

109TH CONGRESS
1ST SESSION

S. 662

To reform the postal laws of the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2005

Ms. COLLINS (for herself, Mr. CARPER, and Mr. VOINOVICH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To reform the postal laws of the United States.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

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.
- Sec. 506. Bonus authority.

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.

Sec. 1003. Report on the United States Postal Inspection Service and the Office of the Inspector General of the United States Postal Service.

Sec. 1004. Sense of Congress regarding Postal Service purchasing reform.

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

3 **SEC. 101. DEFINITIONS.**

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

9 “(5) ‘postal service’ 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 functions
13 ancillary thereto;

14 “(6) ‘product’ means a postal service with a
15 distinct cost or market characteristic for which a
16 rate or rates are applied;

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

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

1 “(9) ‘competitive product’ or ‘product in the
2 competitive category of mail’ means a product sub-
3 ject to subchapter II 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) Except as provided in section 411, nothing in
14 this title shall be considered to permit or require that the
15 Postal Service provide any special nonpostal or similar
16 services.”.

17 (b) CONFORMING AMENDMENTS.—(1) Section
18 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98
19 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by
20 striking “404(a)(8)” and inserting “404(a)(7)”.

21 (2) Section 2003(b)(1) of title 39, United States
22 Code, is amended by striking “and nonpostal”.

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

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

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

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

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

11 “(1) first-class mail letters and sealed parcels;

12 “(2) first-class mail cards;

13 “(3) periodicals;

14 “(4) standard mail;

15 “(5) single-piece parcel post;

16 “(6) media mail;

17 “(7) bound printed matter;

18 “(8) library mail;

19 “(9) special services; and

20 “(10) single-piece international mail,

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 sub-

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

3 **“§ 3622. Modern rate regulation**

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

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

12 “(1) To reduce the administrative burden and
13 increase the transparency of the ratemaking process
14 while affording reasonable opportunities for inter-
15 ested parties to participate in that process.

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

18 “(3) To maximize incentives to reduce costs
19 and increase efficiency.

20 “(4) To enhance mail security and deter ter-
21 rorism by promoting secure, sender-identified mail.

22 “(5) To allow the Postal Service pricing flexi-
23 bility, including the ability to use pricing to promote
24 intelligent mail and encourage increased mail volume
25 during nonpeak periods.

1 “(6) To assure adequate revenues, including re-
2 tained earnings, to maintain financial stability and
3 meet the service standards established under section
4 3691.

5 “(7) To allocate the total institutional costs of
6 the Postal Service equitably between market-domi-
7 nant and competitive products.

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

11 “(1) the establishment and maintenance of a
12 fair and equitable schedule for rates and classifica-
13 tion system;

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

19 “(3) the requirement that each class of mail or
20 type of mail service bear the direct and indirect
21 postal costs attributable to each class or type of mail
22 service plus that portion of all other costs of the
23 Postal Service reasonably assignable to such class or
24 type;

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

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

8 “(6) the degree of preparation of mail for deliv-
9 ery into the postal system performed by the mailer
10 and its effect upon reducing costs to the Postal
11 Service;

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

16 “(8) the relative value to the people of the
17 kinds of mail matter entered into the postal system
18 and the desirability and justification for special clas-
19 sifications and services of mail;

20 “(9) the importance of providing classifications
21 with extremely high degrees of reliability and speed
22 of delivery and of providing those that do not re-
23 quire high degrees of reliability and speed of deliv-
24 ery;

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 “(12) the need for the Postal Service to in-
7 crease its efficiency and reduce its costs, including
8 infrastructure costs, to help maintain high quality,
9 affordable, universal postal service; and

10 “(13) the policies of this title as well as such
11 other factors as the Commission determines appro-
12 priate.

13 “(d) REQUIREMENTS.—

14 “(1) IN GENERAL.—The system for regulating
15 rates and classes for market-dominant products
16 shall—

17 “(A) require the Postal Regulatory Com-
18 mission to set annual limitations on the per-
19 centage changes in rates based on the Con-
20 sumer Price Index for All Urban Consumers
21 unadjusted for seasonal variation over the 12-
22 month period preceding the date the Postal
23 Service proposes to increase rates;

1 “(B) establish a schedule whereby rates,
2 when necessary and appropriate, would change
3 at regular intervals by predictable amounts;

4 “(C) not later than 45 days before the im-
5 plementation of any adjustment in rates under
6 this section—

7 “(i) require the Postal Service to pro-
8 vide public notice of the adjustment;

9 “(ii) provide an opportunity for review
10 by the Postal Regulatory Commission;

11 “(iii) provide for the Postal Regu-
12 latory Commission to notify the Postal
13 Service of any noncompliance of the ad-
14 justment with the limitation under sub-
15 paragraph (A); and

16 “(iv) require the Postal Service to re-
17 spond to the notice provided under clause
18 (iii) and describe the actions to be taken to
19 comply with the limitation under subpara-
20 graph (A); and

21 “(D) notwithstanding any limitation set
22 under subparagraphs (A) and (C), establish
23 procedures whereby rates may be adjusted on
24 an expedited basis due to unexpected and ex-
25 traordinary circumstances.

1 “(2) LIMITATIONS.—

2 “(A) CLASSES OF MAIL.—The annual limi-
3 tations under paragraph (1)(A) shall apply to a
4 class of mail, as defined in the Domestic Mail
5 Classification Schedule as in effect on the date
6 of enactment of the Postal Accountability and
7 Enhancement Act.

8 “(B) ROUNDING OF RATES AND FEES.—
9 Nothing in this subsection shall preclude the
10 Postal Service from rounding rates and fees to
11 the nearest whole integer, if the effect of such
12 rounding does not cause the overall rate in-
13 crease for any class to exceed the Consumer
14 Price Index for All Urban Consumers.

15 “(e) WORKSHARE DISCOUNTS.—

16 “(1) DEFINITION.—In this subsection, the term
17 ‘workshare discount’ refers to rate discounts pro-
18 vided to mailers for the presorting, prebarcoding,
19 handling, or transportation of mail, as further de-
20 fined by the Postal Regulatory Commission under
21 subsection (a).

22 “(2) REGULATIONS.—As part of the regulations
23 established under subsection (a), the Postal Regu-
24 latory Commission shall establish rules for
25 workshare discounts that ensure that such discounts

1 do not exceed the cost that the Postal Service avoids
2 as a result of workshare activity, unless—

3 “(A) the discount is—

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

8 “(ii) necessary to induce mailer behav-
9 ior that furthers the economically efficient
10 operation of the Postal Service and the
11 portion of the discount in excess of the
12 cost that the Postal Service avoids as a re-
13 sult of the workshare activity will be
14 phased out over a limited period of time;

15 “(B) a reduction in the discount would—

16 “(i) lead to a loss of volume in the af-
17 fected category or subclass of mail and re-
18 duce the aggregate contribution to the in-
19 stitutional costs of the Postal Service from
20 the category or subclass subject to the dis-
21 count below what it otherwise would have
22 been if the discount had not been reduced
23 to costs avoided;

1 “(ii) result in a further increase in the
2 rates paid by mailers not able to take ad-
3 vantage of the discount; or

4 “(iii) impede the efficient operation of
5 the Postal Service;

6 “(C) the amount of the discount above
7 costs avoided—

8 “(i) is necessary to mitigate rate
9 shock; and

10 “(ii) will be phased out over time; or

11 “(D) the discount is provided in connection
12 with subclasses of mail consisting exclusively of
13 mail matter of educational, cultural, scientific,
14 or informational value.

15 “(3) REPORT.—Whenever the Postal Service es-
16 tablishes or maintains a workshare discount, the
17 Postal Service shall, at the time it publishes the
18 workshare discount rate, submit to the Postal Regu-
19 latory Commission a detailed report that—

20 “(A) explains the Postal Service’s reasons
21 for establishing or maintaining the rate;

22 “(B) sets forth the data, economic anal-
23 yses, and other information relied on by the
24 Postal Service to justify the rate; and

1 “(C) certifies that the discount will not ad-
 2 versely affect rates or services provided to users
 3 of postal services who do not take advantage of
 4 the discount rate.

5 “(f) TRANSITION RULE.—Until regulations under
 6 this section first take effect, rates and classes for market-
 7 dominant products shall remain subject to modification in
 8 accordance with the provisions of this chapter and section
 9 407, as such provisions were last in effect before the date
 10 of enactment of this section.”.

11 (b) REPEALED SECTIONS.—Sections 3623, 3624,
 12 3625, and 3628 of title 39, United States Code, are re-
 13 pealed.

14 (c) REDESIGNATION.—Chapter 36 of title 39, United
 15 States Code (as in effect after the amendment made by
 16 section 601, but before the amendment made by section
 17 202) is amended by striking the heading for subchapter
 18 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.**

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

1 “SUBCHAPTER II—PROVISIONS RELATING TO
2 COMPETITIVE PRODUCTS

3 **“§ 3631. Applicability; definitions and updates**

4 “(a) APPLICABILITY.—This subchapter shall apply
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 Reg-
12 ulatory Commission may make under section 3642.

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

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

21 “(d) LIMITATION.—Notwithstanding any other provi-
22 sion of this section, nothing in this subchapter shall be
23 considered to apply with respect to any product then cur-
24 rently in the market-dominant category of mail.

1 **“§ 3632. Action of the Governors**

2 “(a) **AUTHORITY TO ESTABLISH RATES AND CLASS-**
3 **ES.**—The Governors, with the written concurrence of a
4 majority of all of the Governors then holding office, shall
5 establish rates and classes for products in the competitive
6 category of mail in accordance with the requirements of
7 this subchapter and regulations promulgated under sec-
8 tion 3633.

9 “(b) **PROCEDURES.**—

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

14 “(2) **PUBLIC NOTICE; REVIEW; AND COMPLI-**
15 **ANCE.**—Not later than 30 days before the date of
16 implementation of any adjustment in rates under
17 this section—

18 “(A) the Governors shall provide public no-
19 tice of the adjustment and an opportunity for
20 review by the Postal Regulatory Commission;

21 “(B) the Postal Regulatory Commission
22 shall notify the Governors of any noncompliance
23 of the adjustment with section 3633; and

24 “(C) the Governors shall respond to the
25 notice provided under subparagraph (B) and

1 describe the actions to be taken to comply with
2 section 3633.

3 “(c) TRANSITION RULE.—Until regulations under
4 section 3633 first take effect, rates and classes for com-
5 petitive products shall remain subject to modification in
6 accordance with the provisions of this chapter and section
7 407, as such provisions were as last in effect before the
8 date of enactment of this section.

9 **“§ 3633. Provisions applicable to rates for competitive**
10 **products**

11 “(a) IN GENERAL.—The Postal Regulatory Commis-
12 sion shall, within 180 days after the date of enactment
13 of this section, promulgate (and may from time to time
14 thereafter revise) regulations to—

15 “(1) prohibit the subsidization of competitive
16 products by market-dominant products;

17 “(2) ensure that each competitive product cov-
18 ers its costs attributable; and

19 “(3) ensure that all competitive products collec-
20 tively cover their share of the institutional costs of
21 the Postal Service.

22 “(b) REVIEW OF MINIMUM CONTRIBUTION.—Five
23 years after the date of enactment of this section, and every
24 5 years thereafter, the Postal Regulatory Commission
25 shall conduct a review to determine whether the institu-

1 tional costs contribution requirement under subsection
 2 (a)(3) should be retained in its current form, modified,
 3 or eliminated. In making its determination, the Commis-
 4 sion shall consider all relevant circumstances, including
 5 the prevailing competitive conditions in the market, and
 6 the degree to which any costs are uniquely or dispropor-
 7 tionately associated with any competitive products.”.

