

108TH CONGRESS
2D SESSION

S. 2468

To reform the postal laws of the United States.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2004

Ms. COLLINS (for herself, Mr. CARPER, Mr. STEVENS, Mr. VOINOVICH, Mr. SUNUNU, Mr. LIEBERMAN, Mr. AKAKA, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on 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.

TITLE V—GENERAL PROVISIONS

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

TITLE VI—ENHANCED REGULATORY COMMISSION

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

TITLE VII—EVALUATIONS

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

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.

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 services an-
13 cillary thereto;

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

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

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

3 **SEC. 102. POSTAL SERVICES.**

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

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

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

10 “(c) Nothing in this title shall be considered to permit
11 or require that the Postal Service provide any special non-
12 postal or similar services.”.

13 (b) CONFORMING AMENDMENTS.—(1) Section
14 1402(b)(1)(B)(ii) of the Victims of Crime Act of 1984 (98
15 Stat. 2170; 42 U.S.C. 10601(b)(1)(B)(ii)) is amended by
16 striking “404(a)(8)” and inserting “404(a)(7)”.

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

19 **TITLE II—MODERN RATE**
20 **REGULATION**

21 **SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT**
22 **PRODUCTS.**

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

1 **“§ 3621. Applicability; definitions**

2 “(a) APPLICABILITY.—This subchapter shall apply
3 with respect to—

4 “(1) first-class mail letters;

5 “(2) first-class mail cards;

6 “(3) periodicals;

7 “(4) standard mail;

8 “(5) single-piece parcel post;

9 “(6) media mail;

10 “(7) bound printed matter;

11 “(8) library mail;

12 “(9) special services; and

13 “(10) single-piece international mail,

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

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

20 **“§ 3622. Modern rate regulation**

21 “(a) AUTHORITY GENERALLY.—The Postal Regu-
22 latory Commission shall, within 12 months after the date
23 of the enactment of this section, by regulation establish
24 (and may from time to time thereafter by regulation re-
25 vise) a modern system for regulating rates and classes for
26 market-dominant products.

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

3 “(1) To reduce the administrative burden and
4 increase the transparency of the ratemaking process.

5 “(2) To create predictability and stability in
6 rates.

7 “(3) To maximize incentives to reduce costs
8 and increase efficiency.

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

11 “(5) To allow the Postal Service pricing flexi-
12 bility, including the ability to use pricing to promote
13 intelligent mail and encourage increased mail volume
14 during nonpeak periods.

15 “(6) To assure adequate revenues, including re-
16 tained earnings, to maintain financial stability and
17 meet the service standards established under section
18 3691.

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

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

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

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

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

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

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

20 “(6) the degree of preparation of mail for deliv-
21 ery into the postal system performed by the mailer
22 and its effect upon reducing costs to the Postal
23 Service;

24 “(7) simplicity of structure for the entire sched-
25 ule and simple, identifiable relationships between the

1 rates or fees charged the various classes of mail for
2 postal services;

3 “(8) the relative value to the people of the
4 kinds of mail matter entered into the postal system
5 and the desirability and justification for special clas-
6 sifications and services of mail;

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

12 “(10) the desirability of special classifications
13 from the point of view of both the user and of the
14 Postal Service;

15 “(11) the educational, cultural, scientific, and
16 informational value to the recipient of mail matter;
17 and

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

20 “(d) REQUIREMENTS.—The system for regulating
21 rates and classes for market-dominant products shall—

22 “(1) require the Postal Rate Commission to set
23 annual limitations on the percentage changes in
24 rates based on inflation using indices, such as the
25 Consumer Price Index, the Employment Cost Index,

1 the Gross Domestic Product Price Index, or any
2 similar measure as the Postal Rate Commission may
3 prescribe;

4 “(2) establish a schedule whereby rates, when
5 necessary and appropriate, would increase at regular
6 intervals by predictable amounts;

7 “(3) not later than 45 days before the imple-
8 mentation of any adjustment in rates under this sec-
9 tion—

10 “(A) require the Postal Service to provide
11 public notice of the adjustment;

12 “(B) provide an opportunity for review by
13 the Postal Rate Commission;

14 “(C) provide for the Postal Rate Commis-
15 sion to notify the Postal Service of any non-
16 compliance of the adjustment with the limita-
17 tion under paragraph (1); and

18 “(D) require the Postal Service to respond
19 to the notice provided under subparagraph (C)
20 and describe the actions to be taken to comply
21 with the limitation under paragraph (1);

22 “(4) notwithstanding any limitation set under
23 paragraphs (1) and (3), establish procedures where-
24 by rates may be adjusted on an expedited basis due
25 to unexpected and extraordinary circumstances.

1 “(e) WORKSHARE DISCOUNTS.—

2 “(1) DEFINITION.—In this subsection, the term
3 ‘workshare discount’ refers to rate discounts pro-
4 vided to mailers for the presorting, prebarcoding,
5 handling, or transportation of mail, as further de-
6 fined by the Postal Regulatory Commission under
7 subsection (a).

8 “(2) REGULATIONS.—As part of the regulations
9 established under subsection (a), the Postal Regu-
10 latory Commission shall establish rules for
11 workshare discounts that ensure that such discounts
12 do not exceed the cost that the Postal Service avoids
13 as a result of workshare activity, unless—

14 “(A) the discount is—

15 “(i) associated with a new postal serv-
16 ice or with a change to an existing postal
17 service; and

18 “(ii) necessary to induce mailer behav-
19 ior that furthers the economically efficient
20 operation of the Postal Service;

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

22 “(i) lead to a loss of volume in the af-
23 fected category of mail and reduce the ag-
24 gregate contribution to institutional costs
25 of the Postal Service from the mail matter

1 subject to the discount below what it other-
2 wise would have been if the discount had
3 not been reduced to costs avoided;

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

7 “(iii) impede the efficient operation of
8 the Postal Service;

9 “(C) the amount of the discount above
10 costs avoided—

11 “(i) is necessary to mitigate rate
12 shock; and

13 “(ii) will be phased out over time;

14 “(D) the workshare discount is provided in
15 connection with subclasses of mail consisting
16 exclusively of mail matter of educational, cul-
17 tural, or scientific value; or

18 “(E) the Postal Regulatory Commission
19 determines that such discounts are reasonable
20 and equitable and consistent with the objectives
21 and factors taken into account under sub-
22 sections (b) and (c).

23 “(3) REPORT.—Whenever the Postal Service es-
24 tablishes or maintains a workshare discount, the
25 Postal Service shall, at the time it publishes the

1 workshare discount rate, submit to the Postal Regu-
2 latory Commission a detailed report and explanation
3 of the Postal Service’s reasons for establishing or
4 maintaining the rate, setting forth the data, eco-
5 nomic analyses, and other information relied on by
6 the Postal Service to justify the rate.

7 “(f) TRANSITION RULE.—Until regulations under
8 this section first take effect, rates and classes for market-
9 dominant products shall remain subject to modification in
10 accordance with the provisions of this chapter and section
11 407, as such provisions were last in effect before the date
12 of the enactment of this section.

13 **“§ 3623. Service agreements for market-dominant**
14 **products**

15 “(a) IN GENERAL.—

16 “(1) AUTHORITY.—The Postal Service may
17 enter into service agreements with a customer or
18 group of customers that provide for the provision of
19 postal services under terms, conditions, or service
20 standards that differ from those that would apply
21 under the otherwise applicable classification of mar-
22 ket-dominant mail.

23 “(2) AGREEMENTS.—An agreement under this
24 section may involve—

1 “(A) performance by the contracting mail
2 user of mail preparation, processing, transpor-
3 tation, or other functions;

4 “(B) performance by the Postal Service of
5 additional mail preparation, processing, trans-
6 portation, or other functions; or

7 “(C) other terms and conditions that meet
8 the requirements of subsections (b) and (c).

