission on the last day allowable for the issuance
 of such order under paragraph (1).

6 "(c) Action Required If Complaint Found To Be 7 JUSTIFIED.—If the Postal Regulatory Commission finds the 8 complaint to be justified, it shall order that the Postal Serv-9 ice take such action as the Commission considers appro-10 priate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompli-11 ance including ordering unlawful rates to be adjusted to 12 13 lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-mak-14 15 ing products, and requiring the Postal Service to make up for revenue shortfalls in competitive products. 16

17 "(d) AUTHORITY TO ORDER FINES IN CASES OF DE-LIBERATE NONCOMPLIANCE.—In addition, in cases of delib-18 erate noncompliance by the Postal Service with the require-19 20 ments of this title, the Postal Regulatory Commission may 21 order, based on the nature, circumstances, extent, and seri-22 ousness of the noncompliance, a fine (in the amount speci-23 fied by the Commission in its order) for each incidence of 24 noncompliance. Fines resulting from the provision of com-25 petitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from
 fines imposed under this subsection shall be deposited in
 the general fund of the Treasury of the United States.

#### 4 "§3663. Appellate review

5 "A person, including the Postal Service, adversely affected or aggrieved by a final order or decision of the Postal 6 7 Regulatory Commission may, within 30 days after such 8 order or decision becomes final, institute proceedings for re-9 view thereof by filing a petition in the United States Court 10 of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 11 of title 5, and chapter 158 and section 2112 of title 28, 12 on the basis of the record before the Commission. 13

#### 14 "§3664. Enforcement of orders

15 "The several district courts have jurisdiction specifi16 cally to enforce, and to enjoin and restrain the Postal Serv17 ice from violating, any order issued by the Postal Regu18 latory Commission.".

#### 19 SEC. 206. CLERICAL AMENDMENT.

20 Chapter 36 of title 39, United States Code, is amended

- 21 by striking the heading and analysis for such chapter and
- 22 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.

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"3623. Service agreements for market-dominant products.
"[3624. Repealed.]
"[3625. Repealed.]
"3626. Reduced Rates.
"3627. Adjusting free rates.
"[3628. Repealed.]
"3629. Reduced rates for voter registration purposes.

#### "SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"3631. Applicability; definitions and updates.

"3632. Action of the Governors.

"3633. Provisions applicable to rates for competitive products.

"3634. Assumed Federal income tax on competitive products.

#### "SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"3641. Market tests of experimental products.

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

#### "SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"3651. Annual reports by the Commission.

"3652. Annual reports to the Commission.

"3653. Annual determination of compliance.

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

"3661. Postal Services.

"3662. Rate and service complaints.

"3663. Appellate review.

"3664. Enforcement of orders.

#### "SUBCHAPTER VI—GENERAL

"3681. Reimbursement.

"3682. Size and weight limits.

"3683. Uniform rates for books; films, other materials.

*"3684. Limitations.* 

"3685. Filing of information relating to periodical publications.

"3686. Bonus authority.

#### "SUBCHAPTER VII—MODERN SERVICE STANDARDS

"3691. Establishment of modern service standards.".

## TITLE III—MODERN SERVICE STANDARDS

3 SEC. 301. ESTABLISHMENT OF MODERN SERVICE STAND-

ARDS.

4

5 Chapter 36 of title 39, United States Code, as amended
6 by this Act, is further amended by adding at the end the
7 following:

8 "SUBCHAPTER VII—MODERN SERVICE
9 STANDARDS

10 "§3691. Establishment of modern service standards

"(a) AUTHORITY GENERALLY.—The Postal Regulatory
Commission shall, within 12 months after the date of the
enactment of this section, by regulation establish (and may
from time to time thereafter by regulation revise) a set of
service standards for market-dominant products consistent
with sections 101 (a) and (b) and 403.

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

19 "(1) To enhance and preserve the value of postal
20 services to both senders and recipients.

21 "(2) To provide a system of objective external
22 performance measurements for each market-dominant
23 product as a basis for measurement of Postal Service
24 performance.

1	"(3) To guarantee Postal Service customers de-
2	livery reliability, speed and frequency consistent with
3	reasonable rates and best business practices.
4	"(c) FACTORS.—In establishing or revising such stand-
5	ards, the Postal Regulatory Commission shall take into ac-
6	count—
7	"(1) the actual level of service that Postal Service
8	customers receive under any service guidelines pre-
9	viously established by the Postal Service or service
10	standards established under this section;
11	"(2) the degree of customer satisfaction with
12	Postal Service performance in the acceptance, proc-
13	essing and delivery of mail;
14	"(3) mail volume and revenues projected for fu-
15	ture years;
16	"(4) the projected growth in the number of ad-
17	dresses the Postal Service will be required to serve in
18	future years;
19	"(5) the current and projected future cost of serv-
20	ing Postal Service customers;
21	"(6) the effect of changes in technology, demo-
22	graphics and population distribution on the efficient
23	and reliable operation of the postal delivery system;
24	and

12 (a) associate any enanges to the Postal Service's 13 processing, transportation, delivery, and retail net-14 works necessary to allow the Postal Service to meet 15 the performance goals; and

(3) describe any changes to planning and performance management documents previously submitted to Congress to reflect new performance goals.
(c) POSTAL FACILITIES.—The Postal Service plan
shall include a description of its long-term vision for
rationalizing its infrastructure and workforce and how it
intends to implement that vision, including—

(1) a strategy for how it intends to rationalize
the postal facilities network and remove excess processing capacity and space from the network, includ-
1	ing estimated timeframes, criteria and processes to be
2	used for making changes to the facilities network, and
3	the process for engaging policy makers and the public
4	in related decisions;
5	(2) an update on how postal decisions related to
6	mail changes, security, automation initiatives,
7	worksharing, information technology systems, and
8	other areas will impact network rationalization
9	plans;
10	(3) a discussion of what impact any facility
11	changes may have on the postal workforce and wheth-
12	er the Postal Service has sufficient flexibility to make
13	needed workforce changes; and
14	(4) an identification of anticipated costs, cost
15	savings, and other benefits associated with the infra-
16	structure rationalization alternatives discussed in the
17	plan.
18	(d) Alternate Retail Options.—The Postal Service
19	plan shall include plans to expand and market retail access
20	to postal services, in addition to post offices, including-
21	(1) vending machines;
22	(2) the Internet;
23	(3) Postal Service employees on delivery routes;

1	(4) retail facilities in which overhead costs are
2	shared with private businesses and other government
3	agencies; or
4	(5) any other nonpost office access channel pro-
5	viding market retail access to postal services.
6	(e) REEMPLOYMENT ASSISTANCE AND RETIREMENT
7	BENEFITS.—The Postal Service plan shall include—
8	(1) a plan under which reemployment assistance
9	shall be afforded to employees displaced as a result of
10	the automation of any of its functions or the closing
11	and consolidation of any of its facilities; and
12	(2) a plan, developed in consultation with the
13	Office of Personnel Management, to offer early retire-
14	ment benefits.
15	(f) Inspector General Report.—
16	(1) IN GENERAL.—Before submitting the plan
17	under this section to Congress, the Postal Service shall
18	submit the plan to the Inspector General of the
19	United States Postal Service in a timely manner to
20	carry out this subsection.
21	(2) Report.—The Inspector General shall pre-
22	pare a report describing the extent to which the Postal
23	Service plan—

1	(A) is consistent with the continuing obliga-
2	tions of the Postal Service under title 39, United
3	States Code; and
4	(B) provides for the Postal Service to meet
5	the service standards established under section
6	3691.
7	(3) SUBMISSION OF REPORT.—The Postal Serv-
8	ice shall submit the report of the Inspector General
9	under this subsection with the plan submitted to Con-
10	gress under subsection (a).
11	TITLE IV—PROVISIONS RELAT-
12	ING TO FAIR COMPETITION
13	SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.
14	(a) Provisions Relating to Postal Service Com-
15	PETITIVE PRODUCTS FUND AND RELATED MATTERS.—
16	(1) IN GENERAL.—Chapter 20 of title 39, United
17	States Code, is amended by adding at the end the fol-
18	lowing:
19	"§2011. Provisions relating to competitive products
20	"(a) There is established in the Treasury of the United
21	States a revolving fund, to be called the Postal Service Com-
22	petitive Products Fund, which shall be available to the Post-
23	al Service without fiscal year limitation for the payment
24	of—

