

108TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Ms. COLLINS (for herself and Mr. CARPER) introduced the following bill;  
which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To reform the postal laws of the United States.

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—DEFINITIONS; POSTAL SERVICES

Sec. 101. Definitions.

Sec. 102. Postal services.

TITLE II—MODERN RATE REGULATION

Sec. 201. Provisions relating to market-dominant products.

## 2

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

## TITLE III—MODERN SERVICE STANDARDS

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

## TITLE IV—PROVISIONS RELATING TO FAIR COMPETITION

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

## TITLE V—GENERAL PROVISIONS

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

## TITLE VI—ENHANCED REGULATORY COMMISSION

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

## TITLE VII—EVALUATIONS

- Sec. 701. Definition.
- Sec. 702. Assessments of ratemaking, classification, and other provisions.

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

- Sec. 801. Short title.
- Sec. 802. Civil Service Retirement System.
- Sec. 803. Health insurance.
- Sec. 804. Repeal of disposition of savings provision.
- Sec. 805. Effective dates.

## TITLE IX—COMPENSATION FOR WORK INJURIES

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

## TITLE X—UNIVERSAL POSTAL SERVICE AND THE POSTAL MONOPOLY

- Sec. 1001. Periodic reports on universal Postal Service and the postal monopoly.



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

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

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

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

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

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

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

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

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

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

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

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

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

4 “(1) first-class mail letters;

5 “(2) first-class mail cards;

6 “(3) periodicals;

7 “(4) standard mail;

8 “(5) single-piece parcel post;

9 “(6) media mail;

10 “(7) bound printed matter;

11 “(8) library mail;

12 “(9) special services; and

13 “(10) single-piece international mail,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(e) WORKSHARE DISCOUNTS.—

2 “(1) DEFINITION.—In this subsection, the term  
3 ‘workshare discount’ refers to discounts afforded for  
4 any private sector activity including mail prepara-  
5 tion, processing, sortation or transportation or other  
6 activities as further defined under regulations that  
7 the Postal Regulatory Commission shall prescribe.

8 “(2) REGULATIONS.—The Postal Regulatory  
9 Commission shall prescribe regulations for  
10 workshare discounts that ensure that in establishing  
11 rates for new postal services, the Postal Service may  
12 not create workshare discounts that exceed cost  
13 avoided, unless the Postal Regulatory Commission  
14 determines that such discounts are consistent with  
15 the policies of this title.

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

22 **“§ 3623. Service agreements for market-dominant**  
23 **products**

24 “(a) IN GENERAL.—

1           “(1) **AUTHORITY.**—The Postal Service may  
2 enter into service agreements with a customer or  
3 group of customers that provide for the provision of  
4 postal services under terms, conditions, or service  
5 standards that differ from those that would apply  
6 under the otherwise applicable classification of mar-  
7 ket-dominant mail.

8           “(2) **AGREEMENTS.**—An agreement under this  
9 section may involve—

10                   “(A) performance by the contracting mail  
11 user of mail preparation, processing, transpor-  
12 tation, or other functions;

13                   “(B) performance by the Postal Service of  
14 additional mail preparation, processing, trans-  
15 portation, or other functions; or

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

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

21                   “(1) The total revenue generated under the  
22 agreement—

23                           “(A) will cover all Postal Service costs at-  
24 tributable to the postal services covered by the  
25 agreement; and

1           “(B) will result in no less contribution to  
2           the institutional costs of the Postal Service than  
3           would have been generated had the agreement  
4           not been entered into.

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

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

9           “(4) The agreement will not preclude or materi-  
10          ally hinder similarly situated mail users from enter-  
11          ing into agreements with the Postal Service on the  
12          same, or substantially the same terms or conditions,  
13          and the Postal Service remains willing and able to  
14          enter into such.

15          “(c) LIMITATIONS.—A service agreement under this  
16          section shall—

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

18                 “(2) provide that such agreement shall be sub-  
19          ject to the cancellation authority of the Commission  
20          under section 3662.

21          “(d) NOTICE REQUIREMENTS.—

22                 “(1) IN GENERAL.—At least 30 days before a  
23          service agreement under this section is to take ef-  
24          fect, the Postal Service shall file with the Postal  
25          Regulatory Commission and publish in the Federal

1 Register the following information with respect to  
2 such agreement:

3 “(A) A description of the postal services  
4 the agreement involves.

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

7 “(C) A description of the functions the  
8 Postal Service is to perform under the agree-  
9 ment.

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

12 “(E) With respect to each condition under  
13 subsection (b), information sufficient to dem-  
14 onstrate the bases for the view of the Postal  
15 Service that such condition would be met.

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

24 “(e) EQUAL TREATMENT REQUIRED.—If the Postal  
25 Service enters into a service agreement with a mailer

1 under this section, the Postal Service shall make such  
2 agreement available to similarly situated mailers on func-  
3 tionally equivalent terms and conditions consistent with  
4 the regulatory system established under section 3622  
5 without unreasonable distinctions based on mailer profiles,  
6 provided that such distinctions, if ignored, would not  
7 render any subsequent agreement uneconomic or imprac-  
8 tical.

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

16 “(g) POSTAL REGULATORY COMMISSION ROLE.—

17 “(1) REGULATIONS.—The Postal Regulatory  
18 Commission may promulgate such regulations re-  
19 garding service agreements as the Commission de-  
20 termines necessary to implement the requirements of  
21 this section.

