108TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPT. 108–672 Part 2

POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT

SEPTEMBER 23, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 4341]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4341) to reform the postal laws of the United States, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

95–959

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Postal Accountability and Enhancement Act".

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.
Sec. 102. Postal services.
Sec. 103. Financial transparency.

TITLE II—MODERN RATE REGULATION

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

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

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

TITLE IV—GENERAL PROVISIONS

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

TITLE V—ENHANCED REGULATORY COMMISSION

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

TITLE VI—INSPECTORS GENERAL

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

TITLE VII—EVALUATIONS

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

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

Sec. 801. Employment of postal police officers.
Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
Sec. 804. Obsolete provisions.
Sec. 805. Expanded contracting authority.
Sec. 806. Investments.
Sec. 807. Repeal of section 5403.
Sec. 808. Reduced rates.
Sec. 809. Hazardous matter.
Sec. 810. Provisions relating to cooperative mailings.
Sec. 811. Technical and conforming amendments.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

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

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

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

"(5) 'postal service' means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other services supportive or ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36;

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36;

"(10) 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

"(11) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

SEC. 102. POSTAL SERVICES.

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

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

(2) by adding at the end the following:

"(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of May 12, 2004.".

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

SEC. 103. FINANCIAL TRANSPARENCY.

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

"(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.".

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

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

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

"§ 3621. Applicability; definitions

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1)(A) single piece first-class letters (both domestic and international);

"(B) single piece first-class cards (both domestic and international); and

"(C) special services;

"(2) all first-class mail not included under paragraph (1);

"(3) periodicals;

"(4) standard mail;

"(5) media mail;

"(6) library mail; and

"(7) bound printed matter,

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

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

"§ 3622. Modern rate regulation

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

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

"(1) To maximize incentives to reduce costs and increase efficiency.

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

"(3) To maintain high quality service standards.

"(4) To allow the Postal Service pricing flexibility.

"(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

"(6) To reduce the administrative burden of the ratemaking process.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

"(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

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

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

"(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

"(1) Price caps, revenue targets, or other form of incentive regulation.

"(2) Cost-of-service regulation.

"(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

"(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 501(a)(2), but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS".

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

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

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

"§ 3631. Applicability; definitions and updates

"(a) APPLICABILITY.—This subchapter shall apply with respect to—

"(1) priority mail;

"(2) expedited mail;

"(3) mailgrams;

"(4) international mail; and

"(5) parcel post,

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

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

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

"§ 3632. Action of the Governors

"(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) PROCEDURES.—

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

"(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

"(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

"(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

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

"§ 3633. Provisions applicable to rates for competitive products

"The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

"(1) to prohibit the subsidization of competitive products by market-dominant products;

"(2) to ensure that each competitive product covers its costs attributable; and

"(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.".

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

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

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"§ 3641. Market tests of experimental products

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

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

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

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

"(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

"(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

"(c) NOTICE.—

"(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

"(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

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

"(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

"(d) DURATION.—

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

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

"(e) DOLLAR-AMOUNT LIMITATION.—

"(1) IN GENERAL.—A product may be tested under this section only if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 nationwide in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

"(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the

Postal Regulatory Commission shall approve such application if it determines that—

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

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

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

"(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

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

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

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

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

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

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

"(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

"(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term 'product covered by the postal monopoly' means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

"(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

"(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

"(B) the views of those who use the product involved on the appropriateness of the proposed action; and

"(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

"(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

"(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

"(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria

under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

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

"(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

"(f) PROHIBITION.—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or

"(2) by or under any other provision of law.".

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

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

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

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"§ 3651. Annual reports by the Commission

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

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

"(1) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

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

"(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

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

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

"§ 3652. Annual reports to the Commission

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

"(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to

demonstrate that the rates in effect for all products during such year complied with all applicable requirements of this title; and

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

"(A) market information, including mail volumes; and

"(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

"(i) the service standard applicable to such product;

"(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

"(iii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex thereto and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

"(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

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

"(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(C) The per-item contribution made to institutional costs.

"(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term 'workshare discount' refers to presorting, barcoding, dropshipping, and other similar discounts, as further defined under regulations which the Postal Regulatory Commission shall prescribe.

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

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

"(2) shall report such data as the Postal Regulatory Commission requires.

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

"(e) CONTENT AND FORM OF REPORTS.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

"(A) providing the public with adequate information to assess the lawfulness of rates charged;

"(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

"(C) protecting the confidentiality of commercially sensitive information.

"(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

"(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Serv-

ice shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

"(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

"(1) comprehensive statement under section 2401(e);

"(2) performance plan under section 2803; and

"(3) program performance reports under section 2804.

"§ 3653. Annual determination of compliance

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

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

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

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

"(3) whether any market-dominant product failed to meet any service standard during such year.

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

"(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

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

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

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

"§ 3662. Rate and service complaints

"(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

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

"(A) begin proceedings on such complaint; or

"(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

"(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the

Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

"(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

"(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

"§ 3663. Appellate review

"A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term 'person' includes the Postal Service.

"§ 3664. Enforcement of orders

"The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.".

SEC. 206. WORKSHARE DISCOUNTS.

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

"§ 3687. Workshare discounts

"(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that workshare discounts do not exceed the cost that the Postal Service avoids as the result of private sector workshare activity, except—

"(1) where the discount is associated with a new product or service or with a change to an existing product or service and is necessary, over a period of time not to exceed 4 years, to induce mailer behavior that will enable the new or changed product or service in furtherance of the overall economically efficient operation of the Postal Service;

"(2) to the extent that a reduction in the discount would lead to a loss of volume in the affected category and reduce the aggregate contribution to institutional costs of the Postal Service, from the mail matter subject to the discount, below what it otherwise would have been if the discount had not been reduced to costs avoided; would result in a further increase in the rates paid by mailers not able to take advantage of the discount; or would impede the efficient operation of the Postal Service;

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

"(4) where the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value.

"(b) REPORTING REQUIREMENT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, file with the Postal Regulatory Commission a detailed report and explanation of its reasons for establishing or maintaining the rate, set-

ting forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate.

"(c) DEFINITION.—For purposes of this section, the term 'workshare discount' refers to rate discounts provided to mailers for presorting, prebarcoding, handling, or transportation, as further defined by the Postal Regulatory Commission as part of regulations established under section 3622(a).".

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

"3687. Workshare discounts.".

SEC. 207. CLERICAL AMENDMENT.

Chapter 36 of title 39, United States Code, is amended by striking the heading and analysis for such chapter and inserting the following:

"CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

"SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

"Sec.
"3621. Applicability; definitions.
"3622. Modern rate regulation.
"[3623. Repealed].
"[3624. Repealed].
"[3625. Repealed].
"3626. Reduced Rates.
"3627. Adjusting free rates.
"[3628. Repealed].
"3629. Reduced rates for voter registration purposes.

"SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

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

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"3641. Market tests of experimental products.
"3642. New products and transfers of products between the market-dominant and competitive categories of mail.

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"3651. Annual reports by the Commission.
"3652. Annual reports to the Commission.
"3653. Annual determination of compliance.

"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.".

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

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

"§ 2011. Provisions relating to competitive products

"(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(1) costs attributable to competitive products; and

"(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

"(1) revenues from competitive products;

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

"(3) interest and dividends earned on investments of the Competitive Products Fund; and

"(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

"(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in—

"(1) obligations of, or obligations guaranteed by, the Government of the United States; and

"(2) in accordance with regulations which the Secretary of the Treasury shall prescribe (by not later than 18 months after the date of the enactment of the Postal Accountability and Enhancement Act), such other obligations or securities as it deems appropriate.

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

"(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it deems necessary or desirable.

"(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

"(A) the establishment of reserve, sinking, and other funds;

"(B) application and use of revenues and receipts of the Competitive Products Fund;

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

"(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

"(3) Obligations issued by the Postal Service under this subsection—

"(A) may not be purchased by the Secretary of the Treasury;

"(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

"(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

"(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

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

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

"(C) The Federal Financing Bank may elect to purchase such obligations under such terms, including rates of interest, as the Bank and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding market-

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

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

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

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

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

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

"(h)(1) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and such other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

"(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) preventing the subsidization of such products by market-dominant products; and

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

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

"(2)(A) Upon receiving the recommendations of the Secretary of the Treasury under paragraph (1), the Commission shall give interested parties, including the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public, an opportunity to present their views on those recommendations through submission of written data, views, or arguments with or without opportunity for oral presentation, or in such other manner as the Commission considers appropriate.

"(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

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

"(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

"(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

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

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

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

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

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

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

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title." and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).".

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

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

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

(B) in subsection (c), by inserting "under section 2005" before "shall be obligations".

SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

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

"§ 3634. Assumed Federal income tax on competitive products income

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

"(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

"(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

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

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

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

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

SEC. 303. UNFAIR COMPETITION PROHIBITED.

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

"§ 404a. Specific Limitations

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

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

"(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

"(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

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

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

(b) CONFORMING AMENDMENTS.—

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

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

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

"404a. Specific limitations.".

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

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

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

"(A) shall be considered to be a 'person', as used in the provisions of law involved; and

"(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

"(2) This subsection applies with respect to—

"(A) the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' (15 U.S.C. 1051 and following)); and

"(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

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

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

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

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

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

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

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

"(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

"(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

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

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

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

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

"(i) a copy of such schedule before construction of the building is begun; and

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

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

"(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

"(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

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

"(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

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

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

"(C) Section 3663 (relating to appellate review).

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

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

"(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

"(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

"(h) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds

available to the Postal Service, subject to the restriction specified in section 2011(g).".

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

SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.

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

"§ 407. International postal arrangements

"(a) It is the policy of the United States—

"(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

"(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

"(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

"(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

"(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

"(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

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

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

"(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

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

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

"(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision

on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

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

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

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

"(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

"(2) For purposes of this subsection, the term 'private company' means a private company substantially owned or controlled by persons who are citizens of the United States.

"(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

"(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.".

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

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

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

SEC. 306. REDESIGNATION.

Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

"SUBCHAPTER VI—GENERAL".

SEC. 307. CLARIFICATION.

Section 403(c) of title 39, United States Code, is amended by adding after "user." the following: "The prohibition in this subsection shall not be construed to prevent the establishment of rates that vary with volume if such rates will be made available to similarly situated persons and will increase the aggregate contribution to the institutional costs of the Postal Service.".

TITLE IV—GENERAL PROVISIONS

SEC. 401. QUALIFICATION REQUIREMENTS FOR GOVERNORS.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking "(a)" and inserting "(a)(1)" and by striking the fourth sentence and inserting the following: "The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.".

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

"(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.".

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

"(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

"(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

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

"(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.".

(d) APPLICABILITY.—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

SEC. 402. OBLIGATIONS.

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

(b) LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: "In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of $3,000,000,000." .

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

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

"(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.".

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United States Code, is amended by striking "any such obligations" and inserting "obligations issued by the Postal Service which may be".

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

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

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

"(2) Notwithstanding any other provision of this section—

"(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

SEC. 403. PRIVATE CARRIAGE OF LETTERS.

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

"(b) A letter may also be carried out of the mails when—

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

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

"(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2003) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

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

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

SEC. 404. RULEMAKING AUTHORITY.

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

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

SEC. 405. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

(a) NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS.—Except as provided in section 407, nothing in this Act or any amendment made by this Act shall restrict, expand, or otherwise affect any of the rights, privileges, or benefits of either employees of or labor organizations representing employees of the United States Postal Service under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

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

SEC. 406. BONUS AUTHORITY.

Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by section 306) is amended by adding at the end the following:

"§ 3686. Bonus authority

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

"(b) WAIVER OF LIMITATION ON COMPENSATION.—

"(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2).

"(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation referred to in paragraph (1)—

"(A) the Postal Service shall make an appropriate request to the Postal Regulatory Commission, in such form and manner as the Commission requires; and

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

"(3) REVOCATION AUTHORITY.—If the Postal Regulatory Commission finds that a program previously approved under paragraph (2) is not achieving the objectives of this chapter, the Commission may revoke or suspend the authority of the Postal Service to continue such program until such time as appropriate corrective measures have, in the judgment of the Commission, been taken.

"(c) REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.—Included in its comprehensive statement under section 2401(e) for any period shall be—

"(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);

"(2) the amount of the bonus or other reward; and

"(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.".

SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DISPUTES.

(a) IN GENERAL.—Section 1207(b) of title 39, United States Code, is amended by striking all that follows "the Director of the Federal Mediation and Conciliation Service shall" and inserting ", within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.".

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

(1) in paragraph (1)—

(A) by striking "90" and inserting "60";

(B) by striking "not members of the factfinding panel,"; and

(C) by striking all that follows "shall be made" and inserting "from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve."; and

(2) in paragraph (3), by striking "factfinding panel" and inserting "mediation".

(c) CONFORMING AMENDMENT.—Section 1207(d) of title 39, United States Code, is amended by striking "factfinding panel will be established" and inserting "mediator shall be appointed".

TITLE V—ENHANCED REGULATORY COMMISSION

SEC. 501. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

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

(1) by inserting after chapter 4 the following:

"CHAPTER 5—POSTAL REGULATORY COMMISSION

"Sec.
"501. Establishment.
"502. Commissioners.
"503. Rules; regulations; procedures.
"504. Administration.

"§ 501. Establishment

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

"§ 502. Commissioners

"(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

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

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

"(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

"(e) The Commissioners shall serve for terms of 6 years.";

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

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

(b) DETERMINATIONS.—Section 503 of title 39, United States Code, as so redesignated by subsection (a)(3), is amended by adding at the end the following: "Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.".

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

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

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

SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

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

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

"(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

"(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

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

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

"(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

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

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

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

"(3) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.".

SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 501) is amended to read as follows:

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

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is amended to read as follows: "The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8J(e) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.".

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2004.

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

SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 501), 1001, and 1002 by striking "Postal Rate Commission" each place it appears and inserting "Postal Regulatory Commission".

(b) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended in sections 104(1), 306(f), 2104(b), 3371(3), 5314 (in the item relating to Chairman, Postal Rate Commission), 5315 (in the item relating to Members, Postal Rate Commission), 5514(a)(5)(B), 7342(a)(1)(A), 7511(a)(1)(B)(ii), 8402(c)(1), 8423(b)(1)(B), and 8474(c)(4) by striking "Postal Rate Commission" and inserting "Postal Regulatory Commission".

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

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

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

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

SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMISSION REPRESENTING THE GENERAL PUBLIC.

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

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

"The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 39, United States Code (as amended by section 501(a)(1)) is amended by adding after the item relating to section 504 the following:

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

TITLE VI—INSPECTORS GENERAL

SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is amended by inserting "the Postal Regulatory Commission," after "the United States International Trade Commission,".

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

"(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

"(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.".

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

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

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

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

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking "or" before "the President of the Export-Import Bank;" and

(B) by inserting "or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);" after "the President of the Export-Import Bank;"; and

(2) in paragraph (2)—

(A) by striking "or" before "the Export-Import Bank,"; and

(B) by inserting "or the United States Postal Service," after "the Export-Import Bank,".

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

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

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

(B) by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8J. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

"(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term 'appropriate committees of Congress' to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

"(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

"(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

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

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

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

(1) by striking "and the" before "Tennessee Valley Authority"; and

(2) by inserting ", and United States Postal Service" after "Tennessee Valley Authority".

(d) PUBLIC CONTRACTS.—

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

(A) in subparagraph (A), by striking "and" after the semicolon; and

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

"(C) the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and

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

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

"(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.".

(e) AUDITS OF THE POSTAL SERVICE.—

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

"(e)(1) At least once each year beginning with the fiscal year commencing after the date of the enactment of the Postal Accountability and Enhancement Act, the financial statements of the Postal Service (including those used in determining and

establishing postal rates) shall be audited by the Inspector General or by an independent external auditor selected by the Inspector General.

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

"(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Postmaster General.".

(2) RESULTS OF INSPECTOR GENERAL'S AUDIT TO BE INCLUDED IN ANNUAL REPORT.—Section 2402 of title 39, United States Code, is amended by inserting after the first sentence the following: "Each report under this section shall include a copy of the report most recently received by the Postmaster General under section 2008(e)(3).".

(3) COORDINATION PROVISIONS.—Section 2008(d) of title 39, United States Code, is amended—

(A) by striking "(d) Nothing" and inserting "(d)(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following:

"(2) An audit or report under paragraph (1) may not be obtained without the prior written approval of the Inspector General.".

(4) TRANSITION PROVISION.—For purposes of any fiscal year preceding the first fiscal year commencing after the date of the enactment of this Act, the provisions of title 39, United States Code, shall be applied as if the amendments made by this subsection had never been enacted.

(f) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking "Postmaster General" each place it appears and inserting "Chief Postal Inspector".

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(i) in paragraph (2), by striking "the Postal Regulatory Commission, and the United States Postal Service;" and inserting "and the Postal Regulatory Commission;" and

(ii) in paragraph (4), by striking "except that" and all that follows through "Code);" and inserting "except that, with respect to the National Science Foundation, such term means the National Science Board;".

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

(ii) Subsection (c) of section 8G of such Act is amended by striking "Except as provided under subsection (f) of this section, the" and inserting "The".

(C) Section 8K of such Act (as so redesignated by subsection (b)(1)(A)) is amended by striking the matter after "8D," and before "of this Act" and inserting "8E, 8F, 8H, or 8J".

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

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

"(4) 'Inspector General' means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;".

(C) The first sentence of section 1003(a) of such title 39 is amended by striking "chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law," and inserting "chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law,".

(D) Section 1003(b) of such title 39 is amended by striking "respective" and inserting "other".

(E) Section 1003(c) of such title 39 is amended by striking "included" and inserting "includes".

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

(h) EFFECTIVE DATE; TRANSITION PROVISIONS.—

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

(2) TRANSITION PROVISIONS.—

(A) PRESIDENTIAL APPOINTMENT AUTHORITY AVAILABLE IMMEDIATELY.—The authority to appoint an Inspector General of the United States Postal Service in accordance with the amendments made by this section shall be available as of the effective date of this section.

(B) CONTINUATION IN OFFICE.—Pending the appointment of an Inspector General of the United States Postal Service in accordance with the amendments made by this section, the individual serving as the Inspector General of the United States Postal Service on the day before the effective date of this section may continue to serve—

(i) in accordance with applicable provisions of the Inspector General Act of 1978 and (except as provided in clause (ii)) of title 39, United States Code, as last in effect before the effective date of this Act; but

(ii) subject to the provisions of such title 39 as amended by subsections (e) and (f) of this section (deeming any reference to the "Inspector General" in such provisions, as so amended, to refer to the individual continuing to serve under authority of this subparagraph) and subparagraph (C).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, section 8J(e) of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2004.

(ii) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2004, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(D) ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

TITLE VII—EVALUATIONS

SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.

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

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

(2) The scope and standards of universal service provided under current law (including sections 101 and 403 of title 39, United States Code) and current rules, regulations, policy statements, and practices of the Postal Service.

(3) A description of any geographic areas, populations, communities, organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.

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

(5) Such recommendations as the Postal Service considers appropriate.

(b) REPORT BY THE POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall, within 12 months after receiving the report of the Postal Service under subsection (a), submit to the President and the Congress a written report evaluating the report of the Postal Service. The report of the Commission shall include at least the following:

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

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

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

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

(B) such other assumptions or sets of assumptions as the Commission considers plausible.

(4) Such additional topics and recommendations as the Commission considers appropriate.

(c) CONSULTATION.—In preparing the reports required by this section, the Postal Service and the Postal Regulatory Commission—

(1) shall consult with each other, other Federal agencies, users of the mails, enterprises in the private sector engaged in the delivery of mail, and the general public; and

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

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

SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

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

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

(b) POSTAL SERVICE VIEWS.—A report under this section shall be submitted only after reasonable opportunity has been afforded to the Postal Service to review such report and to submit written comments thereon. Any comments timely received from the Postal Service under the preceding sentence shall be attached to the report submitted under subsection (a).

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

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

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

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

(2) COMPETITIVE PRODUCTS FUND.—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 301), in consultation with the Secretary of the Treasury—

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

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that might be used to achieve the objectives of such Fund.

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

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

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

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

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President, the Congress, and the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and private companies providing similar products.

(b) RECOMMENDATIONS; ADJUSTMENTS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end and, in the interim, to account under section 3633, for the net economic effects provided by those laws.

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

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

SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.

(a) STUDY.—The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.

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

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the United States Postal Service shall submit to its Board of Governors and Congress a written report describing its plan under this section.

SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

SEC. 707. RATES FOR PERIODICALS.

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

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative action or legislation that might be appropriate.

SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) SPECIFIC REQUIREMENTS.—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

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

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

SEC. 709. POSTAL PROCESSING AND DISTRIBUTION NETWORK STUDY.

The United States Postal Service shall, within 16 months after the date of the enactment of this Act, submit to the President, the Congress, and the Board of Governors of the United States Postal Service a written report on the postal processing and distribution network. Such report shall include at least the following:

(1) Recommendations to improve the efficiency and effectiveness of the processing and distribution network while preserving the timely delivery of postal services.

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

(3) Report of the Postal Service's plans for dealing with the recommendations and findings identified in paragraphs (1) and (2).

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

(5) Such additional topics and recommendations as the Postal Service considers appropriate.

SEC. 710. DEFINITION.

For purposes of this title, the term "Board of Governors" has the meaning given such term by section 102 of title 39, United States Code.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.

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

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

"(2) With respect to such property, such officers shall have the power to—

"(A) enforce Federal laws and regulations for the protection of persons and property;

"(B) carry firearms; and

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

"(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

"(A) serve warrants and subpoenas issued under the authority of the United States; and

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

"(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

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

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

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

"(6) For purposes of paragraph (5), any appeal received by the Commission shall—

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

"(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).".

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

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

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting "(a)" after "8." and by adding at the end the following:

"(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities

and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.".

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

SEC. 804. OBSOLETE PROVISIONS.

(a) REPEAL.—

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

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

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

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

(B) Section 5005(b) of such title 39 is amended by striking "(a)(4)" each place it appears and inserting "(a)(3)".

(C) Section 5005(c) of such title 39 is amended by striking "by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or" and inserting "by contract under subsection (a)(3) of this section or".

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking "(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)" and inserting "(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)".

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

(3) Section 5605 of such title 39 is amended by striking "for periods of not in excess of 4 years".

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

SEC. 805. EXPANDED CONTRACTING AUTHORITY.

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

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

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

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

"(A) any such contract may be awarded only to (i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation, (ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or (iii) a combination of such air carriers or foreign air carriers (or both);

"(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

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

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

"(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.".

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

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

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

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

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

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

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

(A) by striking "(a) LIMITATIONS.—"; and

(B) by striking subsection (b).

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

SEC. 806. INVESTMENTS.

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

(1) by striking "(c) If" and inserting "(c)(1) Except as provided in paragraph (2), if"; and

(2) by adding at the end the following:

"(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

"(B) For purposes of this paragraph, the term 'commercial entity' means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.".

SEC. 807. REPEAL OF SECTION 5403.

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

(b) CLERICAL AMENDMENT.—The analysis for chapter 54 of title 39, United States Code, is amended by repealing the item relating to section 5403.

SEC. 808. REDUCED RATES.

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

(1) in subsection (a)—

(A) by striking all before paragraph (4) and inserting the following:

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

"(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).'"; and

(B) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively;

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

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

"(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

"(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

"(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000."; and

(3) by adding at the end the following:

"(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).".

SEC. 809. HAZARDOUS MATTER.

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

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

"(o)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

"(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.".

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

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

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

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

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

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

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

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

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) SEPARATE VIOLATIONS.—

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

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

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

"(1) the nature, circumstances, extent, and gravity of the violation;

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

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

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

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

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

"(h) DEPOSIT OF AMOUNTS COLLECTED.—

"(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

"(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.".

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking "and" after the semicolon;

(B) in paragraph (8), by striking "purposes." and inserting "purposes; and"; and

(C) by adding at the end the following:

"(9) any amounts collected under section 3018.".

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after "explosives," the following: "hazardous materials,".

SEC. 810. PROVISIONS RELATING TO COOPERATIVE MAILINGS.

(a) DETERMINATION.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against (1) abuses of rates for nonprofit mail and (2) deception of consumers.

(b) REGULATIONS.—If the Postal Regulatory Commission determines that section E670.5.3 of the Domestic Mail Manual does not contain adequate safeguards as described in the preceding subsection, the Commission shall promulgate such regulations as may be necessary to ensure such safeguards.

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

SEC. 811. TECHNICAL AND CONFORMING AMENDMENTS.

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

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

"§ 3682. Size and weight limits

"The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.".

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

(1) in section 503 (as so redesignated by section 501), by striking "this chapter." and inserting "this title."; and

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

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking "Committee on Post Office and Civil Service" each place it appears and inserting "Committee on Government Reform"; and

(B) by striking "Not later than March 15 of each year," and inserting "Each year,".

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking "2401(g)" and inserting "2401(e)".

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

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

"(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.".

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

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

(1) in section 1005(d)(2)—

(A) by striking "subsection (g) of section 5532,"; and

(B) by striking "8344," and inserting "8344";

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

"28. Strategic Planning and Performance Management ..... 2801";

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows "nonmailable" and precedes "(h)," and inserting "under section 3001(d),"; and

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

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

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

"§ 3627. Adjusting free rates".

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.

(a) TERMINATION OF OBLIGATION TO PAY GOVERNMENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of title 5, United States Code, is amended by striking all that follows "be equal to" and inserting "zero".

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

"(h)(1) For purposes of this subsection, the 'Postal surplus or supplemental liability' means the estimated difference, as determined by the Office, between—

"(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, and

"(B) the sum of—

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

"(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the

Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

"(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

"(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.

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

"(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

"(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

"(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

"(iii)(I) If a surplus of $500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

"(II) If a surplus of less than $500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

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

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

"(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

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

"(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

"(D) An amortization schedule under this paragraph—

"(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

"(ii) shall supersede any amortization schedule previously established under this paragraph; and

"(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

"(E) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph that has not been superseded.

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

"(4) As used in this subsection, 'Postal Service Retiree Health Benefits Fund' refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.".

(c) PROVISIONS RELATING TO AMOUNTS FOR MILITARY SERVICE.—In the application of paragraph (2) of section 8348(g) of title 5, United States Code, for fiscal year 2006, the Office of Personnel Management shall include, in addition to the amount otherwise computed under that paragraph, the amounts that would have been included for fiscal years 2003 through 2005 with respect to credit for military service of former employees of the United States Postal Service if Public Law 108-18 had not been enacted (including earnings thereon) and the Secretary of the Treasury shall make the required transfer to the Civil Service Retirement and Disability Fund based on that amount.

(d) REVIEW.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, any determination or redetermination made by the Office of Personnel Management under this section shall, upon request of the United States Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 902. HEALTH INSURANCE.

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

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

(2) by inserting after section 8909 the following:

"§ 8909a. Postal Service Retiree Health Benefits Fund

"(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the 'Fund') which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

"(b) The Fund is available without fiscal year limitation for payments required by section 8906(g)(2).

"(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

"(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

"(A) the portion of the net present value described in paragraph (1) attributable to the current year's service of Postal Service employees; and

"(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value.

"(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

"(B) Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its computation or other determination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

"(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection."; and

(3) in the analysis by inserting after the item relating to section 8909 the following:

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

(b) REVIEW.—

(1) IN GENERAL.—Any regulation established under section 8909a(c)(4) of title 5, United States Code (as amended by subsection (a)) shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its regulation in light of such report, and shall take such action as it considers appropriate. The Office

shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 903. REPEALER.

Section 3 of Public Law 108–18 is repealed.

SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND MILITARY SAVINGS.

(a) DEFINITION.—For purposes of this section, the term "total savings" means, for any fiscal year, the amount equal to—

(1) the amount of contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund under subchapter III of chapter 83 of title 5, United States Code, for such fiscal year if Public Law 108-18 and this Act had not been enacted, minus

(2) the amount of amortization payments (if any) required under section 8348(h)(2) of title 5, United States Code, for such fiscal year.

(b) CALCULATIONS.—The following calculations shall be made for each of fiscal years 2006 through 2015:

(1) Not later than January 31 of the fiscal year following the fiscal year involved, the Office of Personnel Management (in consultation with the Postal Service) shall determine the total savings for the fiscal year.

(2) On the date of making its determination under paragraph (1), the Office shall also determine (in consultation with the Postal Service) the amount by which—

(A) the amount the Postal Service paid for that fiscal year into the Postal Service Retiree Health Benefits Fund in accordance with 8909a(c)(2) of title 5, United States Code, exceeds (if at all)

(B) the amount of payments made by the Postal Service for that fiscal year from such Fund in order to satisfy the requirements of section 8906(g)(2) of such title 5.

(c) REQUIREMENTS.—

(1) IF THRESHOLD IS MET.—If the amount calculated under subsection (b)(2) for a fiscal year is greater than or equal to two-thirds of the total savings in such fiscal year, no further action under this section is necessary with respect to such fiscal year.

(2) IF THRESHOLD IS NOT MET.—

(A) IN GENERAL.—If the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, the Postal Service shall pay into the Postal Service Retiree Health Benefits Fund, by June 30 of the following fiscal year, an amount equal to the difference.

(B) ALLOWABLE ALTERNATIVE.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), and subject to clause (ii), the Postal Service may instead use the amount that it would otherwise be required to pay into the Postal Service Retiree Health Benefits Fund for a year (or any portion thereof) to reduce the postal debt.

(ii) LIMITATION.—Amounts used to reduce the postal debt under this subparagraph may not exceed a total of $3,000,000,000.

(3) AGGREGATION ALLOWED.—Notwithstanding paragraph (2), if the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, but the sum of the amounts calculated under subsection (b)(2) for all fiscal years from 2006 to the fiscal year involved is greater than or equal to two-thirds of the sum of the total savings for such years, no further action under this section is necessary with respect to such fiscal year.

(d) REPORTING REQUIREMENT.—The Office of Personnel Management shall submit a report containing the results of its calculations under subsection (b) to the Postal Service, the Postal Regulatory Commission, and the Congress.

(e) WAIVER AUTHORITY.—The requirements of subsection (c)(2)(A) may, upon application of the Postal Service, be waived by the Postal Regulatory Commission, to the extent that the Commission determines that such waiver is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

SEC. 905. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title shall take effect on October 1, 2005.

(b) GOVERNMENT CONTRIBUTIONS.—Section 901(a)(1) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

PURPOSE AND SUMMARY

H.R. 4341, the "Postal Accountability and Enhancement Act" represents the most sweeping structural reform of the United States Postal Service ("Postal Service") in over three decades. A central objective of this legislation is to ensure that the Postal Service operates in a more business-like manner. The legislation creates a modern system of rate regulation, expands the purview of "competitive activities" in which the Postal Service may operate, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and protects private firms from unfair competition.

BACKGROUND AND NEED FOR THE LEGISLATION

POSTAL SERVICE—SCOPE OF ACTIVITIES AND NEED FOR REFORM

The United States Postal Service processes and delivers 208 billion pieces of mail to more than 130 million households and businesses in the United States each year. The Postal Service is the center of a $900 billion industry employing nine million workers in the United States. The Postal Service has lost over $2 billion over the last three years, mail volume has shown a consistent decline over the same period, and the Postal Service will be required to file a rate increase of 5.4% this year.

The mission of the Postal Service, outlined in the Postal Reorganization Act of 1970, is to provide postal access in all communities, and to offer prompt, reliable postal services at uniform prices. The law was designed to transform the Postal Service from a bureaucracy subsidized by tax revenue to a self-supporting, businesslike entity supported by the fees *(e.g., stamp revenue)* paid by its users. The ability of the Postal Service to advance these objectives is being challenged by a variety of factors including decreasing mail volume, insufficient revenue, mounting debt, and electronic communications alternatives such as Internet advertising, electronic bill payments, e-mails, and faxes.