8 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**
 9 **NEW PRODUCTS.**

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

12 “SUBCHAPTER III—PROVISIONS RELATING TO
 13 EXPERIMENTAL AND NEW PRODUCTS

14 “§ 3641. **Market tests of experimental products**

15 “(a) **AUTHORITY.**—

16 “(1) **IN GENERAL.**—The Postal Service may
 17 conduct market tests of experimental products in ac-
 18 cordance with this section.

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

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

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

6 “(2) MARKET DISRUPTION.—The introduction
7 or continued offering of the product will not create
8 an unfair or otherwise inappropriate competitive ad-
9 vantage for the Postal Service or any mailer, par-
10 ticularly in regard to small business concerns (as de-
11 fined under subsection (h)).

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

1 “(c) NOTICE.—

2 “(1) IN GENERAL.—At least 30 days before ini-
3 tiating a market test under this section, the Postal
4 Service shall file with the Postal Regulatory Com-
5 mission and publish in the Federal Register a no-
6 tice—

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

10 “(B) describing the nature and scope of
11 the market test.

12 “(2) SAFEGUARDS.—For a competitive experi-
13 mental product, the provisions of section 504(g)
14 shall be available with respect to any information re-
15 quired to be filed under paragraph (1) to the same
16 extent and in the same manner as in the case of any
17 matter described in section 504(g)(1). Nothing in
18 paragraph (1) shall be considered to permit or re-
19 quire the publication of any information as to which
20 confidential treatment is accorded under the pre-
21 ceding sentence (subject to the same exception as set
22 forth in section 504(g)(3)).

23 “(d) DURATION.—

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

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

13 “(e) DOLLAR-AMOUNT LIMITATION.—

14 “(1) IN GENERAL.—A product may only be
15 tested under this section if the total revenues that
16 are anticipated, or in fact received, by the Postal
17 Service from such product do not exceed
18 \$10,000,000 in any year, subject to paragraph (2)
19 and subsection (g).

20 “(2) EXEMPTION AUTHORITY.—The Postal
21 Regulatory Commission may, upon written applica-
22 tion of the Postal Service, exempt the market test
23 from the limit in paragraph (1) if the total revenues
24 that are anticipated, or in fact received, by the Post-
25 al Service from such product do not exceed

1 \$50,000,000 in any year, subject to subsection (g).

2 In reviewing an application under this paragraph,
3 the Postal Regulatory Commission shall approve
4 such application if it determines that—

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

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

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

11 “(f) CANCELLATION.—If the Postal Regulatory Com-
12 mission at any time determines that a market test under
13 this section fails to meet 1 or more of the requirements
14 of this section, it may order the cancellation of the test
15 involved or take such other action as it considers appro-
16 priate. A determination under this subsection shall be
17 made in accordance with such procedures as the Commis-
18 sion shall by regulation prescribe.

19 “(g) ADJUSTMENT FOR INFLATION.—For purposes
20 of each year following the year in which occurs the dead-
21 line for the Postal Service’s first report to the Postal Reg-
22 ulatory Commission under section 3652(a), each dollar
23 amount contained in this section shall be adjusted by the
24 change in the Consumer Price Index for such year (as de-
25 termined under regulations of the Commission).

1 “(h) DEFINITION OF A SMALL BUSINESS CON-
 2 CERN.—The criteria used in defining small business con-
 3 cerns or otherwise categorizing business concerns as small
 4 business concerns shall, for purposes of this section, be
 5 established by the Postal Regulatory Commission in con-
 6 formance with the requirements of section 3 of the Small
 7 Business Act.

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

13 **“§ 3642. New products and transfers of products be-**
 14 **tween the market-dominant and competi-**
 15 **tive categories of mail**

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

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

1 “(1) The market-dominant category of products
2 shall consist of each product in the sale of which the
3 Postal Service exercises sufficient market power that
4 it can effectively set the price of such product sub-
5 stantially above costs, raise prices significantly, de-
6 crease quality, or decrease output, without risk of
7 losing substantial business to other firms offering
8 similar products. The competitive category of prod-
9 ucts shall consist of all other products.

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

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

23 “(A) the availability and nature of enter-
24 prises in the private sector engaged in the deliv-
25 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 REQUIRE-
16 MENTS.—

17 “(1) NOTIFICATION REQUIREMENT.—The Post-
18 al Service shall, whenever it requests to add a prod-
19 uct or transfer a product to a different category, 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 criteria under subsection (b) and, in the case of a
24 request to add a product or transfer a product to
25 the competitive category of mail, that the product

1 meets the regulations promulgated by the Postal
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.

5 “(2) PUBLICATION REQUIREMENT.—The Postal
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 ucts. 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 let-
15 ters, printed matter, or packages may be offered by the
16 Postal Service unless it has been assigned to the market-
17 dominant or competitive category of mail (as appropriate)
18 either—

19 “(1) under this subchapter; or

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

21 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**
22 **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 “SUBCHAPTER V—POSTAL SERVICES,
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 **“§ 3651. Annual reports by the Commission**

14 “(a) IN GENERAL.—The Postal Regulatory Commis-
15 sion shall submit an annual report to the President and
16 the Congress concerning the operations of the Commission
17 under this title, including the extent to which regulations
18 are achieving the objectives under sections 3622, 3633,
19 and 3691.

20 “(b) INFORMATION FROM POSTAL SERVICE.—The
21 Postal Service shall provide the Postal Regulatory Com-
22 mission with such information as may, in the judgment
23 of the Commission, be necessary in order for the Commis-
24 sion to prepare its reports under this section.

1 **“§ 3652. Annual reports to the Commission**

2 “(a) COSTS, REVENUES, RATES, AND SERVICE.—EX-
3 cept as provided in subsection (c), 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 “(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 (in-
25 cluding any annex to the report and the information
26 required under subsection (b)), the Postal Service

1 shall have the information contained in such report
2 (and annex) audited by the Inspector General. The
3 results of any such audit shall be submitted along
4 with the report to which it pertains.

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 “(1) The per-item cost avoided by the Postal
12 Service by virtue of such discount.

13 “(2) The percentage of such per-item cost
14 avoided that the per-item workshare discount rep-
15 resents.

16 “(3) The per-item contribution made to institu-
17 tional costs.

18 “(c) SERVICE AGREEMENTS AND MARKET TESTS.—
19 In carrying out subsections (a) and (b) with respect to
20 service agreements and experimental products offered
21 through market tests under section 3641 in a year, the
22 Postal Service—

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

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

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

9 “(e) CONTENT AND FORM OF REPORTS.—

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

17 “(A) providing the public with timely, ade-
18 quate information to assess the lawfulness of
19 rates charged;

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

23 “(C) protecting the confidentiality of com-
24 mercially sensitive information.

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

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

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

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

18 “(f) CONFIDENTIAL INFORMATION.—

19 “(1) IN GENERAL.—If the Postal Service deter-
20 mines that any document or portion of a document,
21 or other matter, which it provides to the Postal Reg-
22 ulatory Commission in a nonpublic annex under this
23 section or under subsection (d) contains information
24 which is described in section 410(c) of this title, or
25 exempt from public disclosure under section 552(b)

1 of title 5, the Postal Service shall, at the time of
2 providing such matter to the Commission, notify the
3 Commission of its determination, in writing, and de-
4 scribe with particularity the documents (or portions
5 of documents) or other matter for which confiden-
6 tiality is sought and the reasons therefor.

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

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

19 “(1) comprehensive statement under section
20 2401(e);

21 “(2) strategic plan under section 2802;

22 “(3) performance plan under section 2803; and

23 “(4) program performance reports under sec-
24 tion 2804.

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

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

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

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

19 “(2) whether any service standards in effect
20 during such year were not met.

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

24 “(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
25 year, a timely written determination of noncompliance is
26 made under subsection (b), the Postal Regulatory Com-

1 mission shall take any appropriate remedial action author-
 2 ized by section 3662(c).

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

10 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND EN-**
 11 **FORCEMENT.**

12 Chapter 36 of title 39, United States Code, is amend-
 13 ed by striking sections 3662 and 3663 and inserting the
 14 following:

15 **“§ 3662. Rate and service complaints**

16 “(a) **IN GENERAL.**—Any person (including an officer
 17 of the Postal Regulatory Commission representing the in-
 18 terests of the general public) who believes the Postal Serv-
 19 ice is not operating in conformance with the requirements
 20 of chapter 1, 4, or 6, or this chapter (or regulations pro-
 21 mulgated under any of those chapters) may lodge a com-
 22 plaint with the Postal Regulatory Commission in such
 23 form and manner as the Commission may prescribe.

24 “(b) **PROMPT RESPONSE REQUIRED.**—

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

4 “(A) begin proceedings on such complaint;
5 or

6 “(B) issue an order dismissing the com-
7 plaint (together with a statement of the reasons
8 therefor).

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

17 “(c) ACTION REQUIRED IF COMPLAINT FOUND TO
18 BE JUSTIFIED.—If the Postal Regulatory Commission
19 finds the complaint to be justified, it shall order that the
20 Postal Service take such action as the Commission con-
21 siders appropriate in order to achieve compliance with the
22 applicable requirements and to remedy the effects of any
23 noncompliance including ordering unlawful rates to be ad-
24 justed to lawful levels, ordering the cancellation of market
25 tests, ordering the Postal Service to discontinue providing

1 loss-making products, and requiring the Postal Service to
2 make up for revenue shortfalls in competitive products.

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

16 **“§ 3663. Appellate review**

17 “A person, including the Postal Service, adversely af-
18 fected or aggrieved by a final order or decision of the Post-
19 al Regulatory Commission may, within 30 days after such
20 order or decision becomes final, institute proceedings for
21 review thereof by filing a petition in the United States
22 Court of Appeals for the District of Columbia. The court
23 shall review the order or decision in accordance with sec-
24 tion 706 of title 5, and chapter 158 and section 2112 of
25 title 28, on the basis of the record before the Commission.

1 **“§ 3664. Enforcement of orders**

2 “The several district courts have jurisdiction specifi-
3 cally to enforce, and to enjoin and restrain the Postal
4 Service from violating, any order issued by the Postal Reg-
5 ulatory Commission.”.

6 **SEC. 206. CLERICAL AMENDMENT.**

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

“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

**“SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT
PRODUCTS**

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“[3623. Repealed.]

“[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.

1 with the Postal Service’s universal service obligation as de-
2 fined in sections 101 (a) and (b) and 403.

3 “(b) OBJECTIVES.—Such standards shall be designed
4 to achieve the following objectives:

5 “(1) To enhance the value of postal services to
6 both senders and recipients.

7 “(2) To preserve regular and effective access to
8 postal services in all communities, including those in
9 rural areas or where post offices are not self-sus-
10 taining.

11 “(3) To reasonably assure Postal Service cus-
12 tomers delivery reliability, speed and frequency con-
13 sistent with reasonable rates and best business prac-
14 tices.

15 “(4) To provide a system of objective external
16 performance measurements for each market-domi-
17 nant product as a basis for measurement of Postal
18 Service performance.

19 “(c) FACTORS.—In establishing or revising such
20 standards, the Postal Service shall take into account—

21 “(1) the actual level of service that Postal Serv-
22 ice customers receive under any service guidelines
23 previously established by the Postal Service or serv-
24 ice standards established under this section;

1 “(2) the degree of customer satisfaction with
2 Postal Service performance in the acceptance, proc-
3 essing and delivery of mail;

4 “(3) the needs of Postal Service customers, in-
5 cluding those with physical impairments;

6 “(4) mail volume and revenues projected for fu-
7 ture years;

8 “(5) the projected growth in the number of ad-
9 dresses the Postal Service will be required to serve
10 in future years;

11 “(6) the current and projected future cost of
12 serving Postal Service customers;

13 “(7) the effect of changes in technology, demo-
14 graphics, and population distribution on the efficient
15 and reliable operation of the postal delivery system;
16 and

17 “(8) the policies of this title and such other fac-
18 tors as the Commission determines appropriate.