22 “(2) REVIEW.—The Postal Regulatory Commis-  
23 sion may review any agreement or proposed agree-  
24 ment under this section and may suspend, cancel, or  
25 prevent such agreement if the Commission finds that

1 the agreement does not meet the requirements of  
2 this section.

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

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

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

1 “SUBCHAPTER I—PROVISIONS RELATING TO  
2 MARKET-DOMINANT PRODUCTS”.

3 **SEC. 202. PROVISIONS RELATING TO COMPETITIVE PROD-**  
4 **UCTS.**

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

7 “SUBCHAPTER II—PROVISIONS RELATING TO  
8 COMPETITIVE PRODUCTS

9 **“§ 3631. Applicability; definitions and updates**

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

12 “(1) priority mail;

13 “(2) expedited mail;

14 “(3) bulk parcel post;

15 “(4) bulk international mail; and

16 “(5) mailgrams;

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

19 “(b) **DEFINITION.**—For purposes of this subchapter,  
20 the term ‘costs attributable’, as used with respect to a  
21 product, means the direct and indirect postal costs attrib-  
22 utable to such product.

23 “(c) **RULE OF CONSTRUCTION.**—Mail matter re-  
24 ferred to in subsection (a) shall, for purposes of this sub-

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

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

7 **“§ 3632. Action of the Governors**

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

15 “(b) PROCEDURES.—

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

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



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

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

6 **SEC. 203. PROVISIONS RELATING TO EXPERIMENTAL AND**  
7           **NEW PRODUCTS.**

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

10          “SUBCHAPTER III—PROVISIONS RELATING TO  
11           EXPERIMENTAL AND NEW PRODUCTS

12          “§ 3641. **Market tests of experimental products**

13           “(a) **AUTHORITY.**—

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

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

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

24           “(1) **SIGNIFICANTLY DIFFERENT PRODUCT.**—

25           The product is, from the viewpoint of the mail users,

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

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

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

24 “(c) NOTICE.—

1           “(1) IN GENERAL.—At least 30 days before ini-  
2           tiating a market test under this section, the Postal  
3           Service shall file with the Postal Regulatory Com-  
4           mission and publish in the Federal Register a  
5           notice—

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

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

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

22          “(d) DURATION.—

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

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

10           “(e) DOLLAR-AMOUNT LIMITATION.—

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

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

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

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

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

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

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

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

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

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

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

11 **“§ 3642. New products and transfers of products be-**  
12 **tween the market-dominant and competi-**  
13 **tive categories of mail**

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

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

24 “(1) The market-dominant category of products  
25 shall consist of each product in the sale of which the

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

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

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

21 “(A) the availability and nature of enter-  
22 prises in the private sector engaged in the deliv-  
23 ery of the product involved;

1           “(B) the views of those who use the prod-  
2           uct involved on the appropriateness of the pro-  
3           posed action; and

4           “(C) the likely impact of the proposed ac-  
5           tion on small business concerns (within the  
6           meaning of section 3641(h)).

7           “(c) TRANSFERS OF SUBCLASSES AND OTHER SUB-  
8           ORDINATE UNITS ALLOWABLE.—Nothing in this title  
9           shall be considered to prevent transfers under this section  
10          from being made by reason of the fact that they would  
11          involve only some (but not all) of the subclasses or other  
12          subordinate units of the class of mail or type of postal  
13          service involved (without regard to satisfaction of min-  
14          imum quantity requirements standing alone).

15          “(d) NOTIFICATION AND PUBLICATION REQUIRE-  
16          MENTS.—

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

1 meets the regulations promulgated by the Postal  
2 Regulatory Commission under section 3633. The  
3 provisions of section 504(g) shall be available with  
4 respect to any information required to be filed.

5 “(2) PUBLICATION REQUIREMENT.—The Postal  
6 Regulatory Commission shall, whenever it changes  
7 the list of products in the market-dominant or com-  
8 petitive category of mail, prescribe new lists of prod-  
9 ucts. The revised lists shall indicate how and when  
10 any previous lists (including the lists under sections  
11 3621 and 3631) are superseded, and shall be pub-  
12 lished in the Federal Register.

13 “(e) PROHIBITION.—Except as provided in section  
14 3641, no product that involves the physical delivery of let-  
15 ters, printed matter, or packages may be offered by the  
16 Postal Service unless it has been assigned to the market-  
17 dominant or competitive category of mail (as appropriate)  
18 either—

19 “(1) under this subchapter; or

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

21 **SEC. 204. REPORTING REQUIREMENTS AND RELATED PRO-**  
22 **VISIONS.**

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

1 (1) by striking the heading for subchapter IV  
2 and inserting the following:

3 “SUBCHAPTER V—POSTAL SERVICES,  
4 COMPLAINTS, AND JUDICIAL REVIEW”; and

5 (2) by striking the heading for subchapter V  
6 and inserting the following:

7 “SUBCHAPTER VI—GENERAL”.

8 (b) REPORTS AND COMPLIANCE.—Chapter 36 of title  
9 39, United States Code, is amended by inserting after sub-  
10 chapter III the following:

11 “SUBCHAPTER IV—REPORTING  
12 REQUIREMENTS AND RELATED PROVISIONS

13 **“§ 3651. Annual reports by the Commission**

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

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

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

2       “(a) COSTS, REVENUES, RATES, AND SERVICE.—EX-  
3 cept as provided in subsection (c), the Postal Service shall,  
4 no later than 90 days after the end of each year, prepare  
5 and submit to the Postal Regulatory Commission a report  
6 (together with such nonpublic annex to the report as the  
7 Commission may require under subsection (e))—

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

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

14                       “(A) product information, including mail  
15 volumes; and

16                       “(B) measures of the service afforded by  
17 the Postal Service in connection with such prod-  
18 uct, including—

19                               “(i) the level of service (described in  
20 terms of speed of delivery and reliability)  
21 provided; and

22                               “(ii) the degree of customer satisfac-  
23 tion with the service provided.