9 “(b) REQUIREMENTS.—A service agreement under
10 this section may be entered into only if each of the fol-
11 lowing conditions is met:

12 “(1) The total revenue generated under the
13 agreement—

14 “(A) will cover all Postal Service costs at-
15 tributable to the postal services covered by the
16 agreement; and

17 “(B) will result in no less contribution to
18 the institutional costs of the Postal Service than
19 would have been generated had the agreement
20 not been entered into.

21 “(2) Rates or fees for other mailers will not in-
22 crease as a result of the agreement.

23 “(3) The agreement pertains exclusively to
24 products in the market-dominant category of mail.

1 “(4) The agreement will not preclude or materi-
2 ally hinder similarly situated mail users from enter-
3 ing into agreements with the Postal Service on the
4 same, or substantially the same terms or conditions,
5 and the Postal Service remains willing and able to
6 enter into such.

7 “(c) LIMITATIONS.—A service agreement under this
8 section shall—

9 “(1) be for a term not to exceed 3 years; and

10 “(2) provide that such agreement shall be sub-
11 ject to the cancellation authority of the Commission
12 under section 3662.

13 “(d) NOTICE REQUIREMENTS.—

14 “(1) IN GENERAL.—At least 30 days before a
15 service agreement under this section is to take ef-
16 fect, the Postal Service shall file with the Postal
17 Regulatory Commission and publish in the Federal
18 Register the following information with respect to
19 such agreement:

20 “(A) A description of the postal services
21 the agreement involves.

22 “(B) A description of the functions the
23 customer is to perform under the agreement.

1 “(C) A description of the functions the
2 Postal Service is to perform under the agree-
3 ment.

4 “(D) The rates and fees payable by the
5 customer during the term of the agreement.

6 “(E) With respect to each condition under
7 subsection (b), information sufficient to dem-
8 onstrate the bases for the view of the Postal
9 Service that such condition would be met.

10 “(2) AGREEMENTS LESS THAN NATIONAL IN
11 SCOPE.—In the case of a service agreement under
12 this section that is less than national in scope, the
13 information described under paragraph (1) shall also
14 be published by the Postal Service in a manner de-
15 signed to afford reasonable notice to persons within
16 any geographic area to which such agreement (or
17 any amendment to that agreement) pertains.

18 “(e) EQUAL TREATMENT REQUIRED.—If the Postal
19 Service enters into a service agreement with a mailer
20 under this section, the Postal Service shall make such
21 agreement available to similarly situated mailers on func-
22 tionally equivalent terms and conditions consistent with
23 the regulatory system established under section 3622
24 without unreasonable distinctions based on mailer profiles,
25 provided that such distinctions, if ignored, would not

1 render any subsequent agreement uneconomic or imprac-
2 tical.

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

10 “(g) POSTAL REGULATORY COMMISSION ROLE.—

11 “(1) REGULATIONS.—The Postal Regulatory
12 Commission may promulgate such regulations re-
13 garding service agreements as the Commission de-
14 termines necessary to implement the requirements of
15 this section.

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

22 “(h) INTERPRETATION.—The determination of
23 whether the revenue generated under the agreement meets
24 the requirements of subsection (b)(1)(B) shall be based,
25 to the extent practicable, on the actual contribution of the

1 mail involved, not on the average contribution made by
 2 the mail classification most similar to the services per-
 3 formed under the agreement. If mailer-specific data is not
 4 available, the bases for the determination used shall be
 5 provided and shall include a discussion of the suitability
 6 of the data used, in accordance with regulations estab-
 7 lished by the Postal Regulatory Commission.”.

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

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

15 “SUBCHAPTER I—PROVISIONS RELATING TO
 16 MARKET-DOMINANT PRODUCTS”.

17 **SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-**
 18 **UCTS.**

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

21 “SUBCHAPTER II—PROVISIONS RELATING TO
 22 COMPETITIVE PRODUCTS

23 **“§ 3631. Applicability; definitions and updates**

24 “(a) APPLICABILITY.—This subchapter shall apply
 25 with respect to—

- 1 “(1) priority mail;
2 “(2) expedited mail;
3 “(3) bulk parcel post;
4 “(4) bulk international mail; and
5 “(5) mailgrams;

6 subject to subsection (d) and any changes the Postal Reg-
7 ulatory Commission may make under section 3642.

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

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

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

20 **“§ 3632. Action of the Governors**

21 “(a) AUTHORITY TO ESTABLISH RATES AND CLASS-
22 ES.—The Governors, with the written concurrence of a
23 majority of all of the Governors then holding office, shall
24 establish rates and classes for products in the competitive
25 category of mail in accordance with the requirements of

1 this subchapter and regulations promulgated under sec-
2 tion 3633.

3 “(b) PROCEDURES.—

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

8 “(2) PUBLIC NOTICE; REVIEW; AND COMPLI-
9 ANCE.—Not later than 30 days before the date of
10 implementation of any adjustment in rates under
11 this section—

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

15 “(B) the Postal Rate Commission shall no-
16 tify the Governors of any noncompliance of the
17 adjustment with section 3633; and

18 “(C) the Governors shall respond to the
19 notice provided under subparagraph (B) and
20 describe the actions to be taken to comply with
21 section 3633.

22 “(c) TRANSITION RULE.—Until regulations under
23 section 3633 first take effect, rates and classes for com-
24 petitive products shall remain subject to modification in
25 accordance with the provisions of this chapter and section

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

3 **“§ 3633. Provisions applicable to rates for competitive**
4 **products**

5 “The Postal Regulatory Commission shall, within
6 180 days after the date of the enactment of this section,
7 promulgate (and may from time to time thereafter revise)
8 regulations to—

9 “(1) prohibit the subsidization of competitive
10 products by market-dominant products;

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

13 “(3) ensure that all competitive products collec-
14 tively cover their share of the institutional costs of
15 the Postal Service.”.

16 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**
17 **NEW PRODUCTS.**

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

20 **“SUBCHAPTER III—PROVISIONS RELATING TO**
21 **EXPERIMENTAL AND NEW PRODUCTS**

22 **“§ 3641. Market tests of experimental products**

23 “(a) **AUTHORITY.—**

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

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

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

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

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

22 “(3) CORRECT CATEGORIZATION.—The Postal
23 Service identifies the product, for the purpose of a
24 test under this section, as either market-dominant or
25 competitive, consistent with the criteria under sec-

1 tion 3642(b)(1). Costs and revenues attributable to
2 a product identified as competitive shall be included
3 in any determination under section 3633(3)(relating
4 to provisions applicable to competitive products col-
5 lectively). Any test that solely affects products cur-
6 rently classified as competitive, or which provides
7 services ancillary to only competitive products, shall
8 be presumed to be in the competitive product cat-
9 egory without regard to whether a similar ancillary
10 product exists for market-dominant products.

11 “(c) NOTICE.—

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

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

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

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

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

8 “(d) DURATION.—

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

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

21 “(e) DOLLAR-AMOUNT LIMITATION.—

22 “(1) IN GENERAL.—A product may only be
23 tested under this section if the total revenues that
24 are anticipated, or in fact received, by the Postal
25 Service from such product do not exceed

1 \$10,000,000 in any year, subject to paragraph (2)
2 and subsection (g).