PRESIDENT'S COMMISSION

On July 31, 2003, the President's Commission on the Postal Service (hereinafter "Commission") released its recommendations for maintaining the viability of the Postal Service. Roughly half of the recommendations require legislative change. Most of these concerns have been addressed in earlier postal reform proposals, although some specific recommendations differ. New issues raised by the Commission include reform of the collective bargaining process and legislative changes making it easier to close post offices and processing centers.

ADMINISTRATION'S PRINCIPLES FOR POSTAL REFORM

On December 8, 2003, the Department of the Treasury released a set of five principles, based on the recommendations of the President's Commission, that should guide Congress's effort to reform the Postal Service. The principles are: ensuring that the Postal Service's governing body is equipped to meet the responsibilities and objectives of an enterprise of its size and scope; ensuring that important factual information on the Postal Service's product costs

and performance is accurately measured and made available to the public in a timely manner; ensuring that the Postal Service's governing body and management have the authority to reduce costs, set rates, and adjust key aspects of its business in order to meet its obligations to customers in a dynamic marketplace; promoting accountability by ensuring that the Postal Service has appropriate independent oversight to protect consumer welfare and universal mail service; and ensuring that the Postal Service operates with greater flexibility and is financially self-sufficient, covering all of its obligations.

H.R. 4341, THE "POSTAL ACCOUNTABILITY AND ENHANCEMENT ACT"

The "Postal Accountability and Enhancement Act" reflects the Administration's principles for postal reform, and incorporates nearly all of the seventeen legislative recommendations made by the Commission. The legislation mandates transparency in the Postal Service's finances, costs, and operations. The legislation creates a modern system of rate regulation, establishes fair competition rules and a powerful new regulator, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and improves the collective bargaining process. However, unlike the unlimited and unfettered pricing flexibility recommended for the Postal Service by the Commission for competitive product offerings, the bill imposes important controls to protect the public interest from unfair competition.

PROVISIONS WITHIN THE JURISDICTION OF THE COMMITTEE ON THE JUDICIARY

The Committee on Government Reform and Oversight reported H.R. 4341 by unanimous consent on May 12, 2004.[1] The Committee on the Judiciary received a sequential referral to consider provisions within the Committee's subject matter jurisdiction.

First, Section 205 revises the complaint and appellate review process of the Postal Regulatory Commission—which is charged with setting postage rates and helping define activities in which the Postal Service may compete with private industry. Section 301 establishes an off-budget fund within the Treasury Department for revenues and expenditures associated with services offered by the Postal Service on a competitive basis. Section 303 prohibits the Postal Service from issuing regulations that preclude competition or compel the disclosure of protected intellectual property. Section 304 ensures that laws regulating the conduct of private commercial activities also apply to competitive activities undertaken by the Postal Service, including the antitrust laws, bankruptcy laws, the Federal Trade Commission Act, and laws pertaining to sovereign immunity. The Committee reported an amendment offered by Chairman Sensenbrenner and Ranking Member Conyers to strike language that would have defined the Postal Service, to the extent that it engages in competitive activity, as a "person" for purposes of the bankruptcy laws.

Section 502 provides authority for the Postal Regulatory Commission to issue subpoenas to compel disclosure of evidence in its proceedings and to refer failures to adhere to Commission direc-

[1] H.R. Rep. No. 108–672.

tives to Federal district court. Section 703 requires the Federal Trade Commission to prepare a report detailing how Federal and state laws apply differently to competitive activities of the Postal Service and private companies.

Section 801 provides permanent authority for the Postal Service to employ postal police to protect property and persons on Postal Service property and gives the Attorney General authority to collect penalties and clean up costs associated with the unlawful mailing of hazardous materials. Finally, section 809 prohibits the mailing of hazardous materials and clarifies penalties for their shipment. The Committee reported an amendment offered by Crime, Terrorism, and Homeland Security Subcommittee Chairman Coble to place these changes to existing law in Title 18 of the United States Code and to add "hazardous materials" to the list of nonmailable offenses for which criminal penalties may be imposed thereby establishing a criminal offense for mailing hazardous materials.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 4341.

COMMITTEE CONSIDERATION

On September 15, 2004, the Committee met in open session and ordered favorably reported the bill H.R. 4341, with an amendment, by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the committee consideration of H.R. 4341.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 4341, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 23, 2004.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4341, the Postal Accountability and Enhancement Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for Postal Service costs), who can be reached at 226–2860, Geoffrey Gerhardt (for retirement costs), who can be reached at 226–2820, and Julia Christensen (for health care costs), who can be reached at 226–9010.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 4341—Postal Accountability and Enhancement Act.

SUMMARY

H.R. 4341 would change the laws that govern the operation of the United States Postal Service (USPS), particularly those regarding the cost of pensions and health care benefits of retired workers and the requirement to hold certain funds in escrow. CBO estimates that enacting this legislation would result in on-budget savings of $24.1 billion and off-budget costs of $34.5 billion over the 2005–2014 period. (The net expenditures of the USPS are classified as "off-budget.") Thus, CBO estimates the net cost to the unified budget would be $10.4 billion over the 2005–2014 period. In addition, we estimate that implementing H.R. 4341 would cost about $1.5 billion over the 2005–2014 period, assuming appropriation of the necessary amounts.

Enacting H.R. 4341 would not affect how much the federal government spends on pension or health care benefits for USPS retirees. By increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow account requirements, however, the bill would increase future budget deficits as measured by the unified federal budget. Eliminating the escrow account requirement for the USPS would allow that agency to increase spending for capital improvements or other projects, pay down its outstanding debt, postpone or diminish future rate increases, or some combination of these options. Enacting the bill also would reduce direct spending by making the costs of the Postal Rate Commission and the USPS Office of the Inspector General subject to appropriation.

H.R. 4341 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on State, local, or tribal governments.

Major provisions of H.R. 4341 would:

- Eliminate a requirement in Public Law 108–18 (P.L. 108–18), the Postal Civil Service Retirement Funding Reform Act of 2003, that the Postal Service place savings from reduced pension contributions in escrow.
- Transfer from the Postal Service to the Department of the Treasury responsibility for paying pension costs associated with military service credits.
- Replace direct payments the Postal Service is making for retiree health care costs with payments designed to prefund some of the health care costs of current employees when they retire.
- Revise the procedure for raising postal rates.
- Strengthen the USPS Board of Governors and the Postal Rate Commission, which would be redesignated the Postal Regulatory Commission (PRC).
- Make other changes designed to increase the Postal Service's competitiveness with private industry.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 4341 is shown in Table 1. The costs of this legislation fall within budget functions 370 (commerce and housing credit), 550 (health), 900 (net interest), and 950 (undistributed offsetting receipts).

TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 4341

	By Fiscal Year, in Billions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
On-Budget Effects										
Estimated Budget Authority	0.0	-3.1	-2.0	-2.2	-2.3	-2.5	-2.7	-2.9	-3.1	-3.3
Estimated Outlays	0.0	-3.1	-2.0	-2.2	-2.3	-2.5	-2.7	-2.9	-3.1	-3.3
Off-Budget Effects										
Estimated Budget Authority	-0.1	2.8	3.1	3.4	3.5	3.8	4.1	4.3	4.6	5.0
Estimated Outlays	-0.1	2.8	3.1	3.4	3.5	3.8	4.1	4.3	4.6	5.0
Total Unified Budget Effect										
Estimated Budget Authority	-0.1	-0.3	1.1	1.2	1.2	1.3	1.4	1.4	1.5	1.7
Estimated Outlays	-0.1	-0.3	1.1	1.2	1.2	1.3	1.4	1.4	1.5	1.7
CHANGES IN SPENDING SUBJECT TO APPROPRIATION										
Estimated Authorization Level	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2
Estimated Outlays	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.2

NOTE: Components may not add to totals because of rounding.

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 4341 will be enacted near the start of fiscal year 2005. CBO estimates that enacting the

bill would result in on-budget savings of $24.1 billion and off-budget costs of $34.5 billion over the 2005–2014 period, for a net cost to the unified budget of $10.4 billion over the 10-year period. In addition, we estimate that implementing H.R. 4341 would cost about $1.5 billion over the 2005–2014 period, assuming appropriation of the necessary amounts, mostly to fund the USPS Office of the Inspector General.

Background

The following paragraphs present background information relating to the major provisions of H.R. 4341, mostly for postal finances affected by the bill.

Budgetary Treatment of USPS. Although the Postal Service is a federal agency, its financial operations are classified as off-budget. Despite this treatment, federal budget documents present the net income (gross income minus expenses) of the agency in the unified budgetary totals for the federal government. The Postal Service is required by law to set postage rates to cover its full costs, although from year to year its net income may be positive or negative. In fiscal year 2003, the Postal Service generated $69.5 billion in collections, mostly from postage and user fees, and had $64.2 billion in expenses, for a net cash surplus of $5.3 billion in that year.

USPS and Federal Retirement Plans. Postal Service employees participate in the federal government's two main defined benefit pension programs. Those workers initially hired prior to 1984 are covered by the Civil Service Retirement System (CSRS) while those initially hired after 1983, as well as former CSRS workers who elected to change federal retirement plans in 1987 or 1998, participate in the Federal Employees' Retirement System (FERS). In 2003, about 30 percent of the USPS workforce was covered by CSRS, and the rest were under FERS.

The Postal Service and its employees each make payroll contributions toward the civilian retirement system (CSRS and FERS). Unlike other agencies, the agency contribution rate for most CSRS employees is 17.4 percent of basic pay (most other agencies contribute 7 percent), while the employee contribution rate is 7 percent.[1] For FERS employees, the agency contribution rate for most employees is 10.7 percent, while the employee rate is 0.8 percent, plus Social Security payroll taxes on both employers and employees. Workers in CSRS receive generally higher benefits than those in FERS, but unlike FERS, those in CSRS do not participate in Social Security and do not receive agency contributions toward the Thrift Savings Plan. In addition to its payroll contributions, the Postal Service also makes annual amortization payments toward an unfunded liability within CSRS. In 2003, that payment was about $300 million.

USPS and Federal Health Benefits. The Postal Service also pays a portion of health care premiums for currently retired USPS employees who are eligible to participate in the Federal Employees Health Benefits (FEHB) program. Currently, there are over

[1] P.L. 108–18 increased the contribution rate the Postal Service pays for its CSRS employees from 7 percent to 17.4 percent. That legislation also eliminated a series of amortization payments the Postal Service was required to make for unfunded CSRS liabilities. For more details, see CBO's cost estimates of the Postal Civil Service Retirement System Funding Reform Act of 2003 (S. 380 and H.R. 735 from the 108th Congress). These estimates are posted on www.cbo.gov.

400,000 Postal Service retirees who participate in the FEHB program. On average, the Postal Service currently pays about 45 percent of the health care premiums for its retirees. Retirees pay about 30 percent of their FEHB premiums with general revenues accounting for the remaining amount, roughly 25 percent. In 2003, the Postal Service paid $1.1 billion to FEHB for premiums for current retirees.

USPS Escrow Fund. Starting in October 2006, the Postal Service will be required under current law to begin holding funds in an escrow account equal to the difference between what the Postal Service currently pays toward CSRS and what it would have paid for CSRS benefits prior to the enactment P.L. 108–18. Under current law, CBO estimates the Postal Service will need to hold in escrow nearly $3 billion in 2006 and $36 billion over the 2006–2014 period. H.R. 4341 would eliminate the requirement that USPS collect and hold these funds in escrow.

Effects on the Unified Budget

H.R. 4341 would not affect how much the federal government spends on pension or health benefits for USPS retirees. However, by increasing how much the Postal Service pays to finance those benefits and by eliminating the current-law escrow requirements, the bill would increase future budget deficits as measured by the unified federal budget.

Off-budget payments made by the Postal Service for CSRS and FEHB are transfers to on-budget federal accounts, and are counted as offsetting receipts (a credit against direct spending). Eliminating the USPS transfer to CSRS would reduce on-budget offsetting receipts by $13.5 billion over the 2006–2014 period. Under the bill, that reduction would be offset by a $37.6 billion net increase in on-budget offsetting receipts paid by the Postal Service for the new health benefits fund. Thus, the bill would increase on-budget offsetting receipts by $24.1 billion over the 2006–2014 period.

The collection of funds to be held in escrow by the Postal Service is recorded as an off-budget offsetting receipt. Eliminating the requirement to fund the escrow account would allow the USPS to pay down debt, increase spending for capital improvements or other projects, postpone or diminish future rate increases, or some combination of these activities. CBO estimates that this provision would increase net off-budget spending by $36 billion over the 2006–2014 period. (Much of that spending would be to fund the new health benefits payments mentioned above as on-budget offsetting receipts.) Making the costs of the PRC and the USPS Office of the Inspector General subject to appropriation would reduce direct spending by the Postal Service by $1.5 billion over the next 10 years.

The combined effect of the $24.1 billion increase in on-budget receipts, the $36 billion reduction in off-budget offsetting receipts, and a $1.5 billion reduction in USPS direct spending would produce a $10.4 billion cost to the unified budget deficit over the 2006–2014 period. Those effects are presented in Table 2 and explained in more detail below.

TABLE 2. ESTIMATED CHANGES IN DIRECT SPENDING FOR H.R. 4341

	By Fiscal Year, Outlays in Billions of Dollars									
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
On-Budget Effects										
Civil Service Retirement System	0	2.0	1.9	1.8	1.7	1.5	1.4	1.2	1.1	0.9
Postal Service Retiree Health Benefits Fund net of retiree premium payments to FEHB [a]	0	-5.1	-3.9	-4.0	-4.0	-4.0	-4.1	-4.1	-4.2	-4.2
Total On-Budget Effects	0	-3.1	-2.0	-2.2	-2.3	-2.5	-2.7	-2.9	-3.1	-3.3
Off-Budget Effects										
Eliminate Escrow Account	0	2.9	3.2	3.5	3.7	3.9	4.3	4.5	4.8	5.2
Funding for PRC and USPS Inspector General Office Costs Subject to Appropriation	-0.1	-0.1	-0.1	-0.1	-0.2	-0.2	-0.2	-0.2	-0.2	-0.2
Total Off-Budget Effects	-0.1	2.8	3.1	3.4	3.5	3.8	4.1	4.3	4.6	5.0
Total Unified Budget Effects	-0.1	-0.3	1.1	1.2	1.2	1.3	1.4	1.4	1.5	1.7
MEMORANDUM										
Payments from the Postal Service received by PSRHBF	0	-5.5	-5.7	-5.9	-6.1	-6.4	-6.6	-6.9	-7.2	-7.6
FEHB premiums paid from PSRHBF	0	0.4	1.8	2.0	2.2	2.4	2.6	2.8	3.1	3.4
Net outlays of PSRHBF	0	-5.1	-3.9	-4.0	-4.0	-4.0	-4.1	-4.1	-4.2	-4.2

NOTES: FEHB = Federal Employees Health Benefits program; PSRHBF = Postal Service Retiree Health Benefits Fund; PRC = Postal Regulatory Commission; USPS = United States Postal Service.

Components may not add to totals because of rounding.

Amounts in the table represent net changes in offsetting receipts, which are recorded in the budget as changes in direct spending. A positive sign indicates lower offsetting receipts, thus an increase in outlays; negative numbers represent increased offsetting receipts, or a reduction in net outlays.

a. Starting in July 2006, CBO assumes that payments of FEHB premiums for Postal Service retirees would be paid out of the Postal Service Retiree Health Benefits Fund instead of being paid directly by the Postal Service as under current law. The bill would have no effect on spending by the FEHB program for health benefits for Postal Service annuitants.

On-Budget Effects (Direct Spending)

CBO estimates the total on-budget effect of the pension and health care provisions in H.R. 4341 would be an increase in offsetting receipts of $3.1 billion in 2006, $9.7 billion over the 2006–2009 period, and $24.1 billion over the 2006–2014 period. That increase in on-budget collections would come from increased transfers (off-budget outlays) coming from the USPS. (The off-budget effects are discussed in the following section.)

Civil Service Retirement Contributions. H.R. 4341 would change the way the Postal Service finances retirement benefits for current and retired employees. Starting in October 2005, the bill would transfer financial responsibility for military service credits

earned by Postal Service employees and retirees participating in CSRS from the Postal Service to the Department of the Treasury. Military service credits represent time served in the U.S. military that is credited toward benefits under the civilian retirement system. Most federal agencies are not responsible for the cost to the pension system of the military service credits incurred by their CSRS employees, but P.L. 108–18 transferred responsibility for military service credits from the Treasury to the Postal Service beginning in June 2004.

The Office of Personnel Management (OPM) estimates that transferring responsibility for military service credits from the Postal Service back to the Treasury would cause the Postal Service to have overfunded its obligation to CSRS by about $19.4 billion through September 2005.[2] Consequently, under H.R. 4341 the Postal Service would no longer be obligated to make either agency contributions or any further annual amortization payments for CSRS. (Employee contributions would continue at 7 percent of basic pay and retirement benefits under CSRS would not change.)

Spending by the Postal Service—including amounts paid into other federal accounts—is considered off-budget spending. However, the Civil Service Retirement and Disability Fund (CSRDF) is an on-budget account, so the amounts the CSRDF collects from the Postal Service are on-budget offsetting receipts. Reducing payments the Postal Service makes to the CSRDF would result in a reduction in off-budget spending and a reduction in on-budget offsetting receipts. CBO estimates transferring responsibility for military service credits, and the attendant reduction in CSRS contributions such a change would bring, would reduce on-budget receipts by $2 billion in 2006 and $13.5 billion over the 2006–2014 period. Although the Treasury Department would then be responsible for the costs associated with those pension liabilities under the bill, the Treasury payment and receipt by CSRDF are both on-budget intragovernmental transactions. That is, the bill would replace one intragovernmental transfer with another. Instead of a transfer from the off-budget Postal Service to the on-budget CSRDF, there would be a transfer from the Treasury to the CSRDF.

Postal Service Retiree Health Benefits Fund. H.R. 4341 also would change the way the Postal Service finances its share of the cost of providing health care to retirees. Instead of directly paying a portion of the health premiums incurred by current retirees each year, the USPS would begin paying for estimated costs of retiree health care as such costs are accrued by current workers. Starting in 2006, H.R. 4341 would require the USPS to make payments equal to the annual increase in retiree health care liabilities accrued by current employees. These payments would be deposited into a new on-budget account, the Postal Service Retiree Health Benefits Fund (PSRHBF), which would earn interest at the same rate as the CSRDF. The Postal Service's share of health care premiums for current retirees would be paid out of the PSRHBF as soon as adequate funds are available in the account to do so.

[2] This overfunding, which is calculated on a net-present-value basis, represents an estimate of the total amount of money the Postal Service will have contributed toward CSRS from 1971 through September 30, 2005, minus the agency's CSRS liabilities if USPS bears no financial responsibility for the pension costs associated with military service credits. The projected overfunding is due primarily to larger-than-expected returns on assets held in the CSRDF.

Under H.R. 4341, any overfunding toward CSRS liabilities (after financial responsibility for military service credits reverts to the Treasury) would be transferred from the CSRDF to the PSRHBF by June 30, 2006. Based on information provided by OPM, CBO anticipates that the transfer to the new fund would total $20.2 billion and would occur in June 2006. This amount reflects the $19.4 billion in estimated CSRS overfunding plus interest that would accrue between the end of the valuation period in September 2005 and when CBO assumes the asset transfer would take place in June 2006.

Under the bill, the Postal Service also would pay annual interest costs on the unfunded liabilities for health care costs of both current and future retirees. The unfunded liability would be the difference between the assets held in the PSRHBF and the net present value of accrued liabilities projected for retiree health care. The bill would direct OPM to compute the required prefunding and interest payments after consultation with the Postal Service, subject to review by the PRC. The bill specifies that payments would be made at the end of each fiscal year. Based on information provided by OPM, CBO anticipates the net present value of the unfunded liability for the health care costs of retirees would amount to $37.7 billion at the end of 2006 and would shrink to $35.8 billion by the end of 2014. CBO estimates that payments by the Postal Service for prefunding health care costs of retirees and interest on the remaining unfunded liability would be $5.5 billion in 2006, $23.3 billion over the 2006–2009 period, and $58.1 billion over the 2006–2014 period.

CBO expects that the transfer of $20.2 billion from the CSRDF to the PSRHBF resulting from the shift in responsibility for military service credits would occur in June 2006. Therefore, the Postal Service would cease making payments under current law for its share of FEHB premiums for annuitants beginning in July 2006; with those premium payments instead being drawn from the PSRHBF. CBO estimates that change in the funding mechanism for retiree health benefits would reduce off-budget payments by the Postal Service for FEHB premiums by $0.4 billion in 2006 (which reflects premium payments, under current law, for the last three months of 2006), $6.3 billion over the 2006–2009 period, and $20.5 billion over the 2006–2014 period. On-budget payments for those amounts would then be transferred from the PSRHBF to the FEHB program to pay the Postal Service's share of health care costs for retirees.

The bill would require a minimum level of prefunding by the Postal Service through 2015, after accounting for disbursements for health premiums from the PSRHBF. To achieve the annual or cumulative prefunding target, payments from the Postal Service to the PSRHBF—net of premiums paid by the PSRHBF—must total at least two-thirds of the amount the Postal Service would have paid toward CSRS prior to the enactment of

P.L. 108–18. If the threshold is not met, additional prefunding payments would be required to make up the shortfall. Those payments also could be used to reduce postal debt (up to $3 billion) in lieu of contributions to the fund. The requirement could be waived completely by the PRC under certain conditions. CBO an-

ticipates that the threshold established under the bill would be met and no additional payments would be required through 2014.

Health premiums paid by the Postal Service for FEHB and any payments that would be made into the new PSRHBF would be considered on-budget offsetting receipts. CBO estimates the increase in on-budget receipts as a result of changes in how the Postal Service finances its health care obligations would be $5.1 billion in 2006, $17.0 billion over the 2006–2009 period, and $37.6 billion over the 2006–2014 period.

Off-Budget Effects (Direct Spending)

CBO estimates that enacting H.R. 4341 would result in net off-budget costs of $2.8 billion in fiscal year 2006, $12.7 billion over the 2005–2009 period, and $34.5 billion over the 2005–2014 period because it would eliminate the requirement to fund the escrow account, allowing the Postal Service to increase other spending, reduce postal rates, or some combination of these actions. The bill also would make the costs of the PRC and the USPS Office of the Inspector General subject to appropriation, thus reducing direct spending by $1.6 billion over the next 10 years. The bill contains many other provisions that could affect USPS cash flows in each year, but we estimate they would not have a significant net effect on the USPS over the long term.

Elimination of Escrow Fund. P.L. 108–18 permanently reduced payments by the USPS to the CSRDF. As a result of that act, USPS payments to the CSRDF declined by $2.5 billion to $5 billion annually, beginning in 2003. For fiscal years starting in 2006, P.L. 108–18 requires that savings resulting from reduced payments to the CSRDF be considered an operating expense of the Postal Service and held in escrow, remaining unavailable for obligation unless authorized by subsequent legislation.

H.R. 4341 would amend P.L. 108–18 to eliminate the escrow fund requirement. As a result of this provision, the Postal Service could lower rates and thus reduce its revenues, or maintain rates and increase spending, or some combination of these actions. The net outlays of the Postal Service would increase because collections would not be deposited in escrow. CBO estimates that eliminating the escrow requirement would increase net spending by about $2.9 billion in 2006, $13.3 billion over the 2006–2009 period, and $36 billion over the 2006–2014 period. Much of the spending would go toward making new payments to the on-budget account for health care costs.

Make Cost of PRC and USPS IG Subject to Appropriation. Under current law, the PRC and the Inspector General of the Postal Service are funded from the Postal Service Fund without annual Congressional appropriation. In total, these offices spent about $140 million in 2003. H.R. 4341 would authorize the appropriation of such sums as may be necessary from the Postal Service Fund for these offices. Thus, enacting this legislation would reduce direct spending—and therefore, increase spending subject to appropriation—by about $140 million annually beginning in fiscal year 2005.

Changes to USPS Rate-Setting Procedures. Under the bill the Postal Service would be directed to define the cost basis for the different products and services it supplies. These products and services would broadly be categorized as market-dominant products

and competitive products. Different rate-setting procedures would apply to these different categories of products and services.

Market-Dominant Products. Under H.R. 4341, market-dominant products would include: first-class mail, special services, periodicals, standard mail, media mail, library mail, and bound printed matter.

H.R. 4341 would require the PRC to establish, within two years of enactment, a new system for regulating postage rates for market-dominant products. The bill would permit the new system to involve price caps, revenue targets, or other forms of incentive or cost-of-service regulation. However, the legislation would mandate that the average rate for any market-dominant product could not rise more than the annual increase in the Consumer Price Index (CPI), unless a larger increase would be necessary to ensure the viability of the Postal Service.

Later this year we expect the Postal Service to begin preparations for a rate case in 2006. Assuming the PRC would need the two years that the bill would provide to establish the new system for regulating rates for market dominant products, we assume that the new rate setting system would not be effective until after 2006.

Since 1970, increases in postage rates have largely tracked the rate of inflation. Over the past 10 years, rates were increased in 1995, 1999, 2001, and 2002 as a result of rate cases. After 2006, we expect that the Postal Service would increase rates for market-dominant mail services more frequently than under current law, but by smaller increments (as limited by the CPI). Over the long term, CBO does not expect that enacting H.R. 4341 would significantly change the revenues from market-dominant products that the Postal Service would be expected to receive under current law.

Competitive Products. Under H.R. 4341, competitive products would include the following: priority mail, express mail, mailgrams, international mail, and parcel post. Currently, the competitive products contribute less than 15 percent of total postal revenues.

H.R. 4341 would direct the PRC to prohibit subsidizing competitive products by market-dominant products, ensure that each competitive product covers its attributable costs, and ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service. After these requirements have been implemented, the USPS could change rates for competitive products without consulting the PRC, as long as the cost coverage requirements are met. The Postal Service, however, would have to provide public notice and justification of changes in rates.

In addition, H.R. 4341 would require the Postal Service to establish a new off-budget fund, the Competitive Products Fund, solely for revenues and expenditures associated with competitive products. We expect that it could be difficult to differentiate postal expenses related only to competitive products, as USPS uses the same employees and facilities to handle both market dominant and competitive products.

CBO cannot predict the bill's effect on Postal Service revenues from competitive products because the agency could set and change prices with few restrictions, although we would expect that yearly cash flows under the bill would differ from those estimated under current law. CBO also cannot predict how successfully the Postal

Service might compete in the open market. However, the highly competitive nature of the mailing industry would tend to keep prices and revenues down, while the labor-intensive cost structure of the USPS would maintain upward pressure on expenses. Thus, over the long term under this legislation, CBO expects the Postal Service to attempt to recover its costs and break even as it did before the enactment of P.L 108–18.

Other Off-Budget Effects. H.R. 4341 would make many other changes to the laws governing the Postal Service, the PRC, and the delivery of mail and other postal products. Some of these provisions, such as the expansion of USPS contracting authority for the interstate air transportation of mail, would yield savings. Other provisions, including the requirement for additional USPS reports and the establishment of an inspector general for the PRC, would increase costs. In total, CBO does not expect the net effects of these provisions to be significant.

Spending Subject to Appropriation

H.R. 4341 would authorize the appropriation of such sums as may be necessary, out of the Postal Service Fund, for the PRC and the Inspector General of the Postal Service. (Currently, these offices are funded out the Postal Service Fund without Congressional action.) Beginning in 2005, this provision would entail about $140 million a year in spending, subject to appropriation of the necessary amounts. Enacting the bill would reduce direct spending by the same amount. Spending on these activities would likely still be considered off-budget, since funds would come from the Postal Service Fund.

In addition, H.R. 4341 would require OPM to make actuarial computations related to the CSRS and PSRHBF trust funds and would increase OPM's administrative workload to comply with the requirements under the bill. CBO estimates that such activities would cost less than $500,000 annually, assuming the availability of appropriated funds.

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

H.R. 4341 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on State, local, or tribal governments.

PREVIOUS CBO ESTIMATES

On July 13, 2004, CBO transmitted a cost estimate for H.R. 4341, the Postal Accountability and Enhancement Act, as ordered reported by the House Committee on Government Reform on May 12, 2004. The two Committees' versions of this bill are very similar, and the CBO cost estimates are identical.

On June 24, 2004, CBO transmitted a cost estimate for S. 2468, the Postal Accountability and Enhancement Act, as ordered reported by the Senate Committee on Governmental Affairs on June 2, 2004. S. 2468 also would make changes to the operation of the Postal Service. However, the bills present different approaches to some of the changes—especially with regard to financing the cost of health care benefits of USPS retirees. Our estimates reflect those differences. CBO estimates that enacting S. 2468 would result in on-budget savings of $20.2 billion and off-budget costs of

$35.8 billion over the 2005–2014 period, for a net cost to the unified budget of $15.7 billion over that period.

ESTIMATE PREPARED BY:

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Geoffrey Gerhardt for retirement costs (226–2820)
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ESTIMATE APPROVED BY:

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Deputy Assistant Director for Budget Analysis

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 4341, the "Postal Accountability and Enhancement Act" represents the most sweeping structural reform of the United States Postal Service ("Postal Service") in over three decades. A central objective of this legislation is to ensure that the Postal Service operates in a more business-like manner. The legislation creates a modern system of rate regulation, expands the purview of "competitive activities" in which the Postal Service may operate, addresses the Postal Service's universal service obligation and the scope of the mail monopoly, and protects private firms from unfair competition.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, § 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

The following is a discussion of sections under jurisdiction of the Committee on the Judiciary. The other sections are described in the report of the Committee on Government Reform and Oversight H.R. Rep. No. 108–672.

Sec. 205. Complaints; appellate review and enforcement.

Section 205 of the bill revises the complaint and appellate review provisions set out in subchapter V of chapter 36, Title 39 (as redesignated by the bill). In general, the bill strengthens the authority of the Postal Regulatory Commission to act on complaints. The Postal Regulatory Commission has authority over rate-making and other activities of the Postal Service. Section 205 repeals current §§ 3662 (rate and service complaints) and 3663 (annual report on international services) and adds three sections in Title 39 as follows.

First, § 3662 provides the Postal Regulatory Commission with enhanced authority to respond to complaints of pricing, service, or other actions by the Postal Service in violation of law. As revised, this section would require the Commission to begin proceedings on

or dismiss complaints within 90 days and if not acted on, the complaint shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1). In subsection 3662(c), the amendment gives the Commission broad authority to correct violations by ordering the Postal Service to take whatever steps the Commission considers appropriate. For instance, the Commission may order the Postal Service to adjust the rates of competitive products to lawful levels if they are set below attributable costs (the Commission has no such authority under current law). The Commission is authorized to suspend rates or classifications that are not of general applicability in the Nation as a whole or in any substantial region of the Nation. The suspension is permitted for only a limited period of time pending expedited proceedings under § 3662, and four key factors are outlined in subsection (d) that the Commission must consider in evaluating whether this authority may be exercised. In cases of deliberate noncompliance with law, the Commission is authorized to levy fines based on the seriousness, nature, circumstances, and extent of the noncompliance. Fines resulting from provision of Competitive products must be paid out of the Competitive Products Fund, and all fines are paid into the general Treasury fund.

Second, § 3663 provides for appeals of any order or decision of the Postal Regulatory Commission to the United States Court of Appeals for the District of Columbia Circuit in accordance with chapter 706 of Title 5 and chapter 158 of Title 28. Third, § 3664 gives any United States District Court jurisdiction to enforce orders of the Postal Regulatory Commission and issue injunctions or restraining orders.

Sec. 301. Postal Service Competitive Products Fund.