1	"(1) costs attributable to competitive products;
2	and
3	"(2) all other costs incurred by the Postal Serv-
4	ice, to the extent allocable to competitive products.
5	For purposes of this subsection, the term 'costs attributable'
6	has the meaning given such term by section 3631.
7	"(b) There shall be deposited in the Competitive Prod-
8	ucts Fund, subject to withdrawal by the Postal Service-
9	"(1) revenues from competitive products;
10	"(2) amounts received from obligations issued by
11	the Postal Service under subsection (e);
12	"(3) interest and dividends earned on invest-
13	ments of the Competitive Products Fund; and
14	"(4) any other receipts of the Postal Service (in-
15	cluding from the sale of assets), to the extent allocable
16	to competitive products.
17	"(c) If the Postal Service determines that the moneys
18	of the Competitive Products Fund are in excess of current
19	needs, it may invest such amounts as it considers appro-
20	priate in accordance with regulations which the Secretary
21	of the Treasury shall prescribe within 12 months after the
22	date of enactment of the Postal Accountability and En-
23	hancement Act.
24	"(d) The Postal Service may, in its sole discretion,
25	provide that moneys of the Competitive Products Fund be

1 deposited in a Federal Reserve bank or a depository for
 2 public funds.

3 "(e)(1) Subject to the limitations specified in section 4 2005(a), the Postal Service is authorized to borrow money 5 and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such 6 7 amounts in the Competitive Products Fund, except that the 8 Postal Service may pledge only assets related to the provi-9 sion of competitive products (as determined under sub-10 section (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been es-11 12 tablished and applied, the best information available from 13 the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts 14 15 from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption 16 thereof, and for other purposes incidental thereto, including 17 18 creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such man-19 ner as the Postal Service determines necessary or desirable. 20

21 "(2) The Postal Service may enter into binding cov-22 enants with the holders of such obligations, and with the 23 trustee, if any, under any agreement entered into in connec-24 tion with the issuance thereof with respect to—

1	(A) the establishment of reserve, sinking, and
2	other funds;
3	``(B) application and use of revenues and re-
4	ceipts of the Competitive Products Fund;
5	``(C) stipulations concerning the subsequent
6	issuance of obligations or the execution of leases or
7	lease purchases relating to properties of the Postal
8	Service; and
9	(D) such other matters as the Postal Service
10	considers necessary or desirable to enhance the mar-
11	ketability of such obligations.
12	"(3) Obligations issued by the Postal Service under
13	this subsection—
14	"(A) may not be purchased by the Secretary of
15	the Treasury;
16	"(B) shall not be exempt either as to principal
17	or interest from any taxation now or hereafter im-
18	posed by any State or local taxing authority;
19	``(C) shall not be obligations of, nor shall pay-
20	ment of the principal thereof or interest thereon be
21	guaranteed by, the Government of the United States,
22	and the obligations shall so plainly state; and
23	``(D) notwithstanding the provisions of the Fed-
24	eral Financing Bank Act of 1973 or any other provi-
25	sion of law (except as specifically provided by ref-

erence to this subparagraph in a law enacted after
 this subparagraph takes effect), shall not be eligible
 for purchase by, commitment to purchase by, or sale
 or issuance to, the Federal Financing Bank.

5 "(4)(A) This paragraph applies with respect to the pe6 riod beginning on the date of the enactment of this para7 graph and ending at the close of the 5-year period which
8 begins on the date on which the Postal Service makes its
9 submission under subsection (h)(1).

10 "(B) During the period described in subparagraph (A), 11 nothing in subparagraph (A) or (D) of paragraph (3) or 12 the last sentence of section 2006(b) shall, with respect to 13 any obligations sought to be issued by the Postal Service 14 under this subsection, be considered to affect such obliga-15 tions' eligibility for purchase by, commitment to purchase 16 by, or sale or issuance to, the Federal Financing Bank.

17 "(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of 18 interest, as the Bank and the Postal Service may agree, but 19 at a rate of yield no less than the prevailing yield on out-20 21 standing marketable securities of comparable maturity 22 issued by entities with the same credit rating as the rating 23 then most recently obtained by the Postal Service under sub-24 paragraph (D), as determined by the Bank.

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

5 "(i) shall be determined taking into account only
6 those assets and activities of the Postal Service which
7 are described in section 3634(a)(2) (relating to the
8 Postal Service's assumed taxable income from com9 petitive products); and

"(ii) may, before final rules of the Postal Regulatory Commission under subsection (h) are issued (or
deemed to have been issued), be based on the best information available from the Postal Service, including the audited statements required by section
2008(e).

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

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

1	"(h)(1) The Secretary of the Treasury, in consultation
2	with the Postal Service, an independent, certified public ac-
3	counting firm, and such other advisers as the Secretary con-
4	siders appropriate, shall develop recommendations regard-
5	ing—
6	"(A) the accounting practices and principles that
7	should be followed by the Postal Service with the ob-
8	jectives of—
9	((i) identifying and valuing the assets and
10	liabilities of the Postal Service associated with
11	providing, and the capital and operating costs
12	incurred by the Postal Service in providing,
13	competitive products; and
14	"(ii) preventing the subsidization of such
15	products by market-dominant products; and
16	``(B) the substantive and procedural rules that
17	should be followed in determining the Postal Service's
18	assumed Federal income tax on competitive products
19	income for any year (within the meaning of section
20	3634).
21	Such recommendations shall be submitted to the Postal Reg-
22	ulatory Commission not earlier than 6 months, and not
23	later than 12 months, after the effective date of this section.
24	((2)(A) Upon receiving the recommendations of the
25	Secretary of the Treasury under paragraph (1), the Com-

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

9 "(B) After due consideration of the views and other 10 information received under subparagraph (A), the Commis-11 sion shall by rule—

12 "(i) provide for the establishment and applica13 tion of the accounting practices and principles which
14 shall be followed by the Postal Service;

15 "(ii) provide for the establishment and applica16 tion of the substantive and procedural rules described
17 in paragraph (1)(B); and

"(iii) provide for the submission by the Postal
Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such in-

21 formation as the Commission may require.

22 Final rules under this subparagraph shall be issued not
23 later than 12 months after the date on which the Secretary
24 of the Treasury makes his submission to the Commission
25 under paragraph (1) (or by such later date as agreed to

by the Commission and the Postal Service). The Commis sion is authorized to promulgate regulations revising such
 rules.

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

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

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

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

23 "(i) The Postal Service shall render an annual report
24 to the Secretary of the Treasury concerning the operation
25 of the Competitive Products Fund, in which it shall address

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such matters as risk limitations, reserve balances, allocation 1 2 or distribution of moneys, liquidity requirements, and 3 measures to safeguard against losses. A copy of its then most 4 recent report under this subsection shall be included with 5 any other submission that it is required to make to the Post-6 al Regulatory Commission under section 3652(g).". 7 (2) CLERICAL AMENDMENT.—The analysis for chapter 20 of title 39, United States Code, is amended 8

- 9 by adding after the item relating to section 2010 the
- 10 *following*:

"2011. Provisions relating to competitive products.".

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

- 12 (1) DEFINITION.—Section 2001 of title 39,
  13 United States Code, is amended by striking "and" at
  14 the end of paragraph (1), by redesignating paragraph
  15 (2) as paragraph (3), and by inserting after para16 graph (1) the following:
  17 "(2) 'Competitive Products Fund' means the
- 18 Postal Service Competitive Products Fund established
  19 by section 2011; and".
- (2) CAPITAL OF THE POSTAL SERVICE.—Section
  21 2002(b) of title 39, United States Code, is amended
  22 by striking "Fund," and inserting "Fund and the
  23 balance in the Competitive Products Fund,".