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

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

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

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

19 “(f) CANCELLATION.—If the Postal Regulatory Com-
20 mission at any time determines that a market test under
21 this section fails to meet 1 or more of the requirements
22 of this section, it may order the cancellation of the test
23 involved or take such other action as it considers appro-
24 priate. A determination under this subsection shall be

1 made in accordance with such procedures as the Commis-
2 sion shall by regulation prescribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “SUBCHAPTER IV—REPORTING
2 REQUIREMENTS AND RELATED PROVISIONS

3 **“§ 3651. Annual reports by the Commission**

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

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

15 **“§ 3652. Annual reports to the Commission**

16 “(a) COSTS, REVENUES, RATES, AND SERVICE.—Ex-
17 cept as provided in subsection (c), the Postal Service shall,
18 no later than 90 days after the end of each year, prepare
19 and submit to the Postal Regulatory Commission a report
20 (together with such nonpublic annex to the report as the
21 Commission may require under subsection (e))—

22 “(1) which shall analyze costs, revenues, rates,
23 and quality of service in sufficient detail to dem-
24 onstrate that all products during such year complied
25 with all applicable requirements of this title; and

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

3 “(A) product information, including mail
4 volumes; and

5 “(B) measures of the service afforded by
6 the Postal Service in connection with such prod-
7 uct, including—

8 “(i) the level of service (described in
9 terms of speed of delivery and reliability)
10 provided; and

11 “(ii) the degree of customer satisfac-
12 tion with the service provided.

13 Before submitting a report under this subsection (includ-
14 ing any annex to the report and the information required
15 under subsection (b)), the Postal Service shall have the
16 information contained in such report (and annex) audited
17 by the Inspector General. The results of any such audit
18 shall be submitted along with the report to which it per-
19 tains.

20 “(b) INFORMATION RELATING TO WORKSHARE DIS-
21 COUNTS.—The Postal Service shall include, in each report
22 under subsection (a), the following information with re-
23 spect to each market-dominant product for which a
24 workshare discount was in effect during the period covered
25 by such report:

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

3 “(2) The percentage of such per-item cost
4 avoided that the per-item workshare discount rep-
5 resents.

6 “(3) The per-item contribution made to institu-
7 tional costs.

8 “(c) SERVICE AGREEMENTS AND MARKET TESTS.—
9 In carrying out subsections (a) and (b) with respect to
10 service agreements (including service agreements entered
11 into under section 3623) and experimental products of-
12 fered through market tests under section 3641 in a year,
13 the Postal Service—

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

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

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

25 “(e) CONTENT AND FORM OF REPORTS.—

1 “(1) IN GENERAL.—The Postal Regulatory
2 Commission shall, by regulation, prescribe the con-
3 tent and form of the public reports (and any non-
4 public annex and supporting matter relating to the
5 report) to be provided by the Postal Service under
6 this section. In carrying out this subsection, the
7 Commission shall give due consideration to—

8 “(A) providing the public with timely, ade-
9 quate information to assess the lawfulness of
10 rates charged;

11 “(B) avoiding unnecessary or unwarranted
12 administrative effort and expense on the part of
13 the Postal Service; and

14 “(C) protecting the confidentiality of com-
15 mercially sensitive information.

16 “(2) REVISED REQUIREMENTS.—The Commis-
17 sion may, on its own motion or on request of an in-
18 terested party, initiate proceedings (to be conducted
19 in accordance with regulations that the Commission
20 shall prescribe) to improve the quality, accuracy, or
21 completeness of Postal Service data required by the
22 Commission under this subsection whenever it shall
23 appear that—

1 “(A) the attribution of costs or revenues to
2 products has become significantly inaccurate or
3 can be significantly improved;

4 “(B) the quality of service data has be-
5 come significantly inaccurate or can be signifi-
6 cantly improved; or

7 “(C) such revisions are, in the judgment of
8 the Commission, otherwise necessitated by the
9 public interest.

10 “(f) CONFIDENTIAL INFORMATION.—

11 “(1) IN GENERAL.—If the Postal Service deter-
12 mines that any document or portion of a document,
13 or other matter, which it provides to the Postal Reg-
14 ulatory Commission in a nonpublic annex under this
15 section or under subsection (d) contains information
16 which is described in section 410(c) of this title, or
17 exempt from public disclosure under section 552(b)
18 of title 5, the Postal Service shall, at the time of
19 providing such matter to the Commission, notify the
20 Commission of its determination, in writing, and de-
21 scribe with particularity the documents (or portions
22 of documents) or other matter for which confiden-
23 tiality is sought and the reasons therefor.

24 “(2) TREATMENT.—Any information or other
25 matter described in paragraph (1) to which the

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

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

11 “(1) comprehensive statement under section
12 2401(e);

13 “(2) strategic plan under section 2802;

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

15 “(4) program performance reports under sec-
16 tion 2804.

17 **“§ 3653. Annual determination of compliance**

18 “(a) OPPORTUNITY FOR PUBLIC COMMENT.—After
19 receiving the reports required under section 3652 for any
20 year, the Postal Regulatory Commission shall promptly
21 provide an opportunity for comment on such reports by
22 users of the mails, affected parties, and an officer of the
23 Commission who shall be required to represent the inter-
24 ests of the general public.

1 “(b) DETERMINATION OF COMPLIANCE OR NON-
2 COMPLIANCE.—Not later than 90 days after receiving the
3 submissions required under section 3652 with respect to
4 a year, the Postal Regulatory Commission shall make a
5 written determination as to—

6 “(1) whether any rates or fees in effect during
7 such year (for products individually or collectively)
8 were not in compliance with applicable provisions of
9 this chapter (or regulations promulgated there-
10 under); or

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

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

16 “(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a
17 year, a timely written determination of noncompliance is
18 made under subsection (b), the Postal Regulatory Com-
19 mission shall take any appropriate remedial action author-
20 ized by section 3662(c).

21 “(d) REBUTTABLE PRESUMPTION.—A timely written
22 determination described in the last sentence of subsection
23 (b) shall, for purposes of any proceeding under section
24 3662, create a rebuttable presumption of compliance by
25 the Postal Service (with regard to the matters described

1 in paragraphs (1) through (3) of subsection (b)) during
 2 the year to which such determination relates.”.

3 **SEC. 205. COMPLAINTS; APPELLATE REVIEW AND EN-**
 4 **FORCEMENT.**

5 Chapter 36 of title 39, United States Code, is amend-
 6 ed by striking sections 3662 and 3663 and inserting the
 7 following:

8 **“§ 3662. Rate and service complaints**

9 “(a) IN GENERAL.—Interested persons (including an
 10 officer of the Postal Regulatory Commission representing
 11 the interests of the general public) who believe the Postal
 12 Service is not operating in conformance with the require-
 13 ments of chapter 1, 4, or 6, or this chapter (or regulations
 14 promulgated under any of those chapters) may lodge a
 15 complaint with the Postal Regulatory Commission in such
 16 form and manner as the Commission may prescribe.

17 “(b) PROMPT RESPONSE REQUIRED.—

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

21 “(A) begin proceedings on such complaint;

22 or

23 “(B) issue an order dismissing the com-
 24 plaint (together with a statement of the reasons
 25 therefor).

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

9 “(c) ACTION REQUIRED IF COMPLAINT FOUND TO
10 BE JUSTIFIED.—If the Postal Regulatory Commission
11 finds the complaint to be justified, it shall order that the
12 Postal Service take such action as the Commission con-
13 siders appropriate in order to achieve compliance with the
14 applicable requirements and to remedy the effects of any
15 noncompliance including ordering unlawful rates to be ad-
16 justed to lawful levels, ordering the cancellation of market
17 tests, ordering the Postal Service to discontinue providing
18 loss-making products, and requiring the Postal Service to
19 make up for revenue shortfalls in competitive products.

20 “(d) AUTHORITY TO ORDER FINES IN CASES OF DE-
21 LIBERATE NONCOMPLIANCE.—In addition, in cases of de-
22 liberate noncompliance by the Postal Service with the re-
23 quirements of this title, the Postal Regulatory Commission
24 may order, based on the nature, circumstances, extent,
25 and seriousness of the noncompliance, a fine (in the

1 amount specified by the Commission in its order) for each
2 incidence of noncompliance. Fines resulting from the pro-
3 vision of competitive products shall be paid out of the
4 Competitive Products Fund established in section 2011.
5 All receipts from fines imposed under this subsection shall
6 be deposited in the general fund of the Treasury of the
7 United States.