19 “(d) REVIEW.—The regulations promulgated pursu-
20 ant to this section (and any revisions thereto) shall be sub-
21 ject to review upon complaint under sections 3662 and
22 3663.

23 **SEC. 302. POSTAL SERVICE PLAN.**

24 (a) IN GENERAL.—Within 6 months after the estab-
25 lishment of the service standards under section 3691 of

1 title 39, United States Code, as added by this Act, the
2 Postal Service shall, in consultation with the Postal Regu-
3 latory Commission, develop and submit to Congress a plan
4 for meeting those standards.

5 (b) CONTENTS.—The plan under this section shall—

6 (1) establish performance goals;

7 (2) describe any changes to the Postal Service’s
8 processing, transportation, delivery, and retail net-
9 works necessary to allow the Postal Service to meet
10 the performance goals;

11 (3) describe any changes to planning and per-
12 formance management documents previously sub-
13 mitted to Congress to reflect new performance goals;
14 and

15 (4) contain the matters relating to postal facili-
16 ties provided under subsection (c).

17 (c) POSTAL FACILITIES.—

18 (1) FINDINGS.—Congress finds that—

19 (A) the Postal Service has more than 400
20 logistics facilities, separate from its post office
21 network;

22 (B) as noted by the President’s Commis-
23 sion on the United States Postal Service, the
24 Postal Service has more facilities than it needs
25 and the streamlining of this distribution net-

1 work can pave the way for the potential consoli-
2 dation of sorting facilities and the elimination
3 of excess costs;

4 (C) the Postal Service has always revised
5 its distribution network to meet changing condi-
6 tions and is best suited to address its oper-
7 ational needs; and

8 (D) Congress strongly encourages the
9 Postal Service to—

10 (i) expeditiously move forward in its
11 streamlining efforts; and

12 (ii) keep unions, management associa-
13 tions, and local elected officials informed
14 as an essential part of this effort and abide
15 by any procedural requirements contained
16 in the national bargaining agreements.

17 (2) IN GENERAL.—The Postal Service plan
18 shall include a description of—

19 (A) the long-term vision of the Postal
20 Service for rationalizing its infrastructure and
21 workforce; and

22 (B) how the Postal Service intends to im-
23 plement that vision.

24 (3) CONTENT OF FACILITIES PLAN.—The plan
25 under this subsection shall include—

1 (A) a strategy for how the Postal Service
2 intends to rationalize the postal facilities net-
3 work and remove excess processing capacity and
4 space from the network, including estimated
5 timeframes, criteria, and processes to be used
6 for making changes to the facilities network,
7 and the process for engaging policy makers and
8 the public in related decisions;

9 (B) a discussion of what impact any facil-
10 ity changes may have on the postal workforce
11 and whether the Postal Service has sufficient
12 flexibility to make needed workforce changes;
13 and

14 (C) an identification of anticipated costs,
15 cost savings, and other benefits associated with
16 the infrastructure rationalization alternatives
17 discussed in the plan.

18 (4) ANNUAL REPORTS.—

19 (A) IN GENERAL.—Not later than 90 days
20 after the end of each fiscal year, the Postal
21 Service shall prepare and submit a report to
22 Congress on how postal decisions have impacted
23 or will impact rationalization plans.

24 (B) CONTENTS.—Each report under this
25 paragraph shall include—

1 (i) an account of actions taken during
2 the preceding fiscal year to improve the ef-
3 ficiency and effectiveness of its processing,
4 transportation, and distribution networks
5 while preserving the timely delivery of
6 postal services, including overall estimated
7 costs and cost savings;

8 (ii) an account of actions taken to
9 identify any excess capacity within its
10 processing, transportation, and distribution
11 networks and implement savings through
12 realignment or consolidation of facilities
13 including overall estimated costs and cost
14 savings;

15 (iii) an estimate of how postal deci-
16 sions related to mail changes, security, au-
17 tomation initiatives, worksharing, informa-
18 tion technology systems, excess capacity,
19 consolidating and closing facilities, and
20 other areas will impact rationalization
21 plans;

22 (iv) identification of any statutory or
23 regulatory obstacles that prevented or will
24 prevent or hinder the Postal Service from

1 taking action to realign or consolidate fa-
2 cilities; and

3 (v) such additional topics and rec-
4 ommendations as the Postal Service con-
5 siders appropriate.

6 (d) ALTERNATE RETAIL OPTIONS.—The Postal Serv-
7 ice plan shall include plans to expand and market retail
8 access to postal services, in addition to post offices, includ-
9 ing—

10 (1) vending machines;

11 (2) the Internet;

12 (3) Postal Service employees on delivery routes;

13 (4) retail facilities in which overhead costs are
14 shared with private businesses and other government
15 agencies; or

16 (5) any other nonpost office access channel pro-
17 viding market retail access to postal services.

18 (e) REEMPLOYMENT ASSISTANCE AND RETIREMENT
19 BENEFITS.—The Postal Service plan shall include—

20 (1) a plan under which reemployment assist-
21 ance shall be afforded to employees displaced as a
22 result of the automation of any of its functions or
23 the closing and consolidation of any of its facilities;
24 and

1 (2) a plan, developed in consultation with the
2 Office of Personnel Management, to offer early re-
3 tirement benefits.

4 (f) INSPECTOR GENERAL REPORT.—

5 (1) IN GENERAL.—Before submitting the plan
6 under subsection (a) and each annual report under
7 subsection (c) to Congress, the Postal Service shall
8 submit the plan and each annual report to the In-
9 spector General of the United States Postal Service
10 in a timely manner to carry out this subsection.

11 (2) REPORT.—The Inspector General shall pre-
12 pare a report describing the extent to which the
13 Postal Service plan and each annual report under
14 subsection (c)—

15 (A) are consistent with the continuing obli-
16 gations of the Postal Service under title 39,
17 United States Code;

18 (B) provide for the Postal Service to meet
19 the service standards established under section
20 3691 of title 39, United States Code; and

21 (C) allow progress toward improving over-
22 all efficiency and effectiveness consistent with
23 the need to maintain universal postal service at
24 affordable rates.

1 (g) CONTINUED AUTHORITY.—Nothing in this sec-
 2 tion shall be construed to prohibit the Postal Service from
 3 implementing any change to its processing, transportation,
 4 delivery, and retail networks under any authority granted
 5 to the Postal Service for those purposes.

6 **TITLE IV—PROVISIONS RELAT-**
 7 **ING TO FAIR COMPETITION**

8 **SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS**
 9 **FUND.**

10 (a) PROVISIONS RELATING TO POSTAL SERVICE
 11 COMPETITIVE PRODUCTS FUND AND RELATED MAT-
 12 TERS.—

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

16 **“§ 2011. Provisions relating to competitive products**

17 “(a)(1) In this subsection, the term ‘costs attrib-
 18 utable’ has the meaning given such term by section 3631.

19 “(2) There is established in the Treasury of the
 20 United States a revolving fund, to be called the Postal
 21 Service Competitive Products Fund, which shall be avail-
 22 able to the Postal Service without fiscal year limitation
 23 for the payment of—

24 “(A) costs attributable to competitive products;
 25 and

1 “(B) all other costs incurred by the Postal
2 Service, to the extent allocable to competitive prod-
3 ucts.

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

7 “(1) revenues from competitive products;

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

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

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

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

24 “(d) With the approval of the Secretary of the Treas-
25 ury, the Postal Service may deposit moneys of the Com-

1 petitive Products Fund in any Federal Reserve bank, any
2 depository for public funds, or in such other places and
3 in such manner as the Postal Service and the Secretary
4 may mutually agree.

5 “(e)(1)(A) Subject to the limitations specified in sec-
6 tion 2005(a), the Postal Service is authorized to borrow
7 money and to issue and sell such obligations as the Postal
8 Service determines necessary to provide for competitive
9 products and deposit such amounts in the Competitive
10 Products Fund.

11 “(B) Subject to paragraph (5), any borrowings by the
12 Postal Service under subparagraph (A) shall be supported
13 and serviced by—

14 “(i) the revenues and receipts from competitive
15 products and the assets related to the provision of
16 competitive products (as determined under sub-
17 section (h)); or

18 “(ii) for purposes of any period before account-
19 ing practices and principles under subsection (h)
20 have been established and applied, the best informa-
21 tion available from the Postal Service, including the
22 audited statements required by section 2008(e).

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

1 trustee under any agreement entered into in connection
2 with the issuance of such obligations with respect to—

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

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

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

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

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

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

17 “(B) shall be sold at such times and in such
18 amounts;

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

20 “(D) shall be sold at such prices;

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

22 “(F) may be redeemable before maturity in
23 such manner, at such times, and at such redemption
24 premiums;

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

4 “(H) shall be subject to such other terms and
5 conditions,

6 as the Postal Service determines.

7 “(4) Obligations issued by the Postal Service under
8 this subsection—

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

12 “(B) shall contain a recital that such obliga-
13 tions are issued under this subsection, and such re-
14 cital shall be conclusive evidence of the regularity of
15 the issuance and sale of such obligations and of their
16 validity;

17 “(C) shall be lawful investments and may be ac-
18 cepted as security for all fiduciary, trust, and public
19 funds, the investment or deposit of which shall be
20 under the authority or control of any officer or agen-
21 cy of the Government of the United States, and the
22 Secretary of the Treasury or any other officer or
23 agency having authority over or control of any such
24 fiduciary, trust, or public funds, may at any time

1 sell any of the obligations of the Postal Service ac-
2 quired under this section;

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

6 “(E) except as provided in section 2006(e),
7 shall not be obligations of, nor shall payment of the
8 principal thereof or interest thereon be guaranteed
9 by, the Government of the United States, and the
10 obligations shall so plainly state.

11 “(5)(A) Subject to subparagraph (B), the Postal
12 Service shall make payments of principal, or interest, or
13 both on obligations issued under this subsection from—

14 “(i) revenues and receipts from competitive
15 products and assets related to the provision of com-
16 petitive products (as determined under subsection
17 (h)); or

18 “(ii) for purposes of any period before account-
19 ing practices and principles under subsection (h)
20 have been established and applied, the best informa-
21 tion available, including the audited statements re-
22 quired by section 2008(e).

23 “(B) Based on the audited financial statements for
24 the most recently completed fiscal year, the total assets

1 of the Competitive Products Fund may not be less than
2 the amount determined by multiplying—

3 “(i) the quotient resulting from the total rev-
4 enue of the Competitive Products Fund divided by
5 the total revenue of the Postal Service; and

6 “(ii) the total assets of the Postal Service.

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

11 “(g) A judgment (or settlement of a claim) against
12 the Postal Service or the Government of the United States
13 shall be paid out of the Competitive Products Fund to the
14 extent that the judgment or claim arises out of activities
15 of the Postal Service in the provision of competitive prod-
16 ucts.

17 “(h)(1)(A) The Secretary of the Treasury, in con-
18 sultation with the Postal Service and an independent, cer-
19 tified public accounting firm and other advisors as the
20 Secretary considers appropriate, shall develop rec-
21 ommendations regarding—

22 “(i) the accounting practices and principles that
23 should be followed by the Postal Service with the ob-
24 jectives of—

1 “(I) identifying and valuing the assets and
2 liabilities of the Postal Service associated with
3 providing competitive products, including the
4 capital and operating costs incurred by the
5 Postal Service in providing such competitive
6 products; and

7 “(II) subject to subsection (e)(5), pre-
8 venting the subsidization of such products by
9 market-dominant products; and

10 “(ii) the substantive and procedural rules that
11 should be followed in determining the assumed Fed-
12 eral income tax on competitive products income of
13 the Postal Service for any year (within the meaning
14 of section 3634).