Section 301 of the bill adds a new § 2011 to title 39. Section 2011 establishes an off-budget fund within the Treasury for revenues and expenditures associated with competitive products. The "Competitive Products Fund" is in addition to the current Postal Service Fund. The intent of this section is to level the playing field for the Postal Service and its competitors in the competitive product market by requiring the Postal Service to keep separate financial accounts for market dominant and competitive products. Separation of accounts also protects the interests of postal consumers in the market dominant category and taxpayers. Subsection 2011 essentially permits the Postal Service to manage the Competitive Products Fund in its discretion but prohibits the Postal Service from borrowing funds from Treasury or borrowing from private capital markets by pledging the full faith and credit of the United States. The new fund can borrow money to support competitive products by pledging the assets of the fund and its revenues and receipts. The Postal Service may invest money from the new fund in accordance with rules which the Secretary of Treasury shall prescribe (by not later than 18 months after the date of enactment)—in such other obligations or securities as the Postal Service deems appropriate.

Subsection 2011(g) provides that claims against the Postal Service arising out of its competitive activities shall be paid out of the Competitive Products Fund.

Subsection 2011(h) requires that the Secretary of the Treasury, in consultation with the Postal Service, an independent accountant, and other appropriate advisors, develop recommendations for rules such as accounting practices and principles that will identify and value the assets, liabilities, capital, and operating costs, associated with competitive products. Treasury's recommendations must be submitted to the Postal Regulatory Commission, which must then provide an opportunity for all other interested parties to present their views.

The Postal Service, among others, will therefore be able to present its own recommendations and counterarguments. While Treasury will have the first opportunity to make recommendations, the Committee expects the Commission to give consideration to all input from interested parties, without a presumption that the Treasury recommendations are correct. After taking into account all views and information presented, the Commission must issue rules providing for the establishment and application of accounting practices and principles, certain substantive and procedural rules, and submission by the Postal Service of annual and periodic reports. The Commission is authorized to update the rules as necessary. The Postal Service must report to the Postal Regulatory Commission on the Competitive Products Fund periodically, as may be required by the Commission. In addition, the Postal Service must prepare an annual report for the Secretary of the Treasury concerning the operation of this Fund. This report shall address such matters as risk limitations, reserve balances, allocation or distribution of moneys, liquidity requirements, and measures to safeguard against losses. A copy of the report must also be provided to the Commission as part of the required annual reports.

Sec. 303. Unfair competition prohibited.

Section 303 of the bill adds a new § 404a to Title 39. Section 404a prohibits the Postal Service from: (1) establishing rules or regulations which preclude competition or give the Postal Service an unfair competitive advantage; (2) compelling disclosure, transfer, or licensing of intellectual property to any third party; or (3) offering any product or service that makes use of information obtained from a person that provides or seeks to provide a product to the Postal Service (unless the person has consented to such use or substantially the same information is otherwise obtainable). The Postal Regulatory Commission is required to prescribe regulations to carry out the purposes of this section, and the prohibitions are enforced through the Commission's strengthened complaint process and remedies, which include ordering rescission of any regulation.

Sec. 304. Suits by and against the Postal Service.

Section 304 of the bill amends § 409 of Title 39, to make the Postal Service more amenable to other laws regulating the conduct of commercial activities. First, the amendment subjects all Postal Service activities to Federal laws prohibiting the conduct of business in a fraudulent manner (the Lanham Act and certain parts of the Federal Trade Commission Act). Second, the amendment subjects Postal Service conduct with respect to competitive products to Federal antitrust laws and unfair competition prohibitions and eliminates sovereign immunity protection from suits in Federal

court for violations of Federal law. The amended § 409 allows injunctive relief against officers and employees of the Postal Service in case of violation of the antitrust laws, while the Postal Service itself would be subject to all available remedies. To the extent that private entities contract with the Postal Service for services in which the Postal Service is market dominant, the Committee does not believe these private entities should be subject to antitrust liability for the provision of these particular services.

In addition, the bill as introduced would have made the Postal Service, to the extent it engages in conduct with respect to the provision of competitive products, a "person" for purposes of the Federal bankruptcy laws. Under current bankruptcy law, a governmental unit such as the Postal Service, is not eligible to be a bankruptcy debtor.[2] The intent of this provision was to ensure that the Postal Service—to the extent it engages in competitive enterprises—has the same options and remedies available to its private sector counterparts.

This bankruptcy provision had several practical difficulties associated with its implementation. First, the provision might have been impossible to implement under the Bankruptcy Code as it would only permit "that portion of the Postal Service" that engages in certain activities to be eligible for bankruptcy relief. The bankruptcy law lacks any means to bifurcate a debtor based on eligibility, i.e., the entire entity must be eligible for relief. Second, the provision may give the Postal Service an anti-competitive advantage with respect to its private sector counterparts by allowing it to use various protections and equitable remedies available to bankruptcy debtors. These bankruptcy-specific protections include the ability to avoid certain contracts and leases,[3] avoid certain payments made to creditors prior to the bankruptcy filing,[4] and set aside collective bargaining agreements and modify retiree benefits, under certain conditions.[5] Third, the parameters of what assets and liabilities would comprise the bankruptcy estate[6] may be ill-defined as only part of the Post Service would be authorized to be a bankruptcy debtor. For these reasons, an amendment offered by Chairman Sensenbrenner and Ranking Member Conyers to strike this provision was adopted the Committee by voice vote.

Section 304 would also require the Postal Service to consider local zoning, planning, or land use regulations and building codes when constructing or altering buildings. This section further requires the Postal Service to represent itself in most legal proceedings permitted by the amendment as well as in cases involving administrative subpoenas issued by the Postal Regulatory Commission and appeals of decisions by the Commission or the Governors. The amendment requires that judgments arising out of activities of the Postal Service must be paid by the Postal Service, and judg-

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[2] Section 109 of the Bankruptcy Code provides, in relevant part, that only a person may be a debtor. 11 U.S.C. § 109 (2002). The Code, in turn, specifically excludes a governmental unit from its definition of a "person." 11 U.S.C. § 101(41) (2002).

[3] *See* 11 U.S.C. § 365 (2002).

[4] *See* 11 U.S.C. §§ 547, 548 (2002).

[5] *See* 11 U.S.C. §§ 1113–14 (2002).

[6] Bankruptcy Code § 541, which specifies what assets comprise a bankruptcy estate, has been broadly construed. Section 541 provides that the bankruptcy estate is comprised of property, wherever located and by whomever held, including all legal and equitable interests in such property. 11 U.S.C. § 541 (2002).

ments arising out of violations of law involving competitive products must be paid from revenues from competitive products.

Sec. 502. Authority for Postal Regulatory Commission to issue subpoenas.

Section 502 of the bill amends § 504 of Title 39 (i.e., § 3604 of current law as redesignated by § 501 of the bill). As amended, § 504 provides that Commissioners, any administrative law judge appointed by the Commission, and any designated employee of the Commission may administer oaths, examine witnesses, take depositions, and receive evidence. In addition, the Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission may issue subpoenas requiring the attendance and presentation of testimony by, or production of, documentary or other evidence in the possession of, officers, employees, agents, or contractors of the Postal Service, and to order the taking of depositions of, and responses to, written interrogatories by such persons. Such subpoena or order is allowed with respect to any proceeding conducted by the Commission under this title. Any subpoena requires the written concurrence of a majority of Commissioners then holding office in advance of its issuance. A failure to obey a subpoena may be referred to the appropriate United States district court and a failure to obey a court order is punishable as a contempt of court.

The amendment also provides for the handling of information the Postal Service views as proprietary that is requested from the Postal Service by the Commission. Section 504 provides that, if the Postal Service determines requested information is proprietary and so notifies the Commission in writing, the Commission may use the information only for the purpose supplied and must restrict access to the information to Commission officers and employees. It further provides for the possibility of discovery of such information by interested parties and requires the Commission to adopt rules to protect the confidentiality of such information similar to the rules that govern protective orders issued by the Federal courts under the Federal Rules of Civil Procedure. This section creates new subsections (f) and (g) of § 504 of Title 39. These new subsections provide administrative subpoena power to the Postal Regulatory Commission and provide for the enforcement of such subpoenas in district court.

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

Section 703 of the bill requires the Federal Trade Commission to prepare a report detailing how Federal and state laws apply differently to the Postal Service with respect to competitive products and private companies providing similar products. The Commission is directed to report within one year after enactment and to include recommendations for resolving any identified disparities in legal treatment. The Federal Trade Commission is to consult in preparing its report with the Postal Service, the Postal Regulatory Commission, other Federal agencies, mailers, private companies that provide delivery services, and the general public, and shall append to such report any written comments received. This section provides for a Federal Trade Commission study of laws that apply

differently to the Postal Service and its private sector competitors. Such a study may include sovereign immunity, antitrust, and intellectual property laws. When preparing this Report, the Committee expects the Federal Trade Commission to closely consult with the United States Patent and Trademark Office, the Copyright Office, and the Department of Justice's Antitrust Division.

Sec. 801. Employment of Postal Police Officers.

The Postal Service currently employs more than one thousand uniformed Postal Police officers who are assigned to critical postal facilities throughout the country. These officers provide vital protective and security functions, escort high-value mail functions, and provide other essential functions. Each year the authority for these officers has been provided in appropriations bills. As introduced, H.R. 4341 sought to make this authority permanent in Title 40 of the United States Code. An amendment offered by Crime, Terrorism, and Homeland Security Subcommittee Chairman Coble to establish this authority in Title 18 of the United States Code, consistent with other police authorities of the Postal Service and Federal Government agencies, was reported from the Committee by voice vote.

Sec. 809. Hazardous Matter.

Section 809 provides for penalties regarding illegal use of mail to transport hazardous matter. As introduced, H.R. 4341 would have added a new § 3018 to Title 39 of the United States Code to prohibit the mailing of hazardous material, the causing of hazardous material to be mailed, and the manufacture, distribution, or sale of containers, packaging kits or other devices (for use in mailing hazardous materials) that fail to conform with relevant standards.

An amendment offered by Crime, Terrorism, and Homeland Security Subcommittee Chairman Coble to add "hazardous materials" to the list of nonmailable materials for which criminal penalties may be applied was reported from the Committee by voice vote. Under Title 18, the Postal Service may continue to permit the transmission of these items under such rules and regulations as they may prescribe. This amendment makes the civil and criminal penalties consistent for all nonmailable items and continues to allow the Postal Service to make any exceptions they deem necessary.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 39, UNITED STATES CODE

* * * * * * *

PART I—GENERAL

Chap.	Sec.
1. Postal Policy and Definitions	**101**
* * * * * * *	
5. Postal Regulatory Commission	***501***

CHAPTER 1—POSTAL POLICY AND DEFINITIONS

* * * * * * *

§ 101. Postal policy

(a) * * *

* * * * * * *

(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.

[(d)**]** *(e)* Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

[(e)**]** *(f)* In determining all policies for postal services, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

[(f)**]** *(g)* In selecting modes of transportation, the Postal Service shall give highest consideration to the prompt and economical delivery of all mail and shall make a fair and equitable distribution of mail business to carriers providing similar modes of transportation services to the Postal Service. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation to the destination of important letter mail to all parts of the Nation shall be a primary goal of postal operations.

[(g)**]** *(h)* In planning and building new postal facilities, the Postal Service shall emphasize the need for facilities and equipment designed to create desirable working conditions for its officers and employees, a maximum degree of convenience for efficient postal services, proper access to existing and future air and surface transportation facilities, and control of costs to the Postal Service.

§ 102. Definitions

As used in this title—

(1) * * *

* * * * * * *

(3) "Governors" means the 9 members of the Board of Governors appointed by the President, by and with the advice and consent of the Senate, under section 202(a) of this title; **[**and**]**

[(4) "Inspector General" means the Inspector General appointed under section 202(e) of this title;**]**

(4) "Inspector General" means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;

(5) "postal service" means the carriage of letters, printed matter, or mailable packages, including acceptance, collection, processing, delivery, or other services supportive or ancillary thereto;

(6) "product" means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

(7) "rates", as used with respect to products, includes fees for postal services;

(8) "market-dominant product" or "product in the market-dominant category of mail" means a product subject to subchapter I of chapter 36;

(9) "competitive product" or "product in the competitive category of mail" means a product subject to subchapter II of chapter 36;

(10) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

(11) "year", as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.

CHAPTER 2—ORGANIZATION

* * * * * * *

§ 202. Board of Governors

(a)*(1)* The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 11 members appointed in accordance with this section. Nine of the members, to be known as Governors, shall be appointed by the President, by and with the advice and consent of the Senate, not more than 5 of whom may be adherents of the same political party. The Governors shall elect a Chairman from among the members of the Board. ❚The Governors shall be chosen to represent the public interest generally, and shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.❚ *The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.* Each Governor shall receive a salary of $30,000 a year plus $300 a day for not more than 42 days of meetings each year and shall be reimbursed for travel and reasonable expenses incurred in attending meetings of the Board. Nothing in the preceding sentence shall be construed to limit the number of days of meetings each year to 42 days.

(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

(b)*(1)* The terms of the 9 Governors shall be 9 years, except that the terms of the 9 Governors first taking office shall expire as

designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 9 years, following the appointment of the first of them. Any Governor appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term. A Governor may continue to serve after the expiration of his term until his successor has qualified, but not to exceed one year.

(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

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

(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conformance with all provisions of this section that would otherwise apply.

* * * * * * *

[(e)(1) The Governors shall appoint and shall have the power to remove the Inspector General.

[(2) The Inspector General shall be appointed—

[(A) for a term of 7 years;

[(B) without regard to political affiliation; and

[(C) solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.

[(3) The Inspector General may at any time be removed upon the written concurrence of at least 7 Governors, but only for cause. Nothing in this subsection shall be considered to exempt the Governors from the requirements of section 8G(e) of the Inspector General Act of 1978.]

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CHAPTER 4—GENERAL AUTHORITY

Sec.
401. General powers of the Postal Service.

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404a. Specific limitations.

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§ 401. General powers of the Postal Service

[The] *Subject to the provisions of section 404a, the* Postal Service shall have the following general powers:

(1) * * *

[(2) to adopt, amend, and repeal such rules and regulations as it deems necessary to accomplish the objectives of this title;]

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

* * * * * * *

§ 403. General duties

(a) * * *

* * * * * * *

(c) In providing services and in establishing classifications, rates, and fees under this title, the Postal Service shall not, except as specifically authorized in this title, make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user. *The prohibition in this subsection shall not be construed to prevent the establishment of rates that vary with volume if such rates will be made available to similarly situated persons and will increase the aggregate contribution to the institutional costs of the Postal Service.*

§ 404. Specific powers

(a) [Without] *Subject to the provisions of section 404a, but otherwise without* limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

(1) to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail;

(2) to prescribe, in accordance with this title, the amount of postage and the manner in which it is to be paid;

(3) to determine the need for post offices, postal and training facilities and equipment, and to provide such offices, facilities, and equipment as it determines are needed;

(4) to provide and sell postage stamps and other stamped paper, cards, and envelopes and to provide such other evidences of payment of postage and fees as may be necessary or desirable;

(5) to provide philatelic services;

[(6) to provide, establish, change, or abolish special nonpostal or similar services;]

[(7)] *(6)* to investigate postal offenses and civil matters relating to the Postal Service;

[(8)] *(7)* to offer and pay rewards for information and services in connection with violation of the postal laws, and, unless a different disposal is expressly prescribed, to pay one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues, or property, to the person informing for the same, and to pay the other one-half into the Postal Service Fund; and

[(9)] *(8)* to authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service.

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

(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

[(b)**]** *(d)*(1) * * *

* * * * * * *

(5) A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the **[**Postal Rate**]** *Postal Regulatory* Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based upon such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be—

(A) * * *

* * * * * * *

(6) For purposes of paragraph (5), any appeal received by the Commission shall—

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

(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).

(e) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of May 12, 2004.

§ 404a. Specific Limitations

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

(1) establish any rule or regulation (including any standard) the effect of which is to preclude competition or establish

the terms of competition unless the Postal Service demonstrates that the regulation does not create an unfair competitive advantage for itself or any entity funded (in whole or in part) by the Postal Service;

(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

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

(c) Any party (including an officer of the Commission representing the interests of the general public) who believes that the Postal Service has violated this section may bring a complaint in accordance with section 3662.

* * * * * * *

[§ 407. International Postal Arrangements.

[(a)(1) The Secretary of State shall have primary responsibility for formulation, coordination and oversight of policy with respect to United States participation in the Universal Postal Union, including the Universal Postal Convention and other Acts of the Universal Postal Union, amendments thereto, and all postal treaties and conventions concluded within the framework of the Convention and such Acts.

[(2) Subject to subsection (d), the Secretary may, with the consent of the President, negotiate and conclude treaties, conventions and amendments referred to in paragraph (1).

[(b)(1) Subject to subsections (a), (c), and (d), the Postal Service may, with the consent of the President, negotiate and conclude postal treaties and conventions.

[(2) The Postal Service may, with the consent of the President, establish rates of postage or other charges on mail matter conveyed between the United States and other countries.

[(3) The Postal Service shall transmit a copy of each postal treaty or convention concluded with other governments under the authority of this subsection to the Secretary of State, who shall furnish a copy to the Public Printer for publication.

[(c) The Postal Service shall not conclude any treaty or convention under the authority of this section or any other arrangement related to the delivery of international postal services that is inconsistent with any policy developed pursuant to subsection (a).

[(d) In carrying out their responsibilities under this section, the Secretary and the Postal Service shall consult with such federal agencies as the Secretary or the Postal Service considers appropriate, private providers of international postal services, users of international postal services, the general public, and such other persons as the Secretary or the Postal Service considers appropriate.]

§ 407. International postal arrangements

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

(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

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

(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and international bodies. In exercising this authority, the Secretary—

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

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

(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the

Department of State or (if applicable, and to the extent practicable) other executive branch agencies; and

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

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

(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of foreign policy or national security require modification of the Commission's decision.

(d) Nothing in this section shall be considered to prevent the Postal Service from entering into such commercial or operational contracts related to providing international postal services and other international delivery services as it deems appropriate, except that—

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

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

(e)(1) With respect to shipments of international mail that are competitive products within the meaning of section 3631 that are exported or imported by the Postal Service, the Bureau of Customs and Border Protection of the Department of Homeland Security and other appropriate Federal agencies shall apply the customs laws of the United States and all other laws relating to the importation or exportation of such shipments in the same manner to both shipments by the Postal Service and similar shipments by private companies.

(2) For purposes of this subsection, the term "private company" means a private company substantially owned or controlled by persons who are citizens of the United States.

(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of

nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.

* * * * * * *

§ 409. Suits by and against the Postal Service

(a) [Except as provided in section 3628 of this title,] *Except as otherwise provided in this title,* the United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed to the appropriate United States district court under the provisions of chapter 89 of title 28.

* * * * * * *

[(d) The Department of Justice shall furnish, under section 411 of this title, the Postal Service such legal representation as it may require, but with the prior consent of the Attorney General the Postal Service may employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

[(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service.]

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

(A) shall be considered to be a "person", as used in the provisions of law involved; and

(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal court by any person for any violation of any of those provisions of law by any officer or employee of the Postal Service.

(2) This subsection applies with respect to—

(A) the Act of July 5, 1946 (commonly referred to as the "Trademark Act of 1946" (15 U.S.C. 1051 and following)); and

(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

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

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

(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

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

(ii) section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

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

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

(f)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

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

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

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

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

(i) a copy of such schedule before construction of the building is begun; and

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

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

(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local

conditions. The Postal Service shall give due consideration to any such recommendations.

(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

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

(g)(1) Notwithstanding any other provision of law, legal representation may not be furnished by the Department of Justice to the Postal Service in any action, suit, or proceeding arising, in whole or in part, under any of the following:

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

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

(C) Section 3663 (relating to appellate review).

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

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

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

(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

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

* * * * * * *

§ 410. Application of other laws

(a) * * *

(b) The following provisions shall apply to the Postal Service:

(1) * * *

* * * * * * *

(5) the following provisions of title 41:

(A) sections 35–45 (known as the Walsh-Healey Act, relating to wages and hours); [and]

(B) chapter 6 (the Service Contract Act of 1965);

(C) the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and

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

* * * * * * *

(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.

* * * * * * *

CHAPTER 5—POSTAL REGULATORY COMMISSION

Sec.
501. Establishment.
502. Commissioners.
503. Rules; regulations; procedures.
504. Administration.
505. Officer of the Postal Regulatory Commission representing the general public.

§ 501. Establishment

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

§ 502. Commissioners

(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

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

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

(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

(e) The Commissioners shall serve for terms of 6 years.

[§ 3603.] *§ 503.* Rules; regulations; procedures

The [Postal Rate] *Postal Regulatory* Commission shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this [chapter] *title*. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Postal Service. *Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.*

[§ 3604.] *§ 504.* Administration

(a) The Chairman of the [Postal Rate] *Postal Regulatory* Commission shall be the principal executive officer of the Commission. The Chairman shall exercise or direct the exercise of all the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment of personnel employed under the Commission, except that the appointment of heads of major administrative units under the Commission shall require the approval of a majority of the members of the Commission, (2) the supervision of the personnel employed under the Commission and the distribution of business among them and among the Commissioners, and (3) the use and expenditure of funds.

* * * * * * *

[(d)(1) The Commission shall periodically prepare and submit to the Postal Service a budget of the Commission's expenses, including, but not limited to, expenses for facilities, supplies, compensation, and employee benefits. The budget shall be considered approved—

[(A) as submitted if the Governors fail to act in accordance with subparagraph (B) of this paragraph; or

[(B) as adjusted if the Governors holding office, by unanimous written decision, adjust the total amount of money requested in the budget.

Subparagraph (B) shall not be construed to authorize the Governors to adjust any item included within the budget.

[(2) Expenses incurred under any budget approved under paragraph (1) of this subsection shall be paid out of the Postal Service fund established under section 2003 of this title.]

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

* * * * * * *

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

(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

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

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

(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

(2) No officer or employee of the Commission may, with respect to any information as to which the Commission has been notified under paragraph (1)—

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

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

(3) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.

(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.

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

The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.

CHAPTER 6—PRIVATE CARRIAGE OF LETTERS

* * * * * * *

§ 601. Letters carried out of the mail

(a) * * *

[(b) The Postal Service may suspend the operation of any part of this section upon any mail route where the public interest requires the suspension.]

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

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

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

(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2003) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

(c) Any regulations necessary to carry out this section shall be promulgated by the Postal Regulatory Commission.

* * * * * * *

PART II—PERSONNEL

* * * * * * *

CHAPTER 10—EMPLOYMENT WITHIN THE POSTAL SERVICE

* * * * * * *

§ 1001. Appointment and status

(a) * * *

* * * * * * *

(d) Notwithstanding section 5533, 5535, or 5536 of title 5, or any other provision of law, any officer or employee of the Government of the United States is eligible to serve and receive pay concurrently as an officer or employee of the Postal Service (other than as a member of the Board or of the [Postal Rate] *Postal Regulatory*

Commission) and as an officer or employee of any other department, agency, or establishment of the Government of the United States.

* * * * * * *

§ 1002. Political recommendations

(a) Except as provided in subsection (e) of this section, each appointment, promotion, assignment, transfer, or designation, interim or otherwise, of an officer or employee in the Postal Service (except a Governor or member of the [Postal Rate] *Postal Regulatory* Commission) shall be made without regard to any recommendation or statement, oral or written, with respect to any person who requests or is under consideration for such appointment, promotion, assignment, transfer, or designation, made by—

(1) * * *

* * * * * * *

§ 1003. Employment policy

(a) Except as provided under [chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law,] *chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law,* the Postal Service shall classify and fix the compensation and benefits of all officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5.

(b) Compensation and benefits for all officers and employees serving in or under the Office of Inspector General of the United States Postal Service shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the [respective] *other* Offices of Inspector General of the various establishments named in section 11(2) of the Inspector General Act of 1978.

(c) Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term "Postal Inspector" [included] *includes* any agent to whom any investigative powers are granted under section 3061 of title 18.

* * * * * * *

§ 1005. Applicability of laws relating to Federal employees

(a) * * *

* * * * * * *

(d)(1) * * *

(2) The provisions of [subsection (g) of section 5532,] subsections (i) and (l)(2) of section 8344[,] and subsections (f) and

(i)(2) of section 8468 of title 5 shall apply with respect to the Postal Service. For purposes of so applying such provisions—

(A) * * *

* * * * * * *

CHAPTER 12—EMPLOYEE-MANAGEMENT AGREEMENTS

* * * * * * *

§ 1207. Labor disputes

(a) * * *

(b) If the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall **[**direct the establishment of a factfinding panel consisting of 3 persons. For this purpose, he shall submit to the parties a list of not less than 15 names, from which list each party, within 10 days, shall select 1 person. The 2 so selected shall then choose from the list a third person who shall serve as chairman of the factfinding panel. If either of the parties fails to select a person or if the 2 members are unable to agree on the third person within 3 days, the selection shall be made by the Director. The factfinding panel shall issue after due investigation a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names is submitted.**]**, *within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.*

(c)(1) If no agreement is reached within **[**90**]** *60* days after the expiration or termination of the agreement or the date on which the agreement became subject to modification under subsection (a) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefor, an arbitration board shall be established consisting of 3 members, **[**not members of the factfinding panel,**]** 1 of whom shall be selected by the Postal Service, 1 by the bargaining representative of the employees, and the third by the 2 thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made **[**by the Director. If the parties do not agree on the framing of the issues to be submitted, the factfinding panel shall frame the issues and submit them to the arbitration board.**]** *from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.*

* * * * * * *

(3) Costs of the arbitration board and **[**factfinding panel**]** *mediation* shall be shared equally by the Postal Service and the bargaining representative.

(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach agreement within 90 days of the commencement of collective bargaining, a [factfinding panel will be established] *mediator shall be appointed* in accordance with the terms of subsection (b) of this section, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of subsection (c) of this section.

* * * * * * *

PART III—MODERNIZATION AND FISCAL ADMINISTRATION

Chap.	Sec.
20. Finance	**2001**
* * * * * * *	
[28. Strategic planning and performance management	**2801]**
28. Strategic Planning and Performance Management	*2801*
* * * * * * *	

CHAPTER 20—FINANCE

Sec.
2001. Definitions.

* * * * * * *

2011. Provisions relating to competitive products.

§ 2001. Definitions

As used in this chapter—

(1) "Fund" means the Postal Service Fund established by section 2003 of this chapter; [and]

(2) "Competitive Products Fund" means the Postal Service Competitive Products Fund established by section 2011; and

[(2)] *(3)* "obligations", when referring to debt instruments issued by the Postal Service, means notes, bonds, debentures, mortgages, and any other evidence of indebtedness.

§ 2002. Capital of the Postal Service

(a) * * *

(b) The capital of the Postal Service at any time shall consist of its assets, including the balance in the [Fund,] *Fund and the balance in the Competitive Products Fund,* less its liabilities.

* * * * * * *

§ 2003. The Postal Service Fund

(a) There is established in the Treasury of the United States a revolving fund to be called the Postal Service Fund which shall be available to the Postal Service without fiscal-year limitation to carry out the purposes, functions, and powers authorized by this

[title.] *title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).*

(b) [There] *Except as otherwise provided in section 2011, there* shall be deposited in the Fund, subject to withdrawal by check by the Postal Service—

(1) * * *

* * * * * * *

(7) amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service; [and]

(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes[.]*; and*

(9) any amounts collected under section 3018.

[(c) If] *(c)(1) Except as provided in paragraph (2), if* the Postal Service determines that the moneys of the Fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the Government of the United States, and, with the approval of the Secretary, in such other obligations or securities as it deems appropriate.

(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

(B) For purposes of this paragraph, the term "commercial entity" means any corporation, company, association, partnership, joint stock company, firm, society, or other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.

* * * * * * *

(e)(1) [The Fund shall be available for the payment of all expenses incurred by the Postal Service in carrying out its functions as provided by law and, subject to the provisions of section 3604 of this title, all of the expenses of the Postal Rate Commission.] *The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (a); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated pursuant to section 504(d); and (C) all expenses of the Office of Inspector General, subject to the availability of amounts appropriated pursuant to section 8J(e) of the Inspector General Act of 1978.* The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service. Neither the Fund nor any of the funds credited to it shall be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31.

* * * * * * *

§ 2005. Obligations

(a)(1) The Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this [title.] *title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011.* The aggregate amount of [any such obligations] *obligations issued by the Postal Service which may be* outstanding at any one time shall not exceed the maximum amount then allowable under paragraph (2) of this subsection. [In any one fiscal year the net increase in the amount of obligations outstanding issued for the purpose of capital improvements shall not exceed $2,000,000,000, and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed $1,000,000,000.] *In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of $3,000,000,000.*

* * * * * * *

(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.

(b)*(1)* The Postal Service may pledge the assets of the Postal Service and pledge and use its revenues and receipts for the payment of the principal of or interest on [such obligations,] *obligations issued by the Postal Service under this section,* for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it deems necessary or desirable. The Postal Service is authorized to enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to the establishment of reserve, sinking, and other funds, application and use of revenues and receipts of the Postal Service, stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service and such other matters as the Postal Service deems necessary or desirable to enhance the marketability of such obligations.

(2) Notwithstanding any other provision of this section—

(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best infor-

mation available from the Postal Service, including the audited statements required by section 2008(e)); and

(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.

* * * * * * *

§ 2006. Relationship between the Treasury and the Postal Service

(a) * * *

(b) Subject to the conditions of subsection (a) of this section, the Postal Service may require the Secretary of the Treasury to purchase obligations of the Postal Service in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $2,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Postal Service in excess of such amount. *Nothing in this chapter shall be considered to permit or require the Secretary of the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005.*

(c) Notwithstanding section 2005(d)(5) of this title, obligations issued by the Postal Service *under section 2005* shall be obligations of the Government of the United States, and payment of principal and interest thereon shall be fully guaranteed by the Government of the United States, such guaranty being expressed on the face thereof, if and to the extent that—

(1) * * *

* * * * * * *

§ 2008. Audit and expenditures

(a) * * *

* * * * * * *

[(d) Nothing**]** *(d)(1) Except as provided in paragraph (2), nothing* in this section shall be construed as denying to the Postal Service the power to obtain audits of the accounts of the Postal Service and reports concerning its financial condition and operations by certified public accounting firms. Such audits and reports shall be in addition to those required by this section.

(2) An audit or report under paragraph (1) may not be obtained without the prior written approval of the Inspector General.

[(e) At least once each year beginning with the fiscal year commencing after June 30, 1971, the Postal Service shall obtain a certification from an independent, certified public accounting firm of the accuracy of any financial statements of the Postal Service used in determining and establishing postal rates.**]**

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

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

(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Postmaster General.

§ 2009. Annual budget

The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Service may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fiscal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings. **[**The budget program shall also include separate statements of the amounts which the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401 of this title.**]** *The budget program shall also include separate statements of the amounts which (1) the Postal Service requests to be appropriated under subsections (b) and (c) of section 2401, (2) the Office of Inspector General of the United States Postal Service requests to be appropriated, out of the Postal Service Fund, under section 8J(e) of the Inspector General Act of 1978, and (3) the Postal Regulatory Commission requests to be appropriated, out of the Postal Service Fund, under section 504(d) of this title.* The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.

* * * * * * *

§ 2011. Provisions relating to competitive products

(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

(1) costs attributable to competitive products; and

(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products.

For purposes of this subsection, the term "costs attributable" has the meaning given such term by section 3631.

(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

(1) revenues from competitive products;

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

(3) interest and dividends earned on investments of the Competitive Products Fund; and

(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in—

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

(2) in accordance with regulations which the Secretary of the Treasury shall prescribe (by not later than 18 months after the date of the enactment of the Postal Accountability and Enhancement Act), such other obligations or securities as it deems appropriate.

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

(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it deems necessary or desirable.