8 **“§ 3663. Appellate review**

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

18 **“§ 3664. Enforcement of orders**

19 “The several district courts have jurisdiction specifi-
20 cally to enforce, and to enjoin and restrain the Postal
21 Service from violating, any order issued by the Postal Reg-
22 ulatory Commission.”.

1 **SEC. 206. CLERICAL AMENDMENT.**

2 Chapter 36 of title 39, United States Code, is amend-
 3 ed by striking the heading and analysis for such chapter
 4 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. Service agreements for market-dominant products.

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

**“SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE
 PRODUCTS**

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

**“SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL
 AND NEW PRODUCTS**

“3641. Market tests of experimental products.

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

**“SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED
 PROVISIONS**

“3651. Annual reports by the Commission.

“3652. Annual reports to the Commission.

“3653. Annual determination of compliance.

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

“3661. Postal Services.

“3662. Rate and service complaints.

“3663. Appellate review.

“3664. Enforcement of orders.

“SUBCHAPTER VI—GENERAL

“3681. Reimbursement.

“3682. Size and weight limits.

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

“3684. Limitations.

“3685. Filing of information relating to periodical publications.

“3686. Bonus authority.

“SUBCHAPTER VII—MODERN SERVICE STANDARDS

“3691. Establishment of modern service standards.”.

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

3 **SEC. 301. ESTABLISHMENT OF MODERN SERVICE STAND-**
 4 **ARDS.**

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

8 “SUBCHAPTER VII—MODERN SERVICE
 9 STANDARDS

10 **“§ 3691. Establishment of modern service standards**

11 “(a) **AUTHORITY GENERALLY.**—The Postal Regu-
 12 latory Commission shall, within 12 months after the date
 13 of the enactment of this section, by regulation establish
 14 (and may from time to time thereafter by regulation re-
 15 vise) a set of service standards for market-dominant prod-
 16 ucts consistent with sections 101 (a) and (b) and 403.

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

19 “(1) To enhance and preserve the value of post-
 20 al services to both senders and recipients.

21 “(2) To provide a system of objective external
 22 performance measurements for each market-domi-

1 nant product as a basis for measurement of Postal
2 Service performance.

3 “(3) To guarantee Postal Service customers de-
4 livery reliability, speed and frequency consistent with
5 reasonable rates and best business practices.

6 “(c) FACTORS.—In establishing or revising such
7 standards, the Postal Regulatory Commission shall take
8 into account—

9 “(1) the actual level of service that Postal Serv-
10 ice customers receive under any service guidelines
11 previously established by the Postal Service or serv-
12 ice standards established under this section;

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

16 “(3) mail volume and revenues projected for fu-
17 ture years;

18 “(4) the projected growth in the number of ad-
19 dresses the Postal Service will be required to serve
20 in future years;

21 “(5) the current and projected future cost of
22 serving Postal Service customers;

23 “(6) the effect of changes in technology, demo-
24 graphics and population distribution on the efficient

1 and reliable operation of the postal delivery system;
2 and

3 “(7) the policies of this title as well as such
4 other factors as the Commission determines appro-
5 priate.”.

6 **SEC. 302. POSTAL SERVICE PLAN.**

7 (a) IN GENERAL.—Within 6 months after the estab-
8 lishment of the service standards under section 3691 of
9 title 39, United States Code, as added by this Act, the
10 Postal Service shall, in consultation with the Postal Regu-
11 latory Commission, develop and submit to Congress a plan
12 for meeting those standards.

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

14 (1) establish performance goals;

15 (2) describe any changes to the Postal Service’s
16 processing, transportation, delivery, and retail net-
17 works necessary to allow the Postal Service to meet
18 the performance goals; and

19 (3) describe any changes to planning and per-
20 formance management documents previously sub-
21 mitted to Congress to reflect new performance goals.

22 (c) POSTAL FACILITIES.—The Postal Service plan
23 shall include a description of its long-term vision for
24 rationalizing its infrastructure and workforce and how it
25 intends to implement that vision, including—

1 (1) a strategy for how it intends to rationalize
2 the postal facilities network and remove excess proc-
3 essing capacity and space from the network, includ-
4 ing estimated timeframes, criteria and processes to
5 be used for making changes to the facilities network,
6 and the process for engaging policy makers and the
7 public in related decisions;

8 (2) an update on how postal decisions related to
9 mail changes, security, automation initiatives,
10 worksharing, information technology systems, and
11 other areas will impact network rationalization
12 plans;

13 (3) a discussion of what impact any facility
14 changes may have on the postal workforce and
15 whether the Postal Service has sufficient flexibility
16 to make needed workforce changes; and

17 (4) an identification of anticipated costs, cost
18 savings, and other benefits associated with the infra-
19 structure rationalization alternatives discussed in the
20 plan.

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

25 (1) vending machines;

- 1 (2) the Internet;
- 2 (3) Postal Service employees on delivery routes;
- 3 and
- 4 (4) retail facilities in which overhead costs are
- 5 shared with private businesses and other government
- 6 agencies.

7 (e) REEMPLOYMENT ASSISTANCE AND RETIREMENT

8 BENEFITS.—The Postal Service plan shall include—

9 (1) a plan under which reemployment assist-

10 ance shall be afforded to employees displaced as a

11 result of the automation or privatization of any of

12 its functions or the closing and consolidation of any

13 of its facilities; and

14 (2) a plan, developed in consultation with the

15 Office of Personnel Management, to offer early re-

16 tirement benefits.

17 (f) INSPECTOR GENERAL REPORT.—

18 (1) IN GENERAL.—Before submitting the plan

19 under this section to Congress, the Postal Service

20 shall submit the plan to the Inspector General of the

21 United States Postal Service in a timely manner to

22 carry out this subsection.

23 (2) REPORT.—The Inspector General shall pre-

24 pare a report describing the extent to which the

25 Postal Service plan—

1 (A) is consistent with the continuing obli-
 2 gations of the Postal Service under title 39,
 3 United States Code; and

4 (B) provides for the Postal Service to meet
 5 the service standards established under section
 6 3691.

7 (3) SUBMISSION OF REPORT.—The Postal Serv-
 8 ice shall submit the report of the Inspector General
 9 under this subsection with the plan submitted to
 10 Congress under subsection (a).

11 **TITLE IV—PROVISIONS RELAT-**
 12 **ING TO FAIR COMPETITION**

13 **SEC. 401. POSTAL SERVICE COMPETITIVE PRODUCTS**
 14 **FUND.**

15 (a) PROVISIONS RELATING TO POSTAL SERVICE
 16 COMPETITIVE PRODUCTS FUND AND RELATED MAT-
 17 TERS.—

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

21 **“§ 2011. Provisions relating to competitive products**

22 “(a) There is established in the Treasury of the
 23 United States a revolving fund, to be called the Postal
 24 Service Competitive Products Fund, which shall be avail-

1 able to the Postal Service without fiscal year limitation
2 for the payment of—

3 “(1) costs attributable to competitive products;

4 and

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

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

9 “(b) There shall be deposited in the Competitive
10 Products Fund, subject to withdrawal by the Postal Serv-
11 ice—

12 “(1) revenues from competitive products;

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

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

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

20 “(c) If the Postal Service determines that the moneys
21 of the Competitive Products Fund are in excess of current
22 needs, it may invest such amounts as it considers appro-
23 priate in accordance with regulations which the Secretary
24 of the Treasury shall prescribe within 12 months after the

1 date of enactment of the Postal Accountability and En-
2 hancement Act.