15 “(B) Not earlier than 6 months after the date of en-
16 actment of this section, and not later than 12 months
17 after such date, the Secretary of the Treasury shall submit
18 the recommendations under subparagraph (A) to the Post-
19 al Regulatory Commission.

20 “(2)(A) Upon receiving the recommendations of the
21 Secretary of the Treasury under paragraph (1), the Com-
22 mission shall give interested parties, including the Postal
23 Service, users of the mails, and an officer of the Commis-
24 sion who shall be required to represent the interests of
25 the general public, an opportunity to present their views

1 on those recommendations through submission of written
2 data, views, or arguments with or without opportunity for
3 oral presentation, or in such other manner as the Commis-
4 sion considers appropriate.

5 “(B)(i) After due consideration of the views and other
6 information received under subparagraph (A), the Com-
7 mission shall by rule—

8 “(I) provide for the establishment and applica-
9 tion of the accounting practices and principles which
10 shall be followed by the Postal Service;

11 “(II) provide for the establishment and applica-
12 tion of the substantive and procedural rules de-
13 scribed under paragraph (1)(A)(ii); and

14 “(III) provide for the submission by the Postal
15 Service to the Postal Regulatory Commission of an-
16 nual and other periodic reports setting forth such in-
17 formation as the Commission may require.

18 “(ii) Final rules under this subparagraph shall be
19 issued not later than 12 months after the date on which
20 recommendations are submitted under paragraph (1) (or
21 by such later date on which the Commission and the Post-
22 al Service may agree). The Commission may revise such
23 rules.

24 “(C)(i) Reports described under subparagraph
25 (B)(i)(III) shall be submitted at such time and in such

1 form, and shall include such information, as the Commis-
2 sion by rule requires.

3 “(ii) The Commission may, on its own motion or on
4 request of an interested party, initiate proceedings (to be
5 conducted in accordance with such rules as the Commis-
6 sion shall prescribe) to improve the quality, accuracy, or
7 completeness of Postal Service information under subpara-
8 graph (B)(i)(III) whenever it shall appear that—

9 “(I) the quality of the information furnished in
10 those reports has become significantly inaccurate or
11 can be significantly improved; or

12 “(II) such revisions are, in the judgment of the
13 Commission, otherwise necessitated by the public in-
14 terest.

15 “(D) A copy of each report described under subpara-
16 graph (B)(i)(III) shall be submitted by the Postal Service
17 to the Secretary of the Treasury and the Inspector Gen-
18 eral of the United States Postal Service.

19 “(i)(1) The Postal Service shall submit an annual re-
20 port to the Secretary of the Treasury concerning the oper-
21 ation of the Competitive Products Fund. The report shall
22 address such matters as risk limitations, reserve balances,
23 allocation or distribution of moneys, liquidity require-
24 ments, and measures to safeguard against losses.

1 “(2) A copy of the most recent report submitted
2 under paragraph (1) shall be included in the annual report
3 submitted by the Postal Regulatory Commission under
4 section 3652(g).”.

5 (2) CLERICAL AMENDMENT.—The table of sec-
6 tions for chapter 20 of title 39, United States Code,
7 is amended by adding after the item relating to sec-
8 tion 2010 the following:

“2011. Provisions relating to competitive products.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

15 “(2) COMPETITIVE PRODUCTS FUND.—The
16 term ‘Competitive Products Fund’ means the Postal
17 Service Competitive Products Fund established by
18 section 2011; and”.

19 (2) CAPITAL OF THE POSTAL SERVICE.—Sec-
20 tion 2002(b) of title 39, United States Code, is
21 amended by striking “Fund,” and inserting “Fund
22 and the balance in the Competitive Products
23 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, func-
5 tions, or powers for which the Competitive
6 Products Fund is available).”.

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

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

14 (A) in subsection (a), in the first sentence,
15 by inserting “or 2011” after “section 2005”;

16 (B) in subsection (b)—

17 (i) in the first sentence, by inserting
18 “under section 2005” before “in such
19 amounts”; and

20 (ii) in the second sentence, by insert-
21 ing “under section 2005” before “in excess
22 of such amount.”; and

23 (C) in subsection (c), by inserting “or
24 2011(e)(4)(E)” after “section 2005(d)(5)”.

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
13 assumed taxable income from competitive products
14 for the year; and

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

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

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

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

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

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

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

15 **SEC. 403. UNFAIR COMPETITION PROHIBITED.**

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

19 **“§ 404a. Specific limitations**

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

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

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

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

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

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

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

22 (b) CONFORMING AMENDMENTS.—

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

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

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

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

10 **SEC. 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
13 (e) and inserting the following:

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

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

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

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

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

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

8 “(e)(1) To the extent that the Postal Service, or other
9 Federal agency acting on behalf of or in concert with the
10 Postal Service, engages in conduct with respect to any
11 product which is not reserved to the United States under
12 section 1696 of title 18, the Postal Service or other Fed-
13 eral agency (as the case may be)—

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

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

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

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

1 For purposes of the preceding sentence, any private car-
2 riage of mail allowable by virtue of section 601 shall not
3 be considered a service reserved to the United States
4 under section 1696 of title 18.

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

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

14 “(f) To the extent that the Postal Service engages
15 in conduct with respect to the provision of competitive
16 products, it shall be considered a person for the purposes
17 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. To the extent practicable, model building
24 codes should meet the voluntary consensus criteria estab-
25 lished for codes and standards as required in the National

1 Technology Transfer and Advancement Act of 1995 as de-
2 fined in Office of Management and Budget Circular
3 A1190. For purposes of life safety, the Postal Service shall
4 continue to comply with the most current edition of the
5 Life Safety Code of the National Fire Protection Associa-
6 tion (NFPA 101).

7 “(2) Each building constructed or altered by the
8 Postal Service shall be constructed or altered only after
9 consideration of all requirements (other than procedural
10 requirements) of zoning laws, land use laws, and applica-
11 ble environmental laws of a State or subdivision of a State
12 which would apply to the building if it were not a building
13 constructed or altered by an establishment of the Govern-
14 ment of the United States.

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

18 “(A) in preparing plans for the building, con-
19 sult with appropriate officials of the State or polit-
20 ical subdivision, or both, in which the building will
21 be located;

22 “(B) upon request, submit such plans in a
23 timely manner to such officials for review by such
24 officials for a reasonable period of time not exceed-
25 ing 30 days; and

1 “(C) permit inspection by such officials during
2 construction or alteration of the building, in accord-
3 ance with the customary schedule of inspections for
4 construction or alteration of buildings in the locality,
5 if such officials provide to the Postal Service—

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

8 “(ii) reasonable notice of their intention to
9 conduct any inspection before conducting such
10 inspection.

11 Nothing in this subsection shall impose an obligation
12 on any State or political subdivision to take any ac-
13 tion under the preceding sentence, nor shall any-
14 thing in this subsection require the Postal Service or
15 any of its contractors to pay for any action taken by
16 a State or political subdivision to carry out this sub-
17 section (including reviewing plans, carrying out on-
18 site inspections, issuing building permits, and mak-
19 ing recommendations).

20 “(4) Appropriate officials of a State or a political
21 subdivision of a State may make recommendations to the
22 Postal Service concerning measures necessary to meet the
23 requirements of paragraphs (1) and (2). Such officials
24 may also make recommendations to the Postal Service
25 concerning measures which should be taken in the con-

1 struction or alteration of the building to take into account
2 local conditions. The Postal Service shall give due consid-
3 eration to any such recommendations.

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

9 “(6) For purposes of this subsection, the term ‘State’
10 includes the District of Columbia, the Commonwealth of
11 Puerto Rico, and a territory or possession of the United
12 States.

13 “(h)(1) Notwithstanding any other provision of law,
14 legal representation may not be furnished by the Depart-
15 ment of Justice to the Postal Service in any action, suit,
16 or proceeding arising, in whole or in part, under any of
17 the following:

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

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

22 “(C) Section 3663 (relating to appellate re-
23 view).

24 The Postal Service may, by contract or otherwise, employ
25 attorneys to obtain any legal representation that it is pre-

1 cluded from obtaining from the Department of Justice
2 under this paragraph.

3 “(2) In any circumstance not covered by paragraph
4 (1), the Department of Justice shall, under section 411,
5 furnish the Postal Service such legal representation as it
6 may require, except that, with the prior consent of the
7 Attorney General, the Postal Service may, in any such cir-
8 cumstance, employ attorneys by contract or otherwise to
9 conduct litigation brought by or against the Postal Service
10 or its officers or employees in matters affecting the Postal
11 Service.

12 “(3)(A) In any action, suit, or proceeding in a court
13 of the United States arising in whole or in part under any
14 of the provisions of law referred to in subparagraph (B)
15 or (C) of paragraph (1), and to which the Commission
16 is not otherwise a party, the Commission shall be per-
17 mitted to appear as a party on its own motion and as
18 of right.

19 “(B) The Department of Justice shall, under such
20 terms and conditions as the Commission and the Attorney
21 General shall consider appropriate, furnish the Commis-
22 sion such legal representation as it may require in connec-
23 tion with any such action, suit, or proceeding, except that,
24 with the prior consent of the Attorney General, the Com-

1 mission may employ attorneys by contract or otherwise for
2 that purpose.

3 “(i) A judgment against the Government of the
4 United States arising out of activities of the Postal Service
5 shall be paid by the Postal Service out of any funds avail-
6 able to the Postal Service, subject to the restriction speci-
7 fied in section 2011(g).”.

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

12 **SEC. 405. INTERNATIONAL POSTAL ARRANGEMENTS.**

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

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

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

17 “(1) to promote and encourage communications
18 between peoples by efficient operation of inter-
19 national postal services and other international deliv-
20 ery services for cultural, social, and economic pur-
21 poses;

22 “(2) to promote and encourage unrestricted and
23 undistorted competition in the provision of inter-
24 national postal services and other international deliv-
25 ery services, except where provision of such services

1 by private companies may be prohibited by law of
2 the United States;

3 “(3) to promote and encourage a clear distinc-
4 tion between governmental and operational respon-
5 sibilities with respect to the provision of inter-
6 national postal services; and

7 “(4) to participate in multilateral and bilateral
8 agreements with other countries to accomplish these
9 objectives.

10 “(b)(1) The Secretary of State shall be responsible
11 for formulation, coordination, and oversight of foreign pol-
12 icy related to international postal services and shall have
13 the power to conclude postal treaties and conventions, ex-
14 cept that the Secretary may not conclude any postal treaty
15 or convention if such treaty or convention would, with re-
16 spect to any competitive product, grant an undue or un-
17 reasonable preference to the Postal Service, a private pro-
18 vider of international postal services, or any other person.

19 “(2) In carrying out the responsibilities specified in
20 paragraph (1), the Secretary of State shall exercise pri-
21 mary authority for the conduct of foreign policy with re-
22 spect to international postal services, including the deter-
23 mination of United States positions and the conduct of
24 United States participation in negotiations with foreign

1 governments and international bodies. In exercising this
2 authority, the Secretary—

3 “(A) shall coordinate with other agencies as ap-
4 propriate, and in particular, should consider the au-
5 thority vested by law or Executive order in the Post-
6 al Regulatory Commission, the Department of Com-
7 merce, the Department of Transportation, and the
8 Office of the United States Trade Representative in
9 this area;

10 “(B) shall maintain continuing liaison with
11 other executive branch agencies concerned with post-
12 al and delivery services;

13 “(C) shall maintain continuing liaison with the
14 Committee on Homeland Security and Governmental
15 Affairs of the Senate and the Committee on Govern-
16 ment Reform of the House of Representatives;

17 “(D) shall maintain appropriate liaison with
18 both representatives of the Postal Service and rep-
19 resentatives of users and private providers of inter-
20 national postal services and other international deliv-
21 ery services to keep informed of their interests and
22 problems, and to provide such assistance as may be
23 needed to ensure that matters of concern are
24 promptly considered by the Department of State or

1 (if applicable, and to the extent practicable) other
2 executive branch agencies; and

3 “(E) shall assist in arranging meetings of such
4 public sector advisory groups as may be established
5 to advise the Department of State and other execu-
6 tive branch agencies in connection with international
7 postal services and international delivery services.