(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

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

(B) application and use of revenues and receipts of the Competitive Products Fund;

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

(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

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

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

(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

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

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

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

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

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

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

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

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

(h)(1) The Secretary of the Treasury, in consultation with the Postal Service and an independent, certified public accounting firm and such other advisors as the Secretary considers appropriate, shall develop recommendations regarding—

(A) the accounting practices and principles that should be followed by the Postal Service with the objectives of (i) identifying and valuing the assets and liabilities of the Postal Service associated with providing, and the capital and operating costs incurred by the Postal Service in providing, competitive products, and (ii) preventing the subsidization of such products by market-dominant products; and

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

Such recommendations shall be submitted to the Postal Regulatory Commission no earlier than 6 months, and no later than 12 months, after the effective date of this section.

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

(B) After due consideration of the views and other information received under subparagraph (A), the Commission shall by rule—

(i) provide for the establishment and application of the accounting practices and principles which shall be followed by the Postal Service;

(ii) provide for the establishment and application of the substantive and procedural rules described in paragraph (1)(B); and

(iii) provide for the submission by the Postal Service to the Postal Regulatory Commission of annual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

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

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

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

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

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

* * * * * * *

CHAPTER 24—APPROPRIATIONS AND ANNUAL REPORT

* * * * * * *

§ 2401. Appropriations

(a) * * *

* * * * * * *

(d) As reimbursement to the Postal Service for losses which it incurred as a result of insufficient amounts appropriated under section 2401(c) for fiscal years 1991 through 1993, and to compensate for the additional revenues it is estimated the Postal Service would have received under the provisions of section 3626(a) *(as last in effect before enactment of the Postal Accountability and Enhancement Act)*, for the period beginning on October 1, 1993, and ending on September 30, 1998, if the fraction specified in subclause (VI) of section 3626(a)(3)(B)(ii) *(as last in effect before enactment of the Postal Accountability and Enhancement Act)* were applied with respect to such period (instead of the respective fractions specified in subclauses (I) through (V) thereof), there are authorized to be appropriated to the Postal Service $29,000,000 for each of fiscal years 1994 through 2035.

(e) The Postal Service shall present to the Committee on Governmental Affairs of the Senate and the ⟦Committee on Post Office and Civil Service⟧ *Committee on Government Reform* of the House of Representatives and the Committees on Appropriations of the Senate and the House of Representatives, at the same time it submits its annual budget under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated, and a comprehensive statement relating to the following matters:

(1) * * *

* * * * * * *

⟦Not later than March 15 of each year,⟧ *Each year,* the Postal Service shall appear before the Committee on Governmental Affairs of the Senate and the ⟦Committee on Post Office and Civil Service⟧ *Committee on Government Reform* of the House of Representatives to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to such budget and

statement. Each such committee shall take such action as it considers appropriate and shall advise the Postal Service of such action.

* * * * * * *

§ 2402. Annual report

The Postmaster General shall render an annual report to the Board concerning the operations of the Postal Service under this title. *Each report under this section shall include a copy of the report most recently received by the Postmaster General under section 2008(e)(3).* Upon approval thereof, or after making such changes as it considers appropriate, the Board shall transmit such reports to the President and the Congress.

* * * * * * *

CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT

* * * * * * *

§ 2803. Performance plans

(a) The Postal Service shall prepare an annual performance plan covering each program activity set forth in the Postal Service budget, which shall be included in the comprehensive statement presented under section [2401(g)] *2401(e)* of this title. Such plan shall—

(1) * * *

* * * * * * *

§ 2804. Program performance reports

(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section [2401(g)] *2401(e)* of this title.

* * * * * * *

PART IV—MAIL MATTER

* * * * * * *

CHAPTER 30—NONMAILABLE MATTER

Sec.
3001. Nonmailable matter.

* * * * * * *

3018. Hazardous material.

§ 3001. Nonmailable matter

(a) * * *

* * * * * * *

(o)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

(2) In this subsection, the term "hazardous material" means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.

[(n)] *(o)* The district courts, together with the District Court of the Virgin Islands and the District Court of Guam, shall have jurisdiction, upon cause shown, to enjoin violations of section 1716 of title 18.

* * * * * * *

§ 3005. False representations; lotteries

(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable [under 3001(d),] *under section 3001(d),* (h), (i), (j), or (k) of this title, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

(1) * * *

* * * * * * *

(3) requires the person or his representative to cease and desist from engaging in any such scheme, device, lottery, or gift enterprise.

For purposes of the preceding sentence, the mailing of matter which is nonmailable [under such 3001(d),] *under such section 3001(d),* (h), (i), (j), or (k) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.

* * * * * * *

§ 3013. Semiannual reports on investigative activities of the Postal Service

The [Postmaster General] *Chief Postal Inspector* shall submit semiannual reports to the Inspector General summarizing the investigative activities of the Postal Service. One semiannual report shall be submitted for the reporting period beginning on October 1 and ending on March 31, and the other semiannual report shall be submitted for the reporting period beginning on April 1 and ending on September 30. Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved and shall include with respect to such reporting period—

(1) * * *

* * * * * * *

The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the [Postmaster General] *Chief*

Postal Inspector under this section include any information relating to activities of the Inspector General.

* * * * * * *

§ 3018. Hazardous material

(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

(b) PROHIBITIONS.—No person may—

(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

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

(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

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

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

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

(C) damages.

(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

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

(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

(3) SEPARATE VIOLATIONS.—

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

(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

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

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

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

(3) the impact on Postal Service operations; and

(4) any other matters that justice requires.

(f) CIVIL ACTIONS TO COLLECT.—

(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, and damages assessed under subsection (c).

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

(g) CIVIL JUDICIAL PENALTIES.—

(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

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

(h) DEPOSIT OF AMOUNTS COLLECTED.—

(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.

CHAPTER 32—PENALTY AND FRANKED MAIL

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§ 3210. Franked mail transmitted by the Vice President, Members of Congress, and congressional officials

(a)(1) * * *

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(6)(A) * * *

* * * * * * *

(C) No Member of the Senate may mail any mass mailing as franked mail if such mass mailing [is mailed fewer] *is postmarked*

fewer than 60 days immediately before the date of any primary election or general election (whether regular, special, or runoff) for any national, State or local office in which such Member is a candidate for election.

* * * * * * *

[CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

[SUBCHAPTER I—POSTAL RATE COMMISSION

[Sec.
[3601. Establishment.
[3602. Terms of office.
[3603. Rules; regulations; procedures.
[3604. Administration.

[SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

[3621. Authority to fix rates and classes.
[3622. Rates and fees.
[3623. Mail classification.
[3624. Recommended decisions of Commission.
[3625. Action of the Governors.
[3626. Reduced rates.
[3627. Adjusting free rates.
[3628. Appellate review.
[3629. Reduced rates for voter registration purposes.

[SUBCHAPTER III—TEMPORARY RATES AND CLASSES

[3641. Temporary changes in rates and classes.
[3642. Special authority relating to reduced-rate categories of mail.

[SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS

[3661. Postal services.
[3662. Rate and service complaints.
[3663. Annual report on international services.

[SUBCHAPTER V—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.

[SUBCHAPTER I—POSTAL RATE COMMISSION

[§ 3601. Establishment

[(a) The Postal Rate Commission is an independent establishment of the executive branch of the Government of the United States. The Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen on the basis of their professional qualifications and may be removed by the President only for cause. Not more than 3 of the Commissioners may be adherents of the same political party.

[(b) A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under section 3602 of this title.

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

[(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

[§ 3602. Terms of office

[The Commissioners of the Postal Rate Commission shall serve for terms of 6 years except that—

[(1) the terms of the Commissioners first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 2 years, 2 at the end of 4 years, and 2 at the end of 6 years, following the appointment of the first of them; and

[(2) any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

[SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

[§ 3621. Authority to fix rates and classes

[Except as otherwise provided, the Governors are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal services in accordance with the provisions of this chapter. Postal rates and fees shall be reasonable and equitable and sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States. Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal as nearly as practicable total estimated costs of the Postal Service. For purposes of this section, "total estimated costs" shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and expense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.

[§ 3622. Rates and fees

[(a) From time to time the Postal Service shall request the Postal Rate Commission to submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for postal services if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of this title. The Postal Service may submit such suggestions for rate adjustments as it deems suitable.

[(b) Upon receiving a request, the Commission shall make a recommended decision on the request for changes in rates or fees in each class of mail or type of service in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable schedule;

[(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipi-

ent, including but not limited to the collection, mode of transportation, and priority of delivery;

[(3) the requirement that each class of mail or type of mail service bear the direct and indirect postal costs attributable to that class or type plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

[(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

[(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

[(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

[(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

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

[(9) such other factors as the Commission deems appropriate.

[(c) Regular rates for each class or subclass of mail that includes 1 or more special rate categories for mail under former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the corresponding special rate categories authorized by former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title.

[(d) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.

[§ 3623. Mail classification

[(a) Within 2 years after the effective date of this subchapter, the Postal Service shall request the Postal Rate Commission to make a recommended decision on establishing a mail classification schedule in accordance with the provisions of this section.

[(b) Following the establishment of the mail classification schedule requested under subsection (a) of this section, the Postal Service may from time to time request that the Commission submit, or the Commission may submit to the Governors on its own initiative, a recommended decision on changes in the mail classification schedule.

[(c) The Commission shall make a recommended decision on establishing or changing the schedule in accordance with the policies of this title and the following factors:

[(1) the establishment and maintenance of a fair and equitable classification system for all mail;

[(2) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

[(3) the importance of providing classifications with extremely high degrees of reliability and speed of delivery;

[(4) the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery;

[(5) the desirability of special classifications from the point of view of both the user and of the Postal Service; and

[(6) such other factors as the Commission may deem appropriate.

[(d) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

[§ 3624. Recommended decisions of Commission

[(a) The Postal Rate Commission shall promptly consider a request made under section 3622 or 3623 of this title, except that the Commission shall not recommend a decision until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public.

[(b) In order to conduct its proceedings with utmost expedition consistent with procedural fairness to the parties, the Commission may (without limitation) adopt rules which provide for—

[(1) the advance submission of written direct testimony;

[(2) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;

[(3) discovery both from the Postal Service and the parties to the proceedings;

[(4) limitation of testimony; and

[(5) the conduct of the entire proceedings off the record with the consent of the parties.

[(c)(1) Except as provided by paragraph (2) of this subsection, in any case in which the Postal Service makes a request under section 3622 of this title for a recommended decision by the Commission on changes in a rate or rates of postage or in a fee or fees for postal services the Commission shall transmit its recommended decision to the Governors under subsection (d) of this section no later than 10 months after receiving any such request from the Postal Service.

[(2) In any case in which the Commission determines that the Postal Service has unreasonably delayed consideration of a request made by the Postal Service under section 3622 by failing to respond within a reasonable time to any lawful order of the Commission, the Commission may extend the 10-month period described in

paragraph (1) of this subsection by one day for each day of such delay.

[(d) The Commission shall transmit its recommended decision in a rate, fee, or classification matter to the Governors. The recommended decision shall include a statement specifically responsive to the criteria established under section 3622 or 3623, as the case may be.

[§ 3625. Action of the Governors

[(a) Upon receiving a recommended decision from the Postal Rate Commission, the Governors may approve, allow under protest, reject, or modify that decision in accordance with the provisions of this section.

[(b) The Governors may approve the recommended decision and order the decision placed in effect.

[(c) The Governors may, under protest, allow a recommended decision of the Commission to take effect and (1) seek judicial review thereof under section 3628 of this title, or (2) return the recommended decision to the Commission for reconsideration and a further recommended decision, which shall be acted upon under this section and subject to review in accordance with section 3628 of this title.

[(d) The Governors may reject the recommended decision of the Commission and the Postal Service may resubmit its request to the Commission for reconsideration. Upon resubmission, the request shall be reconsidered, and a further recommended decision of the Commission shall be acted upon under this section and subject to review in accordance with section 3628 of this title. However, with the unanimous written concurrence of all of the Governors then holding office, the Governors may modify any such further recommended decision of the Commission under this subsection if the Governors expressly find that (1) such modification is in accord with the record and the policies of this chapter, and (2) the rates recommended by the Commission are not adequate to provide sufficient total revenues so that total estimated income and appropriations will equal as nearly as practicable estimated total costs.

[(e) The decision of the Governors to approve, allow under protest, reject, or modify a recommended decision of the Commission shall be in writing and shall include an estimate of anticipated revenue and a statement of explanation and justification. The decision, the record of the Commission's hearings, and the Commission's recommended decision shall be made generally available at the time the decision is issued and shall be printed and made available for sale by the Public Printer within 10 days following the day the decision is issued.

[(f) The Board shall determine the date on which the new rates, fees, the mail classification schedule, and changes in such schedule under this subchapter shall become effective.]

CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

Sec.
3621. Applicability; definitions.
3622. Modern rate regulation.
[3623. Repealed].
[3624. Repealed].

[3625. Repealed].
3626. Reduced Rates.
3627. Adjusting free rates.
[3628. Repealed].
3629. Reduced rates for voter registration purposes.

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SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

§ 3621. Applicability; definitions

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

(1)(A) single piece first-class letters (both domestic and international);

(B) single piece first-class cards (both domestic and international); and

(C) special services;

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

(3) periodicals;

(4) standard mail;

(5) media mail;

(6) library mail; and

(7) bound printed matter,

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

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

§ 3622. Modern rate regulation

(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

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

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

(2) To create predictability and stability in rates.

(3) To maintain high quality service standards.

(4) To allow the Postal Service pricing flexibility.

(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

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

(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

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

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

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

(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

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

(2) Cost-of-service regulation.

(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

§ 3626. Reduced rates

[(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in accordance with the applicable provisions of this chapter.

[(2) For the purpose of this subsection—

[(A) the term "costs attributable", as used with respect to a class of mail or kind of mailer, means the direct and indirect postal costs attributable to such class of mail or kind of mailer (excluding any other costs of the Postal Service);

[(B) the term "regular-rate category" means any class of mail or kind of mailer, other than a class or kind referred to in paragraph (3)(A) or section 2401(c); and

[(C) the term "institutional-costs contribution", as used with respect to a class of mail or kind of mailer, means that portion of the estimated revenues to the Postal Service from such class of mail or kind of mailer which remains after subtracting an amount equal to the estimated costs attributable to such class of mail or kind of mailer.

[(3)(A) Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358 of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

[(i) the estimated costs attributable to such class of mail or kind of mailer; and

[(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

[(B) The applicable percentage for any class of mail or kind of mailer referred to in subparagraph (A) shall be the product derived by multiplying—

[(i) the percentage which, for the most closely corresponding regular-rate category, the institutional-costs contribution for such category represents relative to the estimated costs attributable to such category of mail, times

[(ii)(I) one-twelfth, for fiscal year 1994;

[(II) one-sixth, for fiscal year 1995;

[(III) one-fourth, for fiscal year 1996;

[(IV) one-third, for fiscal year 1997;

[(V) five-twelfths, for fiscal year 1998; and

[(VI) one-half, for any fiscal year after fiscal year 1998.

[(C) Temporary special authority to permit the timely implementation of the preceding provisions of this paragraph is provided under section 3642.

[(D) For purposes of establishing rates of postage under this subchapter for any of the classes of mail or kinds of mailers referred to in subparagraph (A), subclauses (I) through (V) of subparagraph (B)(ii) shall be deemed amended by striking the fraction specified in each such subclause and inserting "one-half".]

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

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

[(4)(A)] *(3)(A)* Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358 (d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.

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[(5)] *(4)* The rates for any advertising under former section 4358(f) of this title shall be equal to 75 percent of the rates for advertising contained in the most closely corresponding regular-rate category of mail.

[(6)] *(5)* The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:

(A) * * *

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[(7)] *(6)* The rates for mail matter under former sections 4554 (b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing.

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(g)(1) * * *

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

(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.

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(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).

[§ 3627. Adjusting free and reduced rates]

§ 3627. Adjusting free rates

If Congress fails to appropriate an amount authorized under section 2401(c) of this title for any class of mail sent free of postage under section 3217 or 3403–3406 the rate for that class may be adjusted in accordance with the provisions of this subchapter so that the increased revenues received from the users of such class will equal the amount for that class that the Congress was to appropriate.

[§ 3628. Appellate review

[A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission and the Governors. The court may affirm the decision or order that the entire matter be returned for further consideration, but the court may not modify the decision. The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition

of the suit by the court. No court shall have jurisdiction to review a decision made by the Commission or Governors under this chapter except as provided in this section.]

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SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

§ 3631. Applicability; definitions and updates

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

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

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

(b) DEFINITION.—For purposes of this subchapter, the term "costs attributable", as used with respect to a product, means the direct and indirect postal costs attributable to such product.

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

§ 3632. Action of the Governors

(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

(b) PROCEDURES.—

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

(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish

criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

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

§ 3633. Provisions applicable to rates for competitive products

The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

(1) to prohibit the subsidization of competitive products by market-dominant products;

(2) to ensure that each competitive product covers its costs attributable; and

(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.

§ 3634. Assumed Federal income tax on competitive products income

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

(1) the term "assumed Federal income tax on competitive products income" means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

(2) the term "assumed taxable income from competitive products", with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

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

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

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

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

[SUBCHAPTER III—TEMPORARY RATES AND CLASSES

[§ 3641. Temporary changes in rates and classes

[(a) In any case in which the Postal Rate Commission fails to transmit a recommended decision on a change in rates of postage or in fees for postal services to the Governors in accordance with section 3624(c) of this title, the Postal Service may establish temporary changes in rates of postage and in fees for postal services in accordance with the proposed changes under consideration by the Commission. Such temporary changes may take effect upon such date as the Postal Service may determine, except that such temporary changes may take effect only after 10 days' notice in the Federal Register.

[(b) Any temporary rate or fee established by the Postal Service under subsection (a) of this section shall be in accordance with the policies of this title and shall not exceed such amount as may be necessary for sufficient revenues to assure that the total estimated income, including appropriations, of the Postal Service shall, to the extent practicable, be equal to the total estimated costs of the Postal Service.

[(c) Notwithstanding the provisions of subsection (b) of this section, the Postal Service may not establish any temporary rate for a class of mail or any temporary fee for a postal service which is more than the permanent rate or fee requested for such class or postal service by the Postal Service under section 3622 of this title.

[(d) Any temporary change in rates of postage or in fees for postal services made by the Postal Service under this section shall remain in effect no longer than 150 days after the date on which the Commission transmits its recommended decision to the Governors under section 3624(d) of this title, unless such temporary change is terminated by the Governors before the expiration of such period.

[(e) If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted, or within 30 days after the Postal Service has resubmitted, to the Commission a request for a recommended decision on a change in the mail classification schedule (after such schedule is established under section 3623 of this title), the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Governors.

[(f) If, under section 3628 of this title, a court orders a matter returned to the Commission for further consideration, the Postal Service, with the consent of the Commission, may place into effect temporary changes in rates of postage, and fees for postal services, or in the mail classification schedule.

[§ 3642. Special authority relating to reduced-rate categories of mail

[(a) In order to permit the timely implementation of section 3626(a)(3), the Postal Service may establish temporary rates of

postage for any class of mail or kind of mailer referred to in section 3626(a)(3)(A).

[(b) Any exercise of authority under this section shall be in conformance with the requirements of section 3626(a), subject to the following:

[(1) All attributable costs and institutional-costs contributions assumed shall be the same as those which were assumed for purposes of the then most recent proceedings under subchapter II pursuant to which rates of postage for the class of mail or kind of mailer involved were last adjusted.

[(2) Any temporary rate established under this section shall take effect upon such date as the Postal Service may determine, except that—

[(A) such a rate may take effect only after 10 days' notice in the Federal Register; and

[(B) no such rate may take effect after September 30, 1998.

[(3) A temporary rate under this section may remain in effect no longer than the last day of the fiscal year in which it first takes effect.

[(4) Authority under this section may not be exercised in a manner that would result in more than 1 change taking effect under this section, during the same fiscal year, in the rates of postage for a particular class of mail or kind of mailer, except as provided in paragraph (5).

[(5) Nothing in paragraph (4) shall prevent an adjustment under this section in rates for a class of mail or kind of mailer with respect to which any rates took effect under this section earlier in the same fiscal year if—

[(A) the rates established for such class of mail or kind of mailer by the earlier adjustment are superseded by new rates established under subchapter II; and

[(B) authority under this paragraph has not previously been exercised with respect to such class of mail or kind of mailer based on the new rates referred to in subparagraph (A).

[(c) The Postal Service may prescribe any regulations which may be necessary to carry out this section, including provisions governing the coordination of adjustments under this section with any other adjustments under this title.

[(d) Notwithstanding any provision of section 3626(a)(3)(B) or subsection (a) of this section, any temporary rates established under this section for non-letter-shaped mail under former section 4452(b) or 4452(c) of this title shall not be lower than the rates in effect for such mail on September 30, 1993.]

SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

§ 3641. Market tests of experimental products

(a) AUTHORITY.—

(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

(2) PROVISIONS WAIVED.—A product shall not, while it is being tested under this section, be subject to the requirements

of sections 3622, 3633, or 3642, or regulations promulgated under those sections.

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

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

(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

(c) NOTICE.—

(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

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

(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

(d) DURATION.—

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

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

(e) DOLLAR-AMOUNT LIMITATION.—

(1) IN GENERAL.—A product may be tested under this section only if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $10,000,000 nationwide in any year, subject to paragraph (2) and subsection (g). In carrying out the preceding sentence, the

Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

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

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

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

(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product, to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

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

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

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

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

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

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

(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of mail. For purposes of the preceding sentence, the term "product covered by the postal monopoly" means any product the conveyance or transmission of which is reserved to the United States under section 1696 of title 18, subject to the same exception as set forth in the last sentence of section 409(e)(1).

(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

(B) the views of those who use the product involved on the appropriateness of the proposed action; and

(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

(c) TRANSFERS OF SUBCLASSES AND OTHER SUBORDINATE UNITS ALLOWABLE.—Nothing in this title shall be considered to prevent transfers under this section from being made by reason of the fact that they would involve only some (but not all) of the subclasses or other subordinate units of the class of mail or type of postal service involved (without regard to satisfaction of minimum quantity requirements standing alone).

(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

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

(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees

of the Congress. No such transfer may take effect less than 12 months after such conclusion.

(f) PROHIBITION.—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

(1) under this subchapter; or

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

SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

§ 3651. Annual reports by the Commission

(a) IN GENERAL.—The Postal Regulatory Commission shall submit an annual report to the President and the Congress concerning the operations of the Commission under this title, including the extent to which regulations are achieving the objectives under sections 3622 and 3633, respectively.

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

(1) postal services to areas of the Nation where, in the judgment of the Postal Regulatory Commission, the Postal Service either would not provide services at all or would not provide such services in accordance with the requirements of this title if the Postal Service were not required to provide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

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

(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

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

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

§ 3652. Annual reports to the Commission

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

(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that the rates in

effect for all products during such year complied with all applicable requirements of this title; and

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

(A) market information, including mail volumes; and

(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

(i) the service standard applicable to such product;

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

(iii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex thereto and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

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

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

(C) The per-item contribution made to institutional costs.

(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term "workshare discount" refers to presorting, barcoding, dropshipping, and other similar discounts, as further defined under regulations which the Postal Regulatory Commission shall prescribe.

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

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

(2) shall report such data as the Postal Regulatory Commission requires.

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

(e) CONTENT AND FORM OF REPORTS.—

(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

(A) providing the public with adequate information to assess the lawfulness of rates charged;

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

(C) protecting the confidentiality of commercially sensitive information.

(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

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

(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

(f) CONFIDENTIAL INFORMATION.—

(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document, or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

(1) comprehensive statement under section 2401(e);

(2) performance plan under section 2803; and

(3) program performance reports under section 2804.

§ 3653. Annual determination of compliance

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

(b) DETERMINATION OF COMPLIANCE OR NONCOMPLIANCE.—Not later than 90 days after receiving the submissions required under

section 3652 with respect to a year, the Postal Regulatory Commission shall make a written determination as to—

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

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

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

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

(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

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

[SUBCHAPTER IV—POSTAL SERVICES AND COMPLAINTS]

SUBCHAPTER V—POSTAL SERVICES, COMPLAINTS, AND JUDICIAL REVIEW

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[§ 3662. Rate and service complaints

[Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Postal Rate Commission in such form and in such manner as it may prescribe. The Commission may in its discretion hold hearings on such complaint. If the Commission, in a matter covered by subchapter II of this chapter, determines the complaint to be justified, it shall, after proceedings in conformity with section 3624 of this title, issue a recommended decision which shall be acted upon in accordance with the provisions of section 3625 of this title and subject to review in accordance with the provisions of section 3628 of this title. If a matter not covered by subchapter II of this chapter is involved, and the Commission after hearing finds the complaint to be justified, it shall render a public report thereon to the Postal Service which shall take such action as it deems appropriate.

[§ 3663. Annual report on international services

[(a) Not later than July 1 of each year, the Postal Rate Commission shall transmit to each House of Congress a comprehensive report of the costs, revenues, and volumes accrued by the Postal

Service in connection with mail matter conveyed between the United States and other countries for the previous fiscal year.

[(b) Not later than March 15 of each year, the Postal Service shall provide to the Postal Rate Commission such data as the Commission may require to prepare the report required under subsection (a) of this section. Data shall be provided in sufficient detail to enable the Commission to analyze the costs, revenues, and volumes for each international mail product or service, under the methods determined appropriate by the Commission for the analysis of rates for domestic mail.]

§ 3662. Rate and service complaints

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

(b) PROMPT RESPONSE REQUIRED.—

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

(A) begin proceedings on such complaint; or

(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

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

(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

§ 3663. Appellate review

A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term "person" includes the Postal Service.

§ 3664. Enforcement of orders

The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.

[SUBCHAPTER V—GENERAL**]**

SUBCHAPTER VI—GENERAL

§ 3681. Reimbursement

No mailer may be reimbursed for any amount paid under any rate or fee which, after such payment, is determined to have been unlawful after proceedings in accordance with the provisions of **[**section 3628**]** *sections 3662 through 3664* of this title, or is superseded by a lower rate or fee established under subchapter II of this chapter.

[§ 3682. Size and weight limits

[The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter.**]**

§ 3682. Size and weight limits

The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.

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§ 3684. Limitations

Except as provided in section 3627 of this title, no provision of this chapter shall be construed to give authority to the Governors to make any change in any provision [of section 3682 or 3683 or chapter 30, 32, or 34 of this title.] *of this title.*

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§ 3686. Bonus authority

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

(b) WAIVER OF LIMITATION ON COMPENSATION.—

(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2).

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

(A) the Postal Service shall make an appropriate request to the Postal Regulatory Commission, in such form and manner as the Commission requires; and

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

(3) REVOCATION AUTHORITY.—If the Postal Regulatory Commission finds that a program previously approved under paragraph (2) is not achieving the objectives of this chapter, the Commission may revoke or suspend the authority of the Postal Service to continue such program until such time as appropriate corrective measures have, in the judgment of the Commission, been taken.

(c) REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.—Included in its comprehensive statement under section 2401(e) for any period shall be—

(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);

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

(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.

§ 3687. Workshare discounts

(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that workshare discounts do not exceed the cost that the Postal Service avoids as the result of private sector workshare activity, except—

(1) where the discount is associated with a new product or service or with a change to an existing product or service and is necessary, over a period of time not to exceed 4 years, to induce mailer behavior that will enable the new or changed prod-

uct or service in furtherance of the overall economically efficient operation of the Postal Service;

(2) to the extent that a reduction in the discount would lead to a loss of volume in the affected category and reduce the aggregate contribution to institutional costs of the Postal Service, from the mail matter subject to the discount, below what it otherwise would have been if the discount had not been reduced to costs avoided; would result in a further increase in the rates paid by mailers not able to take advantage of the discount; or would impede the efficient operation of the Postal Service;

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

(4) where the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value.

(b) REPORTING REQUIREMENT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, file with the Postal Regulatory Commission a detailed report and explanation of its reasons for establishing or maintaining the rate, setting forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate.

(c) DEFINITION.—For purposes of this section, the term "workshare discount" refers to rate discounts provided to mailers for presorting, prebarcoding, handling, or transportation, as further defined by the Postal Regulatory Commission as part of regulations established under section 3622(a).

PART V—TRANSPORTATION OF MAIL

Chap.	Sec.
50. General	**5001**
[52. Transportation of Mail by Surface Carrier	**5201]**

* * * * * * *

CHAPTER 50—GENERAL

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§ 5001. Provisions for carrying mail

The Postal Service shall provide for the transportation of mail in accordance with the policies established under section [101(e) and (f)] *101(f) and (g)* of this title and the provisions of this chapter. Notwithstanding any other provision of this title, the Postal Service may make arrangements on a temporary basis for the transportation of mail when, as determined by the Postal Service, an emergency arises. Such arrangements shall terminate when the emergency ceases and the Postal Service is promptly able to secure transportation services under other provisions of this title.

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§ 5005. Mail transportation

(a) The Postal Service may obtain mail transportation service—

[(1) from common carriers by rail and motor vehicle or persons as provided in chapter 52 of this title;]

[(2)] *(1)* from air carriers as provided in chapter 54 of this title;

[(3)] *(2)* from water carriers as provided in chapter 56 of this title; and

[(4)] *(3)* by contract from any person [(as defined in section 5201(6) of this title)] or carrier for surface and water transportation under such terms and conditions as it deems appropriate, subject to the provisions of this section.

(b)(1) Contracts for the transportation of mail procured under subsection [(a)(4)] *(a)(3)* of this section shall be for periods not in excess of 4 years [(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)] *(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)* and shall be entered into only after advertising a sufficient time previously for proposals. The Postal Service, with the consent of the holder of any such contract, may adjust the compensation allowed under that contract for increased or decreased costs resulting from changed conditions occurring during the term of the contract.

(2) A contract under subsection [(a)(4)] *(a)(3)* of this section may be renewed at the existing rate by mutual agreement between the contractor or subcontractor and the Postal Service.

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(c) The Postal Service, in determining whether to obtain transportation of mail [by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or] *by contract under subsection (a)(3) of this section or* by Government motor vehicle, shall use the mode of transportation which best serves the public interest, due consideration being given to the cost of the transportation service under each mode.

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[CHAPTER 52—TRANSPORTATION OF MAIL BY SURFACE CARRIER

[Sec.
[5201. Definitions.
[5202. Applicability.
[5203. Authorization of service by carrier.
[5204. Changes in service; placement of equipment.
[5205. Evidence of service.
[5206. Fines and deductions.
[5207. Surface Transportation Board to fix rates.
[5208. Procedures.
[5209. Special rates.
[5210. Intermodal transportation.
[5211. Statistical studies.
[5212. Special contracts.
[5213. Carrier operations; receipts; expenditures.
[5214. Agreements with passenger common carriers by motor vehicle.
[5215. Star route certification.

[§ 5201. Definitions

[For purposes of this chapter—

[(1) "Board" means the Surface Transportation Board;

[(2) "carrier" and "regulated surface carrier" mean a railroad, a freight forwarder, or a motor carrier;

[(3) "railroad" means a railway common carrier, including an electric urban and interurban railway common carrier;

[(4) "freight forwarder" means any regulated freight forwarder which holds itself out to the general public as a carrier to transport or provide transportation of property as authorized by a registration issued by the Board;

[(5) "motor carrier" means a motor carrier, except a passenger-carrying motor vehicle of such a carrier, within the meaning of section 13102(12) of title 49, that holds a registration issued by the Board;

[(6) "person" includes any person other than a carrier holding a certificate or registration issued by the Board; and

[(7) "mail" includes equipment and supplies of the Postal Service.

[§ 5202. Applicability

[This chapter applies to mail transportation performed by any person or carrier or carrier combination regardless of the mode of transportation actually used to provide the service.

[§ 5203. Authorization of service by carrier

[(a) The Postal Service may establish mail routes and authorize mail transportation service thereon.

[(b) A carrier shall transport mail offered for transportation by the Postal Service in the manner, under the conditions, and with the service prescribed by the Postal Service. A carrier is entitled to receive fair and reasonable compensation for the transportation and service connected therewith.