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

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

1 “(2) The Postal Service may enter into binding cov-
2 enants with the holders of such obligations, and with the
3 trustee, if any, under any agreement entered into in con-
4 nection with the issuance thereof with respect to—

5 “(A) the establishment of reserve, sinking, and
6 other funds;

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

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

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

16 “(3) Obligations issued by the Postal Service under
17 this subsection—

18 “(A) may not be purchased by the Secretary of
19 the Treasury;

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

23 “(C) shall not be obligations of, nor shall pay-
24 ment of the principal thereof or interest thereon be

1 guaranteed by, the Government of the United
2 States, and the obligations shall so plainly state; and

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

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

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

23 “(C) The Federal Financing Bank may elect to pur-
24 chase such obligations under such terms, including rates
25 of interest, as the Bank and the Postal Service may agree,

1 but at a rate of yield no less than the prevailing yield on
2 outstanding marketable securities of comparable maturity
3 issued by entities with the same credit rating as the rating
4 then most recently obtained by the Postal Service under
5 subparagraph (D), as determined by the Bank.

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

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

15 “(ii) may, before final rules of the Postal Regu-
16 latory Commission under subsection (h) are issued
17 (or deemed to have been issued), be based on the
18 best information available from the Postal Service,
19 including the audited statements required by section
20 2008(e).

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

1 “(g) A judgment against the Postal Service or the
2 Government of the United States (or settlement of a
3 claim) shall, to the extent that it arises out of activities
4 of the Postal Service in the provision of competitive prod-
5 ucts, be paid out of the Competitive Products Fund.

6 “(h)(1) The Postal Service, in consultation with an
7 independent, certified public accounting firm and such
8 other advisors as it considers appropriate, shall develop
9 recommendations regarding—

10 “(A) the accounting practices and principles
11 that should be followed by the Postal Service with
12 the objectives of identifying the capital and oper-
13 ating costs incurred by the Postal Service in pro-
14 viding competitive products, and preventing the
15 cross-subsidization of such products by market-domi-
16 nant products; and

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

22 Such recommendations shall be submitted to the Postal
23 Regulatory Commission no later than 12 months after the
24 effective date of this section.

1 “(2)(A) Upon receiving the recommendations of the
2 Postal Service under paragraph (1), the Commission shall
3 give interested parties, including the Postal Service, enter-
4 prises in the private sector of the economy engaged in the
5 delivery of mail matter other than letters, users of the
6 mails, and an officer of the Commission who shall be re-
7 quired to represent the interests of the general public, an
8 opportunity to present their views on those recommenda-
9 tions through submission of written data, views, or argu-
10 ments with or without opportunity for oral presentation,
11 or in such other manner as the Commission considers ap-
12 propriate.

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

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

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

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

1 Final rules under this subparagraph shall be issued not
2 later than 12 months after the date on which the Postal
3 Service makes its submission to the Commission under
4 paragraph (1) (or by such later date as the Commission
5 and the Postal Service may agree to). If final rules are
6 not issued by the Commission by the deadline under the
7 preceding sentence, the recommendations submitted by
8 the Postal Service under paragraph (1) shall be treated
9 as the final rules. The Commission is authorized to pro-
10 mulgate regulations revising such rules.

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

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

23 “(ii) such revisions are, in the judgment of the
24 Commission, otherwise necessitated by the public in-
25 terest.

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

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

15 (2) CLERICAL AMENDMENT.—The analysis for
 16 chapter 20 of title 39, United States Code, is
 17 amended by adding after the item relating to section
 18 2010 the following:

“2011. Provisions relating to competitive products.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

4 (2) CAPITAL OF THE POSTAL SERVICE.—Sec-
5 tion 2002(b) of title 39, United States Code, is
6 amended by striking “Fund,” and inserting “Fund
7 and the balance in the Competitive Products
8 Fund,”.

9 (3) POSTAL SERVICE FUND.—

10 (A) PURPOSES FOR WHICH AVAILABLE.—
11 Section 2003(a) of title 39, United States Code,
12 is amended by striking “title.” and inserting
13 “title (other than any of the purposes, func-
14 tions, or powers for which the Competitive
15 Products Fund is available).”.

16 (B) DEPOSITS.—Section 2003(b) of title
17 39, United States Code, is amended by striking
18 “There” and inserting “Except as otherwise
19 provided in section 2011, there”.

20 (4) RELATIONSHIP BETWEEN THE TREASURY
21 AND THE POSTAL SERVICE.—Section 2006 of title
22 39, United States Code, is amended—

23 (A) in subsection (b), by adding at the end
24 the following: “Nothing in this chapter shall be
25 considered to permit or require the Secretary of

1 the Treasury to purchase any obligations of the
 2 Postal Service other than those issued under
 3 section 2005.”; and

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

6 **SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.**

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

11 **“§ 3634. Assumed Federal income tax on competitive
 12 products income**

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

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

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

1 “(A) the only activities of such corporation
2 were the activities of the Postal Service allo-
3 cable under section 2011(h) to competitive
4 products; and

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

8 “(b) COMPUTATION AND TRANSFER REQUIRE-
9 MENTS.—The Postal Service shall, for each year beginning
10 with the 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 “(1) compute its assumed Federal income tax
14 on competitive products income for such year; and

15 “(2) transfer from the Competitive Products
16 Fund to the Postal Service Fund the amount of that
17 assumed tax.

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

22 **SEC. 403. UNFAIR COMPETITION PROHIBITED.**

23 (a) SPECIFIC LIMITATIONS.—Chapter 4 of title 39,
24 United States Code, is amended by adding after section
25 404 the following:

1 **“§ 404a. Specific limitations**

2 “(a) Except as specifically authorized by law, the
3 Postal Service may not:

4 “(1) establish any rule or regulation (including
5 any standard) the effect of which is to preclude com-
6 petition or establish the terms of competition unless
7 the Postal Service demonstrates that the regulation
8 does not create an unfair competitive advantage for
9 itself or any entity funded (in whole or in part) by
10 the Postal Service;

11 “(2) compel the disclosure, transfer, or licens-
12 ing of intellectual property to any third party (such
13 as patents, copyrights, trademarks, trade secrets,
14 and proprietary information); or

15 “(3) obtain information from a person that pro-
16 vides (or seeks to provide) any product, and then
17 offer any postal service that uses or is based in
18 whole or in part on such information, without the
19 consent of the person providing that information,
20 unless substantially the same information is obtained
21 (or obtainable) from an independent source or is
22 otherwise obtained (or obtainable).

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

25 “(c) Any party (including an officer of the Commis-
26 sion representing the interests of the general public) who

1 believes that the Postal Service has violated this section
2 may bring a complaint in accordance with section 3662.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) GENERAL POWERS.—Section 401 of title
5 39, United States Code, is amended by striking
6 “The” and inserting “Subject to the provisions of
7 section 404a, the”.

8 (2) SPECIFIC POWERS.—Section 404(a) of title
9 39, United States Code, is amended by striking
10 “Without” and inserting “Subject to the provisions
11 of section 404a, but otherwise without”.

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

15 **SEC. 404. SUITS BY AND AGAINST THE POSTAL SERVICE.**

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

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

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

24 “(B) shall not be immune under any other doc-
25 trine of sovereign immunity from suit in Federal

1 court by any person for any violation of any of those
2 provisions of law by any officer or employee of the
3 Postal Service.

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

5 “(A) the Act of July 5, 1946 (commonly re-
6 ferred to as the ‘Trademark Act of 1946’ (15 U.S.C.
7 1051 and following)); and

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

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

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

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

1 “(i) the antitrust laws (as defined in such
2 subsection); and

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

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

10 “(2) No damages, interest on damages, costs or at-
11 torney’s fees may be recovered under the antitrust laws
12 (as so defined) from the Postal Service or any officer or
13 employee thereof acting in an official capacity for any con-
14 duct with respect to a product in the market-dominant
15 category of mail.

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

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

23 “(g)(1) Each building constructed or altered by the
24 Postal Service shall be constructed or altered, to the max-
25 imum extent feasible as determined by the Postal Service,

1 in compliance with 1 of the nationally recognized model
2 building codes and with other applicable nationally recog-
3 nized codes.