24 (3) Postal service fund.—

1	(A) PURPOSES FOR WHICH AVAILABLE.—
2	Section 2003(a) of title 39, United States Code,
3	is amended by striking "title." and inserting
4	"title (other than any of the purposes, functions,
5	or powers for which the Competitive Products
6	Fund is available).".
7	(B) DEPOSITS.—Section 2003(b) of title 39,
8	United States Code, is amended by striking
9	"There" and inserting "Except as otherwise pro-
10	vided in section 2011, there".
11	(4) Relationship between the treasury
12	AND THE POSTAL SERVICE.—Section 2006 of title 39,
13	United States Code, is amended—
14	(A) in subsection (b), by adding at the end
15	the following: "Nothing in this chapter shall be
16	considered to permit or require the Secretary of
17	the Treasury to purchase any obligations of the
18	Postal Service other than those issued under sec-
19	tion 2005."; and
20	(B) in subsection (c), by inserting "under
21	section 2005" before "shall be obligations".

1	SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETI-
2	TIVE PRODUCTS INCOME.
3	Subchapter II of chapter 36 of title 39, United States
4	Code, as amended by section 202, is amended by adding
5	at the end the following:
6	"§3634. Assumed Federal income tax on competitive
7	products income
8	"(a) DEFINITIONS.—For purposes of this section—
9	"(1) the term 'assumed Federal income tax on
10	competitive products income' means the net income
11	tax that would be imposed by chapter 1 of the Inter-
12	nal Revenue Code of 1986 on the Postal Service's as-
13	sumed taxable income from competitive products for
14	the year; and
15	"(2) the term 'assumed taxable income from com-
16	petitive products', with respect to a year, refers to the
17	amount representing what would be the taxable in-
18	come of a corporation under the Internal Revenue
19	Code of 1986 for the year, if—
20	"(A) the only activities of such corporation
21	were the activities of the Postal Service allocable
22	under section 2011(h) to competitive products;
23	and
24	``(B) the only assets held by such corpora-
25	tion were the assets of the Postal Service allo-
26	cable under section 2011(h) to such activities.

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

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

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

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

## 15 SEC. 403. UNFAIR COMPETITION PROHIBITED.

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

### 19 "§404a. Specific limitations

20 "(a) Except as specifically authorized by law, the Post21 al Service may not—

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

1	does not create an unfair competitive advantage for
2	itself or any entity funded (in whole or in part) by
3	the Postal Service;
4	"(2) compel the disclosure, transfer, or licensing
5	of intellectual property to any third party (such as
6	patents, copyrights, trademarks, trade secrets, and
7	proprietary information); or
8	"(3) obtain information from a person that pro-

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

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

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

22 (b) Conforming Amendments.—

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

1	and inserting "Subject to the provisions of section
2	404a, the".
3	(2) Specific powers.—Section 404(a) of title
4	39, United States Code, is amended by striking
5	"Without" and inserting "Subject to the provisions of
6	section 404a, but otherwise without".
7	(c) CLERICAL AMENDMENT.—The analysis for chapter
8	4 of title 39, United States Code, is amended by inserting
9	after the item relating to section 404 the following:
	"404a. Specific limitations.".
10	SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.
11	(a) IN GENERAL.—Section 409 of title 39, United
12	States Code, is amended by striking subsections (d) and (e)
13	and inserting the following:
14	"(d)(1) For purposes of the provisions of law cited in
15	paragraphs $(2)(A)$ and $(2)(B)$ , respectively, the Postal Serv-
16	ice—
17	"(A) shall be considered to be a 'person', as used
18	in the provisions of law involved; and
19	``(B) shall not be immune under any other doc-
20	trine of sovereign immunity from suit in Federal
21	court by any person for any violation of any of those
22	provisions of law by any officer or employee of the
23	Postal Service.
24	"(2) This subsection applies with respect to—

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1	"(A) the Act of July 5, 1946 (commonly referred
2	to as the 'Trademark Act of 1946' (15 U.S.C. 1051
3	and following)); and
4	``(B) the provisions of section 5 of the Federal
5	Trade Commission Act to the extent that such section
6	5 applies to unfair or deceptive acts or practices.
7	"(e)(1) To the extent that the Postal Service, or other
8	Federal agency acting on behalf of or in concert with the
9	Postal Service, engages in conduct with respect to any prod-
10	uct which is not reserved to the United States under section
11	1696 of title 18, the Postal Service or other Federal agency
12	(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 Clay-
19	ton 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 ap-
24	plies to unfair methods of competition.

For purposes of the preceding sentence, any private carriage
 of mail allowable by virtue of section 601 shall not be con sidered a service reserved to the United States under section
 1696 of title 18.

5 "(2) No damages, interest on damages, costs or attor6 ney's fees may be recovered, and no criminal liability may
7 be imposed, under the antitrust laws (as so defined) from
8 any officer or employee of the Postal Service, or other Fed9 eral agency acting on behalf of or in concert with the Postal
10 Service, acting in an official capacity.

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

"(f) To the extent that the Postal Service engages in
conduct with respect to the provision of competitive products, it shall be considered a person for the purposes of the
Federal bankruptcy laws.

18 "(g)(1) Each building constructed or altered by the 19 Postal Service shall be constructed or altered, to the max-20 imum extent feasible as determined by the Postal Service, 21 in compliance with 1 of the nationally recognized model 22 building codes and with other applicable nationally recog-23 nized codes.

24 "(2) Each building constructed or altered by the Postal
25 Service shall be constructed or altered only after consider-

ation of all requirements (other than procedural require ments) of zoning laws, land use laws, and applicable envi ronmental laws of a State or subdivision of a State which
 would apply to the building if it were not a building con structed or altered by an establishment of the Government
 of the United States.

7 "(3) For purposes of meeting the requirements of para8 graphs (1) and (2) with respect to a building, the Postal
9 Service shall—

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

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

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

24 tion of the building is begun; and

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

4 Nothing in this subsection shall impose an obligation on any State or political subdivision to take any action under 5 the preceding sentence, nor shall anything in this subsection 6 7 require the Postal Service or any of its contractors to pay 8 for any action taken by a State or political subdivision to 9 carry out this subsection (including reviewing plans, car-10 rying out on-site inspections, issuing building permits, and making recommendations). 11

12 "(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Post-13 al Service concerning measures necessary to meet the re-14 15 quirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service con-16 17 cerning measures which should be taken in the construction 18 or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to 19 any such recommendations. 20

21 "(5) In addition to consulting with local and State
22 officials under paragraph (3), the Postal Service shall estab23 lish procedures for soliciting, assessing, and incorporating
24 local community input on real property and land use deci25 sions.

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

5 "(h)(1) Notwithstanding any other provision of law,
6 legal representation may not be furnished by the Depart7 ment of Justice to the Postal Service in any action, suit,
8 or proceeding arising, in whole or in part, under any of
9 the following:

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

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

"(C) Section 3663 (relating to appellate review).
The Postal Service may, by contract or otherwise, employ
attorneys to obtain any legal representation that it is precluded from obtaining from the Department of Justice
under this paragraph.

"(2) In any circumstance not covered by paragraph
(1), the Department of Justice shall, under section 411, furnish the Postal Service such legal representation as it may
require, except that, with the prior consent of the Attorney
General, the Postal Service may, in any such circumstance,
employ attorneys by contract or otherwise to conduct litiga-

tion brought by or against the Postal Service or its officers
 or employees in matters affecting the Postal Service.

3 "(3)(A) In any action, suit, or proceeding in a court 4 of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B)5 6 or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted 7 8 to appear as a party on its own motion and as of right. 9 "(B) The Department of Justice shall, under such 10 terms and conditions as the Commission and the Attorney 11 General shall consider appropriate, furnish the Commission such legal representation as it may require in connection 12 13 with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission 14 15 may employ attorneys by contract or otherwise for that pur-16 pose.

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

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

1	SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.
2	(a) IN GENERAL.—Section 407 of title 39, United
3	States Code, is amended to read as follows:
4	"§407. International postal arrangements
5	"(a) It is the policy of the United States—
6	"(1) to promote and encourage communications
7	between peoples by efficient operation of international
8	postal services and other international delivery serv-
9	ices for cultural, social, and economic purposes;
10	"(2) to promote and encourage unrestricted and
11	undistorted competition in the provision of inter-
12	national postal services and other international deliv-
13	ery services, except where provision of such services by
14	private companies may be prohibited by law of the
15	United States;
16	"(3) to promote and encourage a clear distinc-
17	tion between governmental and operational respon-
18	sibilities with respect to the provision of international
19	postal services; and
20	"(4) to participate in multilateral and bilateral
21	agreements with other countries to accomplish these
22	objectives.
23	"(b)(1) The Secretary of State shall be responsible for
24	formulation, coordination, and oversight of foreign policy
25	related to international postal services and shall have the
26	power to conclude postal treaties and conventions, except
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that the Secretary may not conclude any postal treaty or
 convention if such treaty or convention would, with respect
 to any competitive product, grant an undue or unreason able preference to the Postal Service, a private provider of
 international postal services, or any other person.