24 Before submitting a report under this subsection (includ-  
25 ing any annex to the report and the information required  
26 under subsection (b)), the Postal Service shall have the

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

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

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

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

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

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

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

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

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

12          “(e) CONTENT AND FORM OF REPORTS.—

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

20           “(A) providing the public with timely, ade-  
21 quate information to assess the lawfulness of  
22 rates charged;

23           “(B) avoiding unnecessary or unwarranted  
24 administrative effort and expense on the part of  
25 the Postal Service; and

1           “(C) protecting the confidentiality of com-  
2           mercially sensitive information.

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

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

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

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

20          “(f) CONFIDENTIAL INFORMATION.—

21           “(1) IN GENERAL.—If the Postal Service deter-  
22           mines that any document or portion of a document,  
23           or other matter, which it provides to the Postal Reg-  
24           ulatory Commission in a nonpublic annex under this  
25           section or under subsection (d) contains information

1 which is described in section 410(c) of this title, or  
2 exempt from public disclosure under section 552(b)  
3 of title 5, the Postal Service shall, at the time of  
4 providing such matter to the Commission, notify the  
5 Commission of its determination, in writing, and de-  
6 scribe with particularity the documents (or portions  
7 of documents) or other matter for which confiden-  
8 tiality is sought and the reasons therefor.

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

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

21 “(1) comprehensive statement under section  
22 2401(e);

23 “(2) strategic plan under section 2802;

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

1           “(4) program performance reports under sec-  
2           tion 2804.

3   **“§ 3653. Annual determination of compliance**

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

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

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

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

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

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

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

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

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

18 **“§ 3662. Rate and service complaints**

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

1 complaint with the Postal Regulatory Commission in such  
2 form and manner as the Commission may prescribe.

3 “(b) PROMPT RESPONSE REQUIRED.—

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

7 “(A) begin proceedings on such complaint;

8 or

9 “(B) issue an order dismissing the com-  
10 plaint (together with a statement of the reasons  
11 therefor).

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

20 “(c) ACTION REQUIRED IF COMPLAINT FOUND TO  
21 BE JUSTIFIED.—If the Postal Regulatory Commission  
22 finds the complaint to be justified, it shall order that the  
23 Postal Service take such action as the Commission con-  
24 siders appropriate in order to achieve compliance with the  
25 applicable requirements and to remedy the effects of any

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

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

19 **“§ 3663. Appellate review**

20 “A person, including the Postal Service, adversely af-  
21 fected or aggrieved by a final order or decision of the Post-  
22 al Regulatory Commission may, within 30 days after such  
23 order or decision becomes final, institute proceedings for  
24 review thereof by filing a petition in the United States  
25 Court of Appeals for the District of Columbia. The court

1 shall review the order or decision in accordance with sec-  
2 tion 706 of title 5, and chapter 158 and section 2112 of  
3 title 28, on the basis of the record before the Commission.

4 **“§ 3664. Enforcement of orders**

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

9 **SEC. 206. CLERICAL AMENDMENT.**

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

**“CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES**

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

“Sec.

“3621. Applicability; definitions.

“3622. Modern rate regulation.

“3623. Service agreements for market-dominant products.

“[3624. Repealed.]

“[3625. Repealed.]

“3626. Reduced Rates.

“3627. Adjusting free rates.

“[3628. Repealed.]

“3629. Reduced rates for voter registration purposes.

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

“3631. Applicability; definitions and updates.

“3632. Action of the Governors.

“3633. Provisions applicable to rates for competitive products.

“3634. Assumed Federal income tax on competitive products.

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

“3641. Market tests of experimental products.

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



1 (and may from time to time thereafter by regulation re-  
2 vise) a set of service standards for market-dominant prod-  
3 ucts consistent with sections 101 (a) and (b) and 403.

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

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

8 “(2) To provide a system of objective external  
9 performance measurements for each market-domi-  
10 nant product as a basis for measurement of Postal  
11 Service performance.

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

15 “(c) FACTORS.—In establishing or revising such  
16 standards, the Postal Regulatory Commission shall take  
17 into account—

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

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

1           “(3) mail volume and revenues projected for fu-  
2           ture years;

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

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

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

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

15 **SEC. 302. POSTAL SERVICE PLAN.**

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

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

23                  (1) establish performance goals;

24                  (2) describe any changes to the Postal Service’s  
25          processing, transportation, delivery, and retail net-

1 works necessary to allow the Postal Service to meet  
2 the performance goals; and

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

6 (c) MAIL PROCESSING FACILITIES.—The Postal  
7 Service plan shall include a description of its long-term  
8 vision for rationalizing its infrastructure and workforce  
9 and how it intends to implement that vision, including—

10 (1) a strategy for how it intends to rationalize  
11 the postal facilities network and remove excess proc-  
12 essing capacity and space from the network, includ-  
13 ing estimated timeframes, criteria and processes to  
14 be used for making changes to the facilities network,  
15 and the process for engaging policy makers and the  
16 public in related decisions;

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

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

1           (4) an identification of anticipated costs, cost  
2           savings, and other benefits associated with the infra-  
3           structure rationalization alternatives discussed in the  
4           plan.