[(c) The Postal Service shall determine the trains or motor vehicles upon which mail shall be transported, except that no carrier shall be compelled to transport mail on any train or vehicle which is operated exclusively for the transportation of passengers and their baggage.

[(d) A carrier shall transport with due speed such mail as the Postal Service directs under this section.

[(e) No carrier shall be required to serve territory it is not otherwise authorized to serve, to provide service for the Postal Service at a rate which is less than compensatory cost, or to provide service at a detriment to the carrier or its other customers.

[(f) Any order or determination of the Postal Service providing for the transportation of mail by a motor carrier shall be filed with the Board. If the Board finds, within 90 days after the filing, that the order or determination will be detrimental to the motor carrier or its other customers, or that such carrier does not operate equipment suitable for the transportation of mail, the order or determination shall be terminated.

[(g) An order or determination of the Postal Service under this section shall be consistent with the orders of the Board under sections 5207 and 5208 of this title.

[§ 5204. Changes in service; placement of equipment

[(a) The Postal Service may authorize, according to the need therefor, new or additional mail transportation service by carriers

at the rate or compensation fixed under this chapter. It may reduce or discontinue service with pro rata reductions in compensation and indemnity for the loss of reasonable investment in equipment used exclusively for mail.

[(b) A railroad shall place cars used for full or apartment post office service in position at such times before departure as the Postal Service directs.

[§ 5205. Evidence of service

[A carrier shall submit evidence of its performance of mail transportation service, signed by an authorized official, in such form and at such times as the Postal Service requires. Mail transportation service is considered that of the carrier performing it regardless of the ownership of the property used by the carrier.

[§ 5206. Fines and deductions

[(a) The Postal Service may fine any carrier an amount not to exceed $500 for each day the carrier refuses to perform mail transportation services required by it at rates or compensation established under this chapter.

[(b) The Postal Service shall fine a carrier an amount it deems reasonable for failure or refusal by that carrier to transport mail as required by the Postal Service under section 5203 of this title.

[(c) The Board may make deductions from the compensation of a carrier for failure to perform mail transportation service as required under section 5203 of this title. If the failure to perform is due to the fault of the carrier, it may deduct a sum not exceeding twice the compensation applying to such service. Such deductions shall not be made prior to the expiration of 60 days following service upon the carrier by the Board of notice of intention to assess a fine or make a deduction and of the basis therefor.

[§ 5207. Surface Transportation Board to fix rates

[(a) The Board shall determine and fix the fair and reasonable rates or compensation for the transportation of mail by carrier and the service connected therewith, and shall prescribe the method of computing such rates or compensation. The Board shall publish its orders stating its determination under this section which shall remain in force until changed by it after notice and hearing.

[(b) For the purpose of determining and fixing rates or compensation under this section, the Board may make just and reasonable classifications of carriers and, where just and equitable, fix general rates applicable to carriers in the same classification.

[(c) In determining and fixing fair and reasonable rates or compensation under this section, the Board shall consider the relation between the Government and carriers as public service corporations, and the nature of public service as distinguished, if there is a distinction, from the ordinary transportation business of the carriers.

[(d) Initial rates or compensation for mail transportation service by any carrier or carriers shall be those agreed to by the Postal Service and the carrier or carriers, and such rates or compensation shall continue in effect until such time as the Board fixes the rates or compensation under subsection (a) of this section.

[§ 5208. Procedures

[(a) At any time after 6 months from the entry of an order stating the Board's determination under section 5207 of this title, the Postal Service or an interested carrier may apply for a reexamination and substantially similar proceedings as have theretofore been had shall be followed with respect to the rates of compensation for services covered by the application. At the conclusion of the hearing the Board shall enter an order stating its determination.

[(b) Except as authorized by sections 5207(d), 5209, 5210, and 5212 of this title, the Postal Service shall pay a carrier the rates or compensation so determined and fixed for application at such stated times as named in the order.

[(c) The Postal Service may file with the Board a comprehensive plan stating—

[(1) its requirements for the transportation of mail by carrier;

[(2) the character and speed of the trains or motor vehicles which are to carry the various kinds of mail;

[(3) the service, both terminal and en route, which carriers are to render;

[(4) what it believes to be the fair and reasonable rates or compensation for the services required; and

[(5) all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the Board.

[(d) When a comprehensive plan is filed, the Board shall give notice of not less than 30 days to each carrier required by the Postal Service to transport mail pursuant to such plan. A carrier may file its answer at the time fixed by the Board, but not later than 30 days after the expiration date fixed by the Board in the notice, and the Board shall proceed with the hearing.

[§ 5209. Special rates

[Upon petition by the Postal Service, the Board shall determine and fix carload or truckload, or less than carload or truckload, rates for the transportation of mail not entitled to high priority in transportation. A carrier shall perform the service at the rates so determined when requested to do so and under the conditions prescribed by the Postal Service.

[§ 5210. Intermodal transportation

[The Postal Service may permit a carrier to perform mail transportation by any form of transportation it deems appropriate at rates or compensation not exceeding those allowable for similar service by the designated form of transportation.

[§ 5211. Statistical studies

[The Postal Service may arrange for weighing and measuring mail transported on carrier mail routes and make other computations for statistical and administrative purposes to carry out the purposes of this chapter.

[§ 5212. Special contracts

[The Postal Service may enter into special contracts with any carrier or person, without advertising, for bids and for periods not

in excess of 4 years. It may contract to pay lower rates or compensation or, where in its judgment conditions warrant, higher rates or compensation than those determined or fixed by the Board. The fact that the Board has not prescribed rates or compensation for the carrier involved, under section 5207 of this title, shall not preclude execution of a contract under this section. Such contracts may be negotiated only after reasonable notice has been posted in advance in post offices on the post roads to be served, and other carriers or persons have been given an opportunity to offer to negotiate for the transportation of mail.

[§ 5213. Carrier operations; receipts; expenditures

[The Postal Service shall request any carrier transporting the mails to furnish, under seal, such data relating to the operations, receipts, and expenditures of such carrier as may, in its judgment, be deemed necessary to enable it to ascertain the cost of mail transportation and the proper compensation to be paid for such service.

[§ 5214. Agreements with passenger common carriers by motor vehicle

[The Postal Service may enter into contracts under such terms and conditions as it shall prescribe and without advertising for bids for the transportation of mail, in passenger-carrying motor vehicles, by passenger common carriers, or by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

[§ 5215. Star route certification

[(a) Any person who was a contractor under a star route, mail messenger, or contract motor vehicle service contract on the effective date of this section (or successor in interest to any such person), shall, upon application to the Board for the territory within which such contractor operated on or before the effective date of this section be issued a certificate of public convenience and necessity as a motor carrier for the transportation of mail by the Board without the Board's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

[(b) Applications of persons who were not contractors on the effective date of this section shall be decided in accordance with applicable Board procedure.

[(c) For purposes of this section, the term "person" has the same meaning given that term under section 1 of title 1.]

CHAPTER 54—TRANSPORTATION OF MAIL BY AIR

Sec.
5401. Authorization.

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[5403. Fines.]

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§ 5402. Contracts for transportation of mail by air

(a) * * *

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[(d) If the Postal Service determines that service by certificated air carriers or combination of air carriers between any pair or pairs of points in foreign air transportation is not adequate for its purposes, it may contract for a period of not more than 4 years, without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate, with any air taxi operator or combination thereof for such air transportation service. Contracts made under this subsection may be renewed at the existing rate by mutual agreement between the holder and the Postal Service. The Postal Service, with the consent of the air taxi operator, may adjust the compensation under such contracts for increased or decreased costs occasioned by changed conditions occurring during the contract term. The Postal Service shall cancel such a contract when the Secretary authorizes an additional certificated carrier or carriers to provide service between any pair or pairs of points covered by the contract, and such carrier or carriers inaugurate schedules adequate for its purposes.

[(e)(1) The Postal Service may determine rates and contract with any air carrier for the transportation of mail by aircraft in interstate air transportation either through negotiations or competitive bidding.

[(2)(A) In the exercise of its authority under paragraph (1), the Postal Service may require any air carrier to accept as mail shipments of day-old poultry, honeybees, and such other live animals as postal regulations allow to be transmitted as mail matter. The authority of the Postal Service under this subparagraph shall not apply in the case of any air carrier who commonly and regularly refuses to accept any live animals as cargo.

[(B) Notwithstanding any other provision of law, the Postal Service is authorized to assess, as postage to be paid by the mailers of any shipments covered by subparagraph (A), a reasonable surcharge that the Postal Service determines in its discretion to be adequate to compensate air carriers for any necessary additional expense incurred in handling such shipments.]

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

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

(A) any such contract may be awarded only to (i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation, (ii) a foreign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or (iii) a combination of such air carriers or foreign air carriers (or both);

(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

(C) every contract that the Postal Service awards to a foreign air carrier under this paragraph shall be subject to the continuing requirement that air carriers shall be afforded the same opportunity to carry the mail of the country to and from which the mail is transported and the flag country of the foreign air carrier, if different, as the Postal Service has afforded the foreign air carrier; and

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

(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.

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

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[§ 5403. Fines

[The Postal Service may impose or remit fines on carriers transporting mail by air on routes extending beyond the borders of the United States for—

[(1) unreasonable or unnecessary delay to mail; and

[(2) other delinquencies in the transportation of the mail.]

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CHAPTER 56—TRANSPORTATION OF MAIL BY VESSEL

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§ 5605. Contracts for transportation of mail by vessel

The Postal Service may contract for the transportation of mail by vessel without advertising for bids [for periods of not in excess of 4 years].

SECTION 1402 OF THE VICTIMS OF CRIME ACT OF 1984

CRIME VICTIMS FUND

SEC. 1402. (a) * * *

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) * * *

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section [404(a)(8)] *404(a)(7)* of such title 39;

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TITLE 5, UNITED STATES CODE

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PART I—THE AGENCIES GENERALLY

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CHAPTER 1—ORGANIZATION

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§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

(1) an establishment in the executive branch (other than the United States Postal Service or the [Postal Rate] *Postal Regulatory* Commission) which is not an Executive department, military department, Government corporation, or part thereof, or part of an independent establishment; and

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CHAPTER 3—POWERS

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§ 306. Strategic plans

(a) * * *

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(f) For purposes of this section the term "agency" means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the [Postal Rate] *Postal Regulatory* Commission.

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PART III—EMPLOYEES

Subpart A—General Provisions

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CHAPTER 21—DEFINITIONS

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§ 2104. Officer

(a) * * *

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the [Postal Rate] *Postal Regulatory* Commission is deemed not an officer for purposes of this title.

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Subpart B—Employment and Retention

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CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

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SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES

§ 3371. Definitions

For the purpose of this subchapter—

(1) * * *

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(3) "Federal agency" means an Executive agency, military department, a court of the United States, the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Congressional Budget Office, the United States Postal Service, the [Postal Rate] *Postal Regulatory* Commission, the Office of the Architect of the Capitol, the Office of Technology Assessment, and such other similar agencies of the legislative and judicial branches as determined appropriate by the Office of Personnel Management; and

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

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Chairman, [Postal Rate] *Postal Regulatory* Commission.

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§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Deputy Administrator of General Services.

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Members, [Postal Rate] *Postal Regulatory* Commission (4).

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CHAPTER 55—PAY ADMINISTRATION

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SUBCHAPTER II—WITHHOLDING PAY

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§ 5514. Installment deduction for indebtedness to the United States

(a)(1) * * *

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(5) For purposes of this subsection—

(A) * * *

(B) "agency" includes executive departments and agencies, the United States Postal Service, the [Postal Rate] *Postal Regulatory* Commission, the United States Senate, the United States House of Representatives, and any court, court administrative office, or instrumentality in the judicial or legislative branches of the Government, and government corporations.

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Subpart F—Labor-Management and Employee Relations

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CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

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SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

§ 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal

Service or of the [Postal Rate] *Postal Regulatory* Commission;

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CHAPTER 75—ADVERSE ACTIONS

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SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

§ 7511. Definitions; application

(a) For the purpose of this subchapter—

(1) "employee" means—

(A) * * *

(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—

(i) in an Executive agency; or

(ii) in the United States Postal Service or [Postal Rate] *Postal Regulatory* Commission; and

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Subpart G—Insurance and Annuities

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CHAPTER 83—RETIREMENT

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SUBCHAPTER III—CIVIL SERVICE RETIREMENT

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§ 8334. Deductions, contributions, and deposits

(a)(1)(A) * * *

(B)(i) * * *

(ii) In the case of an employee of the United States Postal Service, the amount to be contributed under this subparagraph shall (instead of the amount described in clause (i)) be equal to [the product derived by multiplying the employee's basic pay by the percentage equal to—

[(I) the normal-cost percentage for the applicable employee category listed in subparagraph (A), minus

[(II) the percentage deduction rate that applies with respect to such employee under subparagraph (A).] *zero*

* * * * * * *

§ 8348. Civil Service Retirement and Disability Fund

(a) * * *

* * * * * * *

[(h)(1)(A) For purposes of this subsection, "Postal supplemental liability" means the estimated excess, as determined by the Office, of—

[(i) the actuarial present value of all future benefits payable from the Fund under this subchapter attributable to the service of current or former employees of the United States Postal Service, over

[(ii) the sum of—

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

[(II) the actuarial present value of the future contributions to be made pursuant to section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter;

[(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and its employees, including earnings on those payments; and

[(IV) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

[(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

[(ii) Military service so included shall not be included in the computation of any amount under subsection (g)(2).

[(2)(A) Not later than June 30, 2004, the Office shall determine the Postal supplemental liability as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.

[(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

[(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning after September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.

[(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the

most recent dynamic actuarial valuation of the Civil Service Retirement System.

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

[(F) An amortization schedule established under subparagraph (B) or (C) shall supersede any amortization schedule previously established under this paragraph.

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

[(4) Notwithstanding any other provision of this subsection, any determination or redetermination made by the Office under this subsection shall, upon request of the Postal Service, be subject to reconsideration and review (including adjustment by the Board of Actuaries of the Civil Service Retirement System) to the same extent and in the same manner as provided under section 8423(c).]

(h)(1) For purposes of this subsection, the "Postal surplus or supplemental liability" means the estimated difference, as determined by the Office, between—

(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, and

(B) the sum of—

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

(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.

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

(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of

the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

(iii)(I) If a surplus of $500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

(II) If a surplus of less than $500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

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

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

(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

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

(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

(D) An amortization schedule under this paragraph—

(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

(ii) shall supersede any amortization schedule previously established under this paragraph; and

(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

(E) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph that has not been superseded.

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

(4) As used in this subsection, "Postal Service Retiree Health Benefits Fund" refers to the Postal Service Retiree Health Benefits Fund, as established by section 8909a.

* * * * * * *

CHAPTER 84—FEDERAL EMPLOYEES' RETIREMENT SYSTEM

* * * * * * *

SUBCHAPTER I—GENERAL PROVISIONS

* * * * * * *

§ 8402. Federal Employees' Retirement System; exclusions

(a) * * *

* * * * * * *

(c)(1) The Office may exclude from the operation of this chapter an employee or group of employees in or under an Executive agency, the United States Postal Service, or the [Postal Rate] *Postal Regulatory* Commission, whose employment is temporary or intermittent, except an employee whose employment is part-time career employment (as defined in section 3401(2)).

* * * * * * *

SUBCHAPTER II—BASIC ANNUITY

* * * * * * *

§ 8423. Government contributions

(a) * * *

(b)(1) The Office shall compute—

(A) the amount of the supplemental liability of the Fund with respect to individuals other than those to whom subparagraph (B) relates, and

(B) the amount of the supplemental liability of the Fund with respect to current or former employees of the United States Postal Service (and the [Postal Rate] *Postal Regulatory* Commission) and their survivors;

as of the close of each fiscal year beginning after September 30, 1987.

* * * * * * *

SUBCHAPTER VII—FEDERAL RETIREMENT THRIFT INVESTMENT MANAGEMENT SYSTEM

* * * * * * *

§ 8474. Executive Director

(a) * * *

* * * * * * *

(c) The Executive Director may—

(1) * * *

* * * * * * *

(4) secure directly from an Executive agency, the United States Postal Service, or the [Postal Rate] *Postal Regulatory* Commission any information necessary to carry out the provi-

sions of this subchapter or subchapter III of this chapter and policies of the Board;

* * * * * * *

CHAPTER 89—HEALTH INSURANCE

Sec.
8901. Definitions.

* * * * * * *

8909a. Postal Service Retiree Health Benefits Fund.

* * * * * * *

§ 8906. Contributions

(a) * * *

* * * * * * *

(g)(1) * * *

(2)(A) The Government contributions authorized by this section for health benefits for an individual who first becomes an annuitant by reason of retirement from employment with the United States Postal Service on or after July 1, 1971, or for a survivor of such an individual or of an individual who died on or after July 1, 1971, while employed by the United States Postal Service, shall be paid [by the United States Postal Service.] *first from the Postal Service Retiree Health Benefits Fund up to the amount contained therein, with any remaining amount paid by the United States Postal Service.*

* * * * * * *

§ 8909a. Postal Service Retiree Health Benefits Fund

(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the "Fund") which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section 8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

(b) The Fund is available without fiscal year limitation for payments required by section 8906(g)(2).

(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

(A) the portion of the net present value described in paragraph (1) attributable to the current year's service of Postal Service employees; and

(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value.

(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(B) Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its computation or other determination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection.

* * * * * * *

SECTION 101 OF THE ETHICS IN GOVERNMENT ACT OF 1978

PERSONS REQUIRED TO FILE

SEC. 101. (a) * * *

* * * * * * *

(f) The officers and employees referred to in subsections (a), (d), and (e) are—

(1) * * *

* * * * * * *

(6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the United States Postal Service and each officer or employee of the United States Postal Service or [Postal Rate] *Postal Regulatory* Commission who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule;

* * * * * * *

SECTION 501 OF THE REHABILITATION ACT OF 1973

EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

SEC. 501. (a) * * *

(b) Each department, agency, and instrumentality (including the United States Postal Service and the [Postal Rate Office] *Post-*

al Regulatory Commission) in the executive branch and the Smithsonian Institution shall, within one hundred and eighty days after the date of enactment of this Act, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures, and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

* * * * * * *

SECTION 3502 OF TITLE 44, UNITED STATES CODE

§ 3502. Definitions

As used in this subchapter—

(1) * * *

* * * * * * *

(5) the term "independent regulatory agency" means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the ⟦Postal Rate⟧ *Postal Regulatory* Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

* * * * * * *

INSPECTOR GENERAL ACT OF 1978

* * * * * * *

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 6. (a) * * *

* * * * * * *

(e)(1) * * *

* * * * * * *

(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, [and the] Tennessee Valley Authority*, and United States Postal Service* are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

* * * * * * *

REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

SEC. 8G. (a) Notwithstanding section 11 of this Act, as used in this section—

(1) * * *

(2) the term "designated Federal entity" means Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Election Assistance Commission, the Federal Housing Finance Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the United States International Trade Commission[, and the United States Postal Service;] *and the Postal Regulatory Commission;*

* * * * * * *

(4) the term "head of the designated Federal entity" means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, [except that—

[(A) with respect to the National Science Foundation, such term means the National Science Board; and

[(B) with respect to the United States Postal Service, such term means the Governors (within the meaning of section 102(3) of title 39, United States Code);] *except that, with respect to the National Science Foundation, such term means the National Science Board;*

* * * * * * *

(c) [Except as provided under subsection (f) of this section, the] *The* Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

* * * * * * *

[(f)(1) For purposes of carrying out subsection (c) with respect to the United States Postal Service, the appointment provisions of section 202(e) of title 39, United States Code, shall be applied.

[(2) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service (hereinafter in this subsection referred to as the "Inspector General") shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report the significant activities being carried out by the Postal Inspection Service to such Inspector General.

[(3)(A)(i) Notwithstanding subsection (d), the Inspector General shall be under the authority, direction, and control of the Governors with respect to audits or investigations, or the issuance of subpoenas, which require access to sensitive information concerning—

[(I) ongoing civil or criminal investigations or proceedings;

[(II) undercover operations;

[(III) the identity of confidential sources, including protected witnesses;

[(IV) intelligence or counterintelligence matters; or

[(V) other matters the disclosure of which would constitute a serious threat to national security.

[(ii) With respect to the information described under clause (i), the Governors may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Governors determine that such prohibition is necessary to prevent the disclosure of any information described under clause (i) or to prevent the significant impairment to the national interests of the United States.

[(iii) If the Governors exercise any power under clause (i) or (ii), the Governors shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

[(B) In carrying out the duties and responsibilities specified in this Act, the Inspector General—

[(i) may initiate, conduct and supervise such audits and investigations in the United States Postal Service as the Inspector General considers appropriate; and

[(ii) shall give particular regard to the activities of the Postal Inspection Service with a view toward avoiding duplication and insuring effective coordination and cooperation.

[(C) Any report required to be transmitted by the Governors to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

[(3) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of either employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

[(4) As used in this subsection, the term "Governors" has the meaning given such term by section 102(3) of title 39, United States Code.]

* * * * * * *

SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

SEC. 8J. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term "appropriate committees of Congress" to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations

that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

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

RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

SEC. [8J.] *8K.* The special provisions under section 8, 8A, 8B, 8C, 8D, [8E or 8F] *8E, 8F, 8H, or 8J* of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8G(a).

* * * * * * *

DEFINITIONS

SEC. 11. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, Homeland Security, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, or Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, or the Office of Personnel Management; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; the Chairperson of the Thrift Depositor Protection Oversight Board; the Chief Executive Officer of the Corporation for National and Community Service; the Administrator of the Community Development Financial Institutions Fund; the chief executive officer of the Resolution Trust Corporation; the Chairperson of the Federal Deposit Insurance Corporation; the Commissioner of Social Security, Social Security Administration; the Board of Directors of the Tennessee Valley Authority; [or] the President of the Export-Import Bank; *or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);* as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, Homeland Security, or the Treasury; the Agency for International Development, the Community Development Financial Institutions Fund, the En-

vironmental Protection Agency, the Federal Emergency Management Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the Small Business Administration, the Corporation for National and Community Service, or the Veterans' Administration, the Social Security Administration, the Tennessee Valley Authority, [or] the Export-Import Bank, *or the United States Postal Service,* as the case may be;

* * * * * * *

SECTION 160 OF THE ENERGY POLICY ACT OF 1992

SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.)[, and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100–504)] shall—

(1) * * *

* * * * * * *

SECTION 8 OF THE POSTAL REORGANIZATION ACT

TRANSFER OF POST OFFICE DEPARTMENT PERSONNEL

SEC. 8. *(a)* Officers and employees of the Post Office Department shall become officers and employees of the United States Postal Service on the effective date of this section. The provisions of this section shall not apply to persons occupying the positions of Postmaster General, Deputy Postmaster General, Assistant Postmasters General, General Counsel, or Judicial Officer. This section shall not be construed, however, to prohibit the appointment of such persons to positions in the Postal Service.

(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.

TITLE 49, UNITED STATES CODE

* * * * * * *

SUBTITLE VII—AVIATION PROGRAMS

* * * * * * *

SUBPART II—ECONOMIC REGULATION

* * * * * * *

CHAPTER 411—AIR CARRIER CERTIFICATES

* * * * * * *

§ 41107. Transportation of mail

When the United States Postal Service finds that the needs of the Postal Service require the transportation of mail by aircraft [in foreign air transportation or] between places in Alaska, in addition to the transportation of mail authorized under certificates in effect, the Postal Service shall certify that finding to the Secretary of Transportation with a statement about the additional transportation and facilities necessary to provide the additional transportation. A copy of each certification and statement shall be posted for at least 20 days in the office of the Secretary. After notice and an opportunity for a hearing, the Secretary shall issue a new certificate under section 41102 of this title, or amend or modify an existing certificate under section 41110(a)(2)(A) of this title, to provide the additional transportation and facilities if the Secretary finds the additional transportation is required by the public convenience and necessity.

* * * * * * *

CHAPTER 419—TRANSPORTATION OF MAIL

* * * * * * *

§ 41901. General authority

[(a) TITLE 39.—The United States Postal Service may provide for the transportation of mail by aircraft in interstate air transportation under section 5402(e) and (f) of title 39.]

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

(b) AUTHORITY TO PRESCRIBE PRICES.—Except as provided in section 5402 of title 39, on the initiative of the Secretary of Transportation or on petition by the Postal Service or an air carrier, the Secretary shall prescribe and publish—

(1) after notice and an opportunity for a hearing on the record, reasonable prices to be paid by the Postal Service for the transportation of mail by aircraft [in foreign air transportation or] between places in Alaska, the facilities used in and useful for the transportation of mail, and the services related to the transportation of mail for each carrier holding a certificate that authorizes that transportation;

* * * * * * *

§ 41902. Schedules for certain transportation of mail

(a) REQUIREMENT.—Except as provided in section 41906 of this title and section 5402 of title 39, an air carrier may transport mail by aircraft [in foreign air transportation or] between places in Alaska only under a schedule designated or required to be established under subsection (c) of this section for the transportation of mail.

(b) STATEMENTS ON PLACES AND SCHEDULES.—Every air carrier shall file with the Secretary of Transportation and the United States Postal Service a statement showing—

(1) the places between which the carrier is authorized to provide foreign air transportation *(other than foreign air transportation of mail)*;

* * * * * * *

§ 41903. Duty to provide certain transportation of mail

(a) AIR CARRIERS.—Subject to subsection (b) of this section, an air carrier authorized by its certificate to transport mail by aircraft [in foreign air transportation or] between places in Alaska shall—

(1) * * *

* * * * * * *

(b) MAXIMUM MAIL LOAD.—The Secretary of Transportation may prescribe the maximum mail load for a schedule or for an aircraft or type of aircraft for the transportation of mail by aircraft [in foreign air transportation or] between places in Alaska. If the Postal Service tenders to an air carrier mail exceeding the maximum load for transportation by the carrier under a schedule designated or required to be established for the transportation of mail under section 41902(c) of this title, the carrier, as nearly in accordance with the schedule as the Secretary decides is possible, shall—

(1) * * *

* * * * * * *

§ 41907. Prices for foreign transportation of mail

[(a) LIMITATIONS.—]When air transportation is provided between the United States and a foreign country both by aircraft owned or operated by an air carrier holding a certificate under chapter 411 of this title and by aircraft owned or operated by a foreign air carrier, the United States Postal Service may not pay to or for the account of the foreign air carrier a price for transporting mail by aircraft between the United States and the foreign country that the Postal Service believes will result (over a reasonable period determined by the Postal Service considering exchange fluctuations and other factors) in the foreign air carrier receiving a price for transporting the mail that is higher than the price—

(1) the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and the United States; or

(2) determined by the Postal Service to be comparable to the price the government of a foreign country or foreign postal administration pays to air carriers for transporting mail of the foreign country by aircraft between the foreign country and an

intermediate country on the route of the air carrier between the foreign country and the United States.

[(b) CHANGES.—The Secretary of Transportation shall act expeditiously on proposed changes in prices for transporting mail by aircraft in foreign air transportation. When prescribing those prices, the Secretary shall consider—

[(1) the prices paid for transportation of mail under the Universal Postal Union Convention as ratified by the United States Government;

[(2) the price-making elements used by the Universal Postal Union in prescribing its airmail prices; and

[(3) the competitive disadvantage to United States flag air carriers resulting from foreign air carriers receiving Universal Postal Union prices for transporting United States mail and national origin mail of their own countries.]

* * * * * * *

TITLE 18, UNITED STATES CODE

* * * * * * *

PART I—CRIMES

* * * * * * *

CHAPTER 83—POSTAL SERVICE

* * * * * * *

§ 1716. Injurious articles as nonmailable

(a) All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, *hazardous materials,* inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

* * * * * * *

PART II—CRIMINAL PROCEDURE

* * * * * * *

CHAPTER 203—ARREST AND COMMITMENT

* * * * * * *

§ 3061. Investigative powers of Postal Service personnel

(a) * * *

* * * * * * *

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

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

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

(B) carry firearms; and

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

(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

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

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

(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

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

* * * * * * *

SECTION 3 OF THE POSTAL CIVIL SERVICE RETIREMENT SYSTEM FUNDING REFORM ACT OF 2003

(Public Law 108–18)

* * * * * * *

[SEC. 3. DISPOSITION OF SAVINGS ACCRUING TO THE UNITED STATES POSTAL SERVICE.

[(a) IN GENERAL.—Savings accruing to the United States Postal Service as a result of the enactment of this Act—

[(1) shall, to the extent that such savings are attributable to fiscal year 2003 or 2004, be used to reduce the postal debt

(in consultation with the Secretary of the Treasury), and the Postal Service shall not incur additional debt to offset the use of the savings to reduce the postal debt in fiscal years 2003 and 2004;

[(2) shall, to the extent that such savings are attributable to fiscal year 2005, be used to continue holding postage rates unchanged and to reduce the postal debt, to such extent and in such manner as the Postal Service shall specify (in consultation with the Secretary of the Treasury); and

[(3) to the extent that such savings are attributable to any fiscal year after fiscal year 2005, shall be considered to be operating expenses of the Postal Service and, until otherwise provided for by law, shall be held in escrow and may not be obligated or expended.

[(b) AMOUNTS SAVED.—

[(1) IN GENERAL.—The amounts representing any savings accruing to the Postal Service in any fiscal year as a result of the enactment of this Act shall be computed by the Office of Personnel Management for each such fiscal year in accordance with paragraph (2).

[(2) METHODOLOGY.—Not later than July 31, 2003, the Office of Personnel Management shall—

[(A) formulate a plan specifically enumerating the actuarial methods and assumptions by which the Office shall make its computations under paragraph (1); and

[(B) submit such plan to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

[(3) REQUIREMENTS.—The plan shall be formulated in consultation with the Postal Service and shall include the opportunity for the Postal Service to request reconsideration of computations under this subsection, and for the Board of Actuaries of the Civil Service Retirement System to review and make adjustments to such computations, to the same extent and in the same manner as provided under section 8423(c) of title 5, United States Code.

[(c) REPORTING REQUIREMENT.—The Postal Service shall include in each report rendered under section 2402 of title 39, United States Code, the amount applied toward reducing the postal debt, and the size of the postal debt before and after the application of subsection (a), during the period covered by such report.

[(d) SENSE OF CONGRESS.—It is the sense of the Congress that—

[(1) the savings accruing to the Postal Service as a result of the enactment of this Act will be sufficient to allow the Postal Service to fulfill its commitment to hold postage rates unchanged until at least 2006;

[(2) because the Postal Service still faces substantial obligations related to postretirement health benefits for its current and former employees, some portion of the savings referred to in paragraph (1) should be used to address those unfunded obligations; and

[(3) none of the savings referred to in paragraph (1) should be used in the computation of any bonuses for Postal Service executives.

[(e) POSTAL SERVICE PROPOSAL.—

[(1) IN GENERAL.—The United States Postal Service shall, by September 30, 2003, prepare and submit to the President, the Congress, and the General Accounting Office its proposal detailing how any savings accruing to the Postal Service as a result of the enactment of this Act, which are attributable to any fiscal year after fiscal year 2005, should be expended.

[(2) MATTERS TO CONSIDER.—In preparing its proposal under this subsection, the Postal Service shall consider—

[(A) whether, and to what extent, those future savings should be used to address—

[(i) debt repayment;

[(ii) prefunding of postretirement healthcare benefits for current and former postal employees;

[(iii) productivity and cost saving capital investments;

[(iv) delaying or moderating increases in postal rates; and

[(v) any other matter; and

[(B) the work of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).

[(3) GAO REVIEW AND REPORT.—Not later than 60 days after the Postal Service submits its proposal pursuant to paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of such proposal to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

[(4) LEGISLATIVE ACTION.—Not later than 180 days after it has received both the proposal of the Postal Service and the evaluation of such proposal by the General Accounting Office under this subsection, Congress shall revisit the question of how the savings accruing to the Postal Service as a result of the enactment of this Act should be used.