6 "(2) In carrying out the responsibilities specified in 7 paragraph (1), the Secretary of State shall exercise primary 8 authority for the conduct of foreign policy with respect to 9 international postal services, including the determination of United States positions and the conduct of United States 10 11 participation in negotiations with foreign governments and 12 international bodies. In exercising this authority, the Sec-13 retary-

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

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

24 "(C) shall maintain continuing liaison with the
25 Committee on Governmental Affairs of the Senate and

the Committee on Government Reform of the House of
 Representatives;

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

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

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

23 "(c) Before concluding any postal treaty or convention
24 that establishes a rate or classification for a product subject
25 to subchapter I of chapter 36, the Secretary of State shall

request the Postal Regulatory Commission to submit its
 views on whether such rate or classification is consistent
 with the standards and criteria established by the Commis sion under section 3622.

5 "(d) Nothing in this section shall be considered to pre6 vent the Postal Service from entering into such commercial
7 or operational contracts related to providing international
8 postal services as it deems appropriate, except that—

9 "(1) any such contract made with an agency of 10 a foreign government (whether under authority of this 11 subsection or otherwise) shall be solely contractual in 12 nature and may not purport to be binding under 13 international law; and

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

"(e)(1) With respect to shipments of international mail
that are competitive products within the meaning of section
3631 that are exported or imported by the Postal Service,
the Customs Service and other appropriate Federal agencies
shall apply the customs laws of the United States and all
other laws relating to the importation or exportation of such

shipments in the same manner to both shipments by the
 Postal Service and similar shipments by private companies.

3 "(2) In exercising the authority under subsection (b) 4 to conclude new postal treaties and conventions related to 5 international postal services and to renegotiate such treaties and conventions, the Secretary of State shall, to the max-6 7 imum extent practicable, take such measures as are within 8 the Secretary's control to encourage the governments of 9 other countries to make available to the Postal Service and 10 private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of 11 American shippers. The Secretary of State shall consult 12 13 with the United States Trade Representative and the Commissioner of Customs in carrying out this paragraph. 14

"(3) The provisions of this subsection shall take effect
6 months after the date of the enactment of this subsection
or such earlier date as the Customs Service may determine
in writing.".

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

1	(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 (as
4	amended by section 201(a)) take effect; and
5	(2) with respect to competitive products, the date
6	as of which the regulations promulgated under section
7	3633 of title 39, United States Code (as amended by
8	section 202) take effect.
9	TITLE V—GENERAL PROVISIONS
10	SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR
11	GOVERNORS.
12	(a) QUALIFICATIONS.—
13	(1) IN GENERAL.—Section 202(a) of title 39,
14	United States Code, is amended by striking "(a)" and
15	inserting " $(a)(1)$ " and by striking the fourth sentence
16	and inserting the following: "The Governors shall rep-
17	resent the public interest generally, and shall be cho-
18	sen solely on the basis of their demonstrated ability
19	in managing organizations or corporations (in either
20	the public or private sector) of substantial size. The
21	Governors shall not be representatives of specific in-
22	terests using the Postal Service, and may be removed
23	only for cause.".
24	(2) APPLICABILITY.—The amendment made by
25	paragraph (1) shall not affect the appointment or ten-

1	ure of any person serving as a Governor of the United
2	States Postal Service under an appointment made be-
3	fore the date of the enactment of this Act however,
4	when any such office becomes vacant, the appointment
5	of any person to fill that office shall be made in ac-
6	cordance with such amendment. The requirement set
7	forth in the fourth sentence of section $202(a)(1)$ of
8	title 39, United States Code (as amended by sub-
9	section (a)) shall be met beginning not later than 9
10	years after the date of the enactment of this Act.
11	(b) Consultation Requirement.—Section 202(a) of
12	title 39, United States Code, is amended by adding at the
13	end the following:
14	"(2) In selecting the individuals described in para-
15	graph (1) for nomination for appointment to the position
16	of Governor, the President should consult with the Speaker

17 of the House of Representatives, the minority leader of the18 House of Representatives, the majority leader of the Senate,

19 and the minority leader of the Senate.".

20 (c) 5-YEAR TERMS.—

21 (1) IN GENERAL.—Section 202(b) of title 39,
22 United States code, is amended in the first sentence
23 by striking "9 years" and inserting "5 years".

24 (2) APPLICABILITY.—

1	(A) CONTINUATION BY INCUMBENTS.—The
2	amendment made by paragraph (1) shall not af-
3	fect the tenure of any person serving as a Gov-
4	ernor of the United States Postal Service on the
5	date of enactment of this Act and such person
6	may continue to serve the remainder of the ap-
7	plicable term.
8	(B) VACANCY BY INCUMBENT BEFORE 5
9	YEARS OF SERVICE.—If a person who is serving
10	as a Governor of the United States Postal Serv-
11	ice on the date of enactment of this Act resigns,
12	is removed, or dies before the expiration of the 9-
13	year term of that Governor, and that Governor
14	has served less than 5 years of that term, the re-
15	sulting vacancy in office shall be treated as a va-
16	cancy in a 5-year term.
17	(C) VACANCY BY INCUMBENT AFTER 5
18	YEARS OF SERVICE.—If a person who is serving
19	as a Governor of the United States Postal Serv-
20	ice on the date of enactment of this Act resigns,
21	is removed, or dies before the expiration of the 9-
22	year term of that Governor, and that Governor
23	has served 5 years or more of that term, that
24	term shall be deemed to have been a 5-year term
25	beginning on its commencement date for pur-

1	poses of determining vacancies in office. Any ap-
2	pointment to the vacant office shall be for a 5-
3	year term beginning at the end of the original 9-
4	year term determined without regard to the
5	deeming under the preceding sentence. Nothing
6	in this subparagraph shall be construed to affect
7	any action or authority of any Governor or the
8	Board of Governors during any portion of a 9-
9	year term deemed to be 5-year term under this
10	subparagraph.
11	(d) TERM LIMITATION.—
12	(1) IN GENERAL.—Section 202(b) of title 39,
13	United States Code, is amended—
14	(A) by inserting "(1)" after "(b)"; and
15	(B) by adding at the end the following:
16	"(2) No person may serve more than 3 terms as
17	a Governor.".
18	(2) APPLICABILITY.—The amendments made by
19	paragraph (1) shall not affect the tenure of any per-
20	son serving as a Governor of the United States Postal
21	Service on the date of enactment of this Act with re-
22	spect to the term which that person is serving on that
23	date. Such person may continue to serve the remain-
24	der of the applicable term, after which the amend-
25	ments made by paragraph (1) shall apply.

1 SEC. 502. OBLIGATIONS.

2 (a) PURPOSES FOR WHICH OBLIGATIONS MAY BE
3 ISSUED.—The first sentence of section 2005(a)(1) of title
4 39, United States Code, is amended by striking "title." and
5 inserting "title, other than any of the purposes for which
6 the corresponding authority is available to the Postal Serv7 ice under section 2011.".

8 (b) INCREASE RELATING TO OBLIGATIONS ISSUED FOR
9 CAPITAL IMPROVEMENTS.—Section 2005(a)(1) of title 39,
10 United States Code, is amended by striking the third sen11 tence.