5           (d) ALTERNATE RETAIL OPTIONS.—The Postal Serv-  
6           ice plan shall include plans to expand and market retail  
7           access to postal services in venues other than post offices,  
8           including—

9           (1) vending machines;

10          (2) the Internet;

11          (3) Postal Service employees on delivery routes;

12          and

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

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

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

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

1 (f) INSPECTOR GENERAL REPORT.—

2 (1) IN GENERAL.—Before submitting the plan  
3 under this section to Congress, the Postal Service  
4 shall submit the plan to the Inspector General of the  
5 United States Postal Service in a timely manner to  
6 carry out this subsection.

7 (2) REPORT.—The Inspector General shall pre-  
8 pare a report describing the extent to which the  
9 Postal Service plan—

10 (A) is consistent with the continuing obli-  
11 gations of the Postal Service under title 39,  
12 United States Code; and

13 (B) provides for the Postal Service to meet  
14 the service standards established under section  
15 3691.

16 (3) SUBMISSION OF REPORT.—The Postal Serv-  
17 ice shall submit the report of the Inspector General  
18 under this subsection with the plan submitted to  
19 Congress under subsection (a).

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

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

5 (a) PROVISIONS RELATING TO POSTAL SERVICE  
6 COMPETITIVE PRODUCTS FUND AND RELATED MAT-  
7 TERS.—

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

11 **“§ 2011. Provisions relating to competitive products**

12 “(a) There is established in the Treasury of the  
13 United States a revolving fund, to be called the Postal  
14 Service Competitive Products Fund, which shall be avail-  
15 able to the Postal Service without fiscal year limitation  
16 for the payment of—

17 “(1) costs attributable to competitive products;  
18 and

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

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

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

1           “(1) revenues from competitive products;

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

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

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

9           “(c) If the Postal Service determines that the moneys  
10          of the Competitive Products Fund are in excess of current  
11          needs, it may invest such amounts as it considers appro-  
12          priate in accordance with regulations which the Secretary  
13          of the Treasury shall prescribe within 12 months after the  
14          date of enactment of the Postal Accountability and En-  
15          hancement Act.

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

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

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

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

18               “(A) the establishment of reserve, sinking, and  
19 other funds;

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

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

1           “(D) such other matters as the Postal Service  
2           considers necessary or desirable to enhance the mar-  
3           ketability of such obligations.

4           “(3) Obligations issued by the Postal Service under  
5           this subsection—

6           “(A) may not be purchased by the Secretary of  
7           the Treasury;

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

11          “(C) shall not be obligations of, nor shall pay-  
12          ment of the principal thereof or interest thereon be  
13          guaranteed by, the Government of the United  
14          States, and the obligations shall so plainly state; and

15          “(D) notwithstanding the provisions of the Fed-  
16          eral Financing Bank Act of 1973 or any other provi-  
17          sion of law (except as specifically provided by ref-  
18          erence to this subparagraph in a law enacted after  
19          this subparagraph takes effect), shall not be eligible  
20          for purchase by, commitment to purchase by, or sale  
21          or issuance to, the Federal Financing Bank.

22          “(4)(A) This paragraph applies with respect to the  
23          period beginning on the date of the enactment of this  
24          paragraph and ending at the close of the 5-year period

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

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

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

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

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

1 to the Postal Service’s assumed taxable income from  
2 competitive products); and

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

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

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

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

22 “(A) the accounting practices and principles  
23 that should be followed by the Postal Service with  
24 the objectives of identifying the capital and oper-  
25 ating costs incurred by the Postal Service in pro-

1       viding competitive products, and preventing the  
2       cross-subsidization of such products by market-domi-  
3       nant products; and

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

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

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

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

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

7 “(ii) provide for the establishment and applica-  
8 tion of the substantive and procedural rules de-  
9 scribed in paragraph (1)(B); and

10 “(iii) provide for the submission by the Postal  
11 Service to the Postal Regulatory Commission of an-  
12 nual and other periodic reports setting forth such in-  
13 formation as the Commission may require.

14 Final rules under this subparagraph shall be issued not  
15 later than 12 months after the date on which the Postal  
16 Service makes its submission to the Commission under  
17 paragraph (1) (or by such later date as the Commission  
18 and the Postal Service may agree to). If final rules are  
19 not issued by the Commission by the deadline under the  
20 preceding sentence, the recommendations submitted by  
21 the Postal Service under paragraph (1) shall be treated  
22 as the final rules. The Commission is authorized to pro-  
23 mulgate regulations revising such rules.

24 “(C) Reports described in subparagraph (B)(iii) shall  
25 be submitted at such time and in such form, and shall

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

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

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

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

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

1 to make to the Postal Regulatory Commission under sec-  
2 tion 3652(g).”.

3 (2) CLERICAL AMENDMENT.—The analysis for  
4 chapter 20 of title 39, United States Code, is  
5 amended by adding after the item relating to section  
6 2010 the following:

“2011. Provisions relating to competitive products.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

16 (2) CAPITAL OF THE POSTAL SERVICE.—Sec-  
17 tion 2002(b) of title 39, United States Code, is  
18 amended by striking “Fund,” and inserting “Fund  
19 and the balance in the Competitive Products  
20 Fund,”.