[(f) DETERMINATION AND DISPOSITION OF SURPLUS.—

[(1) IN GENERAL.—If, as of the date under paragraph (2), the Office of Personnel Management determines (after consultation with the Postmaster General) that the computation under section 8348(h)(1)(A) of title 5, United States Code, yields a negative amount (hereinafter referred to as a "surplus")—

[(A) the Office shall inform the Postmaster General of its determination, including the size of the surplus so determined; and

[(B) the Postmaster General shall submit to the Congress a report describing how the Postal Service proposes that such surplus be used, including a draft of any legislation that might be necessary.

[(2) DETERMINATION DATE.—The date to be used for purposes of paragraph (1) shall be September 30, 2025, or such earlier date as, in the judgment of the Office, is the date by which all postal employees under the Civil Service Retirement System will have retired.

[(g) DEFINITIONS.—For purposes of this section—

[(1) the savings accruing to the Postal Service as a result of the enactment of this Act shall, for any fiscal year, be equal to the amount (if any) by which—

[(A) the contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund for such fiscal year if this Act had not been enacted, exceed

[(B) the contributions made by the Postal Service to such Fund for such fiscal year; and

[(2) the term "postal debt" means the outstanding obligations of the Postal Service, as determined under chapter 20 of title 39, United States Code.]

COMMITEE JURISDICTION LETTER

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ONE HUNDRED EIGHTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6216

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August 27, 2004

The Honorable J. Dennis Hastert
Speaker
U.S. House of Representatives
H-232 Capitol
Washington, D.C. 20515

Dear Mr. Speaker:

I am writing to request a sequential referral of H.R. 4341, the "Postal Accountability and Enhancement Act." The Committee on Government Reform and Oversight ordered this legislation reported by unanimous consent on May 12, 2004.

During the 106th Congress, similar legislation, H.R. 22, the "Postal Modernization Act of 1999," was secondarily referred to the Committee on the Judiciary on introduction. Likewise, in the 104th Congress, similar legislation, H.R. 3717, the "Postal Reform Act of 1996," was secondarily referred to the Committee on the Judiciary on introduction.

H.R 4341 contains several substantial provisions that fall within the Committee's Rule X jurisdiction:

– Section 205 of H.R. 4341 creates new §§ 3663 and 3664 of Title 39. New § 3663 provides for appellate review of decisions of the Postal Regulatory Commission in the United States Court of Appeals for the District of Columbia. New § 3664 provides for federal district courts to enforce orders of the Postal Regulatory Commission. These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(k)(1) & (2) ("The judiciary and judicial proceedings, civil and criminal" and "Administrative practice and procedure").

– Section 301 of H.R. 4341 creates new § 2011 of Title 39. Subsection (g) of new § 2011 provides that claims against the Postal Service or the United States government arising out of competitive activities of the Postal Service shall be paid out of the Competitive Products Fund. These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(k)(10) ("Claims against the United States").

– Section 303 of H.R. 4341 creates new § 404a of Title 39. New § 404a(a)(1) prohibits the Postal Service from establishing any rule or regulation that precludes competition or establishes the terms of competition. New § 404a(a)(2) prohibits the Postal Service from compelling the disclosure, transfer, or licensing of intellectual property. These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(k)(13) & (15) ("Patents, . . . copyrights, and trademarks" and "Protection of trade and commerce against unlawful restraints and monopolies").

– Section 304 of H.R. 4341 adds new subsections (d) through (i) to § 409 of Title 39. New § 409(d) makes the Postal Service subject to the Trademark Act of 1946. New § 409(e)(1)(A) waives sovereign immunity for the Postal Service for suits in federal court arising out of federal law and arising out of its competitive activities. New § 409(e)(1)(B), (e)(2), and (e)(3) make the Postal Service subject to the antitrust laws for its competitive activities. New § 409(g) makes the Postal Service subject to the bankruptcy laws with respect to its competitive activities. New § 409(h) sets forth circumstances under which the Postal Service may retain private legal counsel and circumstances under which it must be represented by the Department of Justice. New § 409(i) sets forth circumstances under which claims against the Postal Service must be paid out of Postal Service funds. These matters fall within the Committee on the Judiciary's jurisdiction under its general jurisdiction over the Department of Justice and under rule X(1)(k)(1), (4), (10), (13) & (15) ("The judiciary and judicial proceedings, civil and criminal," "Bankruptcy, . . . ," "Claims against the United States," "Patents, . . ., copyrights, and trademarks" and "Protection of trade and commerce against unlawful restraints and monopolies").

– Section 502 of H.R. 4341 creates new subsections (f) and (g) of § 504 of Title 39. These new subsections provide administrative subpoena power to the Postal Regulatory Commission and provide for the enforcement of such subpoenas in district court. These matters fall within the Committee on the Judiciary's jurisdiction under rule X(1)(k)(1) & (2) ("The judiciary and judicial proceedings, civil and criminal" and "Administrative practice and procedure").

– Section 703 of H.R. 4341 provides for a Federal Trade Commission study of laws that apply differently to the Postal Service and its private sector competitors. Such a study may include sovereign immunity, antitrust, bankruptcy, and intellectual property laws. To that extent, these matters fall within the Committee on the Judiciary's jurisdiction under its general jurisdiction over the Department of Justice and under rule X(1)(k)(1), (4), (10), (13) & (15) ("The judiciary and judicial proceedings, civil and criminal," "Bankruptcy, . . . ," "Claims against the United States," "Patents, . . ., copyrights, and trademarks" and "Protection of trade and commerce against unlawful restraints and monopolies").

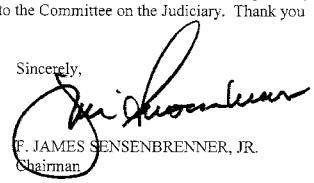
The Honorable J. Dennis Hastert
August 27, 2004
Page 3

– Section 801 of H.R. 4341 creates a new subsection (f) of § 404 of Title 39. This new subsection provides various law enforcement powers to the Postal Service police. These matters fall within the Committee on the Judiciary's jurisdiction under its general jurisdiction over federal law enforcement powers and under rule X(1)(k)(1) ("The judiciary and judicial proceedings, civil and criminal").

– Subsection 809(b) of H.R. 4341 creates a new § 3018 of Title 39 concerning the mailing of hazardous materials. Subsection (c) of the new § 3018 provides that knowing violators of regulations promulgated under this section are liable for civil penalties, clean up costs, and damages. Subsections (f) and (g) provide for the Attorney General to bring civil actions to collect such civil penalties, clean up costs, and damages. These matters fall within the Committee on the Judiciary's jurisdiction under its general jurisdiction over the Department of Justice and under rule X(1)(k)(1) ("The judiciary and judicial proceedings, civil and criminal").

Because of this Committee's strong jurisdictional interest in this legislation, I respectfully request that you sequentially refer this legislation to the Committee on the Judiciary. Thank you for your attention to this matter.

Sincerely,



F. JAMES SENSENBRENNER, JR.
Chairman

cc: The Honorable John Conyers, Jr.
The Honorable Tom Davis
The Honorable Henry Waxman
The Honorable John McHugh
The Honorable John Sullivan, Parliamentarian

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, SEPTEMBER 15, 2004

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:10 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present.

Pursuant to notice I call up the bill, H.R. 4341, the "Postal Accountability and Enhancement Act," for purposes of markup, and move its favorable recommendation to the House.

Without objection, the bill will be considered as read and open for amendment at any point, and the Chair recognizes himself for 5 minutes to explain the bill.

[The bill, H.R. 4341, follows:]

I

108TH CONGRESS
2D SESSION

H. R. 4341

To reform the postal laws of the United States.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2004

Mr. MCHUGH (for himself, Mr. DAVIS of Illinois, Mr. TOM DAVIS of Virginia, Mr. WAXMAN, Mrs. MILLER of Michigan, Mr. BURTON of Indiana, Mr. SCHROCK, Mr. SHAYS, Mr. OWENS, Mrs. MALONEY, Mr. MICA, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Mr. PLATTS, Mr. CANNON, Mr. PUTNAM, Mr. DUNCAN, Mr. DEAL of Georgia, Ms. WATSON, Mr. LYNCH, Ms. NORTON, Mr. MURPHY, Mr. TURNER of Ohio, Mr. CARTER, Mrs. BLACKBURN, Mr. TIBERI, and Ms. HARRIS) introduced the following bill; which was referred to the Committee on Government Reform

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A BILL

To reform the postal laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Postal Accountability and Enhancement Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.
Sec. 102. Postal services.
Sec. 103. Financial transparency.

TITLE II—MODERN RATE REGULATION

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

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

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

TITLE IV—GENERAL PROVISIONS

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

TITLE V—ENHANCED REGULATORY COMMISSION

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

TITLE VI—INSPECTORS GENERAL

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

TITLE VII—EVALUATIONS

Sec. 701. Universal postal service study.
Sec. 702. Assessments of ratemaking, classification, and other provisions.
Sec. 703. Study on equal application of laws to competitive products.

Sec. 704. Greater diversity in Postal Service Executive and administrative schedule management positions.
Sec. 705. Plan for assisting displaced workers.
Sec. 706. Contracts with women, minorities, and small businesses.
Sec. 707. Rates for periodicals.
Sec. 708. Assessment of certain rate deficiencies.
Sec. 709. Postal processing and distribution network study.
Sec. 710. Definition.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

Sec. 801. Employment of postal police officers.
Sec. 802. Date of postmark to be treated as date of appeal in connection with the closing or consolidation of post offices.
Sec. 803. Provisions relating to benefits under chapter 81 of title 5, United States Code, for officers and employees of the former Post Office Department.
Sec. 804. Obsolete provisions.
Sec. 805. Expanded contracting authority.
Sec. 806. Investments.
Sec. 807. Repeal of section 5403.
Sec. 808. Reduced rates.
Sec. 809. Hazardous matter.
Sec. 810. Provisions relating to cooperative mailings.
Sec. 811. Technical and conforming amendments.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

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

TITLE I—DEFINITIONS; POSTAL SERVICES

SEC. 101. DEFINITIONS.

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

''(5) 'postal service' means the carriage of letters, printed matter, or mailable packages, including

acceptance, collection, processing, delivery, or other services supportive or ancillary thereto;

"(6) 'product' means a postal service with a distinct cost or market characteristic for which a rate or rates are, or may reasonably be, applied;

"(7) 'rates', as used with respect to products, includes fees for postal services;

"(8) 'market-dominant product' or 'product in the market-dominant category of mail' means a product subject to subchapter I of chapter 36;

"(9) 'competitive product' or 'product in the competitive category of mail' means a product subject to subchapter II of chapter 36;

"(10) 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published monthly by the Bureau of Labor Statistics of the Department of Labor; and

"(11) 'year', as used in chapter 36 (other than subchapters I and VI thereof), means a fiscal year.".

SEC. 102. POSTAL SERVICES.

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

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

(2) by adding at the end the following:

''(c) Nothing in this title shall be considered to permit or require that the Postal Service provide any special nonpostal or similar services, except that nothing in this subsection shall prevent the Postal Service from providing any special nonpostal or similar services provided by the Postal Service as of May 12, 2004.''.

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

SEC. 103. FINANCIAL TRANSPARENCY.

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

''(d) As an establishment that provides both market-dominant and competitive products, the Postal Service shall be subject to a high degree of transparency, including in its finances and operations, to ensure fair treatment of customers of the Postal Service's market-dominant products and companies competing with the Postal Service's competitive products.''.

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

TITLE II—MODERN RATE REGULATION

SEC. 201. PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS.

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

''§ 3621. Applicability; definitions

''(a) APPLICABILITY.—This subchapter shall apply with respect to—

''(1)(A) single piece first-class letters (both domestic and international);

''(B) single piece first-class cards (both domestic and international); and

''(C) special services;

''(2) all first-class mail not included under paragraph (1);

''(3) periodicals;

''(4) standard mail;

''(5) media mail;

''(6) library mail; and

''(7) bound printed matter,

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

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

"§ 3622. Modern rate regulation

"(a) AUTHORITY GENERALLY.—The Postal Regulatory Commission shall, within 24 months after the date of the enactment of this section, by regulation establish (and may from time to time thereafter by regulation revise) a modern system for regulating rates and classes for market-dominant products.

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

"(1) To maximize incentives to reduce costs and increase efficiency.

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

"(3) To maintain high quality service standards.

"(4) To allow the Postal Service pricing flexibility.

"(5) To assure adequate revenues, including retained earnings, to maintain financial stability.

"(6) To reduce the administrative burden of the ratemaking process.

"(c) FACTORS.—In establishing or revising such system, the Postal Regulatory Commission shall take into account—

"(1) the establishment and maintenance of a fair and equitable schedule for rates and classification system;

"(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(3) the direct and indirect postal costs attributable to each class or type of mail service plus that portion of all other costs of the Postal Service reasonably assignable to such class or type;

"(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services;

"(8) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(9) the importance of providing classifications with extremely high degrees of reliability and speed of delivery and of providing those that do not require high degrees of reliability and speed of delivery;

"(10) the desirability of special classifications from the point of view of both the user and of the Postal Service;

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

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

"(d) ALLOWABLE PROVISIONS.—The system for regulating rates and classes for market-dominant products may include one or more of the following:

"(1) Price caps, revenue targets, or other form of incentive regulation.

"(2) Cost-of-service regulation.

"(3) Such other form of regulation as the Commission considers appropriate to achieve, consistent with subsection (c), the objectives of subsection (b).

"(e) LIMITATION.—In the administration of this section, the Commission shall not permit the average rate in any subclass of mail to increase at an annual rate greater than the comparable increase in the Consumer Price Index, unless it has, after notice and opportunity for a public hearing and comment, determined that such increase is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

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

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

(b) REPEALED SECTIONS.—Sections 3623, 3624, 3625, and 3628 of title 39, United States Code, are repealed.

(c) REDESIGNATION.—Chapter 36 of title 39, United States Code (as in effect after the amendment made by section 501(a)(2), but before the amendment made by section 202) is amended by striking the heading for subchapter II and inserting the following:

''SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS''.

SEC. 202. PROVISIONS RELATING TO COMPETITIVE PRODUCTS.

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

''SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

''§ 3631. Applicability; definitions and updates

''(a) APPLICABILITY.—This subchapter shall apply with respect to—

''(1) priority mail;

''(2) expedited mail;

''(3) mailgrams;

''(4) international mail; and

"(5) parcel post,

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

"(b) DEFINITION.—For purposes of this subchapter, the term 'costs attributable', as used with respect to a product, means the direct and indirect postal costs attributable to such product.

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

"§ 3632. Action of the Governors

"(a) AUTHORITY TO ESTABLISH RATES AND CLASSES.—The Governors shall establish rates and classes for products in the competitive category of mail in accordance with the requirements of this subchapter and regulations promulgated under section 3633.

"(b) PROCEDURES.—

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

"(2) RATES OR CLASSES OF GENERAL APPLICABILITY.—In the case of rates or classes of general applicability in the Nation as a whole or in any sub-

stantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the Governors' proceedings in connection with such decision to be published in the Federal Register at least 30 days before the effective date of any new rates or classes.

"(3) RATES OR CLASSES NOT OF GENERAL APPLICABILITY.—In the case of rates or classes not of general applicability in the Nation as a whole or in any substantial region of the Nation, the Governors shall cause each rate and class decision under this section and the record of the proceedings in connection with such decision to be filed with the Postal Regulatory Commission by such date before the effective date of any new rates or classes as the Governors consider appropriate, but in no case less than 15 days.

"(4) CRITERIA.—As part of the regulations required under section 3633, the Postal Regulatory Commission shall establish criteria for determining when a rate or class established under this subchapter is or is not of general applicability in the Nation as a whole or in any substantial region of the Nation.

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

"§ 3633. Provisions applicable to rates for competitive products

"The Postal Regulatory Commission shall, within 18 months after the date of the enactment of this section, promulgate (and may from time to time thereafter revise) regulations—

"(1) to prohibit the subsidization of competitive products by market-dominant products;

"(2) to ensure that each competitive product covers its costs attributable; and

"(3) to ensure that all competitive products collectively make a reasonable contribution to the institutional costs of the Postal Service.".

SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS.

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

"SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

"§ 3641. Market tests of experimental products

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Postal Service may conduct market tests of experimental products in accordance with this section.

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

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

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

"(2) MARKET DISRUPTION.—The introduction or continued offering of the product will not create an unfair or otherwise inappropriate competitive advantage for the Postal Service or any mailer, particularly in regard to small business concerns (as defined under subsection (h)).

"(3) CORRECT CATEGORIZATION.—The Postal Service identifies the product, for the purpose of a test under this section, as either market dominant or competitive, consistent with the criteria under section 3642(b)(1). Costs and revenues attributable to a product identified as competitive shall be included in any determination under section 3633(3) (relating to provisions applicable to competitive products collectively).

"(c) NOTICE.—

"(1) IN GENERAL.—At least 30 days before initiating a market test under this section, the Postal Service shall file with the Postal Regulatory Commission and publish in the Federal Register a notice—

"(A) setting out the basis for the Postal Service's determination that the market test is covered by this section; and

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

"(2) SAFEGUARDS.—For a competitive experimental product, the provisions of section 504(g) shall be available with respect to any information required to be filed under paragraph (1) to the same extent and in the same manner as in the case of any

matter described in section 504(g)(1). Nothing in paragraph (1) shall be considered to permit or require the publication of any information as to which confidential treatment is accorded under the preceding sentence (subject to the same exception as set forth in section 504(g)(3)).

"(d) DURATION.—

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

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

"(e) DOLLAR-AMOUNT LIMITATION.—

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

subsection (g). In carrying out the preceding sentence, the Postal Regulatory Commission may limit the amount of revenues the Postal Service may obtain from any particular geographic market as necessary to prevent market disruption (as defined in subsection (b)(2)).

"(2) EXEMPTION AUTHORITY.—The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1) if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed $50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that—

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

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

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

"(f) CANCELLATION.—If the Postal Regulatory Commission at any time determines that a market test under this section fails, with respect to any particular product,

to meet one or more of the requirements of this section, it may order the cancellation of the test involved or take such other action as it considers appropriate. A determination under this subsection shall be made in accordance with such procedures as the Commission shall by regulation prescribe.

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

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

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

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

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

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

"(1) The market-dominant category of products shall consist of each product in the sale of which the Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing business to other firms offering similar products. The competitive category of products shall consist of all other products.

"(2) EXCLUSION OF PRODUCTS COVERED BY POSTAL MONOPOLY.—A product covered by the postal monopoly shall not be subject to transfer under this section from the market-dominant category of

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

"(3) ADDITIONAL CONSIDERATIONS.—In making any decision under this section, due regard shall be given to—

"(A) the availability and nature of enterprises in the private sector engaged in the delivery of the product involved;

"(B) the views of those who use the product involved on the appropriateness of the proposed action; and

"(C) the likely impact of the proposed action on small business concerns (within the meaning of section 3641(h)).

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

service involved (without regard to satisfaction of minimum quantity requirements standing alone).

"(d) NOTIFICATION AND PUBLICATION REQUIREMENTS.—

"(1) NOTIFICATION REQUIREMENT.—The Postal Service shall, whenever it requests to add a product or transfer a product to a different category, file with the Postal Regulatory Commission and publish in the Federal Register a notice setting out the basis for its determination that the product satisfies the criteria under subsection (b) and, in the case of a request to add a product or transfer a product to the competitive category of mail, that the product meets the regulations promulgated by the Postal Regulatory Commission pursuant to section 3633. The provisions of section 504(g) shall be available with respect to any information required to be filed.

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

"(e) NOTIFICATION REQUIREMENT.—The Postal Regulatory Commission shall, whenever it reaches a conclusion that a product or products should be transferred between the list of market-dominant products under section 3621 and the list of competitive products under section 3631, immediately notify the appropriate committees of the Congress. No such transfer may take effect less than 12 months after such conclusion.

"(f) PROHIBITION.—Except as provided in section 3641, no product that involves the carriage of letters, printed matter, or mailable packages may be offered by the Postal Service unless it has been assigned to the market-dominant or competitive category of mail (as appropriate) either—

"(1) under this subchapter; or

"(2) by or under any other provision of law.".

SEC. 204. REPORTING REQUIREMENTS AND RELATED PROVISIONS.

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

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

(b) REPORTS AND COMPLIANCE.—Chapter 36 of title 39, United States Code, is amended by inserting after subchapter III the following:

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"§ 3651. Annual reports by the Commission

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

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

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

vide prompt, reliable, and efficient services to patrons in all areas and all communities, including as required under the first sentence of section 101(b);

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

"(3) other public services or activities which, in the judgment of the Postal Regulatory Commission, would not otherwise have been provided by the Postal Service but for the requirements of law.

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

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

"§ 3652. Annual reports to the Commission

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

"(1) which shall analyze costs, revenues, and rates, using such methodologies as the Commission shall by regulation prescribe, and in sufficient detail to demonstrate that the rates in effect for all products during such year complied with all applicable requirements of this title; and

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

"(A) market information, including mail volumes; and

"(B) measures of the quality of service afforded by the Postal Service in connection with such product, including—

"(i) the service standard applicable to such product;

"(ii) the level of service (described in terms of speed of delivery and reliability) provided; and

"(iii) the degree of customer satisfaction with the service provided.

Before submitting a report under this subsection (including any annex thereto and the information required under subsection (b)), the Postal Service shall have the information contained in such report (and annex) audited by the

Inspector General. The results of any such audit shall be submitted along with the report to which it pertains.

"(b) INFORMATION RELATING TO WORKSHARE DISCOUNTS.—

"(1) IN GENERAL.—The Postal Service shall include, in each report under subsection (a), the following information with respect to each market-dominant product for which a workshare discount was in effect during the period covered by such report:

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

"(B) The percentage of such per-item cost avoided that the per-item workshare discount represents.

"(C) The per-item contribution made to institutional costs.

"(2) WORKSHARE DISCOUNT DEFINED.—For purposes of this subsection, the term 'workshare discount' refers to presorting, barcoding, dropshipping, and other similar discounts, as further defined under regulations which the Postal Regulatory Commission shall prescribe.

"(c) MARKET TESTS.—In carrying out subsections (a) and (b) with respect to experimental products offered

through market tests under section 3641 in a year, the Postal Service—

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

"(2) shall report such data as the Postal Regulatory Commission requires.

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

"(e) CONTENT AND FORM OF REPORTS.—

"(1) IN GENERAL.—The Postal Regulatory Commission shall, by regulation, prescribe the content and form of the public reports (and any nonpublic annex and supporting matter relating thereto) to be provided by the Postal Service under this section. In carrying out this subsection, the Commission shall give due consideration to—

"(A) providing the public with adequate information to assess the lawfulness of rates charged;

"(B) avoiding unnecessary or unwarranted administrative effort and expense on the part of the Postal Service; and

"(C) protecting the confidentiality of commercially sensitive information.

"(2) REVISED REQUIREMENTS.—The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with regulations that the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data required by the Commission under this subsection whenever it shall appear that—

"(A) the attribution of costs or revenues to products has become significantly inaccurate or can be significantly improved;

"(B) the quality of service data has become significantly inaccurate or can be significantly improved; or

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

"(f) CONFIDENTIAL INFORMATION.—

"(1) IN GENERAL.—If the Postal Service determines that any document or portion of a document,

or other matter, which it provides to the Postal Regulatory Commission in a nonpublic annex under this section or pursuant to subsection (d) contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission of its determination, in writing, and describe with particularity the documents (or portions of documents) or other matter for which confidentiality is sought and the reasons therefor.

"(2) TREATMENT.—Any information or other matter described in paragraph (1) to which the Commission gains access under this section shall be subject to paragraphs (2) and (3) of section 504(g) in the same way as if the Commission had received notification with respect to such matter under section 504(g)(1).

"(g) OTHER REPORTS.—The Postal Service shall submit to the Postal Regulatory Commission, together with any other submission that it is required to make under this section in a year, copies of its then most recent—

"(1) comprehensive statement under section 2401(e);

"(2) performance plan under section 2803; and

"(3) program performance reports under section 2804.

"§ 3653. Annual determination of compliance

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

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

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

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

"(3) whether any market-dominant product failed to meet any service standard during such year.

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

"(c) IF ANY NONCOMPLIANCE IS FOUND.—If, for a year, a timely written determination of noncompliance is made under subsection (b), the Postal Regulatory Commission shall take appropriate action in accordance with subsections (c)–(e) of section 3662 (as if a complaint averring such noncompliance had been duly filed and found under such section to be justified).

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

SEC. 205. COMPLAINTS; APPELLATE REVIEW AND ENFORCEMENT.

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

"§ 3662. Rate and service complaints

"(a) IN GENERAL.—Interested persons (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believe the Postal Service is not operating in conformance with the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe.

"(b) PROMPT RESPONSE REQUIRED.—

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

"(A) begin proceedings on such complaint; or

"(B) issue an order dismissing the complaint (together with a statement of the reasons therefor).

"(2) TREATMENT OF COMPLAINTS NOT TIMELY ACTED ON.—For purposes of section 3663, any complaint under subsection (a) on which the Commission fails to act in the time and manner required by paragraph (1) shall be treated in the same way as if it had been dismissed pursuant to an order issued by the Commission on the last day allowable for the issuance of such order under paragraph (1).

"(c) ACTION REQUIRED IF COMPLAINT FOUND TO BE JUSTIFIED.—If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).

"(d) SUSPENSION AUTHORITY.—The Postal Regulatory Commission may suspend implementation of rates or classifications under section 3632(b)(3) for a limited period of time pending expedited proceedings under this section. In evaluating whether circumstances warrant suspension, the Commission shall consider factors such as (1) whether there is a substantial likelihood that such rate or classification will violate the requirements of chapter 1, 4, or 6, or this chapter (or regulations promulgated under any of those chapters), (2) whether any persons would suffer substantial injury, loss, or damage absent a suspension, (3) whether the Postal Service or any other persons would suffer substantial injury, loss, or damage under a suspension, and (4) the public interest.

"(e) AUTHORITY TO ORDER FINES IN CASES OF DELIBERATE NONCOMPLIANCE.—In addition, in cases of deliberate noncompliance by the Postal Service with the requirements of this title, the Postal Regulatory Commission may order, based on the nature, circumstances, extent, and seriousness of the noncompliance, a fine (in the amount specified by the Commission in its order) for each incidence of noncompliance. Fines resulting from the provision of competitive products shall be paid out of the Competitive Products Fund established in section 2011. All receipts from fines imposed under this subsection shall be deposited in the general fund of the Treasury of the United States.

"§ 3663. Appellate review

"A person adversely affected or aggrieved by a final order or decision of the Postal Regulatory Commission may, within 30 days after such order or decision becomes final, institute proceedings for review thereof by filing a petition in the United States Court of Appeals for the District of Columbia. The court shall review the order or decision in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, on the basis of the record before the Commission. For purposes of this section, the term 'person' includes the Postal Service.

"§ 3664. Enforcement of orders

''The several district courts have jurisdiction specifically to enforce, and to enjoin and restrain the Postal Service from violating, any order issued by the Postal Regulatory Commission.''.

SEC. 206. WORKSHARE DISCOUNTS.

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

"§ 3687. Workshare discounts

''(a) IN GENERAL.—As part of the regulations established under section 3622(a), the Postal Regulatory Commission shall establish rules for workshare discounts that ensure that workshare discounts do not exceed the cost that the Postal Service avoids as the result of private sector workshare activity, except—

''(1) where the discount is associated with a new product or service or with a change to an existing product or service and is necessary, over a period of time not to exceed 4 years, to induce mailer behavior that will enable the new or changed product or service in furtherance of the overall economically efficient operation of the Postal Service;

''(2) to the extent that a reduction in the discount would lead to a loss of volume in the affected category and reduce the aggregate contribution to

institutional costs of the Postal Service, from the mail matter subject to the discount, below what it otherwise would have been if the discount had not been reduced to costs avoided; would result in a further increase in the rates paid by mailers not able to take advantage of the discount; or would impede the efficient operation of the Postal Service;

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

"(4) where the workshare discount is provided in connection with subclasses of mail consisting exclusively of mail matter of educational, cultural, or scientific value.

"(b) REPORTING REQUIREMENT.—Whenever the Postal Service establishes or maintains a workshare discount, the Postal Service shall, at the time it publishes the workshare discount rate, file with the Postal Regulatory Commission a detailed report and explanation of its reasons for establishing or maintaining the rate, setting forth the data, economic analyses, and other information relied on by the Postal Service to justify the rate.

"(c) DEFINITION.—For purposes of this section, the term 'workshare discount' refers to rate discounts provided to mailers for presorting, prebarcoding, handling, or

1 transportation, as further defined by the Postal Regu-
2 latory Commission as part of regulations established
3 under section 3622(a).''.

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

''3687. Workshare discounts.''.

8 **SEC. 207. CLERICAL AMENDMENT.**

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

''CHAPTER 36—POSTAL RATES, CLASSES AND SERVICES

''SUBCHAPTER I—PROVISIONS RELATING TO MARKET-DOMINANT PRODUCTS

''Sec.
''3621. Applicability; definitions.
''3622. Modern rate regulation.
''[3623. Repealed].
''[3624. Repealed].
''[3625. Repealed].
''3626. Reduced Rates.
''3627. Adjusting free rates.
''[3628. Repealed].
''3629. Reduced rates for voter registration purposes.

''SUBCHAPTER II—PROVISIONS RELATING TO COMPETITIVE PRODUCTS

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

''SUBCHAPTER III—PROVISIONS RELATING TO EXPERIMENTAL AND NEW PRODUCTS

''3641. Market tests of experimental products.
''3642. New products and transfers of products between the market-dominant and competitive categories of mail.

"SUBCHAPTER IV—REPORTING REQUIREMENTS AND RELATED PROVISIONS

"3651. Annual reports by the Commission.
"3652. Annual reports to the Commission.
"3653. Annual determination of compliance.

"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.".

TITLE III—PROVISIONS RELATING TO FAIR COMPETITION

SEC. 301. POSTAL SERVICE COMPETITIVE PRODUCTS FUND.

(a) PROVISIONS RELATING TO POSTAL SERVICE COMPETITIVE PRODUCTS FUND AND RELATED MATTERS.—

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

"§ 2011. Provisions relating to competitive products

"(a) There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of—

"(1) costs attributable to competitive products; and

"(2) all other costs incurred by the Postal Service, to the extent allocable to competitive products. For purposes of this subsection, the term 'costs attributable' has the meaning given such term by section 3631.

"(b) There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service—

"(1) revenues from competitive products;

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

"(3) interest and dividends earned on investments of the Competitive Products Fund; and

"(4) any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products.

"(c) If the Postal Service determines that the moneys of the Competitive Products Fund are in excess of current needs, it may invest such amounts as it considers appropriate in—

"(1) obligations of, or obligations guaranteed by, the Government of the United States; and

"(2) in accordance with regulations which the Secretary of the Treasury shall prescribe (by not

later than 18 months after the date of the enactment of the Postal Accountability and Enhancement Act), such other obligations or securities as it deems appropriate.

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

"(e)(1) Subject to the limitations specified in section 2005(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund, except that the Postal Service may pledge only assets related to the provision of competitive products (as determined under subsection (h) or, for purposes of any period before accounting practices and principles under subsection (h) have been established and applied, the best information available from the Postal Service, including the audited statements required by section 2008(e)), and the revenues and receipts from such products, for the payment of the principal of or interest on such obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to

such extent and in such manner as it deems necessary or desirable.

"(2) The Postal Service may enter into binding covenants with the holders of such obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to—

"(A) the establishment of reserve, sinking, and other funds;

"(B) application and use of revenues and receipts of the Competitive Products Fund;

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

"(D) such other matters as the Postal Service considers necessary or desirable to enhance the marketability of such obligations.