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

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

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

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

23 “(C) permit inspection by such officials during
24 construction or alteration of the building, in accord-
25 ance with the customary schedule of inspections for

1 construction or alteration of buildings in the locality,
2 if such officials provide to the Postal Service—

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

5 “(ii) reasonable notice of their intention to
6 conduct any inspection before conducting such
7 inspection.

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

16 “(4) Appropriate officials of a State or a political
17 subdivision of a State may make recommendations to the
18 Postal Service concerning measures necessary to meet the
19 requirements of paragraphs (1) and (2). Such officials
20 may also make recommendations to the Postal Service
21 concerning measures which should be taken in the con-
22 struction or alteration of the building to take into account
23 local conditions. The Postal Service shall give due consid-
24 eration to any such recommendations.

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

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

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

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

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

19 “(C) Section 3663 (relating to appellate re-
20 view).

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

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

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

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

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

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

10 **TITLE V—GENERAL PROVISIONS**

11 **SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR** 12 **GOVERNORS.**

13 (a) QUALIFICATIONS.—

14 (1) IN GENERAL.—Section 202(a) of title 39,
15 United States Code, is amended by striking “(a)”
16 and inserting “(a)(1)” and by striking the fourth
17 sentence and inserting the following: “The Gov-
18 ernors shall represent the public interest generally,
19 and shall be chosen solely on the basis of their dem-
20 onstrated ability in managing organizations or cor-
21 porations (in either the public or private sector) of
22 substantial size. The Governors shall not be rep-
23 resentatives of specific interests using the Postal
24 Service, and may be removed only for cause.”.

1 (2) APPLICABILITY.—The amendment made by
2 paragraph (1) shall not affect the appointment or
3 tenure of any person serving as a Governor of the
4 United States Postal Service under an appointment
5 made before the date of the enactment of this Act;
6 however, when any such office becomes vacant, the
7 appointment of any person to fill that office shall be
8 made in accordance with such amendment. The re-
9 quirement set forth in the fourth sentence of section
10 202(a)(1) of title 39, United States Code (as amend-
11 ed by subsection (a)) shall be met beginning not
12 later than 9 years after the date of the enactment
13 of this Act.

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

17 “(2) In selecting the individuals described in para-
18 graph (1) for nomination for appointment to the position
19 of Governor, the President should consult with the Speak-
20 er of the House of Representatives, the minority leader
21 of the House of Representatives, the majority leader of
22 the Senate, and the minority leader of the Senate.”.

23 (c) 5-YEAR TERMS.—

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

4 (2) APPLICABILITY.—

5 (A) CONTINUATION BY INCUMBENTS.—

6 The amendment made by paragraph (1) shall
7 not affect the tenure of any person serving as
8 a Governor of the United States Postal Service
9 on the date of enactment of this Act and such
10 person may continue to serve the remainder of
11 the applicable term.

12 (B) VACANCY BY INCUMBENT BEFORE 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 less than 5 years of that term,
19 the resulting vacancy in office shall be treated
20 as a vacancy in a 5-year term.

21 (C) VACANCY BY INCUMBENT AFTER 5

22 YEARS OF SERVICE.—If a person who is serving
23 as a Governor of the United States Postal Serv-
24 ice on the date of enactment of this Act resigns,
25 is removed, or dies before the expiration of the

1 9-year term of that Governor, and that Gov-
2 ernor has served 5 years or more of that term,
3 that term shall be deemed to have been a 5-year
4 term beginning on its commencement date for
5 purposes of determining vacancies in office. Any
6 appointment to the vacant office shall be for a
7 5-year term beginning at the end of the original
8 9-year term determined without regard to the
9 deeming under the preceding sentence. Nothing
10 in this subparagraph shall be construed to af-
11 fect any action or authority of any Governor or
12 the Board of Governors during any portion of
13 a 9-year term deemed to be a 5-year term
14 under this subparagraph.

15 (d) TERM LIMITATION.—

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

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

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

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

22 (2) APPLICABILITY.—The amendments made
23 by paragraph (1) shall not affect the tenure of any
24 person serving as a Governor of the United States
25 Postal Service on the date of enactment of this Act

1 with respect to the term which that person is serving
 2 on that date. Such person may continue to serve the
 3 remainder of the applicable term, after which the
 4 amendments made by paragraph (1) shall apply.

5 **SEC. 502. OBLIGATIONS.**

6 (a) **PURPOSES FOR WHICH OBLIGATIONS MAY BE**
 7 **ISSUED.**—The first sentence of section 2005(a)(1) of title
 8 39, United States Code, is amended by striking “title.”
 9 and inserting “title, other than any of the purposes for
 10 which the corresponding authority is available to the Post-
 11 al Service under section 2011.”.

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

16 (c) **AMOUNTS WHICH MAY BE PLEDGED.**—

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

22 (2) **ASSETS, REVENUES, AND RECEIPTS TO**
 23 **WHICH PROVISIONS APPLY.**—Subsection (b) of sec-
 24 tion 2005 of title 39, United States Code, is amend-

1 ed by striking “(b)” and inserting “(b)(1)”, and by
2 adding at the end the following:

3 “(2) Notwithstanding any other provision of this sec-
4 tion—

5 “(A) the authority to pledge assets of the Post-
6 al Service under this subsection shall be available
7 only to the extent that such assets are not related
8 to the provision of competitive products (as deter-
9 mined under section 2011(h) or, for purposes of any
10 period before accounting practices and principles
11 under section 2011(h) have been established and ap-
12 plied, the best information available from the Postal
13 Service, including the audited statements required
14 by section 2008(e)); and

15 “(B) any authority under this subsection relat-
16 ing to the pledging or other use of revenues or re-
17 cepts of the Postal Service shall be available only to
18 the extent that they are not revenues or receipts of
19 the Competitive Products Fund.”.

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

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

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

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

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

6 “(3) such carriage is within the scope of serv-
7 ices described by regulations of the United States
8 Postal Service (as in effect on July 1, 2001) that
9 purport to permit private carriage by suspension of
10 the operation of this section (as then in effect).

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

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

18 **SEC. 504. RULEMAKING AUTHORITY.**

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

21 “(2) to adopt, amend, and repeal such rules
22 and regulations, not inconsistent with this title, as
23 may be necessary in the execution of its functions
24 under this title and such other functions as may be

1 assigned to the Postal Service under any provisions
2 of law outside of this title;”.

3 **SEC. 505. NONINTERFERENCE WITH COLLECTIVE BAR-**
4 **GAINING AGREEMENTS.**

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

7 **“§ 1207. Labor disputes**

8 “(a) If there is a collective-bargaining agreement in
9 effect, no party to such agreement shall terminate or mod-
10 ify such agreement unless the party desiring such termi-
11 nation or modification serves written notice upon the other
12 party to the agreement of the proposed termination or
13 modification not less than 90 days prior to the expiration
14 date thereof, or not less than 90 days prior to the time
15 it is proposed to make such termination or modification.
16 The party serving such notice shall notify the Federal Me-
17 diation and Conciliation Service of the existence of a dis-
18 pute within 45 days of such notice, if no agreement has
19 been reached by that time.

20 “(b) If the parties fail to reach agreement or to adopt
21 a procedure providing for a binding resolution of a dispute
22 by the expiration date of the agreement in effect, or the
23 date of the proposed termination or modification, the Di-
24 rector of the Federal Mediation and Conciliation Service
25 shall within 10 days appoint a mediator of nationwide rep-

1 utation and professional stature, and who is also a mem-
2 ber of the National Academy of Arbitrators. The parties
3 shall cooperate with the mediator in an effort to reach an
4 agreement and shall meet and negotiate in good faith at
5 such times and places that the mediator, in consultation
6 with the parties, shall direct.