21 (3) POSTAL SERVICE FUND.—

22 (A) PURPOSES FOR WHICH AVAILABLE.—  
23 Section 2003(a) of title 39, United States Code,  
24 is amended by striking “title.” and inserting  
25 “title (other than any of the purposes, func-

1 tions, or powers for which the Competitive  
2 Products Fund is available).”.

3 (B) DEPOSITS.—Section 2003(b) of title  
4 39, United States Code, is amended by striking  
5 “There” and inserting “Except as otherwise  
6 provided in section 2011, there”.

7 (4) RELATIONSHIP BETWEEN THE TREASURY  
8 AND THE POSTAL SERVICE.—Section 2006 of title  
9 39, United States Code, is amended—

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

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

18 **SEC. 402. ASSUMED FEDERAL INCOME TAX ON COMPETI-**  
19 **TIVE PRODUCTS INCOME.**

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

23 **“§ 3634. Assumed Federal income tax on competitive**  
24 **products income**

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

1           “(1) the term ‘assumed Federal income tax on  
2 competitive products income’ means the net income  
3 tax that would be imposed by chapter 1 of the Inter-  
4 nal Revenue Code of 1986 on the Postal Service’s  
5 assumed taxable income from competitive products  
6 for the year; and

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

12           “(A) the only activities of such corporation  
13 were the activities of the Postal Service allo-  
14 cable under section 2011(h) to competitive  
15 products; and

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

19           “(b) COMPUTATION AND TRANSFER REQUIRE-  
20 MENTS.—The Postal Service shall, for each year beginning  
21 with the year in which occurs the deadline for the Postal  
22 Service’s first report to the Postal Regulatory Commission  
23 under section 3652(a)—

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

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

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

8           **SEC. 403. UNFAIR COMPETITION PROHIBITED.**

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

12         **“§ 404a. Specific limitations**

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

15                         “(1) establish any rule or regulation (including  
16                         any standard) the effect of which is to preclude com-  
17                         petition or establish the terms of competition unless  
18                         the Postal Service demonstrates that the regulation  
19                         does not create an unfair competitive advantage for  
20                         itself or any entity funded (in whole or in part) by  
21                         the Postal Service;

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

1           “(3) obtain information from a person that pro-  
2           vides (or seeks to provide) any product, and then  
3           offer any postal service that uses or is based in  
4           whole or in part on such information, without the  
5           consent of the person providing that information,  
6           unless substantially the same information is obtained  
7           (or obtainable) from an independent source or is  
8           otherwise obtained (or obtainable).

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

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

15          (b) CONFORMING AMENDMENTS.—

16                 (1) GENERAL POWERS.—Section 401 of title  
17                 39, United States Code, is amended by striking  
18                 “The” and inserting “Subject to the provisions of  
19                 section 404a, the”.

20                 (2) SPECIFIC POWERS.—Section 404(a) of title  
21                 39, United States Code, is amended by striking  
22                 “Without” and inserting “Subject to the provisions  
23                 of section 404a, but otherwise without”.

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

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

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

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

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

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

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

19 “(A) the Act of July 5, 1946 (commonly re-  
20 ferred to as the ‘Trademark Act of 1946’ (15 U.S.C.  
21 1051 and following)); and

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

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

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

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

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

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

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

23           “(2) No damages, interest on damages, costs or at-  
24 torney’s fees may be recovered under the antitrust laws  
25 (as so defined) from the Postal Service or any officer or

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

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

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

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

17 “(2) Each building constructed or altered by the  
18 Postal Service shall be constructed or altered only after  
19 consideration of all requirements (other than procedural  
20 requirements) of zoning laws, land use laws, and applica-  
21 ble environmental laws of a State or subdivision of a State  
22 which would apply to the building if it were not a building  
23 constructed or altered by an establishment of the Govern-  
24 ment of the United States.

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

4           “(A) in preparing plans for the building, con-  
5 sult with appropriate officials of the State or polit-  
6 ical subdivision, or both, in which the building will  
7 be located;

8           “(B) upon request, submit such plans in a  
9 timely manner to such officials for review by such  
10 officials for a reasonable period of time not exceed-  
11 ing 30 days; and

12           “(C) permit inspection by such officials during  
13 construction or alteration of the building, in accord-  
14 ance with the customary schedule of inspections for  
15 construction or alteration of buildings in the locality,  
16 if such officials provide to the Postal Service—

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

19           “(ii) reasonable notice of their intention to  
20 conduct any inspection before conducting such  
21 inspection.

22 Nothing in this subsection shall impose an obligation on  
23 any State or political subdivision to take any action under  
24 the preceding sentence, nor shall anything in this sub-  
25 section require the Postal Service or any of its contractors

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

5 “(4) Appropriate officials of a State or a political  
6 subdivision of a State may make recommendations to the  
7 Postal Service concerning measures necessary to meet the  
8 requirements of paragraphs (1) and (2). Such officials  
9 may also make recommendations to the Postal Service  
10 concerning measures which should be taken in the con-  
11 struction or alteration of the building to take into account  
12 local conditions. The Postal Service shall give due consid-  
13 eration to any such recommendations.

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

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

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

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

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

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

7           “(C) Section 3663 (relating to appellate re-  
8 view).

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

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

22           “(3)(A) In any action, suit, or proceeding in a court  
23 of the United States arising in whole or in part under any  
24 of the provisions of law referred to in subparagraph (B)  
25 or (C) of paragraph (1), and to which the Commission

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

4 “(B) The Department of Justice shall, under such  
5 terms and conditions as the Commission and the Attorney  
6 General shall consider appropriate, furnish the Commis-  
7 sion such legal representation as it may require in connec-  
8 tion with any such action, suit, or proceeding, except that,  
9 with the prior consent of the Attorney General, the Com-  
10 mission may employ attorneys by contract or otherwise for  
11 that purpose.