12 (c) Amounts Which May Be Pledged.—

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

(2) ASSETS, REVENUES, AND RECEIPTS TO
WHICH PROVISIONS APPLY.—Subsection (b) of section
20 2005 of title 39, United States Code, is amended by
21 striking "(b)" and inserting "(b)(1)", and by adding
22 at the end the following:

23 "(2) Notwithstanding any other provision of this sec24 tion—

25 "(A) the authority to pledge assets of the Postal
26 Service under this subsection shall be available only
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1	to the extent that such assets are not related to the
2	provision of competitive products (as determined
3	under section 2011(h) or, for purposes of any period
4	before accounting practices and principles under sec-
5	tion 2011(h) have been established and applied, the
6	best information available from the Postal Service,
7	including the audited statements required by section
8	2008(e)); and
9	``(B) any authority under this subsection relat-
10	ing to the pledging or other use of revenues or receipts
11	of the Postal Service shall be available only to the ex-
12	tent that they are not revenues or receipts of the Com-
13	petitive Products Fund.".
14	SEC. 503. PRIVATE CARRIAGE OF LETTERS.
15	(a) IN GENERAL.—Section 601 of title 39, United
16	States Code, is amended by striking subsection (b) and in-
17	serting the following:
18	"(b) A letter may also be carried out of the mails
19	<b>]</b>
	when—
20	<i>when</i> — <i>"(1) the amount paid for the private carriage of</i>
20 21	
	"(1) the amount paid for the private carriage of
21	"(1) the amount paid for the private carriage of the letter is at least the amount equal to 6 times the

"(3) such carriage is within the scope of services
 described by regulations of the United States Postal
 Service (as in effect on July 1, 2001) that permit pri vate carriage by suspension of the operation of this
 section (as then in effect).

6 "(c) Any regulations necessary to carry out this section
7 shall be promulgated by the Postal Regulatory Commis8 sion.".

9 (b) EFFECTIVE DATE.—This section shall take effect 10 on the date as of which the regulations promulgated under 11 section 3633 of title 39, United States Code (as amended 12 by section 202) take effect.

# 13 SEC. 504. RULEMAKING AUTHORITY.

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

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

# 22 SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-23 GAINING AGREEMENTS.

24 (a) LABOR DISPUTES.—Section 1207 of title 39,
25 United States Code, is amended to read as follows:

#### 1 "§ 1207. Labor disputes

"(a) If there is a collective-bargaining agreement in 2 3 effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination 4 5 or modification serves written notice upon the other party to the agreement of the proposed termination or modifica-6 7 tion not less than 90 days prior to the expiration date thereof, or not less than 90 days prior to the time it is proposed 8 to make such termination or modification. The party serv-9 10 ing such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days 11 of such notice, if no agreement has been reached by that 12 13 time.

14 "(b) If the parties fail to reach agreement or to adopt 15 a procedure providing for a binding resolution of a dispute 16 by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director 17 of the Federal Mediation and Conciliation Service shall 18 19 within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member 20 21 of the National Academy of Arbitrators. The parties shall 22 cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such 23 24 times and places that the mediator, in consultation with the parties, shall direct. 25
1 (c)(1) If no agreement is reached within 60 days after 2 the expiration or termination of the agreement or the date 3 on which the agreement became subject to modification 4 under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures 5 therefore, an arbitration board shall be established con-6 7 sisting of 3 members, 1 of whom shall be selected by the 8 Postal Service, 1 by the bargaining representative of the 9 employees, and the third by the 2 thus selected. If either 10 of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person with-11 in 5 days after their first meeting, the selection shall be 12 13 made from a list of names provided by the Director. This list shall consist of not less then 9 names of arbitrators of 14 15 nationwide reputation and professional nature, who are also members of the National Academy of Arbitrators, and 16 whom the Director has determined are available and will-17 18 ing to serve.

19 "(2) The arbitration board shall give the parties a full 20 and fair hearing, including an opportunity to present evi-21 dence in support of their claims, and an opportunity to 22 present their case in person, by counsel or by other rep-23 resentative as they may elect. Decisions of the arbitration 24 board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days
 after its appointment.

3 "(3) Costs of the arbitration board and mediation shall
4 be shared equally by the Postal Service and the bargaining
5 representative.

6 "(d) In the case of a bargaining unit whose recognized 7 collective-bargaining representative does not have an agree-8 ment with the Postal Service, if the parties fail to reach 9 the agreement within 90 days of the commencement of col-10 lective bargaining, a mediator shall be appointed in accordance with the terms in subsection (b) of this section, unless 11 the parties have previously agreed to another procedure for 12 a binding resolution of their differences. If the parties fail 13 to reach agreement within 180 days of the commencement 14 15 of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board 16 shall be established to provide conclusive and binding arbi-17 tration in accordance with the terms of subsection (c) of 18 19 this section.".

20 Noninterference WITH Collective (b)BAR-21 GAINING AGREEMENTS.—Except as otherwise provided by 22 the amendment made by subsection (a), nothing in this Act 23 shall restrict, expand, or otherwise affect any of the rights, 24 privileges, or benefits of either employees of or labor organi-25 zations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code,
 the National Labor Relations Act, any handbook or manual
 affecting employee labor relations within the United States
 Postal Service, or any collective bargaining agreement.

5 (c) FREE MAILING PRIVILEGES CONTINUE UN6 CHANGED.—Nothing in this Act or any amendment made
7 by this Act shall affect any free mailing privileges accorded
8 under section 3217 or sections 3403 through 3406 of title
9 39, United States Code.

### 10 TITLE VI—ENHANCED 11 REGULATORY COMMISSION

12 SEC. 601. REORGANIZATION AND MODIFICATION OF CER-

13 TAIN PROVISIONS RELATING TO THE POSTAL

14 **REGULATORY COMMISSION.** 

15 (a) TRANSFER AND REDESIGNATION.—Title 39,

16 United States Code, is amended—

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

- 18 *"CHAPTER 5—POSTAL REGULATORY*
- 19 COMMISSION

"Sec.

*"501. Establishment.* 

"502. Commissioners.

"503. Rules; regulations; procedures.

"504. Administration.

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

#### 1 "§ 501. Establishment

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

#### 5 "§ 502. Commissioners

6 "(a) The Postal Regulatory Commission is composed 7 of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commis-8 9 sioners shall be chosen solely on the basis of their technical 10 qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public adminis-11 tration, and may be removed by the President only for 12 13 cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out 14 15 the enhanced responsibilities accorded Commissioners under 16 the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same 17 18 *political party.* 

19 "(b) No Commissioner shall be financially interested
20 in any enterprise in the private sector of the economy en21 gaged in the delivery of mail matter.

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

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

4 "(e) The Commissioners shall by majority vote des5 ignate a Vice Chairman of the Commission. The Vice Chair6 man shall act as Chairman of the Commission in the ab7 sence of the Chairman.

8 "(f) The Commissioners shall serve for terms of 6
9 years.";

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

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

18 (4) by adding after such section 504 the fol-19 lowing:

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

22 "The Postal Regulatory Commission shall designate an
23 officer of the Postal Regulatory Commission in all public
24 proceedings who shall represent the interests of the general
25 public.".

1 (b) APPLICABILITY.—The amendment made by sub-2 section (a)(1) shall not affect the appointment or tenure of any person serving as a Commissioner on the Postal Requ-3 latory Commission (as so redesignated by section 604) 4 5 under an appointment made before the date of the enactment of this Act or any nomination made before that date, 6 7 but, when any such office becomes vacant, the appointment 8 of any person to fill that office shall be made in accordance 9 with such amendment.

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

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

13 SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS14 SION TO ISSUE SUBPOENAS.

15 Section 504 of title 39, United States Code (as so redes16 ignated by section 601) is amended by adding at the end
17 the following:

"(f)(1) Any Commissioner of the Postal Regulatory
Commission, any administrative law judge appointed by
the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission
may administer oaths, examine witnesses, take depositions,
and receive evidence.

24 "(2) The Chairman of the Commission, any Commis25 sioner designated by the Chairman, and any administrative
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law judge appointed by the Commission under section 3105
 of title 5 may, with respect to any proceeding conducted
 by the Commission under this title or to obtain information
 to be used to prepare a report under this title—

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

9 "(B) order the taking of depositions and re10 sponses to written interrogatories by a covered person.
11 The written concurrence of a majority of the Commissioners
12 then holding office shall, with respect to each subpoena
13 under subparagraph (A), be required in advance of its
14 issuance.