7 “(c)(1) If no agreement is reached within 60 days
8 after the expiration or termination of the agreement or
9 the date on which the agreement became subject to modi-
10 fication under subsection (a) of this section, or if the par-
11 ties decide upon arbitration but do not agree upon the pro-
12 cedures therefore, an arbitration board shall be established
13 consisting of 3 members, 1 of whom shall be selected by
14 the Postal Service, 1 by the bargaining representative of
15 the employees, and the third by the 2 thus selected. If
16 either of the parties fails to select a member, or if the
17 members chosen by the parties fail to agree on the third
18 person within 5 days after their first meeting, the selection
19 shall be made from a list of names provided by the Direc-
20 tor. This list shall consist of not less than 9 names of arbi-
21 trators of nationwide reputation and professional nature,
22 who are also members of the National Academy of Arbi-
23 trators, and whom the Director has determined are avail-
24 able and willing to serve.

1 “(2) The arbitration board shall give the parties a
2 full and fair hearing, including an opportunity to present
3 evidence in support of their claims, and an opportunity
4 to present their case in person, by counsel or by other rep-
5 resentative as they may elect. Decisions of the arbitration
6 board shall be conclusive and binding upon the parties.
7 The arbitration board shall render its decision within 45
8 days after its appointment.

9 “(3) Costs of the arbitration board and mediation
10 shall be shared equally by the Postal Service and the bar-
11 gaining representative.

12 “(d) In the case of a bargaining unit whose recog-
13 nized collective-bargaining representative does not have an
14 agreement with the Postal Service, if the parties fail to
15 reach the agreement within 90 days of the commencement
16 of collective bargaining, a mediator shall be appointed in
17 accordance with the terms in subsection (b) of this section,
18 unless the parties have previously agreed to another proce-
19 dure for a binding resolution of their differences. If the
20 parties fail to reach agreement within 180 days of the
21 commencement of collective bargaining, and if they have
22 not agreed to another procedure for binding resolution, an
23 arbitration board shall be established to provide conclusive
24 and binding arbitration in accordance with the terms of
25 subsection (e) of this section.”.

1 (b) NONINTERFERENCE WITH COLLECTIVE BAR-
 2 GAINING AGREEMENTS.—Except as otherwise provided by
 3 the amendment made by subsection (a), nothing in this
 4 Act shall restrict, expand, or otherwise affect any of the
 5 rights, privileges, or benefits of either employees of or
 6 labor organizations representing employees of the United
 7 States Postal Service under chapter 12 of title 39, United
 8 States Code, the National Labor Relations Act, any hand-
 9 book or manual affecting employee labor relations within
 10 the United States Postal Service, or any collective bar-
 11 gaining agreement.

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

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

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

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

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

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

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

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

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

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

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

23 (b) APPLICABILITY.—The amendment made by sub-
24 section (a)(1) shall not affect the appointment or tenure
25 of any person serving as a Commissioner on the Postal

1 Regulatory Commission (as so redesignated by section
 2 604) under an appointment made before the date of the
 3 enactment of this Act or any nomination made before that
 4 date, but, when any such office becomes vacant, the ap-
 5 pointment of any person to fill that office shall be made
 6 in accordance with such amendment.

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

“5. Postal Regulatory Commission 501”.

10 **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-**
 11 **SION TO ISSUE SUBPOENAS.**

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

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

21 “(2) The Chairman of the Commission, any Commis-
 22 sioner designated by the Chairman, and any administra-
 23 tive law judge appointed by the Commission under section
 24 3105 of title 5 may, with respect to any proceeding con-
 25 ducted by the Commission under this title—

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

5 “(B) order the taking of depositions and re-
6 sponses to written interrogatories by a covered per-
7 son.

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

12 “(3) In the case of contumacy or failure to obey a
13 subpoena issued under this subsection, upon application
14 by the Commission, the district court of the United States
15 for the district in which the person to whom the subpoena
16 is addressed resides or is served may issue an order requir-
17 ing such person to appear at any designated place to tes-
18 tify or produce documentary or other evidence. Any failure
19 to obey the order of the court may be punished by the
20 court as a contempt thereof.

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

24 “(g)(1) If the Postal Service determines that any doc-
25 ument or other matter it provides to the Postal Regulatory

1 Commission under a subpoena issued under subsection (f),
2 or otherwise at the request of the Commission in connec-
3 tion with any proceeding or other purpose under this title,
4 contains information which is described in section 410(c)
5 of this title, or exempt from public disclosure under sec-
6 tion 552(b) of title 5, the Postal Service shall, at the time
7 of providing such matter to the Commission, notify the
8 Commission, in writing, of its determination (and the rea-
9 sons therefor).

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

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

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

19 “(3)(A) Paragraph (2) shall not prohibit the
20 Commission from publicly disclosing relevant infor-
21 mation in furtherance of its duties under this title,
22 provided that the Commission has adopted regula-
23 tions under section 553 of title 5, that establish a
24 procedure for according appropriate confidentiality
25 to information identified by the Postal Service under

1 paragraph (1). In determining the appropriate de-
2 gree of confidentiality to be accorded information
3 identified by the Postal Service under paragraph (1),
4 the Commission shall balance the nature and extent
5 of the likely commercial injury to the Postal Service
6 against the public interest in maintaining the finan-
7 cial transparency of a government establishment
8 competing in commercial markets.

9 “(B) Paragraph (2) shall not prevent the Com-
10 mission from requiring production of information in
11 the course of any discovery procedure established in
12 connection with a proceeding under this title. The
13 Commission shall, by regulations based on rule 26(c)
14 of the Federal Rules of Civil Procedure, establish
15 procedures for ensuring appropriate confidentiality
16 for information furnished to any party.”

17 **SEC. 603. APPROPRIATIONS FOR THE POSTAL REGU-**
18 **LATORY COMMISSION.**

19 (a) AUTHORIZATION OF APPROPRIATIONS.—Sub-
20 section (d) of section 504 of title 39, United States Code
21 (as so redesignated by section 601) is amended to read
22 as follows:

23 “(d) There are authorized to be appropriated, out of
24 the Postal Service Fund, such sums as may be necessary
25 for the Postal Regulatory Commission. In requesting an

1 appropriation under this subsection for a fiscal year, the
2 Commission shall prepare and submit to the Congress
3 under section 2009 a budget of the Commission's ex-
4 penses, including expenses for facilities, supplies, com-
5 pensation, and employee benefits.”.

6 (b) BUDGET PROGRAM.—

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

20 (2) CONFORMING AMENDMENT.—Section
21 2003(e)(1) of title 39, United States Code, is
22 amended by striking the first sentence and inserting
23 the following: “The Fund shall be available for the
24 payment of (A) all expenses incurred by the Postal
25 Service in carrying out its functions as provided by

1 law, subject to the same limitation as set forth in the
 2 parenthetical matter under subsection (a); (B) all ex-
 3 penses of the Postal Regulatory Commission, subject
 4 to the availability of amounts appropriated under sec-
 5 tion 504(d); and (C) all expenses of the Office of In-
 6 spector General, subject to the availability of amounts
 7 appropriated under section 8G(f) of the Inspector
 8 General Act of 1978.”.

9 (c) EFFECTIVE DATE.—

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

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

19 **SEC. 604. REDESIGNATION OF THE POSTAL RATE COMMIS-**
 20 **SION.**

21 (a) AMENDMENTS TO TITLE 39, UNITED STATES
 22 CODE.—Title 39, United States Code, is amended in sec-
 23 tions 404, 503 and 504 (as so redesignated by section
 24 601), 1001 and 1002, by striking “Postal Rate Commis-

1 sion” each place it appears and inserting “Postal Regu-
2 latory Commission”;

3 (b) AMENDMENTS TO TITLE 5, UNITED STATES
4 CODE.—Title 5, United States Code, is amended in sec-
5 tions 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item
6 relating to Chairman, Postal Rate Commission), 5315 (in
7 the item relating to Members, Postal Rate Commission),
8 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii),
9 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking
10 “Postal Rate Commission” and inserting “Postal Regu-
11 latory Commission”.