12 “(i) A judgment against the Government of the  
13 United States arising out of activities of the Postal Service  
14 shall be paid by the Postal Service out of any funds avail-  
15 able to the Postal Service, subject to the restriction speci-  
16 fied in section 2011(g).”.

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

## 21 **TITLE V—GENERAL PROVISIONS**

### 22 **SEC. 501. QUALIFICATION AND TERM REQUIREMENTS FOR** 23 **GOVERNORS.**

24 (a) QUALIFICATIONS.—

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

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

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

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

10 (c) 5-YEAR TERMS.—

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

14 (2) APPLICABILITY.—

15 (A) CONTINUATION BY INCUMBENTS.—

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

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

1 is removed, or dies before the expiration of the  
2 9-year term of that Governor, and that Gov-  
3 ernor has served less than 5 years of that term,  
4 the resulting vacancy in office shall be treated  
5 as a vacancy in a 5-year term.

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

25 (d) TERM LIMITATION.—

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

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

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

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

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

15 **SEC. 502. OBLIGATIONS.**

16           (a) PURPOSES FOR WHICH OBLIGATIONS MAY BE  
17 ISSUED.—The first sentence of section 2005(a)(1) of title  
18 39, United States Code, is amended by striking “title.”  
19 and inserting “title, other than any of the purposes for  
20 which the corresponding authority is available to the Post-  
21 al Service under section 2011.”.

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

1 (c) AMOUNTS WHICH MAY BE PLEDGED.—

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

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

12 “(2) Notwithstanding any other provision of this  
13 section—

14 “(A) the authority to pledge assets of the Post-  
15 al Service under this subsection shall be available  
16 only to the extent that such assets are not related  
17 to the provision of competitive products (as deter-  
18 mined under section 2011(h) or, for purposes of any  
19 period before accounting practices and principles  
20 under section 2011(h) have been established and ap-  
21 plied, the best information available from the Postal  
22 Service, including the audited statements required  
23 by section 2008(e)); and

24 “(B) any authority under this subsection relat-  
25 ing to the pledging or other use of revenues or re-

1 receipts of the Postal Service shall be available only to  
2 the extent that they are not revenues or receipts of  
3 the Competitive Products Fund.”.

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

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

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

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

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

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

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

23 (b) EFFECTIVE DATE.—This section shall take effect  
24 on the date as of which the regulations promulgated under

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

3 **SEC. 504. RULEMAKING AUTHORITY.**

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

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

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

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

16 **“§ 1207. Labor disputes**

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

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

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

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

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

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

17       “(3) Costs of the arbitration board and mediation  
18 shall be shared equally by the Postal Service and the bar-  
19 gaining representative.

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

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

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

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

1                   **TITLE VI—ENHANCED**  
2                   **REGULATORY COMMISSION**

3   **SEC. 601. REORGANIZATION AND MODIFICATION OF CER-**  
4                   **TAIN PROVISIONS RELATING TO THE POSTAL**  
5                   **REGULATORY COMMISSION.**

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

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

9                   **“CHAPTER 5—POSTAL REGULATORY**  
10                   **COMMISSION**

“Sec.

“501. Establishment.

“502. Commissioners.

“503. Rules; regulations; procedures.

“504. Administration.

11   **“§ 501. Establishment**

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

15   **“§ 502. Commissioners**

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

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

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

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

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

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

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

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

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

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

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

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

**“5. Postal Regulatory Commission ..... 501”**

19 **SEC. 602. AUTHORITY FOR POSTAL REGULATORY COMMIS-**  
20 **SION TO ISSUE SUBPOENAS.**

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

24 “(f)(1) Any Commissioner of the Postal Regulatory  
25 Commission, any administrative law judge appointed by

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

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

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

14 “(B) order the taking of depositions and re-  
15 sponses to written interrogatories by a covered per-  
16 son.

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

21 “(3) In the case of contumacy or failure to obey a  
22 subpoena issued under this subsection, upon application  
23 by the Commission, the district court of the United States  
24 for the district in which the person to whom the subpoena  
25 is addressed resides or is served may issue an order requir-

1 ing such person to appear at any designated place to tes-  
2 tify or produce documentary or other evidence. Any failure  
3 to obey the order of the court may be punished by the  
4 court as a contempt thereof.

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

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

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

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

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

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

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

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

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

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

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

17 (b) BUDGET PROGRAM.—

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

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

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

20        (c) EFFECTIVE DATE.—

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

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



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

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

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

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

17 **SEC. 605. FINANCIAL TRANSPARENCY.**

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

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

22 (2) by inserting after subsection (c) the fol-  
23 lowing:

24 “(d) As an establishment of the government that pro-  
25 vides both market-dominant and competitive products, the

1 Postal Service shall be subject to a high degree of trans-  
2 parency to ensure fair treatment of customers of the Post-  
3 al Service’s market-dominant products and companies  
4 competing with the Postal Service’s competitive prod-  
5 ucts.”.

## 6 **TITLE VII—EVALUATIONS**

### 7 **SEC. 701. DEFINITION.**

8 For purposes of this title, the term “Board of Gov-  
9 ernors” has the meaning given such term by section 102  
10 of title 39, United States Code.