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

13 “(c) Before concluding any postal treaty or conven-
14 tion that establishes a rate or classification for a product
15 subject to subchapter I of chapter 36, the Secretary of
16 State shall request the Postal Regulatory Commission to
17 submit its views on whether such rate or classification is
18 consistent with the standards and criteria established by
19 the Commission under section 3622.

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

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

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

11 “(e)(1) With respect to shipments of international
12 mail that are competitive products within the meaning of
13 section 3631 that are exported or imported by the Postal
14 Service, the Customs Service and other appropriate Fed-
15 eral agencies shall apply the customs laws of the United
16 States and all other laws relating to the importation or
17 exportation of such shipments in the same manner to both
18 shipments by the Postal Service and similar shipments by
19 private companies.

20 “(2) In exercising the authority under subsection (b)
21 to conclude new postal treaties and conventions related to
22 international postal services and to renegotiate such trea-
23 ties and conventions, the Secretary of State shall, to the
24 maximum extent practicable, take such measures as are
25 within the Secretary’s control to encourage the govern-

1 ments of other countries to make available to the Postal
2 Service and private companies a range of nondiscrim-
3 inatory customs procedures that will fully meet the needs
4 of all types of American shippers. The Secretary of State
5 shall consult with the United States Trade Representative
6 and the Commissioner of Customs in carrying out this
7 paragraph.

8 “(3) The provisions of this subsection shall take ef-
9 fect 6 months after the date of enactment of this sub-
10 section or such earlier date as the Customs Service may
11 determine in writing.”.

12 (b) EFFECTIVE DATE.—Notwithstanding any provi-
13 sion of the amendment made by subsection (a), the au-
14 thority of the United States Postal Service to establish
15 the rates of postage or other charges on mail matter con-
16 veyed between the United States and other countries shall
17 remain available to the Postal Service until—

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

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

1 TITLE V—GENERAL PROVISIONS**2 SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR**
3 GOVERNORS.**4 (a) QUALIFICATIONS.—**

5 (1) IN GENERAL.—Section 202(a) of title 39,
6 United States Code, is amended by striking “(a)”
7 and inserting “(a)(1)” and by striking the fourth
8 sentence and inserting the following: “The Gov-
9 ernors shall represent the public interest generally,
10 and shall be chosen solely on the basis of their dem-
11 onstrated ability in managing organizations or cor-
12 porations (in either the public or private sector) of
13 substantial size. Experience in the fields of law and
14 accounting shall be considered in making appoint-
15 ments of Governors. The Governors shall not be rep-
16 resentatives of specific interests using the Postal
17 Service, and may be removed only for cause.”.

18 (2) APPLICABILITY.—The amendment made by
19 paragraph (1) shall not affect the appointment or
20 tenure of any person serving as a Governor of the
21 United States Postal Service under an appointment
22 made before the date of enactment of this Act how-
23 ever, when any such office becomes vacant, the ap-
24 pointment of any person to fill that office shall be
25 made in accordance with such amendment. The re-

1 requirement set forth in the fourth sentence of section
2 202(a)(1) of title 39, United States Code (as amend-
3 ed by subsection (a)) shall be met beginning not
4 later than 9 years after the date of enactment of
5 this Act.

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

9 “(2) In selecting the individuals described in para-
10 graph (1) for nomination for appointment to the position
11 of Governor, the President should consult with the Speak-
12 er of the House of Representatives, the minority leader
13 of the House of Representatives, the majority leader of
14 the Senate, and the minority leader of the Senate.”.

15 (c) 5-YEAR TERMS.—

16 (1) IN GENERAL.—Section 202(b) of title 39,
17 United States code, is amended in the first sentence
18 by striking “9 years” and inserting “5 years”.

19 (2) APPLICABILITY.—

20 (A) CONTINUATION BY INCUMBENTS.—

21 The amendment made by paragraph (1) shall
22 not affect the tenure of any person serving as
23 a Governor of the United States Postal Service
24 on the date of enactment of this Act and such

1 person may continue to serve the remainder of
2 the applicable term.

3 (B) VACANCY BY INCUMBENT BEFORE 5
4 YEARS OF SERVICE.—If a person who is serving
5 as a Governor of the United States Postal Serv-
6 ice on the date of enactment of this Act resigns,
7 is removed, or dies before the expiration of the
8 9-year term of that Governor, and that Gov-
9 ernor has served less than 5 years of that term,
10 the resulting vacancy in office shall be treated
11 as a vacancy in a 5-year term.

12 (C) VACANCY BY INCUMBENT AFTER 5
13 YEARS OF SERVICE.—If a person who is serving
14 as a Governor of the United States Postal Serv-
15 ice on the date of enactment of this Act resigns,
16 is removed, or dies before the expiration of the
17 9-year term of that Governor, and that Gov-
18 ernor has served 5 years or more of that term,
19 that term shall be deemed to have been a 5-year
20 term beginning on its commencement date for
21 purposes of determining vacancies in office. Any
22 appointment to the vacant office shall be for a
23 5-year term beginning at the end of the original
24 9-year term determined without regard to the
25 deeming under the preceding sentence. Nothing

1 in this subparagraph shall be construed to af-
2 fect any action or authority of any Governor or
3 the Board of Governors during any portion of
4 a 9-year term deemed to be 5-year term under
5 this subparagraph.

6 (d) TERM LIMITATION.—

7 (1) IN GENERAL.—Section 202(b) of title 39,
8 United States Code, is amended—

9 (A) by inserting “(1)” after “(b)”; and

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

11 “(2) No person may serve more than 3 terms
12 as a Governor.”.

13 (2) APPLICABILITY.—The amendments made
14 by paragraph (1) shall not affect the tenure of any
15 person serving as a Governor of the United States
16 Postal Service on the date of enactment of this Act
17 with respect to the term which that person is serving
18 on that date. Such person may continue to serve the
19 remainder of the applicable term, after which the
20 amendments made by paragraph (1) shall apply.

21 **SEC. 502. OBLIGATIONS.**

22 (a) PURPOSES FOR WHICH OBLIGATIONS MAY BE
23 ISSUED.—The first sentence of section 2005(a)(1) of title
24 39, United States Code, is amended by striking “title.”
25 and inserting “title, other than any of the purposes for

1 which the corresponding authority is available to the Post-
2 al Service under section 2011.”.

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

7 (c) AMOUNTS WHICH MAY BE PLEDGED.—

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

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

18 “(2) Notwithstanding any other provision of this sec-
19 tion—

20 “(A) the authority to pledge assets of the Post-
21 al Service under this subsection shall be available
22 only to the extent that such assets are not related
23 to the provision of competitive products (as deter-
24 mined under section 2011(h) or, for purposes of any
25 period before accounting practices and principles

1 under section 2011(h) have been established and ap-
2 plied, the best information available from the Postal
3 Service, including the audited statements required
4 by section 2008(e)); and

5 “(B) any authority under this subsection relat-
6 ing to the pledging or other use of revenues or re-
7 cepts of the Postal Service shall be available only to
8 the extent that they are not revenues or receipts of
9 the Competitive Products Fund.”.

10 **SEC. 503. PRIVATE CARRIAGE OF LETTERS.**

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

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

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

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

21 “(3) such carriage is within the scope of serv-
22 ices described by regulations of the United States
23 Postal Service (as in effect on July 1, 2001) that
24 permit private carriage by suspension of the oper-
25 ation of this section (as then in effect).

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

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

8 **SEC. 504. RULEMAKING AUTHORITY.**

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

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

17 **SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-**
18 **GAINING AGREEMENTS.**

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

21 **“§ 1207. Labor disputes**

22 “(a) If there is a collective-bargaining agreement in
23 effect, no party to such agreement shall terminate or mod-
24 ify such agreement unless the party desiring such termi-
25 nation or modification serves written notice upon the other

1 party to the agreement of the proposed termination or
2 modification not less than 90 days prior to the expiration
3 date thereof, or not less than 90 days prior to the time
4 it is proposed to make such termination or modification.
5 The party serving such notice shall notify the Federal Me-
6 diation and Conciliation Service of the existence of a dis-
7 pute within 45 days after such notice, if no agreement has
8 been reached by that time.

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

21 “(c)(1) If no agreement is reached within 60 days
22 after the expiration or termination of the agreement or
23 the date on which the agreement became subject to modi-
24 fication under subsection (a) of this section, or if the par-
25 ties decide upon arbitration but do not agree upon the pro-

1 cedures therefore, an arbitration board shall be established
2 consisting of 3 members, 1 of whom shall be selected by
3 the Postal Service, 1 by the bargaining representative of
4 the employees, and the third by the 2 thus selected. If
5 either of the parties fails to select a member, or if the
6 members chosen by the parties fail to agree on the third
7 person within 5 days after their first meeting, the selection
8 shall be made from a list of names provided by the Direc-
9 tor. This list shall consist of not less than 9 names of arbi-
10 trators of nationwide reputation and professional nature,
11 who are also members of the National Academy of Arbi-
12 trators, and whom the Director has determined are avail-
13 able and willing to serve.

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

22 “(3) Costs of the arbitration board and mediation
23 shall be shared equally by the Postal Service and the bar-
24 gaining representative.

1 “(d) In the case of a bargaining unit whose recog-
2 nized collective-bargaining representative does not have an
3 agreement with the Postal Service, if the parties fail to
4 reach the agreement within 90 days after the commence-
5 ment of collective bargaining, a mediator shall be ap-
6 pointed in accordance with the terms in subsection (b) of
7 this section, unless the parties have previously agreed to
8 another procedure for a binding resolution of their dif-
9 ferences. If the parties fail to reach agreement within 180
10 days after the commencement of collective bargaining, and
11 if they have not agreed to another procedure for binding
12 resolution, an arbitration board shall be established to pro-
13 vide conclusive and binding arbitration in accordance with
14 the terms of subsection (c) of this section.”.

15 (b) NONINTERFERENCE WITH COLLECTIVE BAR-
16 GAINING AGREEMENTS.—Except as otherwise provided by
17 the amendment made by subsection (a), nothing in this
18 Act shall restrict, expand, or otherwise affect any of the
19 rights, privileges, or benefits of either employees of or
20 labor organizations representing employees of the United
21 States Postal Service under chapter 12 of title 39, United
22 States Code, the National Labor Relations Act, any hand-
23 book or manual affecting employee labor relations within
24 the United States Postal Service, or any collective bar-
25 gaining agreement.

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

6 **SEC. 506. BONUS AUTHORITY.**

7 Chapter 36 of title 39, United States Code, is amend-
8 ed by inserting after section 3685 the following:

9 **“§ 3686. Bonus authority**

10 “(a) IN GENERAL.—The Postal Service may establish
11 1 or more programs to provide bonuses or other rewards
12 to officers and employees of the Postal Service in senior
13 executive or equivalent positions to achieve the objectives
14 of this chapter.

15 “(b) LIMITATION ON TOTAL COMPENSATION.—

16 “(1) IN GENERAL.—Under any such program,
17 the Postal Service may award a bonus or other re-
18 ward in excess of the limitation set forth in the last
19 sentence of section 1003(a), if such program has
20 been approved under paragraph (2). Any such award
21 or bonus may not cause the total compensation of
22 such officer or employee to exceed the total annual
23 compensation payable to the Vice President under
24 section 104 of title 3 as of the end of the calendar
25 year in which the bonus or award is paid.