"(3) Obligations issued by the Postal Service under this subsection—

"(A) may not be purchased by the Secretary of the Treasury;

"(B) shall not be exempt either as to principal or interest from any taxation now or hereafter imposed by any State or local taxing authority;

"(C) shall not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the Government of the United States, and the obligations shall so plainly state; and

"(D) notwithstanding the provisions of the Federal Financing Bank Act of 1973 or any other provision of law (except as specifically provided by reference to this subparagraph in a law enacted after this subparagraph takes effect), shall not be eligible for purchase by, commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

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

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

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

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

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

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

"(f) The receipts and disbursements of the Competitive Products Fund shall be accorded the same budgetary

1 treatment as is accorded to receipts and disbursements of
2 the Postal Service Fund under section 2009a.

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

8 ''(h)(1) The Secretary of the Treasury, in consulta-
9 tion with the Postal Service and an independent, certified
10 public accounting firm and such other advisors as the Sec-
11 retary considers appropriate, shall develop recommenda-
12 tions regarding—

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

21 ''(B) the substantive and procedural rules that
22 should be followed in determining the Postal Serv-
23 ice's assumed Federal income tax on competitive
24 products income for any year (within the meaning of
25 section 3634).

1 Such recommendations shall be submitted to the Postal
2 Regulatory Commission no earlier than 6 months, and no
3 later than 12 months, after the effective date of this sec-
4 tion.

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

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

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

21 ''(ii) provide for the establishment and applica-
22 tion of the substantive and procedural rules de-
23 scribed in paragraph (1)(B); and

24 ''(iii) provide for the submission by the Postal
25 Service to the Postal Regulatory Commission of an-

nual and other periodic reports setting forth such information as the Commission may require.

Final rules under this subparagraph shall be issued not later than 12 months after the date on which the Secretary of the Treasury makes his submission to the Commission under paragraph (1) (or by such later date as the Commission and the Postal Service may agree to). The Commission is authorized to promulgate regulations revising such rules.

''(C) Reports described in subparagraph (B)(iii) shall be submitted at such time and in such form, and shall include such information, as the Commission by rule requires. The Commission may, on its own motion or on request of an interested party, initiate proceedings (to be conducted in accordance with such rules as the Commission shall prescribe) to improve the quality, accuracy, or completeness of Postal Service data under such subparagraph whenever it shall appear that—

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

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

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

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

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

"2011. Provisions relating to competitive products.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 2001 of title 39, United States Code, is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

"(2) 'Competitive Products Fund' means the Postal Service Competitive Products Fund established by section 2011; and".

(2) CAPITAL OF THE POSTAL SERVICE.—Section 2002(b) of title 39, United States Code, is amended by striking "Fund," and inserting "Fund and the balance in the Competitive Products Fund,".

(3) POSTAL SERVICE FUND.—

(A) PURPOSES FOR WHICH AVAILABLE.—Section 2003(a) of title 39, United States Code, is amended by striking "title." and inserting "title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available).".

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

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

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

the Treasury to purchase any obligations of the Postal Service other than those issued under section 2005.''; and

(B) in subsection (c), by inserting ''under section 2005'' before ''shall be obligations''.

SEC. 302. ASSUMED FEDERAL INCOME TAX ON COMPETITIVE PRODUCTS INCOME.

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

''§ 3634. Assumed Federal income tax on competitive products income

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'assumed Federal income tax on competitive products income' means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service's assumed taxable income from competitive products for the year; and

''(2) the term 'assumed taxable income from competitive products', with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if—

"(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

"(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities.

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

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

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

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

SEC. 303. UNFAIR COMPETITION PROHIBITED.

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

"§ 404a. Specific Limitations

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

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

"(2) compel the disclosure, transfer, or licensing of intellectual property to any third party (such as patents, copyrights, trademarks, trade secrets, and proprietary information); or

"(3) obtain information from a person that provides (or seeks to provide) any product, and then offer any product or service that uses or is based in whole or in part on such information, without the consent of the person providing that information, unless substantially the same information is obtained (or obtainable) from an independent source or is otherwise obtained (or obtainable).

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

"(c) Any party (including an officer of the Commission representing the interests of the general public) who

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

(b) CONFORMING AMENDMENTS.—

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

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

(c) CLERICAL AMENDMENT.—The analysis for chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 404 the following:

''404a. Specific limitations.''.

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

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

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

''(A) shall be considered to be a 'person', as used in the provisions of law involved; and

''(B) shall not be immune under any other doctrine of sovereign immunity from suit in Federal

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

''(2) This subsection applies with respect to—

''(A) the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946' (15 U.S.C. 1051 and following)); and

''(B) the provisions of section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair or deceptive acts or practices.

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

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

''(B) shall be considered to be a person (as defined in subsection (a) of the first section of the Clayton Act) for purposes of—

''(i) the antitrust laws (as defined in such subsection); and

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

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

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

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

"(g)(1) Each building constructed or altered by the Postal Service shall be constructed or altered, to the maximum extent feasible as determined by the Postal Service, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes.

"(2) Each building constructed or altered by the Postal Service shall be constructed or altered only after consideration of all requirements (other than procedural

requirements) of zoning laws, land use laws, and applicable environmental laws of a State or subdivision of a State which would apply to the building if it were not a building constructed or altered by an establishment of the Government of the United States.

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

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

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

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

"(i) a copy of such schedule before construction of the building is begun; and

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

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

"(4) Appropriate officials of a State or a political subdivision of a State may make recommendations to the Postal Service concerning measures necessary to meet the requirements of paragraphs (1) and (2). Such officials may also make recommendations to the Postal Service concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Postal Service shall give due consideration to any such recommendations.

"(5) In addition to consulting with local and State officials under paragraph (3), the Postal Service shall establish procedures for soliciting, assessing, and incorporating local community input on real property and land use decisions.

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

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

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

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

"(C) Section 3663 (relating to appellate review).

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

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

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

"(3)(A) In any action, suit, or proceeding in a court of the United States arising in whole or in part under any of the provisions of law referred to in subparagraph (B) or (C) of paragraph (1), and to which the Commission is not otherwise a party, the Commission shall be permitted to appear as a party on its own motion and as of right.

"(B) The Department of Justice shall, under such terms and conditions as the Commission and the Attorney General shall consider appropriate, furnish the Commission such legal representation as it may require in connection with any such action, suit, or proceeding, except that, with the prior consent of the Attorney General, the Commission may employ attorneys by contract or otherwise for that purpose.

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

(b) TECHNICAL AMENDMENT.—Section 409(a) of title 39, United States Code, is amended by striking "Ex-

cept as provided in section 3628 of this title,'' and inserting ''Except as otherwise provided in this title,''.

SEC. 305. INTERNATIONAL POSTAL ARRANGEMENTS.

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

''§ 407. International postal arrangements

''(a) It is the policy of the United States—

''(1) to promote and encourage communications between peoples by efficient operation of international postal services and other international delivery services for cultural, social, and economic purposes;

''(2) to promote and encourage unrestricted and undistorted competition in the provision of international postal services and other international delivery services, except where provision of such services by private companies may be prohibited by law of the United States;

''(3) to promote and encourage a clear distinction between governmental and operational responsibilities with respect to the provision of international postal services and other international delivery services by the Government of the United States and by intergovernmental organizations of which the United States is a member; and

"(4) to participate in multilateral and bilateral agreements with other countries to accomplish these objectives.

"(b)(1) The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international postal services and other international delivery services, and shall have the power to conclude treaties, conventions and amendments related to international postal services and other international delivery services, except that the Secretary may not conclude any treaty, convention, or other international agreement (including those regulating international postal services) if such treaty, convention, or agreement would, with respect to any competitive product, grant an undue or unreasonable preference to the Postal Service, a private provider of international postal or delivery services, or any other person.

"(2) In carrying out the responsibilities specified in paragraph (1), the Secretary of State shall exercise primary authority for the conduct of foreign policy with respect to international postal services and international delivery services, including the determination of United States positions and the conduct of United States participation in negotiations with foreign governments and inter-

national bodies. In exercising this authority, the Secretary—

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

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

"(C) shall maintain continuing liaison with the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate;

"(D) shall maintain appropriate liaison with both representatives of the Postal Service and representatives of users and private providers of international postal services and other international delivery services to keep informed of their interests and problems, and to provide such assistance as may be needed to ensure that matters of concern are promptly considered by the Department of State or

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

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

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

"(c)(1) Before concluding any treaty, convention, or amendment that establishes a rate or classification for a product subject to subchapter I of chapter 36, the Secretary of State shall request the Postal Regulatory Commission to submit a decision on whether such rate or classification is consistent with the standards and criteria established by the Commission under section 3622.

"(2) The Secretary shall ensure that each treaty, convention, or amendment concluded under subsection (b) is consistent with a decision of the Commission adopted under paragraph (1), except if, or to the extent, the Secretary determines, by written order, that considerations of

foreign policy or national security require modification of the Commission's decision.

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

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

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

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

ner to both shipments by the Postal Service and similar shipments by private companies.

"(2) For purposes of this subsection, the term 'private company' means a private company substantially owned or controlled by persons who are citizens of the United States.

"(3) In exercising the authority pursuant to subsection (b) to conclude new treaties, conventions and amendments related to international postal services and to renegotiate such treaties, conventions and amendments, the Secretary of State shall, to the maximum extent practicable, take such measures as are within the Secretary's control to encourage the governments of other countries to make available to the Postal Service and private companies a range of nondiscriminatory customs procedures that will fully meet the needs of all types of American shippers. The Secretary of State shall consult with the United States Trade Representative and the Commissioner of Customs, Department of Homeland Security in carrying out this paragraph.

"(4) The provisions of this subsection shall take effect 6 months after the date of the enactment of this subsection or such earlier date as the Bureau of Customs and Border Protection of the Department of Homeland Security may determine in writing.".

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

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

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

SEC. 306. REDESIGNATION.

Chapter 36 of title 39, United States Code (as in effect before the amendment made by section 204(a)) is amended by striking the heading for subchapter V and inserting the following:

"SUBCHAPTER VI—GENERAL".

SEC. 307. CLARIFICATION.

Section 403(c) of title 39, United States Code, is amended by adding after "user." the following: "The prohibition in this subsection shall not be construed to prevent the establishment of rates that vary with volume if

such rates will be made available to similarly situated persons and will increase the aggregate contribution to the institutional costs of the Postal Service.''.

TITLE IV—GENERAL PROVISIONS

SEC. 401. QUALIFICATION REQUIREMENTS FOR GOVERNORS.

(a) IN GENERAL.—Section 202(a) of title 39, United States Code, is amended by striking ''(a)'' and inserting ''(a)(1)'' and by striking the fourth sentence and inserting the following: ''The Governors shall represent the public interest generally, and at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; for purposes of this sentence, an organization or corporation shall be considered to be of substantial size if it employs at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service, and may be removed only for cause.''.

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

''(2) In selecting the individuals described in paragraph (1) for nomination for appointment to the position

of Governor, the President should consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.''.

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

''(2)(A) Notwithstanding any other provision of this section, in the case of the office of the Governor the term of which is the first one scheduled to expire at least 4 months after the date of the enactment of this paragraph—

''(i) such office may not, in the case of any person commencing service after that expiration date, be filled by any person other than an individual chosen from among persons nominated for such office with the unanimous concurrence of all labor organizations described in section 206(a)(1); and

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

''(B) Except as provided in subparagraph (A), an appointment under this paragraph shall be made in conform-

ance with all provisions of this section that would otherwise apply.''.

(d) APPLICABILITY.—The amendment made by subsection (a) shall not affect the appointment or tenure of any person serving as a Governor of the Board of Governors of the United States Postal Service pursuant to an appointment made before the date of the enactment of this Act, or, except as provided in the amendment made by subsection (c), any nomination made before that date; however, when any such office becomes vacant, the appointment of any person to fill that office shall be made in accordance with such amendment. The requirement set forth in the fourth sentence of section 202(a)(1) of title 39, United States Code (as amended by subsection (a)) shall be met beginning not later than 9 years after the date of the enactment of this Act.

SEC. 402. OBLIGATIONS.

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

(b) LIMITATION ON NET ANNUAL INCREASE IN OBLIGATIONS ISSUED FOR CERTAIN PURPOSES.—The third

sentence of section 2005(a)(1) of title 39, United States Code, is amended to read as follows: "In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of $3,000,000,000." .

(c) LIMITATIONS ON OBLIGATIONS OUTSTANDING.—

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

"(3) For purposes of applying the respective limitations under this subsection, the aggregate amount of obligations issued by the Postal Service which are outstanding as of any one time, and the net increase in the amount of obligations outstanding issued by the Postal Service for the purpose of capital improvements or for the purpose of defraying operating expenses of the Postal Service in any fiscal year, shall be determined by aggregating the relevant obligations issued by the Postal Service under this section with the relevant obligations issued by the Postal Service under section 2011.".

(2) CONFORMING AMENDMENT.—The second sentence of section 2005(a)(1) of title 39, United

States Code, is amended by striking ''any such obligations'' and inserting ''obligations issued by the Postal Service which may be''.

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

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

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

''(2) Notwithstanding any other provision of this section—

''(A) the authority to pledge assets of the Postal Service under this subsection shall be available only to the extent that such assets are not related to the provision of competitive products (as determined under section 2011(h) or, for purposes of any period before accounting practices and principles under section 2011(h) have been established and applied, the best information available from the Postal

Service, including the audited statements required by section 2008(e)); and

"(B) any authority under this subsection relating to the pledging or other use of revenues or receipts of the Postal Service shall be available only to the extent that they are not revenues or receipts of the Competitive Products Fund.".

SEC. 403. PRIVATE CARRIAGE OF LETTERS.

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

"(b) A letter may also be carried out of the mails when—

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

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

"(3) such carriage is within the scope of services described by regulations of the Postal Service (including, in particular, sections 310.1 and 320.2–320.8 of title 39 of the Code of Federal Regulations, as in effect on July 1, 2003) that purport to permit private carriage by suspension of the operation of this section (as then in effect).

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

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

SEC. 404. RULEMAKING AUTHORITY.

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

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

SEC. 405. NONINTERFERENCE WITH COLLECTIVE BARGAINING AGREEMENTS, ETC.

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

States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations within the United States Postal Service, or any collective bargaining agreement.

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

SEC. 406. BONUS AUTHORITY.

Subchapter VI of chapter 36 of title 39, United States Code (as so redesignated by section 306) is amended by adding at the end the following:

"§ 3686. Bonus authority

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

"(b) WAIVER OF LIMITATION ON COMPENSATION.—

"(1) IN GENERAL.—Under any such program, the Postal Service may award a bonus or other reward in excess of the limitation set forth in the last sentence of section 1003(a), if such program has been approved under paragraph (2).

"(2) APPROVAL PROCESS.—If the Postal Service wishes to have the authority, under any program described in subsection (a), to award bonuses or other rewards in excess of the limitation referred to in paragraph (1)—

"(A) the Postal Service shall make an appropriate request to the Postal Regulatory Commission, in such form and manner as the Commission requires; and

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

"(3) REVOCATION AUTHORITY.—If the Postal Regulatory Commission finds that a program previously approved under paragraph (2) is not achieving the objectives of this chapter, the Commission may revoke or suspend the authority of the Postal Service to continue such program until such time as appropriate corrective measures have, in the judgment of the Commission, been taken.

"(c) REPORTING REQUIREMENT RELATING TO BONUSES OR OTHER REWARDS.—Included in its comprehensive statement under section 2401(e) for any period shall be—

"(1) the name of each person receiving a bonus or other reward during such period which would not have been allowable but for the provisions of subsection (b);

"(2) the amount of the bonus or other reward; and

"(3) the amount by which the limitation referred to in subsection (b)(1) was exceeded as a result of such bonus or other reward.".

SEC. 407. MEDIATION IN COLLECTIVE-BARGAINING DISPUTES.

(a) IN GENERAL.—Section 1207(b) of title 39, United States Code, is amended by striking all that follows "the Director of the Federal Mediation and Conciliation Service shall" and inserting ", within 10 days appoint a mediator of nationwide reputation and professional stature, and who is also a member of the National Academy of Arbitrators. The parties shall cooperate with the mediator in an effort to reach an agreement and shall meet and negotiate in good faith at such times and places that the mediator, in consultation with the parties, shall direct.".

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

(1) in paragraph (1)—

(A) by striking ''90'' and inserting ''60'';

(B) by striking ''not members of the fact-finding panel,''; and

(C) by striking all that follows ''shall be made'' and inserting ''from a list of names provided by the Director. This list shall consist of not less than 9 names of arbitrators of nationwide reputation and professional stature, who are also members of the National Academy of Arbitrators, and whom the Director has determined are available and willing to serve.''; and

(2) in paragraph (3), by striking ''factfinding panel'' and inserting ''mediation''.

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

TITLE V—ENHANCED REGULATORY COMMISSION

SEC. 501. REORGANIZATION AND MODIFICATION OF CERTAIN PROVISIONS RELATING TO THE POSTAL REGULATORY COMMISSION.

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

(1) by inserting after chapter 4 the following:

"CHAPTER 5—POSTAL REGULATORY COMMISSION

"Sec.
"501. Establishment.
"502. Commissioners.
"503. Rules; regulations; procedures.
"504. Administration.

"§ 501. Establishment

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

"§ 502. Commissioners

"(a) The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate. The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration, and may be removed by the President only for cause. Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act. Not more than 3 of the Commissioners may be adherents of the same political party.

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

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

"(d) The Commissioners shall by majority vote designate a Vice Chairman of the Commission. The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

"(e) The Commissioners shall serve for terms of 6 years.";

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

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

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

"Such rules shall include procedures which balance, inter alia, the need for protecting due process rights and ensuring expeditious decision-making.".

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

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

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

SEC. 502. AUTHORITY FOR POSTAL REGULATORY COMMISSION TO ISSUE SUBPOENAS.

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

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

sion may administer oaths, examine witnesses, take depositions, and receive evidence.

"(2) The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title—

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

"(B) order the taking of depositions and responses to written interrogatories by a covered person.

The written concurrence of a majority of the Commissioners then holding office shall, with respect to each subpoena under subparagraph (A), be required in advance of its issuance.

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

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

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

"(g)(1) If the Postal Service determines that any document or other matter it provides to the Postal Regulatory Commission pursuant to a subpoena issued under subsection (f), or otherwise at the request of the Commission in connection with any proceeding or other purpose under this title, contains information which is described in section 410(c) of this title, or exempt from public disclosure under section 552(b) of title 5, the Postal Service shall, at the time of providing such matter to the Commission, notify the Commission, in writing, of its determination (and the reasons therefor).

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

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

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

"(3) Paragraph (2) shall not prevent information from being furnished under any process of discovery established under this title in connection with a proceeding under this title. The Commission shall, by regulations based on rule 26(c) of the Federal Rules of Civil Procedure, establish procedures for ensuring appropriate confidentiality for any information furnished under the preceding sentence.".

SEC. 503. APPROPRIATIONS FOR THE POSTAL REGULATORY COMMISSION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 504 of title 39, United States Code (as so redesignated by section 501) is amended to read as follows:

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

(b) BUDGET PROGRAM.—

(1) IN GENERAL.—The next to last sentence of section 2009 of title 39, United States Code, is

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

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fiscal years beginning on or after October 1, 2004.

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

SEC. 504. REDESIGNATION OF THE POSTAL RATE COMMISSION.

(a) AMENDMENTS TO TITLE 39, UNITED STATES CODE.—Title 39, United States Code, is amended in sections 404, 503–504 (as so redesignated by section 501), 1001, and 1002 by striking ''Postal Rate Commission'' each place it appears and inserting ''Postal Regulatory Commission''.

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

"Postal Rate Commission" and inserting "Postal Regulatory Commission".

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

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

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

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

SEC. 505. OFFICER OF THE POSTAL REGULATORY COMMISSION REPRESENTING THE GENERAL PUBLIC.

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

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

''The Postal Regulatory Commission shall designate an officer of the Postal Regulatory Commission in all public proceedings (such as developing rules, regulations, and procedures) who shall represent the interests of the general public.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 5 of title 39, United States Code (as amended by section 501(a)(1)) is amended by adding after the item relating to section 504 the following:

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

TITLE VI—INSPECTORS GENERAL

SEC. 601. INSPECTOR GENERAL OF THE POSTAL REGULATORY COMMISSION.

(a) IN GENERAL.—Paragraph (2) of section 8G(a) of the Inspector General Act of 1978 is amended by inserting ''the Postal Regulatory Commission,'' after ''the United States International Trade Commission,''.

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

"(h)(1) Notwithstanding any other provision of this title or of the Inspector General Act of 1978, the authority to select, appoint, and employ officers and employees of the Office of Inspector General of the Postal Regulatory Commission, and to obtain any temporary or intermittent services of experts or consultants (or an organization of experts or consultants) for such Office, shall reside with the Inspector General of the Postal Regulatory Commission.

"(2) Except as provided in paragraph (1), any exercise of authority under this subsection shall, to the extent practicable, be in conformance with the applicable laws and regulations that govern selections, appointments and employment, and the obtaining of any such temporary or intermittent services, within the Postal Regulatory Commission.".

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

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

(2) the Office of Inspector General of the Postal Regulatory Commission shall be established.

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

(a) DEFINITIONAL AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—Section 11 of the Inspector General Act of 1978 is amended—

(1) in paragraph (1)—

(A) by striking ''or'' before ''the President of the Export-Import Bank;'' and

(B) by inserting ''or the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code);'' after ''the President of the Export-Import Bank;''; and

(2) in paragraph (2)—

(A) by striking ''or'' before ''the Export-Import Bank,''; and

(B) by inserting ''or the United States Postal Service,'' after ''the Export-Import Bank,''.

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

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

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

(B) by inserting after section 8I the following:

"SPECIAL PROVISIONS CONCERNING THE UNITED STATES POSTAL SERVICE

"SEC. 8J. (a) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the United States Postal Service shall have oversight responsibility for all activities of the Postal Inspection Service, including any internal investigation performed by the Postal Inspection Service. The Chief Postal Inspector shall promptly report any significant activities being carried out by the Postal Inspection Service to such Inspector General. The Postmaster General shall promptly report to such Inspector General all allegations of theft, fraud, or misconduct by Postal Service officers or employees, and entities or individuals doing business with the Postal Service.

"(b) In the case of any report that the Governors of the United States Postal Service (within the meaning of section 102(3) of title 39, United States Code) are required to transmit under the second sentence of section 5(d), such sentence shall be applied by deeming the term

'appropriate committees of Congress' to mean the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees or subcommittees of Congress as may be appropriate.

"(c) Notwithstanding any provision of paragraph (7) or (8) of section 6(a), the Inspector General of the United States Postal Service may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the United States Postal Service.

"(d) Nothing in this Act shall restrict, eliminate, or otherwise adversely affect any of the rights, privileges, or benefits of employees of the United States Postal Service, or labor organizations representing employees of the United States Postal Service, under chapter 12 of title 39, United States Code, the National Labor Relations Act, any handbook or manual affecting employee labor relations with the United States Postal Service, or any collective bargaining agreement.

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

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

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

(1) by striking "and the" before "Tennessee Valley Authority"; and

(2) by inserting ", and United States Postal Service" after "Tennessee Valley Authority".

(d) PUBLIC CONTRACTS.—

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

(A) in subparagraph (A), by striking "and" after the semicolon; and

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

"(C) the Anti-Kickback Act of 1986 (41 U.S.C. 51 and following), other than subsections (a) and (b) of 7 and section 8 of that Act; and

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

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

"(e) The Postal Service shall develop and issue purchasing regulations that prohibit contract costs not allowable under section 5.2.5 of the United States Postal Service Procurement Manual (Publication 41), as in effect on July 12, 1995.".

(e) AUDITS OF THE POSTAL SERVICE.—

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

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

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

"(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the Postmaster General.".

(2) RESULTS OF INSPECTOR GENERAL'S AUDIT TO BE INCLUDED IN ANNUAL REPORT.—Section 2402 of title 39, United States Code, is amended by inserting after the first sentence the following: "Each report under this section shall include a copy of the report most recently received by the Postmaster General under section 2008(e)(3).".

(3) COORDINATION PROVISIONS.—Section 2008(d) of title 39, United States Code, is amended—

(A) by striking "(d) Nothing" and inserting "(d)(1) Except as provided in paragraph (2), nothing"; and

(B) by adding at the end the following:

"(2) An audit or report under paragraph (1) may not be obtained without the prior written approval of the Inspector General.".

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

mencing after the date of the enactment of this Act, the provisions of title 39, United States Code, shall be applied as if the amendments made by this subsection had never been enacted.

(f) REPORTS.—Section 3013 of title 39, United States Code, is amended by striking ''Postmaster General'' each place it appears and inserting ''Chief Postal Inspector''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(i) in paragraph (2), by striking ''the Postal Regulatory Commission, and the United States Postal Service;'' and inserting ''and the Postal Regulatory Commission;'' and

(ii) in paragraph (4), by striking ''except that'' and all that follows through ''Code);'' and inserting ''except that, with respect to the National Science Foundation, such term means the National Science Board;''.

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

(ii) Subsection (c) of section 8G of such Act is amended by striking ''Except as provided under subsection (f) of this section, the'' and inserting ''The''.

(C) Section 8K of such Act (as so redesignated by subsection (b)(1)(A)) is amended by striking the matter after ''8D,'' and before ''of this Act'' and inserting ''8E, 8F, 8H, or 8J''.

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

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

''(4) 'Inspector General' means the Inspector General of the United States Postal Service, appointed under section 3(a) of the Inspector General Act of 1978;''.

(C) The first sentence of section 1003(a) of such title 39 is amended by striking ''chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law,'' and inserting ''chapter 2 or 12 of this title, subsection (b) or (c) of this section, or any other provision of law,''.

(D) Section 1003(b) of such title 39 is amended by striking ''respective'' and inserting ''other''.

(E) Section 1003(c) of such title 39 is amended by striking ''included'' and inserting ''includes''.

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

(h) EFFECTIVE DATE; TRANSITION PROVISIONS.—

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

(2) TRANSITION PROVISIONS.—

(A) PRESIDENTIAL APPOINTMENT AUTHORITY AVAILABLE IMMEDIATELY.—The authority to appoint an Inspector General of the United States Postal Service in accordance with the amendments made by this section shall be available as of the effective date of this section.

(B) CONTINUATION IN OFFICE.—Pending the appointment of an Inspector General of the United States Postal Service in accordance with the amendments made by this section, the individual serving as the Inspector General of the United States Postal Service on the day before

the effective date of this section may continue to serve—

(i) in accordance with applicable provisions of the Inspector General Act of 1978 and (except as provided in clause (ii)) of title 39, United States Code, as last in effect before the effective date of this Act; but

(ii) subject to the provisions of such title 39 as amended by subsections (e) and (f) of this section (deeming any reference to the ''Inspector General'' in such provisions, as so amended, to refer to the individual continuing to serve under authority of this subparagraph) and subparagraph (C).

(C) AUTHORIZATION OF APPROPRIATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, section 8J(e) of the Inspector General Act of 1978 (as amended by this section) shall be effective for purposes of fiscal years beginning on or after October 1, 2004.

(ii) SAVINGS PROVISION.—For purposes of the fiscal year ending on September 30, 2004, funding for the Office of Inspector General of the United States Postal Service shall be made available in the same manner as if this Act had never been enacted.

(D) ELIGIBILITY OF PRIOR INSPECTOR GENERAL.—Nothing in this Act shall prevent any individual who has served as Inspector General of the United States Postal Service at any time before the date of the enactment of this Act from being appointed to that position pursuant to the amendments made by this section.

TITLE VII—EVALUATIONS

SEC. 701. UNIVERSAL POSTAL SERVICE STUDY.

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

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

(2) The scope and standards of universal service provided under current law (including sections 101 and 403 of title 39, United States Code) and current rules, regulations, policy statements, and practices of the Postal Service.

(3) A description of any geographic areas, populations, communities, organizations, or other groups or entities not currently covered by universal service or that are covered but that are receiving services deficient in scope or quality or both.

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

(5) Such recommendations as the Postal Service considers appropriate.

(b) REPORT BY THE POSTAL REGULATORY COMMISSION.—The Postal Regulatory Commission shall, within 12 months after receiving the report of the Postal Service

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

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

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

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

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

(B) such other assumptions or sets of assumptions as the Commission considers plausible.

(4) Such additional topics and recommendations as the Commission considers appropriate.

(c) CONSULTATION.—In preparing the reports required by this section, the Postal Service and the Postal Regulatory Commission—

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

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

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

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

SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICATION, AND OTHER PROVISIONS.

(a) IN GENERAL.—The Postal Regulatory Commission shall, at least every 5 years, submit a report to the President and the Congress concerning—

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

(2) recommendations for any legislation or other measures necessary to improve the effectiveness or efficiency of the postal laws of the United States.

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

the preceding sentence shall be attached to the report submitted under subsection (a).

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

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

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

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

(2) COMPETITIVE PRODUCTS FUND.—With respect to the Postal Service Competitive Products Fund (under section 2011 of title 39, United States Code, as amended by section 301), in consultation with the Secretary of the Treasury—

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

(B) any suggestions as to how the operation of such Fund might be improved; and

(C) a description and assessment of alternative accounting or financing mechanisms that

might be used to achieve the objectives of such Fund.

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

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

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

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

(a) IN GENERAL.—The Federal Trade Commission shall prepare and submit to the President, the Congress, and the Postal Regulatory Commission, within 1 year after the date of the enactment of this Act, a comprehensive report identifying Federal and State laws that apply differently to the United States Postal Service with respect to the competitive category of mail (within the meaning of section 102 of title 39, United States Code, as amended by section 101) and private companies providing similar products.

(b) RECOMMENDATIONS; ADJUSTMENTS.—The Federal Trade Commission shall include such recommendations as it considers appropriate for bringing such legal differences to an end and, in the interim, to account under section 3633, for the net economic effects provided by those laws.

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

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

SEC. 704. GREATER DIVERSITY IN POSTAL SERVICE EXECUTIVE AND ADMINISTRATIVE SCHEDULE MANAGEMENT POSITIONS.

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

Act, submit to the President and Congress a report concerning the extent to which women and minorities are represented in supervisory and management positions within the United States Postal Service. Any data included in the report shall be presented in the aggregate and by pay level.

(b) PERFORMANCE EVALUATIONS.—The United States Postal Service shall, as soon as practicable, take such measures as may be necessary to ensure that, for purposes of conducting performance appraisals of supervisory or managerial employees, appropriate consideration shall be given to meeting affirmative action goals, achieving equal employment opportunity requirements, and implementation of plans designed to achieve greater diversity in the workforce.

SEC. 705. PLAN FOR ASSISTING DISPLACED WORKERS.

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

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

gress a written report describing its plan under this section.

SEC. 706. CONTRACTS WITH WOMEN, MINORITIES, AND SMALL BUSINESSES.

The Board of Governors shall study and, within 1 year after the date of the enactment of this Act, submit to the President and the Congress a report concerning the number and value of contracts and subcontracts the Postal Service has entered into with women, minorities, and small businesses.

SEC. 707. RATES FOR PERIODICALS.

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

(1) the quality, accuracy, and completeness of the information used by the Postal Service in determining the direct and indirect postal costs attributable to periodicals; and

(2) any opportunities that might exist for improving efficiencies in the collection, handling, transportation, or delivery of periodicals by the Postal Service, including any pricing incentives for mailers that might be appropriate.

(b) RECOMMENDATIONS.—The report shall include recommendations for any administrative action or legislation that might be appropriate.

SEC. 708. ASSESSMENT OF CERTAIN RATE DEFICIENCIES.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Office of Inspector General of the United States Postal Service shall study and submit to the President, the Congress, and the United States Postal Service, a report concerning the administration of section 3626(k) of title 39, United States Code.

(b) SPECIFIC REQUIREMENTS.—The study and report shall specifically address the adequacy and fairness of the process by which assessments under section 3626(k) of title 39, United States Code, are determined and appealable, including—

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

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

SEC. 709. POSTAL PROCESSING AND DISTRIBUTION NETWORK STUDY.