### 11 **SEC. 702. ASSESSMENTS OF RATEMAKING, CLASSIFICA-** 12 **TION, AND OTHER PROVISIONS.**

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

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

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

23 (b) POSTAL SERVICE VIEWS.—A report under this  
24 section shall be submitted only after reasonable oppor-  
25 tunity has been afforded to the Postal Service to review

1 such report and to submit written comments thereon. Any  
2 comments timely received from the Postal Service under  
3 the preceding sentence shall be attached to the report sub-  
4 mitted under subsection (a).

5 **TITLE VIII—POSTAL SERVICE**  
6 **RETIREMENT AND HEALTH**  
7 **BENEFITS FUNDING**

8 **SEC. 801. SHORT TITLE.**

9 This title may be cited as the “Postal Civil Service  
10 Retirement and Health Benefits Funding Amendments of  
11 2004”.

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

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

15 (1) in section 8334(a)(1)(B), by striking clause

16 (ii) and inserting the following:

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

20 (2) by amending section 8348(h) to read as fol-  
21 lows:

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

1           “(A) the actuarial present value of all future  
2 benefits payable from the Fund under this sub-  
3 chapter to current or former employees of the  
4 United States Postal Service and attributable to ci-  
5 vilian employment with the United States Postal  
6 Service; and

7           “(B) the sum of—

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

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

21                 “(iii) any other appropriate amount, as de-  
22 termined by the Office in accordance with gen-  
23 erally accepted actuarial practices and prin-  
24 ciples.

1           “(2)(A) Not later than June 30, 2006, the Office  
2 shall determine the Postal surplus or supplemental liabil-  
3 ity, as of September 30, 2005. If that result is a surplus,  
4 the amount of the surplus shall be transferred to the Post-  
5 al Service Retiree Health Benefits Fund established under  
6 section 8909a. If the result is a supplemental liability, the  
7 Office shall establish an amortization schedule, including  
8 a series of annual installments commencing September 30,  
9 2006, which provides for the liquidation of such liability  
10 by September 30, 2043.

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

23           “(C) As of the close of the fiscal years ending Sep-  
24 tember 30, 2015, 2025, 2035, and 2039, if the result is  
25 a surplus, that amount shall be transferred to the Postal

1 Service Retiree Health Benefits Fund, and any prior am-  
2 ortization schedule for payments shall be terminated.

3 “(D) Amortization schedules established under this  
4 paragraph shall be set in accordance with generally accept-  
5 ed actuarial practices and principles, with interest com-  
6 puted at the rate used in the most recent valuation of the  
7 Civil Service Retirement System.

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

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

18 (b) CREDIT ALLOWED FOR MILITARY SERVICE.—In  
19 the application of section 8348(g)(2) of title 5, United  
20 States Code, for the fiscal year 2006, the Office of Per-  
21 sonnel Management shall include, in addition to the  
22 amount otherwise computed under that paragraph, the  
23 amounts that would have been included for the fiscal years  
24 2003 through 2005 with respect to credit for military serv-  
25 ice of former employees of the United States Postal Serv-

1 ice as though the Postal Civil Service Retirement System  
2 Funding Reform Act of 2003 (Public Law 108–18) had  
3 not been enacted, and the Secretary of the Treasury shall  
4 make the required transfer to the Civil Service Retirement  
5 and Disability Fund based on that amount.

6 **SEC. 803. HEALTH INSURANCE.**

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

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

15 (2) by inserting after section 8909 the fol-  
16 lowing:

17 **“§ 8909a. Postal Service Retiree Health Benefit Fund**

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

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

23 “(c) The Secretary of the Treasury shall immediately  
24 invest, in interest-bearing securities of the United States  
25 such currently available portions of the Fund as are not

1 immediately required for payments from the Fund. Such  
2 investments shall be made in the same manner as invest-  
3 ments for the Civil Service Retirement and Disability  
4 Fund under section 8348.

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

11 “(2)(A) Not later than December 31, 2006, the Of-  
12 fice shall compute, and by December 31 of each suc-  
13 ceeding year, the Office shall recompute the difference  
14 between—

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

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

23 “(II) the net present value computed under  
24 paragraph (1).

1 “(B) Not later than December 31, 2006, the Office  
2 shall compute, and by December 31 of each succeeding  
3 year shall recompute, an amortization schedule including  
4 a series of annual installments which provide for the liq-  
5 uidation by January 31, 2046, or within 15 years, which-  
6 ever is later, of the net present value determined under  
7 subparagraph (A), including interest at the rate used in  
8 that computation.

9 “(3) Not later than January 31, 2007, and by Janu-  
10 ary 31 of each succeeding year, the United States Postal  
11 Service shall pay into such Fund—

12 “(A) the net present value computed under  
13 paragraph (1); and

14 “(B) the annual installment computed under  
15 paragraph (2)(B).

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

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

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
24 The table of sections for chapter 89 of title 5, United

1 States Code, is amended by inserting after the item relat-  
2 ing to section 8909 the following:

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

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

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

7 **SEC. 805. EFFECTIVE DATES.**

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

10 (b) TERMINATION OF EMPLOYER CONTRIBUTION.—

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

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

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

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

19 (1) by striking “An employee” and inserting  
20 “(a) An employee other than a Postal Service em-  
21 ployee”; and

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

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

1 annual leave, sick leave, or leave without pay during that  
2 3-day period.”.