1 “(2) APPROVAL PROCESS.—If the Postal Serv-
2 ice wishes to have the authority, under any program
3 described in subsection (a), to award bonuses or
4 other rewards in excess of the limitation set forth in
5 the last sentence of section 1003(a)—

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

10 “(B) the Board of Governors shall approve
11 any such request if the Board certifies, for the
12 annual appraisal period involved, that the per-
13 formance appraisal system for affected officers
14 and employees of the Postal Service (as de-
15 signed and applied) makes meaningful distinc-
16 tions based on relative performance.

17 “(3) REVOCATION AUTHORITY.—If the Board
18 of Governors of the Postal Service finds that a per-
19 formance appraisal system previously approved
20 under paragraph (2)(B) does not (as designed and
21 applied) make meaningful distinctions based on rel-
22 ative performance, the Board may revoke or suspend
23 the authority of the Postal Service to continue a pro-
24 gram approved under paragraph (2) until such time

1 as appropriate corrective measures have, in the judg-
 2 ment of the Board, been taken.

3 “(c) REPORTING REQUIREMENT RELATING TO BO-
 4 NUSES OR OTHER REWARDS.—Included in its comprehen-
 5 sive statement under section 2401(e) for any period shall
 6 be—

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

11 “(2) the amount of the bonus or other reward;
 12 and

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

16 **TITLE VI—ENHANCED**
 17 **REGULATORY COMMISSION**

18 **SEC. 601. REORGANIZATION AND MODIFICATION OF CER-**
 19 **TAIN PROVISIONS RELATING TO THE POSTAL**
 20 **REGULATORY COMMISSION.**

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

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

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

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

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

3 **“§ 501. Establishment**

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

7 **“§ 502. Commissioners**

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

1 “(b) No Commissioner shall be financially interested
2 in any enterprise in the private sector of the economy en-
3 gaged in the delivery of mail matter.

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

9 “(d) One of the Commissioners shall be designated
10 as Chairman by, and shall serve in the position of Chair-
11 man at the pleasure of, the President.

12 “(e) The Commissioners shall by majority vote des-
13 ignate a Vice Chairman of the Commission. The Vice
14 Chairman shall act as Chairman of the Commission in the
15 absence of the Chairman.

16 “(f) The Commissioners shall serve for terms of 6
17 years.”;

18 (2) by striking, in subchapter I of chapter 36
19 (as in effect before the amendment made by section
20 201(c)), the heading for such subchapter I and all
21 that follows through section 3602;

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

1 (4) by adding after such section 504 the fol-
2 lowing:

3 **“§ 505. Officer of the Postal Regulatory Commission**
4 **representing the general public**

5 “The Postal Regulatory Commission shall designate
6 an officer of the Postal Regulatory Commission in all pub-
7 lic proceedings who shall represent the interests of the
8 general public.”.

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

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

“5. Postal Regulatory Commission 501”

21 **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-**
22 **SION TO ISSUE SUBPOENAS.**

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

1 “(f)(1) Any Commissioner of the Postal Regulatory
2 Commission, any administrative law judge appointed by
3 the Commission under section 3105 of title 5, and any
4 employee of the Commission designated by the Commis-
5 sion may administer oaths, examine witnesses, take depo-
6 sitions, and receive evidence.

7 “(2) The Chairman of the Commission, any Commis-
8 sioner designated by the Chairman, and any administra-
9 tive law judge appointed by the Commission under section
10 3105 of title 5 may, with respect to any proceeding con-
11 ducted by the Commission under this title or to obtain
12 information to be used to prepare a report under this
13 title—

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

18 “(B) order the taking of depositions and re-
19 sponses to written interrogatories by a covered per-
20 son.

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

1 “(3) In the case of contumacy or failure to obey a
2 subpoena issued under this subsection, upon application
3 by the Commission, the district court of the United States
4 for the district in which the person to whom the subpoena
5 is addressed resides or is served may issue an order requir-
6 ing such person to appear at any designated place to tes-
7 tify or produce documentary or other evidence. Any failure
8 to obey the order of the court may be punished by the
9 court as a contempt thereof.

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

13 “(g)(1) If the Postal Service determines that any doc-
14 ument or other matter it provides to the Postal Regulatory
15 Commission under a subpoena issued under subsection (f),
16 or otherwise at the request of the Commission in connec-
17 tion with any proceeding or other purpose under this title,
18 contains information which is described in section 410(c)
19 of this title, or exempt from public disclosure under sec-
20 tion 552(b) of title 5, the Postal Service shall, at the time
21 of providing such matter to the Commission, notify the
22 Commission, in writing, of its determination (and the rea-
23 sons therefor).

24 “(2) Except as provided in paragraph (3), no officer
25 or employee of the Commission may, with respect to any

1 information as to which the Commission has been notified
2 under paragraph (1)—

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

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

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

23 “(B) Paragraph (2) shall not prevent the Com-
24 mission from requiring production of information in
25 the course of any discovery procedure established in

1 connection with a proceeding under this title. The
2 Commission shall, by regulations based on rule 26(c)
3 of the Federal Rules of Civil Procedure, establish
4 procedures for ensuring appropriate confidentiality
5 for information furnished to any party.”.

6 **SEC. 603. APPROPRIATIONS FOR THE POSTAL REGU-**
7 **LATORY COMMISSION.**

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

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

20 (b) BUDGET PROGRAM.—

21 (1) IN GENERAL.—The next to last sentence of
22 section 2009 of title 39, United States Code, is
23 amended to read as follows: “The budget program
24 shall also include separate statements of the
25 amounts which (1) the Postal Service requests to be

1 appropriated under subsections (b) and (c) of section
2 2401, (2) the Office of Inspector General of the
3 United States Postal Service requests to be appro-
4 priated, out of the Postal Service Fund, under sec-
5 tion 8G(f) of the Inspector General Act of 1978, and
6 (3) the Postal Regulatory Commission requests to be
7 appropriated, out of the Postal Service Fund, under
8 section 504(d) of this title.”.

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

23 (c) EFFECTIVE DATE.—

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

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

10 **SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMIS-**
11 **SION.**

12 (a) AMENDMENTS TO TITLE 39, UNITED STATES
13 CODE.—Title 39, United States Code, is amended in sec-
14 tions 404, 503 and 504 (as so redesignated by section
15 601), 1001 and 1002, by striking “Postal Rate Commis-
16 sion” each place it appears and inserting “Postal Regu-
17 latory Commission”;

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

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

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

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

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

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

22 **SEC. 605. FINANCIAL TRANSPARENCY.**

23 (a) IN GENERAL.—Section 101 of title 39, United
24 States Code, is amended—

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

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

5 “(d) As an independent establishment of the execu-
6 tive branch of the Government of the United States, the
7 Postal Service shall be subject to a high degree of trans-
8 parency to ensure fair treatment of customers of the Post-
9 al Service’s market-dominant products and companies
10 competing with the Postal Service’s competitive prod-
11 ucts.”.

12 (b) FINANCIAL REPORTING REQUIREMENTS AND EN-
13 FORCEMENT POWERS APPLICABLE TO POSTAL SERV-
14 ICE.—Section 503 of title 39, United States Code (as so
15 redesignated by section 601 and 604) is amended by—

16 (1) inserting “(a)” before “The Postal Regu-
17 latory Commission shall promulgate”; and

18 (2) adding at the end the following:

19 “(b)(1) Beginning with the first full fiscal year fol-
20 lowing the date of enactment of the Postal Accountability
21 and Enhancement Act, the Postal Service shall file with
22 the Postal Regulatory Commission —

23 “(A) within 35 days after the end of each fiscal
24 quarter, a quarterly report containing the informa-
25 tion prescribed in Form 10-Q of the Securities and

1 Exchange Commission under section 13 of the Secu-
2 rities Exchange Act of 1934 (15 U.S.C. 78m), or
3 any revised or successor form;

4 “(B) within 60 days after the end of each fiscal
5 year, an annual report containing the information
6 prescribed in Form 10–K of the Securities and Ex-
7 change Commission under section 13 of the Securi-
8 ties Exchange Act of 1934 (15 U.S.C. 78m), or any
9 revised or successor form; and

10 “(C) periodic reports within the time frame and
11 containing the information prescribed in Form 8–K
12 of the Securities and Exchange Commission under
13 section 13 of the Securities Exchange Act of 1934
14 (15 U.S.C. 78m), or any revised or successor form.

15 “(2) For purposes of preparing the reports required
16 under paragraph (1), the Postal Service shall be deemed
17 to be the registrant described in the Securities and Ex-
18 change Commission forms, and references contained in
19 such forms to Securities and Exchange Commission regu-
20 lations are applicable.

21 “(3) For purposes of preparing the reports required
22 under paragraph (1), the Postal Service shall comply with
23 the rules prescribed by the Securities and Exchange Com-
24 mission implementing section 404 of the Sarbanes-Oxley
25 Act of 2002 (15 U.S.C. 7262; Public Law 107–204) be-

1 ginning with fiscal year 2007 and in each fiscal year there-
2 after.

3 “(c)(1) The reports required under subsection
4 (b)(1)(B) shall include, with respect to the financial obli-
5 gations of the Postal Service under chapters 83, 84, and
6 89 of title 5 for retirees of the Postal Service—

7 “(A) the funded status of such obligations of
8 the Postal Service;

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

12 “(C) components of net periodic costs;

13 “(D) cost methods and assumptions underlying
14 the relevant actuarial valuations;

15 “(E) the effect of a one-percentage point in-
16 crease in the assumed health care cost trend rate for
17 each future year on the service and interest costs
18 components of net periodic cost and the accumulated
19 obligation of the Postal Service under chapter 89 of
20 title 5 for retirees of the Postal Service;

21 “(F) actual contributions to and payments from
22 the funds for the years presented and the estimated
23 future contributions and payments for each of the
24 following 5 years;

1 “(G) the composition of plan assets reflected in
2 the fund balances; and

3 “(H) the assumed rate of return on fund bal-
4 ances and the actual rates of return for the years
5 presented.

6 “(2)(A) Beginning with the fiscal year 2007 and in
7 each fiscal year thereafter, for purposes of the reports re-
8 quired under subsection (b)(1) (A) and (B), the Postal
9 Service shall include segment reporting.

10 “(B) The Postal Service shall determine the appro-
11 priate segment reporting under subparagraph (A), after
12 consultation with the Postal Regulatory Commission.

13 “(d) For purposes of the annual reports required
14 under subsection (b)(1)(B), the Postal Service shall obtain
15 an opinion from an independent auditor on whether the
16 information listed under subsection (c) is fairly stated in
17 all material respects, either in relation to the basic finan-
18 cial statements as a whole or on a stand-alone basis.

19 “(e) The Postal Regulatory Commission shall have
20 access to the audit documentation and any other sup-
21 porting matter of the Postal Service and its independent
22 auditor in connection with any information submitted
23 under subsection (b)(1)(B).

24 “(f) The Postal Regulatory Commission may, on its
25 own motion or on request of an interested party, initiate

1 proceedings (to be conducted in accordance with regula-
2 tions that the Commission shall prescribe) to improve the
3 quality, accuracy, or completeness of Postal Service data
4 required by the Commission under this section whenever
5 it shall appear that the data—

6 “(1) have become significantly inaccurate;

7 “(2) can be significantly improved; or

8 “(3) are not cost beneficial.”.

9 **TITLE VII—EVALUATIONS**

10 **SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICA-** 11 **TION, AND OTHER PROVISIONS.**

12 (a) **IN GENERAL.**—The Postal Regulatory Commis-
13 sion shall, at least every 3 years, submit a report to the
14 President and Congress concerning—

15 (1) the operation of the amendments made by
16 this Act; and

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

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

1 under the preceding sentence shall be attached to the re-
2 port submitted under subsection (a).