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

to the President, the Congress, and the Board of Governors of the United States Postal Service a written report on the postal processing and distribution network. Such report shall include at least the following:

(1) Recommendations to improve the efficiency and effectiveness of the processing and distribution network while preserving the timely delivery of postal services.

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

(3) Report of the Postal Service's plans for dealing with the recommendations and findings identified in paragraphs (1) and (2).

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

(5) Such additional topics and recommendations as the Postal Service considers appropriate.

SEC. 710. DEFINITION.

For purposes of this title, the term ''Board of Governors'' has the meaning given such term by section 102 of title 39, United States Code.

TITLE VIII—MISCELLANEOUS; TECHNICAL AND CONFORMING AMENDMENTS

SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.

Section 404 of title 39, United States Code, as amended by sections 102 and 811(e), is further amended by adding at the end the following:

''(f) The Postal Service may employ police officers for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property. Such officers shall have, with respect to such property, the powers available under section 1315 of title 40, and, as to such property, the Postal Service may take any action that the Secretary of Homeland Security may take under such section, attaching thereto penalties under the authority and within the limits provided in subsection (c)(2) of such section.''.

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

(a) IN GENERAL.—Section 404(b) of title 39, United States Code, is amended by adding at the end the following:

"(6) For purposes of paragraph (5), any appeal received by the Commission shall—

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

"(B) if otherwise lawfully delivered to the Commission, be considered to have been received on the date determined based on any appropriate documentation or other indicia (as determined under regulations of the Commission).".

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

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

(a) IN GENERAL.—Section 8 of the Postal Reorganization Act (39 U.S.C. 1001 note) is amended by inserting ''(a)'' after ''8.'' and by adding at the end the following:

''(b) For purposes of chapter 81 of title 5, United States Code, the Postal Service shall, with respect to any individual receiving benefits under such chapter as an officer or employee of the former Post Office Department, have the same authorities and responsibilities as it has with respect to an officer or employee of the Postal Service receiving such benefits.''.

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

SEC. 804. OBSOLETE PROVISIONS.

(a) REPEAL.—

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

(2) CONFORMING AMENDMENTS.—(A) Section 5005(a) of title 39, United States Code, is amended—

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

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

(B) Section 5005(b) of such title 39 is amended by striking ''(a)(4)'' each place it appears and inserting ''(a)(3)''.

(C) Section 5005(c) of such title 39 is amended by striking ''by carrier or person under subsection (a)(1) of this section, by contract under subsection (a)(4) of this section, or'' and inserting ''by contract under subsection (a)(3) of this section or''.

(b) ELIMINATING RESTRICTION ON LENGTH OF CONTRACTS.—(1) Section 5005(b)(1) of title 39, United States Code, is amended by striking ''(or where the Postal Service determines that special conditions or the use of special equipment warrants, not in excess of 6 years)'' and inserting ''(or such longer period of time as may be determined by the Postal Service to be advisable or appropriate)''.

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

(3) Section 5605 of such title 39 is amended by striking ''for periods of not in excess of 4 years''.

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

SEC. 805. EXPANDED CONTRACTING AUTHORITY.

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

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

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

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

''(A) any such contract may be awarded only to (i) an air carrier holding a certificate required by section 41101 of title 49 or an exemption therefrom issued by the Secretary of Transportation, (ii) a for-

eign air carrier holding a permit required by section 41301 of title 49 or an exemption therefrom issued by the Secretary of Transportation, or (iii) a combination of such air carriers or foreign air carriers (or both);

"(B) mail transported under any such contract shall not be subject to any duty-to-carry requirement imposed by any provision of subtitle VII of title 49 or by any certificate, permit, or corresponding exemption authority issued by the Secretary of Transportation under that subtitle;

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

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

"(3) Paragraph (2) shall not be interpreted as suspending or otherwise diminishing the authority of the Secretary of Transportation under section 41310 of title 49.".

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

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

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

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

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

(2) SCHEDULES FOR CERTAIN TRANSPORTATION OF MAIL.—Section 41902(b)(1) of title 49, United States Code, is amended by inserting before

the semicolon at the end the following: ''(other than foreign air transportation of mail)''.

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

(A) by striking ''(a) LIMITATIONS.—''; and

(B) by striking subsection (b).

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

SEC. 806. INVESTMENTS.

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

(1) by striking ''(c) If'' and inserting ''(c)(1) Except as provided in paragraph (2), if''; and

(2) by adding at the end the following:

''(2)(A) Nothing in this section shall be considered to authorize any investment in any obligations or securities of a commercial entity.

''(B) For purposes of this paragraph, the term 'commercial entity' means any corporation, company, association, partnership, joint stock company, firm, society, or

other similar entity, as further defined under regulations prescribed by the Postal Regulatory Commission.''.

SEC. 807. REPEAL OF SECTION 5403.

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

(b) CLERICAL AMENDMENT.—The analysis for chapter 54 of title 39, United States Code, is amended by repealing the item relating to section 5403.

SEC. 808. REDUCED RATES.

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

(1) in subsection (a)—

(A) by striking all before paragraph (4) and inserting the following:

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

''(2) For the purpose of this subsection, the term 'regular-rate category' means any class of mail or kind of mailer, other than a class or kind referred to in section 2401(c).''; and

(B) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively;

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

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

''(4)(A) In the case of an issue of a publication, any number of copies of which are mailed at the rates of postage for a class of mail or kind of mailer under former section 4358(a) through (c) of this title, any copies of such issue which are distributed outside the county of publication (excluding any copies subject to paragraph (3)) shall be subject to rates of postage provided for under this paragraph.

''(B) The rates of postage applicable to mail under this paragraph shall be established in accordance with section 3622.

''(C) This paragraph shall not apply with respect to an issue of a publication unless the total paid circulation

of such issue outside the county of publication (not counting recipients of copies subject to paragraph (3)) is less than 5,000.''; and

(3) by adding at the end the following:

''(n) In the administration of this section, matter that satisfies the circulation standards for requester publications shall not be excluded from being mailed at the rates for mail under former section 4358 solely because such matter is designed primarily for free circulation or for circulation at nominal rates, or fails to meet the requirements of former section 4354(a)(5).''.

SEC. 809. HAZARDOUS MATTER.

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

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m) the following:

''(o)(1) Except as otherwise authorized by law or regulations of the Postal Service, hazardous material is nonmailable.

''(2) In this subsection, the term 'hazardous material' means a substance or material designated by the Secretary of Transportation under section 5103(a) of title 49.''.

(b) MAILABILITY.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3018. Hazardous material

"(a) IN GENERAL.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

"(b) PROHIBITIONS.—No person may—

"(1) mail or cause to be mailed hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

"(2) mail or cause to be mailed hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which hazardous material may be mailed; or

"(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

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

"(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of hazardous material.

"(c) CIVIL PENALTY; CLEAN-UP COSTS AND DAMAGES.—

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

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

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

"(C) damages.

"(2) KNOWING ACTION.—A person acts knowingly for purposes of paragraph (1) when—

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

"(B) a reasonable person acting in the circumstances and exercising reasonable care would have had that knowledge.

"(3) SEPARATE VIOLATIONS.—

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

"(B) SEPARATE ITEMS.—A separate violation under this subsection occurs for each item

containing hazardous material that is mailed or caused to be mailed in noncompliance with this section.

"(d) HEARINGS.—The Postal Service may determine that a person has violated this section or a regulation prescribed under this section only after notice and an opportunity for a hearing. Proceedings under this section shall be conducted in accordance with section 3001(m).

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

"(1) the nature, circumstances, extent, and gravity of the violation;

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

"(3) the impact on Postal Service operations; and

"(4) any other matters that justice requires.

"(f) CIVIL ACTIONS TO COLLECT.—

"(1) IN GENERAL.—In accordance with section 409(d), a civil action may be commenced in an appropriate district court of the United States to col-

lect a civil penalty, clean-up costs, and damages assessed under subsection (c).

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

"(g) CIVIL JUDICIAL PENALTIES.—

"(1) IN GENERAL.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or a regulation prescribed under this section.

"(2) RELIEF.—The court in a civil action under paragraph (1) may award appropriate relief, including a temporary or permanent injunction, civil penalties as determined in accordance with this section, or punitive damages.

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

"(h) DEPOSIT OF AMOUNTS COLLECTED.—

"(1) POSTAL SERVICE FUND.—Except as provided under paragraph (2), amounts collected under

subsection (c)(1)(B) and (C) shall be deposited into the Postal Service Fund under section 2003.

"(2) TREASURY.—Amounts collected under subsection (c)(1)(A) and any punitive damages collected under subsection (c)(1)(C) shall be deposited into the Treasury of the United States.".

(c) CONFORMING AMENDMENTS.—(1) Section 2003(b) of title 39, United States Code, is amended—

(A) in paragraph (7), by striking "and" after the semicolon;

(B) in paragraph (8), by striking "purposes." and inserting "purposes; and"; and

(C) by adding at the end the following:

"(9) any amounts collected under section 3018.".

(2) The analysis for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3018. Hazardous material.".

SEC. 810. PROVISIONS RELATING TO COOPERATIVE MAILINGS.

(a) DETERMINATION.—The Postal Regulatory Commission shall examine section E670.5.3 of the Domestic Mail Manual to determine whether it contains adequate safeguards to protect against (1) abuses of rates for nonprofit mail and (2) deception of consumers.

(b) REGULATIONS.—If the Postal Regulatory Commission determines that section E670.5.3 of the Domestic Mail Manual does not contain adequate safeguards as described in the preceding subsection, the Commission shall promulgate such regulations as may be necessary to ensure such safeguards.

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

SEC. 811. TECHNICAL AND CONFORMING AMENDMENTS.

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

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

''§ 3682. Size and weight limits

''The Postal Service may establish size and weight limitations for mail matter in the market-dominant category of mail consistent with regulations the Postal Regulatory Commission may prescribe under section 3622. The Postal Service may establish size and weight limitations for mail matter in the competitive category of mail consistent with its authority under section 3632.''.

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

(1) in section 503 (as so redesignated by section 501), by striking ''this chapter.'' and inserting ''this title.''; and

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

(d) APPROPRIATIONS AND REPORTING REQUIREMENTS.—

(1) APPROPRIATIONS.—Subsection (e) of section 2401 of title 39, United States Code, is amended—

(A) by striking ''Committee on Post Office and Civil Service'' each place it appears and inserting ''Committee on Government Reform''; and

(B) by striking ''Not later than March 15 of each year,'' and inserting ''Each year,''.

(2) REPORTING REQUIREMENTS.—Sections 2803(a) and 2804(a) of title 39, United States Code, are amended by striking ''2401(g)'' and inserting ''2401(e)''.

(e) AUTHORITY TO FIX RATES AND CLASSES GENERALLY; REQUIREMENT RELATING TO LETTERS SEALED AGAINST INSPECTION.—Section 404 of title 39, United States Code (as amended by section 102, but before the amendment made by section 801) is further amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting after subsection (a) the following:

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

''(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of do-

mestic origin shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.''.

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

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

(1) in section 1005(d)(2)—

(A) by striking ''subsection (g) of section 5532,''; and

(B) by striking ''8344,'' and inserting ''8344'';

(2) in the analysis for part III, by striking the item relating to chapter 28 and inserting the following:

''28. Strategic Planning and Performance Management ..... 2801'';

(3) in section 3005(a)—

(A) in the matter before paragraph (1), by striking all that follows ''nonmailable'' and precedes ''(h),'' and inserting ''under section 3001(d),''; and

(B) in the sentence following paragraph (3), by striking all that follows ''nonmailable''

and precedes ''(h),'' and inserting ''under such section 3001(d),'';

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

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

''§ 3627. Adjusting free rates''.

TITLE IX—POSTAL PENSION FUNDING REFORM AMENDMENTS

SEC. 901. CIVIL SERVICE RETIREMENT SYSTEM.

(a) TERMINATION OF OBLIGATION TO PAY GOVERNMENT CONTRIBUTIONS.—Section 8334(a)(1)(B)(ii) of title 5, United States Code, is amended by striking all that follows ''be equal to'' and inserting ''zero''.

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

''(h)(1) For purposes of this subsection, the 'Postal surplus or supplemental liability' means the estimated difference, as determined by the Office, between—

"(A) the actuarial present value of all future benefits which are payable from the Fund under this subchapter to current or former employees of the United States Postal Service, or their survivors, and attributable to civilian employment with the Postal Service, and

"(B) the sum of—

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

"(ii) that portion of the Fund balance, as of the date the Postal surplus or supplemental liability is determined, attributable to payments to the Fund by the Postal Service and its employees, plus the earnings on such amounts while in the Fund; and

"(iii) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

"(2)(A)(i) Not later than June 15, 2006, the Office shall determine the Postal surplus or supplemental liability as of September 30, 2005.

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

"(iii) If a surplus is determined under this subparagraph for fiscal year 2005, the amount of the surplus shall be transferred to the Postal Service Retiree Health Benefits Fund by June 30, 2006.

"(B)(i) For each of fiscal years 2006 through 2038, the Office shall determine the Postal surplus or supplemental liability as of the close of such fiscal year, with each such determination to be made by June 15th of the following fiscal year.

"(ii) If a supplemental liability is determined under this subparagraph for a fiscal year, the Office shall establish an amortization schedule, including a series of equal annual installments commencing on September 30 of the following fiscal year, which provides for the liquidation of such liability by September 30, 2043.

"(iii)(I) If a surplus of $500,000,000 or more is determined under this subparagraph for a fiscal year, the amount of the surplus shall be transferred to the Postal

Service Retiree Health Benefits Fund by June 30th of the following fiscal year.

"(II) If a surplus of less than $500,000,000 is determined under this subparagraph for a fiscal year, the surplus shall remain in the Fund, subject to transfer in a subsequent fiscal year under subclause (I) or subparagraph (C)(iii).

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

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

"(iii) If a surplus is determined under this subparagraph for fiscal year 2039, the amount of the surplus—

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

"(II) to the extent that any portion of such surplus remains after the application of subclause (I), shall, not later than June 30, 2040, be transferred to the Postal Service Retiree Health Benefits Fund.

"(D) An amortization schedule under this paragraph—

"(i) shall be established in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System;

"(ii) shall supersede any amortization schedule previously established under this paragraph; and

"(iii) shall not be taken into account, for purposes of any determination of Postal surplus or supplemental liability, except to the extent of any amounts under such schedule actually paid.

"(E) The Postal Service shall pay to the Office the amounts due under any amortization schedule established under this paragraph that has not been superseded.

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

"(4) As used in this subsection, 'Postal Service Retiree Health Benefits Fund' refers to the Postal Service

1 Retiree Health Benefits Fund, as established by section
2 8909a.''.

3 (c) PROVISIONS RELATING TO AMOUNTS FOR MILI-
4 TARY SERVICE.—In the application of paragraph (2) of
5 section 8348(g) of title 5, United States Code, for fiscal
6 year 2006, the Office of Personnel Management shall in-
7 clude, in addition to the amount otherwise computed
8 under that paragraph, the amounts that would have been
9 included for fiscal years 2003 through 2005 with respect
10 to credit for military service of former employees of the
11 United States Postal Service if Public Law 108-18 had
12 not been enacted (including earnings thereon) and the
13 Secretary of the Treasury shall make the required transfer
14 to the Civil Service Retirement and Disability Fund based
15 on that amount.

16 (d) REVIEW.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of this section, any determination or rede-
19 termination made by the Office of Personnel Man-
20 agement under this section shall, upon request of
21 the United States Postal Service, be subject to re-
22 view by the Postal Regulatory Commission. The
23 Commission shall submit a report containing the re-
24 sults of any such review to the Postal Service, the
25 Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 902. HEALTH INSURANCE.

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

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

(2) by inserting after section 8909 the following:

''§ 8909a. Postal Service Retiree Health Benefits Fund

''(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund (hereinafter in this section referred to as the 'Fund') which is administered by the Office of Personnel Management. Any amounts transferred to the Fund under section

8348(h)(2) shall yield interest at a rate equal to the weighted average yield of all the investments in the Civil Service Retirement and Disability Fund as of the date of transfer. All other investments of amounts in the Fund shall be made in accordance with subsections (c)–(e) of section 8348.

"(b) The Fund is available without fiscal year limitation for payments required by section 8906(g)(2).

"(c)(1) Not later than June 30, 2006, and by June 30 of each succeeding year, the Office of Personnel Management shall compute the net present value of the excess of future payments required by section 8906(g)(2)(A) for current and future United States Postal Service annuitants over the value of the assets of the Fund as of the end of the fiscal year ending on September 30 of that year. The actuarial costing method to be used by the Office and all actuarial assumptions shall be established by the Office after consultation with the United States Postal Service and must be in accordance with generally accepted actuarial practices and principles.

"(2) Not later than September 30, 2006, and by September 30 of each succeeding year, the Office shall compute and the United States Postal Service shall pay into such Fund—

"(A) the portion of the net present value described in paragraph (1) attributable to the current year's service of Postal Service employees; and

"(B) interest on the net present value described in paragraph (1) for that fiscal year, at the interest rate used in computing that net present value.

"(3)(A) Any computation or other determination of the Office under this subsection shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

"(B) Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its computation or other determination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

"(4) The Office shall promulgate, after consultation with the United States Postal Service, any regulations it deems necessary under this subsection."; and

(3) in the analysis by inserting after the item relating to section 8909 the following:

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

(b) REVIEW.—

(1) IN GENERAL.—Any regulation established under section 8909a(c)(4) of title 5, United States Code (as amended by subsection (a)) shall, upon request of the Postal Service, be subject to review by the Postal Regulatory Commission. The Commission shall submit a report containing the results of any such review to the Postal Service, the Office of Personnel Management, and the Congress.

(2) RESPONSE.—Upon receiving the report of the Postal Regulatory Commission, the Office of Personnel Management shall reconsider its regulation in light of such report, and shall take such action as it considers appropriate. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and the Congress.

SEC. 903. REPEALER.

Section 3 of Public Law 108–18 is repealed.

SEC. 904. ENSURING APPROPRIATE USE OF ESCROW AND MILITARY SAVINGS.

(a) DEFINITION.—For purposes of this section, the term ''total savings'' means, for any fiscal year, the amount equal to—

(1) the amount of contributions that the Postal Service would otherwise have been required to make to the Civil Service Retirement and Disability Fund under subchapter III of chapter 83 of title 5, United States Code, for such fiscal year if Public Law 108-18 and this Act had not been enacted, minus

(2) the amount of amortization payments (if any) required under section 8348(h)(2) of title 5, United States Code, for such fiscal year.

(b) CALCULATIONS.—The following calculations shall be made for each of fiscal years 2006 through 2015:

(1) Not later than January 31 of the fiscal year following the fiscal year involved, the Office of Personnel Management (in consultation with the Postal Service) shall determine the total savings for the fiscal year.

(2) On the date of making its determination under paragraph (1), the Office shall also determine (in consultation with the Postal Service) the amount by which—

(A) the amount the Postal Service paid for that fiscal year into the Postal Service Retiree Health Benefits Fund in accordance with 8909a(c)(2) of title 5, United States Code, exceeds (if at all)

(B) the amount of payments made by the Postal Service for that fiscal year from such Fund in order to satisfy the requirements of section 8906(g)(2) of such title 5.

(c) REQUIREMENTS.—

(1) IF THRESHOLD IS MET.—If the amount calculated under subsection (b)(2) for a fiscal year is greater than or equal to two-thirds of the total savings in such fiscal year, no further action under this section is necessary with respect to such fiscal year.

(2) IF THRESHOLD IS NOT MET.—

(A) IN GENERAL.—If the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, the Postal Service shall pay into the Postal Service Retiree Health Benefits Fund, by June 30 of the following fiscal year, an amount equal to the difference.

(B) ALLOWABLE ALTERNATIVE.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), and subject to clause (ii), the Postal Service may instead use the amount that it would otherwise be required to pay into the Postal Service Retiree

Health Benefits Fund for a year (or any portion thereof) to reduce the postal debt.

(ii) LIMITATION.—Amounts used to reduce the postal debt under this subparagraph may not exceed a total of $3,000,000,000.

(3) AGGREGATION ALLOWED.—Notwithstanding paragraph (2), if the amount calculated under subsection (b)(2) for a fiscal year is less than two-thirds of the total savings in such fiscal year, but the sum of the amounts calculated under subsection (b)(2) for all fiscal years from 2006 to the fiscal year involved is greater than or equal to two-thirds of the sum of the total savings for such years, no further action under this section is necessary with respect to such fiscal year.

(d) REPORTING REQUIREMENT.—The Office of Personnel Management shall submit a report containing the results of its calculations under subsection (b) to the Postal Service, the Postal Regulatory Commission, and the Congress.

(e) WAIVER AUTHORITY.—The requirements of subsection (c)(2)(A) may, upon application of the Postal Service, be waived by the Postal Regulatory Commission, to the extent that the Commission determines that such

waiver is reasonable and equitable and necessary to enable the Postal Service, under best practices of honest, efficient, and economical management, to maintain and continue the development of postal services of the kind and quality adapted to the needs of the United States.

SEC. 905. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title shall take effect on October 1, 2005.

(b) GOVERNMENT CONTRIBUTIONS.—Section 901(a)(1) shall take effect on the first day of the first pay period beginning on or after October 1, 2005.

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Chairman SENSENBRENNER. The U.S. Postal Service is the hub of a $900 billion industry employing 9 million American workers. Over the last several years, alternative technologies have led to a decrease in mail shipped by the Postal Service. Unfortunately, changing industry conditions have not been accompanied by structural reform of the Postal Service. This has produced a series of rate increases that serve as a direct tax on businesses and consumers.

The Postal Accountability and Enhancement Act seeks to streamline the Postal Service by permitting it to engage in competing activities in a manner similar to private firms while protecting private industry from unfair competition. This legislation reflects the product of considerable consultation and deliberation, and was reported by the Committee on Government Reform and Oversight by unanimous consent on May 12.

The Judiciary Committee received a sequential referral on several sections of this legislation. First, section 205 revises the complaint and appellate review procedures of the Postal Regulatory Commission, which is charged with setting postage rates and defining activities in which the Postal Service may compete with private industry.

Section 301 establishes an off-budget fund within the Treasury Department for revenues and expenditures associated with services offered by the Postal Service on a competitive basis.

Section 303 prohibits the Postal Service from issuing regulations that preclude competition or compel the disclosure of protected intellectual property.

Section 304 ensures that laws regulating the conduct of private commercial activities also apply to the competitive activities undertaken by the Postal Service, including the antitrust laws, the Federal Trade Commission Act, and laws pertaining to sovereign immunity. This section also provides that the Postal Service, to the extent it engages in competitive activities, be considered a person for purposes of the bankruptcy laws. There are several problems associated with this bankruptcy provision, and Ranking Member Conyers and I will offer an amendment to strike it.

Section 502 provides authority for the Postal Regulatory Commission to issue subpoenas to compel disclosure of evidence in its proceedings and to refer failures to adhere to Commission directives to Federal district court.

Section 703 requires the FTC to prepare a report detailing how Federal and State laws apply differently to competitive activities of the Postal Service and private companies.

Section 801 provides permanent authority for the Postal Service to employ postal police to protect property and persons on Postal Service property, and gives the Attorney General authority to collect penalties and cleanup costs associated with the unlawful mailing of hazardous materials.

Finally, section 809 prohibits the mailing of hazardous materials and clarifies penalties for their shipment. While I fully support these provisions, Crime, Terrorism, and Homeland Security Subcommittee Chairman Coble will offer an amendment to place these changes to existing law in Title 18 of the United States Code, where they belong.

I would also note that Members should limit their amendments to those portions of the sections which the Committee has jurisdiction over.

H.R. 4341 was the product of careful consideration and deliberation, and I urge my colleagues to support the provisions within the Committee's jurisdiction.

I yield back the balance of my time.

Does anybody wish to give an opening statement on the Democratic side?

The gentleman from Virginia.

Mr. SCOTT. Mr. Chairman, I ask unanimous consent that Members be given an opportunity to present their statements for the record.

Chairman SENSENBRENNER. Without objection.

Are there amendments?

The Chair has an amendment at the desk.

The CLERK. Amendment to H.R. 4341 offered by Mr. Sensenbrenner and Mr. Conyers. Page 55, strike lines 13 through 16 and make such technical and conforming changes as may be appropriate.

[The amendment follows:]

Amendment to H.R. 4341

Offered by Mr. Sensenbrenner and Mr. Conyers

Page 55, strike lines 13 through 16 (and make such technical and conforming changes as may be appropriate).

Chairman SENSENBRENNER. The Chair recognizes himself for 5 minutes.

A provision in section 304 would in effect make the Postal Service, to the extent that it engages in conduct with respect to the provision of competitive products, eligible for bankruptcy relief either on a voluntary or involuntary basis. What this amendment does is strike that.

I ask unanimous consent that my full statement appear in the record, and yield back the balance of my time.

[The prepared statement of Mr. Sensenbrenner follows:]

PREPARED STATEMENT OF THE HONORABLE F. JAMES SENSENBRENNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN, AND CHAIRMAN, COMMITTEE ON THE JUDICIARY

A provision in Section 304 of H.R. 4341 would in effect make the Postal Service—to the extent it engages in conduct with respect to the provision of competitive products—eligible for bankruptcy relief, either on a voluntary or involuntary basis. Under current bankruptcy law, a governmental unit like the Postal Service, is not eligible to be a bankruptcy debtor. While this provision in Section 304 may be conceptually appealing, it unfortunately presents significant implementation issues.

The biggest problem presented by this provision is that it would be virtually impossible to implement under the Bankruptcy Code as it only allows some ill-defined portion of the Postal Service, that is—the part that engages in competitive activities—to be eligible for bankruptcy relief.

Although H.R. 4341 will create a much needed financial firewall between the Postal Service's market dominant services (such as First Class Mail) and its competitive services, this firewall will not result in a legal bifurcation of the Postal Service into separate entities. Bankruptcy law simply lacks any means to accord partial eligibility to a debtor. The entire entity must be eligible for bankruptcy relief.

In addition, this provision may actually have the unintended result of giving the Postal Service an unfair, anti-competitive advantage with respect to its private sector counterparts. This provision would allow the Postal Service to avail itself of various extraordinary protections and equitable remedies unique to bankruptcy—such as the power to avoid certain contractual obligations and leases as well as the power to modify collective bargaining agreements and retiree benefits—that are not available to the Service's private sector counterparts outside of bankruptcy.

In a somewhat rare bipartisan meeting of the minds on the subject of bankruptcy in this Committee, I am pleased to offer an amendment together with my colleague, the Ranking Member of this Committee, that simply strikes this provision from Section 304 of H.R. 4341. Accordingly, I urge my colleagues—on both sides of the aisle—to support our amendment.

Chairman SENSENBRENNER. The question is on agreeing to the Sensenbrenner-Conyers amendment. Those in favor will say aye.

Those opposed, no.

The ayes appear to have it. The ayes have it. The amendment is agreed to.

Are there further amendments?

The gentleman from North Carolina Mr. Coble.

Mr. COBLE. I have an amendment at the desk.

Chairman SENSENBRENNER. The Clerk will report the amendment.

The CLERK. Amendment to H.R. 4341, offered by Mr. Coble——

Mr. COBLE. I ask unanimous consent that it be considered as read.

Chairman SENSENBRENNER. Without objection, the amendment is considered as read.

[The amendment follows:]

AMENDMENT TO H.R. 4341

OFFERED BY MR. COBLE OF NORTH CAROLINA

Strike section 801 and insert the following new section:

SEC. 801. EMPLOYMENT OF POSTAL POLICE OFFICERS.

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

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

''(2) With respect to such property, such officers shall have the power to—

''(A) enforce Federal laws and regulations for the protection of persons and property;

''(B) carry firearms; and

''(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has

reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

''(3) With respect to such property, such officers may have, to such extent as the Postal Service may by regulations prescribe, the power to—

''(A) serve warrants and subpoenas issued under the authority of the United States; and

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

''(4)(A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

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

Section 809, insert at the end the following new subsection:

(d) INJURIOUS ARTICLES AS NONMAILABLE.—Section 1716(a) of title 18, United States Code, is amended by inserting after ''explosives,'' the following: ''hazardous materials,''.

Chairman SENSENBRENNER. The gentleman from North Carolina is recognized for 5 minutes.

Mr. COBLE. Mr. Chairman, this amendment is simple. We have run this by the Majority and Minority. There appear to be no objections to it.

The amendment creates two provisions in Title 18. First, the Postal Service currently employs more than 1,000 uniformed postal police officers who are assigned to critical postal facilities throughout the country. These officers are providing vital protective and security functions. Each year the authority for these officers has been provided in appropriation bills. The original legislation sought to make this authority permanent, which I do not oppose. However, I believe that if this authority is to be provided, it should be included in Title 18 along with the other police authorities of the Postal Service and other Federal Government agencies. The amendment establishes the authority of the Postal Service to employ these officers in Title 18.

The second part of the amendment amends section 80 of H.R. 4341. The original bill modifies current law, which has civil penalties for mailing certain nonmailable materials to include penalties for mailing hazardous materials.

Currently Title 18 includes criminal penalties which mirror these civil penalties for mailing prohibited materials. The amendment adds hazardous materials to the list of nonmailable materials for which penalties may be imposed.

Under Title 18, the Postal Service may continue to permit the transmission of these items under such rules and regulations as they provide or prescribe. The amendment makes these civil and criminal penalties consistent for all nonmailable items and continues to allow the Postal Service to make any exceptions it deems necessary. However, it does communicate the dangerous consequences of mailing these items.

I urge my colleagues to support the amendment.

Chairman SENSENBRENNER. Does the gentleman yield back?

Mr. COBLE. I yield back.

Chairman SENSENBRENNER. The question is on agreeing to the amendment offered by the gentleman from North Carolina Mr. Coble. Those in favor will say aye.

Those opposed, no.

The ayes appear to have it. The ayes have it. The amendment is agreed to.

Are there further amendments?

Ms. JACKSON LEE. Mr. Chairman, I am listening to see whether there are further amendments. I would like to strike the last word.

Chairman SENSENBRENNER. The gentlewoman is recognized for 5 minutes.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

To my colleagues, I do have an amendment at the desk that at this time I will not offer, but I do want to raise this point, because I believe it is a sufficiently important point that I hope that I would have bipartisan support as we go to the floor of the House.

The Chairman knows of his leadership on the No Fear Act, which some would call one of the first civil rights acts of the 21st century, and it deals with Federal employees. I want to have an amendment that sort of tracks the No Fear Act as relates to the

Postal Service, but specifically focusing on the question of civil rights within that system and Service. The amendment I would have offered would have discussed that or presented those issues to my colleagues.

We are going to continue to work on this legislation. I would like to be able to work with the Chairman and others just to ensure that it works for this system and the reform that is in place. I know a lot of this work deals with the Government Reform Committee, the Committee that deals with that restructuring, but I do believe these are important issues, particularly in our Federal agencies where employees' rights are of particular importance, and we have the responsibility to address that question.

Again, I would have offered this amendment. I will look forward to offering this amendment as this legislation goes to the floor and working with my colleagues on what I think is an important addition to the reform of the U.S. Postal Service.

With that, I yield back my time.

Chairman SENSENBRENNER. Are there further amendments?

If there are no further amendments, a reporting quorum is present.

The question occurs on the motion to report the bill, H.R. 4341, favorably as amended. All in favor will say aye.

Opposed, no.

The ayes appear to have it. The ayes have it. The motion to report favorably is agreed to.

Without objection, the bill will be reported favorably to the House in the form of a single amendment in the nature of a substitute incorporating the amendments made today here.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rules.

Without objection, the staff is directed to make any technical and conforming changes, and all Members will be given 2 days as provided by the House rules to present additional supplemental or dissenting Minority views.

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