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

17 (d) AMENDMENT TO THE REHABILITATION ACT OF
18 1973.—Section 501(b) of the Rehabilitation Act of 1973
19 (29 U.S.C. 791(b)) is amended by striking “Postal Rate
20 Office” and inserting “Postal Regulatory Commission”.

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

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

7 **SEC. 605. FINANCIAL TRANSPARENCY.**

8 Section 101 of title 39, United States Code, is
9 amended—

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

12 (2) by inserting after subsection (c) the fol-
13 lowing:

14 “(d) As an independent establishment of the execu-
15 tive branch of the Government of the United States, the
16 Postal Service shall be subject to a high degree of trans-
17 parency to ensure fair treatment of customers of the Post-
18 al Service’s market-dominant products and companies
19 competing with the Postal Service’s competitive prod-
20 ucts.”.

1 **TITLE VII—EVALUATIONS**

2 **SEC. 701. ASSESSMENTS OF RATEMAKING, CLASSIFICA-**
3 **TION, AND OTHER PROVISIONS.**

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

7 (1) the operation of the amendments made by
8 this Act; and

9 (2) recommendations for any legislation or
10 other measures necessary to improve the effective-
11 ness or efficiency of the postal laws of the United
12 States.

13 (b) POSTAL SERVICE VIEWS.—A report under this
14 section shall be submitted only after reasonable oppor-
15 tunity has been afforded to the Postal Service to review
16 the report and to submit written comments on the report.
17 Any comments timely received from the Postal Service
18 under the preceding sentence shall be attached to the re-
19 port submitted under subsection (a).

20 **SEC. 702. REPORT ON UNIVERSAL POSTAL SERVICE AND**
21 **THE POSTAL MONOPOLY.**

22 (a) REPORT BY THE POSTAL SERVICE.—

23 (1) IN GENERAL.—Not later than 12 months
24 after the date of enactment of this Act, the Postal
25 Regulatory Commission shall submit a report to the

1 President and Congress on universal postal service
2 and the postal monopoly in the United States (in
3 this section referred to as “universal service and the
4 postal monopoly”), including the monopoly on the
5 delivery of mail and on access to mailboxes.

6 (2) CONTENTS.—The report under this sub-
7 section shall include—

8 (A) a comprehensive review of the history
9 and development of universal service and the
10 postal monopoly, including how the scope and
11 standards of universal service and the postal
12 monopoly have evolved over time for the Nation
13 and its urban and rural areas;

14 (B) the scope and standards of universal
15 service and the postal monopoly provided under
16 current law (including sections 101 and 403 of
17 title 39, United States Code), and current
18 rules, regulations, policy statements, and prac-
19 tices of the Postal Service;

20 (C) a description of any geographic areas,
21 populations, communities (including both urban
22 and rural communities), organizations, or other
23 groups or entities not currently covered by uni-
24 versal service or that are covered but that are

1 receiving services deficient in scope or quality or
2 both; and

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

11 (b) RECOMMENDED CHANGES TO UNIVERSAL SERV-
12 ICE AND THE MONOPOLY.—The Postal Regulatory Com-
13 mission shall include in the report under subsection (a),
14 and in all reports submitted under section 701 of this
15 Act—

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

24 (2) with respect to each recommended change
25 described under paragraph (1)—

1 (A) an estimate of the costs of the Postal
2 Service attributable to the obligation to provide
3 universal service under current law; and

4 (B) an analysis of the likely benefit of the
5 current postal monopoly to the ability of the
6 Postal Service to sustain the current scope and
7 standards of universal service, including esti-
8 mates of the financial benefit of the postal mo-
9 nopoly to the extent practicable, under current
10 law; and

11 (3) such additional topics and recommendations
12 as the Commission considers appropriate, with esti-
13 mated effects of the recommendations on the service,
14 financial condition, rates, and the security of mail
15 provided by the Postal Service.

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

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

1 amended by section 101) and similar products provided
2 by private companies.

3 (b) RECOMMENDATIONS.—The Federal Trade Com-
4 mission shall include such recommendations as it con-
5 siders appropriate for bringing such legal discrimination
6 to an end, and in the interim, to account under section
7 3633 of title 39, United States Code (as added by this
8 Act), for the net economic advantages provided by those
9 laws.

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

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

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 30, 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. If the result is a supplemental liability, the
2 Office shall establish an amortization schedule, including
3 a series of annual installments commencing September 30,
4 2006, which provides for the liquidation of such liability
5 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.—Chapter 89 of title 5, United
3 States Code, is amended—

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

10 (2) by inserting after section 8909 the fol-
11 lowing:

12 **“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

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

25 “(d)(1) Not later than December 31, 2006, and by
26 December 31 of each succeeding year, the Office shall

1 compute the net present value of the future payments re-
2 quired under section 8906(g)(2)(A) and attributable to
3 the service of Postal Service employees during the most
4 recently ended fiscal year.

5 “(2)(A) Not later than December 31, 2006, the Of-
6 fice shall compute, and by December 31 of each suc-
7 ceeding year, the Office shall recompute the difference be-
8 tween—

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

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

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

19 “(B) Not later than December 31, 2006, the Office
20 shall compute, and by December 31 of each succeeding
21 year shall recompute, an amortization schedule including
22 a series of annual installments which provide for the liq-
23 uidation by January 31, 2046, or within 15 years, which-
24 ever is later, of the net present value determined under

1 subparagraph (A), including interest at the rate used in
2 that computation.

3 “(3) Not later than January 31, 2007, and by Janu-
4 ary 31 of each succeeding year, the United States Postal
5 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 (b) TECHNICAL AND CONFORMING AMENDMENT.—
18 The table of sections for chapter 89 of title 5, United
19 States Code, is amended by inserting after the item relat-
20 ing to section 8909 the following:

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

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

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

1 **SEC. 805. EFFECTIVE DATES.**

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

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

8 **TITLE IX—COMPENSATION FOR**
9 **WORK INJURIES**

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

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

13 (1) by striking “An employee” and inserting
14 “(a) An employee other than a Postal Service em-
15 ployee”; and

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

17 “(b) A Postal Service employee is not entitled to com-
18 pensation or continuation of pay for the first 3 days of
19 temporary disability. A Postal Service employee may use
20 annual leave, sick leave, or leave without pay during that
21 3-day period.”.

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

25 “(1) without a break in time, except as pro-
26 vided under section 8117;”.

1 **SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-**
2 **EES.**

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

5 (1) in subsection (a), by adding at the end the
6 following: “This section applies to a Postal Service
7 employee, except as provided under subsection (c).”;
8 and

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

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

13 “(2) Notwithstanding any other provision of law, for
14 any injury occurring on or after the date of enactment
15 of the Postal Accountability and Enhancement Act, and
16 for any new claim for a period of disability commencing
17 on or after that date, the compensation entitlement for
18 total disability is converted to 50 percent of the monthly
19 pay of the employee on the later of—

20 “(A) the date on which the injured employee
21 reaches retirement age; or

22 “(B) 1 year after the employee begins receiving
23 compensation.”.

24 (b) **PARTIAL DISABILITY.**—Section 8106 of title 5,
25 United States Code, is amended—

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

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

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

9 “(2) Notwithstanding any other provision of
10 law, for any injury occurring on or after the date of
11 enactment of this subsection, and for any new claim
12 for a period of disability commencing on or after
13 that date, the compensation entitlement for partial
14 disability is converted to 50 percent of the difference
15 between the monthly pay of an employee and the
16 monthly wage earning capacity of the employee after
17 the beginning of partial disability on the later of—

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

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

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