3 **SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND**
4 **THE POSTAL MONOPOLY.**

5 (a) REPORT BY THE POSTAL REGULATORY COMMIS-
6 SION.—

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

15 (2) CONTENTS.—The report under this sub-
16 section shall include—

17 (A) a comprehensive review of the history
18 and development of universal service and the
19 postal monopoly, including how the scope and
20 standards of universal service and the postal
21 monopoly have evolved over time for the Nation
22 and its urban and rural areas;

23 (B) the scope and standards of universal
24 service and the postal monopoly provided under
25 current law (including sections 101 and 403 of

1 title 39, United States Code), and current
2 rules, regulations, policy statements, and prac-
3 tices of the Postal Service;

4 (C) a description of any geographic areas,
5 populations, communities (including both urban
6 and rural communities), organizations, or other
7 groups or entities not currently covered by uni-
8 versal service or that are covered but that are
9 receiving services deficient in scope or quality
10 or both; and

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

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

24 (1) any recommended changes to universal serv-
25 ice and the postal monopoly as the Commission con-

1 siders appropriate, including changes that the Com-
2 mission may implement under current law and
3 changes that would require changes to current law,
4 with estimated effects of the recommendations on
5 the service, financial condition, rates, and security of
6 mail provided by the Postal Service;

7 (2) with respect to each recommended change
8 described under paragraph (1)—

9 (A) an estimate of the costs of the Postal
10 Service attributable to the obligation to provide
11 universal service under current law; and

12 (B) an analysis of the likely benefit of the
13 current postal monopoly to the ability of the
14 Postal Service to sustain the current scope and
15 standards of universal service, including esti-
16 mates of the financial benefit of the postal mo-
17 nopoly to the extent practicable, under current
18 law; and

19 (3) such additional topics and recommendations
20 as the Commission considers appropriate, with esti-
21 mated effects of the recommendations on the service,
22 financial condition, rates, and the security of mail
23 provided by the Postal Service.

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

3 (a) IN GENERAL.—The Federal Trade Commission
4 shall prepare and submit to the President and Congress,
5 and to the Postal Regulatory Commission, within 1 year
6 after the date of enactment of this Act, a comprehensive
7 report identifying Federal and State laws that apply dif-
8 ferently to the United States Postal Service with respect
9 to the competitive category of mail (within the meaning
10 of section 102 of title 39, United States Code, as amended
11 by section 101) and similar products provided by private
12 companies.

13 (b) RECOMMENDATIONS.—The Federal Trade Com-
14 mission shall include such recommendations as it con-
15 siders appropriate for bringing such legal discrimination
16 to an end, and in the interim, to account under section
17 3633 of title 39, United States Code (as added by this
18 Act), for the net economic advantages provided by those
19 laws.

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

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

6 **SEC. 704. REPORT ON POSTAL WORKPLACE SAFETY AND**
7 **WORKPLACE-RELATED INJURIES.**

8 (a) REPORT BY THE INSPECTOR GENERAL.—

9 (1) IN GENERAL.—Not later than 6 months
10 after the enactment of this Act, the Inspector Gen-
11 eral of the United States Postal Service shall submit
12 a report to Congress and the Postal Service that—

13 (A) details and assesses any progress the
14 Postal Service has made in improving workplace
15 safety and reducing workplace-related injuries
16 nationwide; and

17 (B) identifies opportunities for improve-
18 ment that remain with respect to such improve-
19 ments and reductions.

20 (2) CONTENTS.—The report under this sub-
21 section shall also—

22 (A) discuss any injury reduction goals es-
23 tablished by the Postal Service;

24 (B) describe the actions that the Postal
25 Service has taken to improve workplace safety

1 and reduce workplace-related injuries, and as-
2 sess how successful the Postal Service has been
3 in meeting its injury reduction goal; and

4 (C) identify areas where the Postal Service
5 has failed to meet its injury reduction goals, ex-
6 plain the reasons why these goals were not met,
7 and identify opportunities for making further
8 progress in meeting these goals.

9 (b) REPORT BY THE POSTAL SERVICE.—

10 (1) REPORT TO CONGRESS.—Not later than 6
11 months after receiving the report under subsection
12 (a), the Postal Service shall submit a report to Con-
13 gress detailing how it plans to improve workplace
14 safety and reduce workplace-related injuries nation-
15 wide, including goals and metrics.

16 (2) PROBLEM AREAS.—The report under this
17 subsection shall also include plans, developed in con-
18 sultation with the Inspector General and employee
19 representatives, including representatives of each
20 postal labor union and management association, for
21 addressing the problem areas identified by the In-
22 spector General in the report under subsection
23 (a)(2)(C).

1 **SEC. 705. STUDY ON RECYCLED PAPER.**

2 (a) IN GENERAL.—Within 12 months after the date
3 of enactment of this Act, the Government Accountability
4 Office shall study and submit to the Congress, the Board
5 of Governors of the Postal Service, and to the Postal Reg-
6 ulatory Commission a report concerning—

7 (1) the economic and environmental efficacy of
8 establishing rate incentives for mailers linked to the
9 use of recycled paper;

10 (2) a description of the accomplishments of the
11 Postal Service in each of the preceding 5 years in-
12 volving recycling activities, including the amount of
13 annual revenue generated and savings achieved by
14 the Postal Service as a result of its use of recycled
15 paper and other recycled products and its efforts to
16 recycle undeliverable and discarded mail and other
17 materials; and

18 (3) additional opportunities that may be avail-
19 able for the United States Postal Service to engage
20 in recycling initiatives and the projected costs and
21 revenues of undertaking such opportunities.

22 (b) RECOMMENDATIONS.—The report shall include
23 recommendations for any administrative or legislative ac-
24 tions that may be appropriate.

1 **TITLE VIII—POSTAL SERVICE**
2 **RETIREMENT AND HEALTH**
3 **BENEFITS FUNDING**

4 **SEC. 801. SHORT TITLE.**

5 This title may be cited as the “Postal Civil Service
6 Retirement and Health Benefits Funding Amendments of
7 2004”.

8 **SEC. 802. CIVIL SERVICE RETIREMENT SYSTEM.**

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

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

13 “(ii) In the case of an employee of the United States
14 Postal Service, no amount shall be contributed under this
15 subparagraph.”; and

16 (2) by amending section 8348(h) to read as fol-
17 lows:

18 “(h)(1) In this subsection, the term ‘Postal surplus
19 or supplemental liability’ means the estimated difference,
20 as determined by the Office, between—

21 “(A) the actuarial present value of all future
22 benefits payable from the Fund under this sub-
23 chapter to current or former employees of the
24 United States Postal Service and attributable to ci-

1 vilian employment with the United States Postal
2 Service; and

3 “(B) the sum of—

4 “(i) the actuarial present value of deduc-
5 tions to be withheld from the future basic pay
6 of employees of the United States Postal Serv-
7 ice currently subject to this subchapter under
8 section 8334;

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

17 “(iii) any other appropriate amount, as de-
18 termined by the Office in accordance with gen-
19 erally accepted actuarial practices and prin-
20 ciples.

21 “(2)(A) Not later than June 15, 2006, the Office
22 shall determine the Postal surplus or supplemental liabil-
23 ity, as of September 30, 2005. If that result is a surplus,
24 the amount of the surplus shall be transferred to the Post-
25 al Service Retiree Health Benefits Fund established under

1 section 8909a by June 30, 2006. If the result is a supple-
2 mental liability, the Office shall establish an amortization
3 schedule, including a series of annual installments com-
4 mencing September 30, 2006, which provides for the liq-
5 uidation of such liability by September 30, 2043.

6 “(B) The Office shall redetermine the Postal surplus
7 or supplemental liability as of the close of the fiscal year,
8 for each fiscal year beginning after September 30, 2006,
9 through the fiscal year ending September 30, 2038. If the
10 result is a surplus, that amount shall remain in the Fund
11 until distribution is authorized under subparagraph (C),
12 and any prior amortization schedule for payments shall
13 be terminated. If the result is a supplemental liability, the
14 Office shall establish a new amortization schedule, includ-
15 ing 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 “(C) As of the close of the fiscal years ending Sep-
19 tember 30, 2015, 2025, 2035, and 2039, if the result is
20 a surplus, that amount shall be transferred to the Postal
21 Service Retiree Health Benefits Fund, and any prior am-
22 ortization schedule for payments shall be terminated.

23 “(D) Amortization schedules established under this
24 paragraph shall be set in accordance with generally accept-
25 ed actuarial practices and principles, with interest com-

1 puted at the rate used in the most recent valuation of the
2 Civil Service Retirement System.

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

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

13 (b) CREDIT ALLOWED FOR MILITARY SERVICE.—In
14 the application of section 8348(g)(2) of title 5, United
15 States Code, for the fiscal year 2006, the Office of Per-
16 sonnel Management shall include, in addition to the
17 amount otherwise computed under that paragraph, the
18 amounts that would have been included for the fiscal years
19 2003 through 2005 with respect to credit for military serv-
20 ice 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
25 and Disability Fund based on that amount.

1 **SEC. 803. HEALTH INSURANCE.**

2 (a) IN GENERAL.—

3 (1) FUNDING.—Chapter 89 of title 5, United
4 States Code, is amended—

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

12 (B) by inserting after section 8909 the fol-
13 lowing:

14 **“§ 8909a. Postal Service Retiree Health Benefit 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 invest-
25 ments for the Civil Service Retirement and Disability
26 Fund under section 8348.

1 “(d)(1) Not later than June 30, 2006, and by June
2 30 of each succeeding year, the Office shall compute the
3 net present value of the future payments required under
4 section 8906(g)(2)(A) and attributable to the service of
5 Postal Service employees during the most recently ended
6 fiscal year.

7 “(2)(A) Not later than June 30, 2006, the Office
8 shall compute, and by June 30 of each succeeding year,
9 the Office shall recompute the difference between—

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

15 “(ii)(I) the value of the assets of the Postal Re-
16 tiree Health Benefits Fund as of the end of the fis-
17 cal year ending on September 30 of that year; and

18 “(II) the net present value computed under
19 paragraph (1).

20 “(B) Not later than June 30, 2006, the Office shall
21 compute, and by June 30 of each succeeding year shall
22 recompute, an amortization schedule including a series of
23 annual installments which provide for the liquidation by
24 September 30, 2045, or within 15 years, whichever is
25 later, of the net present value determined under subpara-

1 graph (A), including interest at the rate used in that com-
2 putation.

3 “(3) Not later than September 30, 2006, and by Sep-
4 tember 30 of each succeeding year, the United States
5 Postal Service shall pay into such Fund—

6 “(A) the net present value computed under
7 paragraph (1); and

8 “(B) the annual installment computed under
9 paragraph (2)(B).

10 “(4) Computations under this subsection shall be
11 made consistent with the assumptions and methodology
12 used by the Office for financial reporting under sub-
13 chapter II of chapter 35 of title 31.

14 “(5) After consultation with the United States Postal
15 Service, the Office shall promulgate any regulations the
16 Office determines necessary under this subsection.”.

17 (2) TECHNICAL AND CONFORMING AMEND-
18 MENT.—The table of sections for chapter 89 of title
19 5, United States Code, is amended by inserting after
20 the item relating to section 8909 the following:

“8909a. Postal Service Retiree Health Benefits Fund.”.

21 (b) TRANSITIONAL ADJUSTMENT FOR FISCAL YEAR
22 2006.—For fiscal year 2006, the amounts paid by the
23 Postal Service in Government contributions under section
24 8906(g)(2)(A) of title 5, United States Code, for fiscal
25 year 2006 contributions shall be deducted from the initial

1 payment otherwise due from the Postal Service to the
 2 Postal Service Retiree Health Benefits Fund under section
 3 8909a(d)(3) of such title as added by this section.