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

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

4 "(q)(1) If the Postal Service determines that any docu-5 ment or other matter it provides to the Postal Regulatory 6 Commission under a subpoena issued under subsection (f), 7 or otherwise at the request of the Commission in connection 8 with any proceeding or other purpose under this title, con-9 tains information which is described in section 410(c) of 10 this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of 11 providing such matter to the Commission, notify the Com-12 mission, in writing, of its determination (and the reasons 13 14 therefor).

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

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

21 "(B) permit anyone who is not an officer or em22 ployee of the Commission to have access to any such
23 information.

24 "(3)(A) Paragraph (2) shall not prohibit the
25 Commission from publicly disclosing relevant infor-

1	mation in furtherance of its duties under this title,
2	provided that the Commission has adopted regula-
3	tions under section 553 of title 5, that establish a pro-
4	cedure for according appropriate confidentiality to
5	information identified by the Postal Service under
6	paragraph (1). In determining the appropriate degree
7	of confidentiality to be accorded information identi-
8	fied by the Postal Service under paragraph (1), the
9	Commission shall balance the nature and extent of the
10	likely commercial injury to the Postal Service against
11	the public interest in maintaining the financial
12	transparency of a government establishment com-
13	peting in commercial markets.
14	"(B) Paragraph (2) shall not prevent the Com-
15	
15	mission from requiring production of information in
16	mission from requiring production of information in the course of any discovery procedure established in
16	the course of any discovery procedure established in
16 17	the course of any discovery procedure established in connection with a proceeding under this title. The
16 17 18	the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c)
16 17 18 19	the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish pro-
16 17 18 19 20	the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish pro- cedures for ensuring appropriate confidentiality for
<ol> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> </ol>	the course of any discovery procedure established in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish pro- cedures for ensuring appropriate confidentiality for information furnished to any party.".

25 section (d) of section 504 of title 39, United States Code

1 (as so redesignated by section 601) is amended to read as2 follows:

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

11 (b) BUDGET PROGRAM.—

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

1	(2) Conforming Amendment.—Section
2	2003(e)(1) of title 39, United States Code, is amended
3	by striking the first sentence and inserting the fol-
4	lowing: "The Fund shall be available for the payment
5	of (A) all expenses incurred by the Postal Service in
6	carrying out its functions as provided by law, subject
7	to the same limitation as set forth in the parenthet-
8	ical matter under subsection (a); (B) all expenses of
9	the Postal Regulatory Commission, subject to the
10	availability of amounts appropriated under section
11	504(d); and (C) all expenses of the Office of Inspector
12	General, subject to the availability of amounts appro-
13	priated under section 8G(f) of the Inspector General
14	Act of 1978.".
15	(c) Effective Date.—
16	(1) IN GENERAL.—The amendments made by
17	this section shall apply with respect to fiscal years be-
18	ginning on or after October 1, 2002.
19	(2) SAVINGS PROVISION.—The provisions of title
20	39, United States Code, that are amended by this sec-
21	tion shall, for purposes of any fiscal year before the
22	first fiscal year to which the amendments made by
23	this section apply, continue to apply in the same way
24	as if this section had never been enacted.

1SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMIS-2SION.

3 (a) AMENDMENTS TO TITLE 39, UNITED STATES
4 CODE.—Title 39, United States Code, is amended in sec5 tions 404, 503 and 504 (as so redesignated by section 601),
6 1001 and 1002, by striking "Postal Rate Commission" each
7 place it appears and inserting "Postal Regulatory Commis8 sion";

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

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

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

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

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

#### 11 SEC. 605. FINANCIAL TRANSPARENCY.

12 Section 101 of title 39, United States Code, is amend13 ed—

14 (1) by redesignating subsections (d) through (g)
15 as subsections (e) through (h), respectively; and

16 (2) by inserting after subsection (c) the fol-17 lowing:

18 "(d) As an independent establishment of the executive 19 branch of the Government of the United States, the Postal 20 Service shall be subject to a high degree of transparency 21 to ensure fair treatment of customers of the Postal Service's 22 market-dominant products and companies competing with 23 the Postal Service's competitive products.".

1	TITLE VII—EVALUATIONS
2	SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICATION,
3	AND OTHER PROVISIONS.
4	(a) IN GENERAL.—The Postal Regulatory Commission
5	shall, at least every 3 years, submit a report to the President
6	and Congress concerning—
7	(1) the operation of the amendments made by
8	this Act; and
9	(2) recommendations for any legislation or other
10	measures necessary to improve the effectiveness or effi-
11	ciency of the postal laws of the United States.
12	(b) Postal Service Views.—A report under this sec-
13	tion shall be submitted only after reasonable opportunity
14	has been afforded to the Postal Service to review the report
15	and to submit written comments on the report. Any com-
16	ments timely received from the Postal Service under the pre-
17	ceding sentence shall be attached to the report submitted
18	under subsection (a).
19	SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND
20	THE POSTAL MONOPOLY.
21	(a) Report by the Postal Regulatory Commis-
22	SION.—
23	(1) IN GENERAL.—Not later than 12 months
24	after the date of enactment of this Act, the Postal Reg-
25	ulatory Commission shall submit a report to the

1	President and Congress on universal postal service
2	and the postal monopoly in the United States (in this
3	section referred to as "universal service and the postal
4	monopoly"), including the monopoly on the delivery
5	of mail and on access to mailboxes.
6	(2) CONTENTS.—The report under this subsection
7	shall include—
8	(A) a comprehensive review of the history
9	and development of universal service and the
10	postal monopoly, including how the scope and
11	standards of universal service and the postal mo-
12	nopoly have evolved over time for the Nation and
13	its urban and rural areas;
14	(B) the scope and standards of universal
15	service and the postal monopoly provided under
16	current law (including sections 101 and 403 of
17	title 39, United States Code), and current rules,
18	regulations, policy statements, and practices of
19	the Postal Service;
20	(C) a description of any geographic areas,
21	populations, communities (including both urban
22	and rural communities), organizations, or other
23	groups or entities not currently covered by uni-
24	versal service or that are covered but that are re-

ceiving services deficient in scope or quality or both; and

(D) the scope and standards of universal 3 4 service and the postal monopoly likely to be re-5 quired in the future in order to meet the needs 6 and expectations of the United States public, in-7 cluding all types of mail users, based on discus-8 sion of such assumptions, alternative sets of as-9 sumptions, and analyses as the Postal Service 10 considers plausible.

(b) RECOMMENDED CHANGES TO UNIVERSAL SERVICE
AND THE MONOPOLY.—The Postal Regulatory Commission
shall include in the report under subsection (a), and in all
reports submitted under section 701 of this Act—

15 (1) any recommended changes to universal serv-16 ice and the postal monopoly as the Commission con-17 siders appropriate, including changes that the Com-18 mission may implement under current law and 19 changes that would require changes to current law, 20 with estimated effects of the recommendations on the 21 service, financial condition, rates, and security of 22 mail provided by the Postal Service;

23 (2) with respect to each recommended change de24 scribed under paragraph (1)—

1

2

1	(A) an estimate of the costs of the Postal
2	Service attributable to the obligation to provide
3	universal service under current law; and
4	(B) an analysis of the likely benefit of the
5	current postal monopoly to the ability of the
6	Postal Service to sustain the current scope and
7	standards of universal service, including esti-
8	mates of the financial benefit of the postal mo-
9	nopoly to the extent practicable, under current
10	law; and
11	(3) such additional topics and recommendations
12	as the Commission considers appropriate, with esti-
13	mated effects of the recommendations on the service,
14	financial condition, rates, and the security of mail
15	provided by the Postal Service.
16	SEC. 703. STUDY ON EQUAL APPLICATION OF LAWS TO COM-
17	PETITIVE PRODUCTS.
18	(a) IN GENERAL.—The Federal Trade Commission
19	shall prepare and submit to the President and Congress,
20	and to the Postal Regulatory Commission, within 1 year
21	after the date of the enactment of this Act, a comprehensive
22	report identifying Federal and State laws that apply dif-
23	ferently to the United States Postal Service with respect to
24	the competitive category of mail (within the meaning of sec-
25	tion 102 of title 39, United States Code, as amended by

section 101) and similar products provided by private com panies.

3 (b) RECOMMENDATIONS.—The Federal Trade Commis4 sion shall include such recommendations as it considers ap5 propriate for bringing such legal discrimination to an end,
6 and in the interim, to account under section 3633 of title
7 39, United States Code (as added by this Act), for the net
8 economic advantages provided by those laws.

9 (c) CONSULTATION.—In preparing its report, the Fed-10 eral Trade Commission shall consult with the United States 11 Postal Service, the Postal Regulatory Commission, other 12 Federal agencies, mailers, private companies that provide 13 delivery services, and the general public, and shall append 14 to such report any written comments received under this 15 subsection.

(d) COMPETITIVE PRODUCT REGULATION.—The Postal
Regulatory Commission shall take into account the recommendations of the Federal Trade Commission in promulgating or revising the regulations required under section
3633 of title 39, United States Code.

# SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND WORKPLACE-RELATED INJURIES. (a) REPORT BY THE INSPECTOR GENERAL.— (1) IN GENERAL.—No later than 6 months after the enactment of this Act, the Inspector General of the

1	United States Postal Service shall submit a report to
2	Congress and the Postal Service that—
3	(A) details and assesses any progress the
4	Postal Service has made in improving workplace
5	safety and reducing workplace-related injuries
6	nationwide; and
7	(B) identifies opportunities for improve-
8	ment that remain with respect to such improve-
9	ments and reductions.
10	(2) CONTENTS.—The report under this subsection
11	shall also—
12	(A) discuss any injury reduction goals es-
13	tablished by the Postal Service;
14	(B) describe the actions that the Postal
15	Service has taken to improve workplace safety
16	and reduce workplace-related injuries, and assess
17	how successful the Postal Service has been in
18	meeting its injury reduction goal; and
19	(C) identify areas where the Postal Service
20	has failed to meet its injury reduction goals, ex-
21	plain the reasons why these goals were not met,
22	and identify opportunities for making further
23	progress in meeting these goals.
24	(b) Report by the Postal Service.—

1	(1) Report to congress.—Not later than 6
2	months after receiving the report under subsection (a),
3	the Postal Service shall submit a report to Congress
4	detailing how it plans to improve workplace safety
5	and reduce workplace-related injuries nationwide, in-
6	cluding goals and metrics.
7	(2) Problem Areas.—The report under this
8	subsection shall also include plans, developed in con-
9	sultation with the Inspector General and employee
10	representatives, including representatives of each post-
11	al labor union and management association, for ad-
12	dressing the problem areas identified by the Inspector
13	General in the report under subsection $(a)(2)(C)$ .
14	SEC. 705. STUDY ON RECYCLED PAPER.
15	(a) IN GENERAL.—Within 12 months after the date
16	of enactment of this Act, the General Accounting Office shall
17	study and submit to the Congress, the Board of Governors
18	of the Postal Service, and to the Postal Regulatory Commis-
19	sion a report concerning—
20	(1) the economic and environmental efficacy of
21	establishing rate incentives for mailers linked to the
22	use of recycled paper;
23	(2) a description of the accomplishments of the
24	Postal Service in each of the preceding 5 years involv-
25	ing recycling activities, including the amount of an-

1	nual revenue generated and savings achieved by the
2	Postal Service as a result of its use of recycled paper
3	and other recycled products and its efforts to recycle
4	undeliverable and discarded mail and other mate-
5	rials; and
6	(3) additional opportunities that may be avail-
7	able for the United States Postal Service to engage in
8	recycling initiatives and the projected costs and reve-
9	nues of undertaking such opportunities.
10	(b) Recommendations.—The report shall include rec-
11	$ommendations \ for \ any \ administrative \ or \ legislative \ actions$
12	that may be appropriate.
13	TITLE VIII—POSTAL SERVICE RE-
14	TIREMENT AND HEALTH BEN-
15	EFITS FUNDING
16	SEC. 801. SHORT TITLE.
17	This title may be cited as the "Postal Civil Service
18	Retirement and Health Benefits Funding Amendments of
19	2004".
20	SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.
21	(a) IN GENERAL.—Chapter 83 of title 5, United States
22	Code, is amended—
23	(1) in section $8334(a)(1)(B)$ , by striking clause
24	(ii) and inserting the following:

1	"(ii) In the case of an employee of the United States
2	Postal Service, no amount shall be contributed under this
3	subparagraph."; and
4	(2) by amending section 8348(h) to read as fol-
5	lows:
6	"(h)(1) In this subsection, the term 'Postal surplus or
7	supplemental liability' means the estimated difference, as
8	determined by the Office, between—
9	"(A) the actuarial present value of all future
10	benefits payable from the Fund under this subchapter
11	to current or former employees of the United States
12	Postal Service and attributable to civilian employ-
13	ment with the United States Postal Service; and
14	"( $B$ ) the sum of—
15	"(i) the actuarial present value of deduc-
16	tions to be withheld from the future basic pay of
17	employees of the United States Postal Service
18	currently subject to this subchapter under section
19	8334;
20	"(ii) that portion of the Fund balance, as of
21	the date the Postal surplus or supplemental li-
22	ability is determined, attributable to payments
23	to the Fund by the United States Postal Service
24	and its employees, minus benefit payments at-
25	tributable to civilian employment with the

1	United States Postal Service, plus the earnings
2	on such amounts while in the Fund; and
3	"(iii) any other appropriate amount, as de-
4	termined by the Office in accordance with gen-
5	erally accepted actuarial practices and prin-
6	ciples.
7	"(2)(A) Not later than June 30, 2006, the Office shall

8 determine the Postal surplus or supplemental liability, as 9 of September 30, 2005. If that result is a surplus, the 10 amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund established under sec-11 tion 8909a. If the result is a supplemental liability, the Of-12 13 fice shall establish an amortization schedule, including a series of annual installments commencing September 30, 14 15 2006, which provides for the liquidation of such liability by September 30, 2043. 16

17 "(B) The Office shall redetermine the Postal surplus or supplemental liability as of the close of the fiscal year, 18 for each fiscal year beginning after September 30, 2006, 19 through the fiscal year ending September 30, 2038. If the 20 21 result is a surplus, that amount shall remain in the Fund 22 until distribution is authorized under subparagraph (C), 23 and any prior amortization schedule for payments shall be 24 terminated. If the result is a supplemental liability, the Of-25 fice shall establish a new amortization schedule, including

a series of annual installments commencing on September
 30 of the subsequent fiscal year, which provides for the liq uidation of such liability by September 30, 2043.

4 "(C) As of the close of the fiscal years ending Sep5 tember 30, 2015, 2025, 2035, and 2039, if the result is a
6 surplus, that amount shall be transferred to the Postal Serv7 ice Retiree Health Benefits Fund, and any prior amortiza8 tion schedule for payments shall be terminated.

9 "(D) Amortization schedules established under this 10 paragraph shall be set in accordance with generally accept-11 ed actuarial practices and principles, with interest com-12 puted at the rate used in the most recent valuation of the 13 Civil Service Retirement System.

14 "(E) The United States Postal Service shall pay the
15 amounts so determined to the Office, with payments due
16 not later than the date scheduled by the Office.

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

(b) CREDIT ALLOWED FOR MILITARY SERVICE.—In
25 the application of section 8348(g)(2) of title 5, United

States Code, for the fiscal year 2006, the Office of Personnel 1 Management shall include, in addition to the amount other-2 3 wise computed under that paragraph, the amounts that 4 would have been included for the fiscal years 2003 through 5 2005 with respect to credit for military service of former employees of the United States Postal Service as though the 6 Postal Civil Service Retirement System Funding Reform 7 8 Act of 2003 (Public Law 108–18) had not been enacted, 9 and the Secretary of the Treasury shall make the required 10 transfer to the Civil Service Retirement and Disability 11 Fund based on that amount.

12 SEC. 803. HEALTH INSURANCE.

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

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

(2) by inserting after section 8909 the following: **"§ 8909a. Postal Service Retiree Health Benefit Fund**"(a) There is in the Treasury of the United States a

24 Postal Service Retiree Health Benefits Fund which is ad-

25 ministered by the Office of Personnel Management.

"(b) The Fund is available without fiscal year limita tion for payments required under section 8906(g)(2)(A).

"(c) The Secretary of the Treasury shall immediately
invest, in interest-bearing securities of the United States
such currently available portions of the Fund as are not
immediately required for payments from the Fund. Such
investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund
under section 8348.