4 **SEC. 804. REPEAL OF DISPOSITION OF SAVINGS PROVISION.**

5 Section 3 of the Postal Civil Service Retirement Sys-
 6 tem Funding Reform Act of 2003 (Public Law 108–18)
 7 is repealed.

8 **SEC. 805. EFFECTIVE DATES.**

9 (a) IN GENERAL.—Except as provided under sub-
 10 section (b), this title shall take effect on October 1, 2005.

11 (b) TERMINATION OF EMPLOYER CONTRIBUTION.—
 12 The amendment made by paragraph (1) of section 802(a)
 13 shall take effect on the first day of the first pay period
 14 beginning on or after October 1, 2005.

15 **TITLE IX—COMPENSATION FOR**
 16 **WORK INJURIES**

17 **SEC. 901. TEMPORARY DISABILITY; CONTINUATION OF PAY.**

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

20 (1) by striking “An employee” and inserting

21 “(a) An employee other than a Postal Service em-
 22 ployee”; and

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

24 “(b) A Postal Service employee is not entitled to com-
 25 pensation or continuation of pay for the first 3 days of

1 temporary disability, except as provided under paragraph
2 (3) of subsection (a). A Postal Service employee may use
3 annual leave, sick leave, or leave without pay during that
4 3-day period, except that if the disability exceeds 14 days
5 or is followed by permanent disability, the employee may
6 have their sick leave or annual leave reinstated or receive
7 pay for the time spent on leave without pay under this
8 section.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENT.—
10 Section 8118(b)(1) of title 5, United States Code, is
11 amended to read as follows:

12 “(1) without a break in time, except as pro-
13 vided under section 8117(b), unless controverted
14 under regulations of the Secretary”.

15 **SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-**
16 **EES.**

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

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

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

1 “(c)(1) In this subsection, the term ‘retirement age’
2 has the meaning given under section 216(l)(1) of the So-
3 cial Security Act (42 U.S.C. 416(l)(1)).

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

11 “(A) the date on which the injured employee
12 reaches retirement age; or

13 “(B) 1 year after the employee begins receiving
14 compensation.”.

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

17 (1) in subsection (a), by adding at the end the
18 following: “This section applies to a Postal Service
19 employee, except as provided under subsection (d).”;
20 and

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

22 “(d)(1) In this subsection, the term ‘retirement age’
23 has the meaning given under section 216(l)(1) of the So-
24 cial Security Act (42 U.S.C. 416(l)(1)).

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

10 “(A) the date on which the injured em-
 11 ployee reaches retirement age; or

12 “(B) 1 year after the employee begins re-
 13 ceiving compensation.”.

14 **TITLE X—MISCELLANEOUS**

15 **SEC. 1001. EMPLOYMENT OF POSTAL POLICE OFFICERS.**

16 Section 404 of title 39, United States Code (as
 17 amended by this Act), is further amended by adding at
 18 the end the following:

19 “(d) The Postal Service may employ guards for all
 20 buildings and areas owned or occupied by the Postal Serv-
 21 ice or under the charge and control of the Postal Service,
 22 and may give such guards, with respect to such property,
 23 any of the powers of special policemen provided under sec-
 24 tion 1315 of title 40. The Postmaster General, or the des-
 25 ignee of the Postmaster General, may take any action that

1 the Secretary of Homeland Security may take under sec-
2 tion 1315 of title 40, with respect to that property.

3 **SEC. 1002. EXPANDED CONTRACTING AUTHORITY.**

4 (a) AMENDMENT TO TITLE 39, UNITED STATES
5 CODE.—

6 (1) CONTRACTS WITH AIR CARRIERS.—Sub-
7 section (e) of section 5402 of title 39, United States
8 Code, is amended—

9 (A) by striking the matter preceding para-
10 graph (2) and inserting the following:

11 “(e)(1) The Postal Service may contract with any air
12 carrier for the transportation of mail by aircraft in inter-
13 state air transportation, including the rates for that trans-
14 portation, either through negotiations or competitive bid-
15 ding.”;

16 (B) by redesignating paragraph (2) as
17 paragraph (4); and

18 (C) by inserting after paragraph (1) the
19 following:

20 “(2) Notwithstanding subsections (b) through (d),
21 the Postal Service may contract with any air carrier or
22 foreign air carrier for the transportation of mail by air-
23 craft in foreign air transportation, including the rates for
24 that transportation, either through negotiations or com-
25 petitive bidding, except that—

1 “(A) any such contract may be awarded only
2 to—

3 “(i) an air carrier holding a certificate re-
4 quired by section 41101 of title 49 or an ex-
5 emption therefrom issued by the Secretary of
6 Transportation;

7 “(ii) a foreign air carrier holding a permit
8 required by section 41301 of title 49 or an ex-
9 emption therefrom issued by the Secretary of
10 Transportation; or

11 “(iii) a combination of such air carriers or
12 foreign air carriers (or both);

13 “(B) mail transported under any such contract
14 shall not be subject to any duty-to-carry requirement
15 imposed by any provision of subtitle VII of title 49
16 or by any certificate, permit, or corresponding ex-
17 emption authority issued by the Secretary of Trans-
18 portation under that subtitle;

19 “(C) during the 5-year period beginning 1 year
20 after the date of enactment of the Postal Account-
21 ability and Enhancement Act, the Postal Service
22 may not under this paragraph—

23 “(i) contract for service between a pair or
24 combination of pairs of points in foreign air
25 transportation with—

1 “(I) a foreign air carrier; or

2 “(II) an air carrier to the extent that
3 service provided would be offered through
4 a code sharing arrangement in which the
5 air carrier’s designator code is used to
6 identify a flight operated by a foreign air
7 carrier; or

8 “(ii) tender mail in foreign air transpor-
9 tation under contracts providing for the car-
10 riage of mail in foreign air transportation over
11 all (or substantially all, as determined by the
12 Postal Service) of a carrier’s routes or all or
13 substantially all of a carrier’s routes within a
14 geographic area determined by the Postal Serv-
15 ice on the basis of a common unit price per mile
16 and a separate terminal price to—

17 “(I) a foreign air carrier; or

18 “(II) an air carrier to the extent that
19 service provided would be offered through
20 a code sharing arrangement in which the
21 air carrier’s designator code is used to
22 identify a flight operated by a foreign air
23 carrier, unless—

24 “(aa) with respect to clause (i)
25 and this clause, fewer than 2 air car-

1 riers capable of providing service to
2 the Postal Service adequate for its
3 purposes between the pair or combina-
4 tion of pairs of points in foreign air
5 transportation offer scheduled service
6 between the pair or combination of
7 pairs of points in foreign air transpor-
8 tation which are the subject of the
9 contract or tender;

10 “(bb) with respect to clause (i),
11 after competitive solicitation, the
12 Postal Service has not received at
13 least 2 offers from eligible air carriers
14 capable of providing service to the
15 Postal Service adequate for its pur-
16 poses between the pair of combination
17 of pairs of points in foreign air trans-
18 portation; or

19 “(cc) with respect to this clause,
20 after competitive solicitation, fewer
21 than 2 air carriers under contract
22 with the Postal Service offer service
23 adequate for the Postal Service’s pur-
24 poses between the pair or combination
25 of pairs of points in foreign air trans-

1 portation for which tender is being
2 made;

3 “(D) beginning 6 years after the date of enact-
4 ment of the Postal Accountability and Enhancement
5 Act, every contract that the Postal Service awards to
6 a foreign air carrier under this paragraph shall be
7 subject to the continuing requirement that air car-
8 riers shall be afforded the same opportunity to carry
9 the mail of the country to and from which the mail
10 is transported and the flag country of the foreign air
11 carrier, if different, as the Postal Service has af-
12 forded the foreign air carrier; and

13 “(E) the Postmaster General shall consult with
14 the Secretary of Defense concerning actions that af-
15 fect the carriage of military mail transported in for-
16 eign air transportation.

17 “(3) Paragraph (2) shall not be interpreted as sus-
18 pending or otherwise diminishing the authority of the Sec-
19 retary of Transportation under section 41310 of title 49.”.

20 (2) DEFINITIONS.—Section 5402(a) of title 39,
21 United States Code, is amended by striking para-
22 graph (2) and inserting the following:

23 “(2) The terms ‘air carrier’, ‘air transportation’, ‘for-
24 eign air carrier’, ‘foreign air transportation’, ‘interstate

1 air transportation’, and ‘mail’ have the meanings given
2 such terms in section 40102(a) of title 49.”.

3 (b) AMENDMENTS TO TITLE 49, UNITED STATES
4 CODE.—

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

9 “(a) TITLE 39.—The United States Postal Service
10 may provide for the transportation of mail by aircraft in
11 air transportation under this chapter and under chapter
12 54 of title 39.”.

13 (2) SCHEDULES FOR CERTAIN TRANSPOR-
14 TATION OF MAIL.—Section 41902 of title 49, United
15 States Code, is amended—

16 (A) by striking subsection (b) and insert-
17 ing the following:

18 “(b) STATEMENTS ON PLACES AND SCHEDULES.—
19 Every air carrier shall file with the Secretary of Transpor-
20 tation and the United States Postal Service a statement
21 showing—

22 “(1) the places between which the carrier is au-
23 thorized to transport mail in Alaska;

24 “(2) every schedule of aircraft regularly oper-
25 ated by the carrier between places described under

1 paragraph (1) and every change in each schedule;
2 and

3 “(3) for each schedule, the places served by the
4 carrier and the time of arrival at, and departure
5 from, each place.”;

6 (B) in subsection (c), by striking “(b)(3)”
7 and inserting “(b)”; and

8 (C) in subsection (d), in the first sentence,
9 by striking “(b)(3)” and inserting “(b)”.

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

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

14 (B) by striking subsection (b).

15 (4) TECHNICAL AND CONFORMING AMEND-
16 MENTS.—Sections 41107, 41901(b)(1), 41902(a),
17 and 41903 (a) and (b) of title 49, United States
18 Code, are amended by striking “in foreign air trans-
19 portation or”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect 1 year after the date of enact-
22 ment of this Act.

1 **SEC. 1003. REPORT ON THE UNITED STATES POSTAL IN-**
2 **SPECTION SERVICE AND THE OFFICE OF THE**
3 **INSPECTOR GENERAL OF THE UNITED**
4 **STATES POSTAL SERVICE.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of this Act, the Government Account-
7 ability Office shall review the functions, responsibilities,
8 and areas of possible duplication of the United States
9 Postal Inspection Service and the Office of the Inspector
10 General of the United States Postal Service and submit
11 a report on the review to the Committee on Homeland Se-
12 curity and Governmental Affairs of the Senate.

13 (b) CONTENTS.—The report under this section shall
14 include recommendations for legislative actions necessary
15 to clarify the roles of the United States Postal Inspection
16 Service and the Office of the Inspector General of the
17 United States Postal Service to strengthen oversight of
18 postal operations.

19 **SEC. 1004. SENSE OF CONGRESS REGARDING POSTAL SERV-**
20 **ICE PURCHASING REFORM.**

21 It is the sense of Congress that the Postal Service
22 should—

23 (1) ensure the fair and consistent treatment of
24 suppliers and contractors in its current purchasing
25 policies and any revision or replacement of such poli-
26 cies, such as through the use of competitive contract

1 award procedures, effective dispute resolution mech-
2 anisms, and socioeconomic programs; and

3 (2) implement commercial best practices in
4 Postal Service purchasing policies to achieve greater
5 efficiency and cost savings as recommended in July
6 2003 by the President's Commission on the United
7 States Postal Service, in a manner that is compat-
8 ible with the fair and consistent treatment of sup-
9 pliers and contractors, as befitting an establishment
10 in the United States Government.

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