"(d)(1) Not later than December 31, 2006, and by December 31 of each succeeding year, the Office shall compute
the net present value of the future payments required under
section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal
year.

16 "(2)(A) Not later than December 31, 2006, the Office
17 shall compute, and by December 31 of each succeeding year,
18 the Office shall recompute the difference between—

"(i) the net present value of the excess of future
payments required under section 8906(g)(2)(A) for
current and future United States Postal Service annuitants as of the end of the fiscal year ending on
September 30 of that year; and

1	((ii)(I) the value of the assets of the Postal Re-
2	tiree Health Benefits Fund as of the end of the fiscal
3	year ending on September 30 of that year; and
4	"(II) the net present value computed under para-
5	graph (1).
6	"(B) Not later than December 31, 2006, the Office shall
7	compute, and by December 31 of each succeeding year shall
8	recompute, an amortization schedule including a series of
9	annual installments which provide for the liquidation by
10	January 31, 2046, or within 15 years, whichever is later,
11	of the net present value determined under subparagraph
12	(A), including interest at the rate used in that computation.
13	"(3) Not later than January 31, 2007, and by Janu-
14	ary 31 of each succeeding year, the United States Postal
15	Service shall pay into such Fund—
16	"(A) the net present value computed under para-
17	graph (1); and
18	``(B) the annual installment computed under
19	paragraph (2)(B).
20	"(4) Computations under this subsection shall be made
21	consistent with the assumptions and methodology used by
22	the Office for financial reporting under subchapter $II$ of
23	chapter 35 of title 31.

"(5) After consultation with the United States Postal
 Service, the Office shall promulgate any regulations the Of fice determines necessary under this subsection.".

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—The
5 table of sections for chapter 89 of title 5, United States
6 Code, is amended by inserting after the item relating to
7 section 8909 the following:
"8909a. Postal Service Retiree Health Benefits Fund.".

8 SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.
9 Section 3 of the Postal Civil Service Retirement Sys10 tem Funding Reform Act of 2003 (Public Law 108–18) is
11 repealed.

#### 12 SEC. 805. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect on October 1, 2005.
(b) TERMINATION OF EMPLOYER CONTRIBUTION.—The
amendment made by paragraph (1) of section 802(a) shall
take effect on the first day of the first pay period beginning
on or after October 1, 2005.

## 19 TITLE IX—COMPENSATION FOR 20 WORK INJURIES

#### 21 SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.

(a) TIME OF ACCRUAL OF RIGHT.—Section 8117 of
title 5, United States Code, is amended—

	209
1	(1) by striking "An employee" and inserting
2	"(a) An employee other than a Postal Service em-
3	ployee"; and
4	(2) by adding at the end the following:
5	"(b) A Postal Service employee is not entitled to com-
6	pensation or continuation of pay for the first 3 days of tem-
7	porary disability, except as provided under paragraph (3)
8	of subsection (a). A Postal Service employee may use an-
9	nual leave, sick leave, or leave without pay during that 3-
10	day period, except that if the disability exceeds 14 days or
11	is followed by permanent disability, the employee may have
12	their sick leave or annual leave reinstated or receive pay
13	for the time spent on leave without pay under this section.".
14	(b) Technical and Conforming Amendment.—Sec-
15	tion 8118(b)(1) of title 5, United States Code, is amended
16	to read as follows:

17 "(1) without a break in time, except as provided
18 under section 8117(b), unless controverted under regu19 lations of the Secretary".

20 SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-21EES.

(a) TOTAL DISABILITY.—Section 8105 of title 5,
United States Code, is amended—

24 (1) in subsection (a), by adding at the end the
25 following: "This section applies to a Postal Service

employee, except as provided under subsection (c).";
 and

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

4 "(c)(1) In this subsection, the term 'retirement age' has
5 the meaning given under section 216(l)(1) of the Social Se6 curity Act (42 U.S.C. 416(l)(1)).

7 "(2) Notwithstanding any other provision of law, for 8 any injury occurring on or after the date of enactment of 9 the Postal Accountability and Enhancement Act, and for 10 any new claim for a period of disability commencing on 11 or after that date, the compensation entitlement for total 12 disability is converted to 50 percent of the monthly pay of 13 the employee on the later of—

14 "(A) the date on which the injured employee
15 reaches retirement age; or

16 "(B) 1 year after the employee begins receiving
17 compensation.".

18 (b) PARTIAL DISABILITY.—Section 8106 of title 5,
19 United States Code, is amended—

20 (1) in subsection (a), by adding at the end the
21 following: "This section applies to a Postal Service
22 employee, except as provided under subsection (d).";
23 and

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

"(d)(1) In this subsection, the term 'retirement age' has
 the meaning given under section 216(l)(1) of the Social Se curity Act (42 U.S.C. 416(l)(1)).

4 "(2) Notwithstanding any other provision of law, 5 for any injury occurring on or after the date of enact-6 ment of this subsection, and for any new claim for a period of disability commencing on or after that date, 7 8 the compensation entitlement for partial disability is 9 converted to 50 percent of the difference between the 10 monthly pay of an employee and the monthly wage 11 earning capacity of the employee after the beginning 12 of partial disability on the later of—

13 "(A) the date on which the injured employee
14 reaches retirement age; or

15 "(B) 1 year after the employee begins re16 ceiving compensation.".

#### 17 TITLE X—MISCELLANEOUS

18 SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.

19 Section 404 of title 39, United States Code (as amend20 ed by this Act), is further amended by adding at the end
21 the following:

(d) The Postal Service may employ guards for all buildings and areas owned or occupied by the Postal Service or under the charge and control of the Postal Service, and may give such guards, with respect to such property, any of the powers of special policemen provided under section
 1315 of title 40. The Postmaster General, or the designee
 of the Postmaster General, may take any action that the
 Secretary of Homeland Security may take under section
 1315 of title 40, with respect to that property.".

#### 6 SEC. 1002. EXPANDED CONTRACTING AUTHORITY.

7 (a) Amendment to Title 39, United States
8 Code.—

9 (1) CONTRACTS WITH AIR CARRIERS.—Sub10 section (d) of section 5402 of title 39, United States
11 Code, is amended to read as follows:

"(d)(1) The Postal Service may contract with any air
carrier for the transportation of mail by aircraft in interstate air transportation, including the rates therefor, either
through negotiations or competitive bidding.

16 "(2) Notwithstanding subsections (a) through (c), the
17 Postal Service may contract with any air carrier or foreign
18 air carrier for the transportation of mail by aircraft in for19 eign air transportation, including the rates therefor, either
20 through negotiations or competitive bidding, except that—

21 "(A) any such contract may be awarded only to
22 (i) an air carrier holding a certificate required by
23 section 41101 of title 49 or an exemption therefrom
24 issued by the Secretary of Transportation, (ii) a for25 eign air carrier holding a permit required by section

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

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

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

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

23 "(3) Paragraph (2) shall not be interpreted as sus24 pending or otherwise diminishing the authority of the Sec25 retary of Transportation under section 41310 of title 49.".

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

4 "(e) For purposes of this section, the terms 'air car5 rier', 'air transportation', 'foreign air carrier', 'foreign air
6 transportation', 'interstate air transportation', and 'mail'
7 shall have the meanings given such terms in section 40102
8 of title 49.".

9 (b) Amendments to Title 49, United States 10 Code.—

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

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

19 (2) SCHEDULES FOR CERTAIN TRANSPORTATION
20 OF MAIL.—Section 41902(b)(1) of title 49, United
21 States Code, is amended by inserting before the semi22 colon at the end the following: "(other than foreign
23 air transportation of mail)".

1	(3) PRICES FOR FOREIGN TRANSPORTATION OF
2	MAIL.—Section 41907 of title 49, United States Code,
3	is amended—
4	(A) by striking "(a) LIMITATIONS.—"; and
5	(B) by striking subsection (b).
6	(4) Conforming Amendments.—Sections
7	41107, 41901(b)(1), 41902(a), 41903(a), and 41903(b)
8	of title 49, United States Code, are amended by strik-
9	ing "in foreign air transportation or".

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## A BILL

To reform the postal laws of the United States.

August 25, 2004 Reported with an amendment