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

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

8 **SEC. 902. DISABILITY RETIREMENT FOR POSTAL EMPLOY-**  
9 **EES.**

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

12 (1) in subsection (a), by adding at the end the  
13 following: “This section applies to a Postal Service  
14 employee, except as provided under subsection (c).”;  
15 and

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

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

20 “(2) Notwithstanding any other provision of law, for  
21 any injury occurring on or after September 30, 2004, and  
22 for any new claim for a period of disability commencing  
23 on or after that date, the compensation entitlement for  
24 total disability is converted to 50 percent of the monthly  
25 pay of the employee on the later of—

1           “(A) the date on which the injured employee  
2 reaches retirement age; or

3           “(B) 1 year after the employee begins receiving  
4 compensation.”.

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

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

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

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

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

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

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

3 **TITLE X—UNIVERSAL POSTAL**  
4 **SERVICE AND THE POSTAL**  
5 **MONOPOLY**

6 **SEC. 1001. PERIODIC REPORTS ON UNIVERSAL POSTAL**  
7 **SERVICE AND THE POSTAL MONOPOLY.**

8 (a) REPORTS BY THE POSTAL SERVICE.—

9                   (1) IN GENERAL.—Not later than 12 months  
10                  after the date of enactment of this Act, and every  
11                  3 years thereafter, the United States Postal Service  
12                  shall submit to the President, Congress, and the  
13                  Postal Regulatory Commission, a written report on  
14                  universal postal service and the postal monopoly, in-  
15                  cluding the monopoly on the delivery of mail and on  
16                  access to mailboxes, in the United States (in this  
17                  section referred to as “universal service and the  
18                  postal monopoly”). All reports shall be available to  
19                  the public.

20                  (2) CONTENTS.—The initial report under this  
21                  section (and each subsequent report with updated  
22                  information) shall include at least the following, with  
23                  separate discussion of changes over the preceding 3  
24                  years:

1 (A) A comprehensive review of the history  
2 and development of universal service and the  
3 postal monopoly, including how the scope and  
4 standards of universal service and the postal  
5 monopoly have evolved over time for the Nation  
6 and its urban and rural areas.

7 (B) The scope and standards of universal  
8 service and the postal monopoly provided under  
9 current law (including sections 101 and 403 of  
10 title 39, United States Code), and current  
11 rules, regulations, policy statements, and prac-  
12 tices of the Postal Service.

13 (C) A description of any geographic areas,  
14 populations, communities (including both urban  
15 and rural communities), organizations, or other  
16 groups or entities not currently covered by uni-  
17 versal service or that are covered but that are  
18 receiving services deficient in scope or quality  
19 or both.

20 (D) The scope and standards of universal  
21 service and the postal monopoly likely to be re-  
22 quired in the future in order to meet the needs  
23 and expectations of the United States public,  
24 including all types of mail users, based on dis-  
25 cussion of such assumptions, alternative sets of

1 assumptions, and analyses as the Postal Service  
2 considers plausible.

3 (E) Such recommendations as the Postal  
4 Service considers appropriate, including changes  
5 that the Postal Service may implement under  
6 current law and changes that would require  
7 amendments to current law, with estimated ef-  
8 fects of the recommendations on the service, fi-  
9 nancial condition, rates, and security of mail  
10 provided by the Postal Service.

11 (b) REPORT BY THE POSTAL REGULATORY COMMIS-  
12 SION.—Not later than 12 months after receiving the re-  
13 port of the Postal Service under subsection (a), the Postal  
14 Regulatory Commission shall submit to the President and  
15 Congress a written report evaluating the report of the  
16 Postal Service. The report of the Commission shall include  
17 at least the following, with separate discussion of changes  
18 in the preceding 3 years:

19 (1) Any comments and observations relating to  
20 the matters addressed in the report of the Postal  
21 Service submitted under subsection (a) as the Com-  
22 mission considers appropriate.

23 (2) An estimate of the cost attributable to the  
24 obligation to provide universal service under current  
25 law, and for the first report, under prior law.

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

3           (A) current law, rules, regulations, policy  
4 statements, and practices of the Postal Service  
5 described in subsection (a)(2)(B);

6           (B) the assumptions, respective sets of as-  
7 sumptions, or analyses of the Postal Service de-  
8 scribed in subsection (a)(2)(D); and

9           (C) such other assumptions, respective sets  
10 of assumptions, analyses, and recommendations  
11 as the Commission considers plausible.

12           (4) An analysis of the likely benefit of the cur-  
13 rent postal monopoly to the ability of the Postal  
14 Service to sustain the current scope and standards  
15 of universal service, including estimates of the finan-  
16 cial benefit of the postal monopoly to the extent  
17 practicable, under—

18           (A) current law, rules, regulations, policy  
19 statements, and practices of the Postal Service  
20 described in subsection (a)(2)(B);

21           (B) the assumptions, respective sets of as-  
22 sumptions, or analyses of the Postal Service de-  
23 scribed in subsection (a)(2)(D); and

1 (C) such other assumptions, respective sets  
2 of assumptions, analyses, and recommendations  
3 as the Commission considers plausible.

4 (5) Such additional topics and recommenda-  
5 tions as the Commission considers appropriate, with  
6 estimated effects of the recommendations on the  
7 service, financial condition, rates, and the security of  
8 mail provided by the Postal Service.

9 (c) CONSULTATION.—In preparing the reports re-  
10 quired by this section—

11 (1) the Postal Service and the Postal Regu-  
12 latory Commission shall—

13 (A) consult with each other, other Federal  
14 agencies, users of the mails, enterprises in the  
15 private sector engaged in the delivery of mail,  
16 and the general public;

17 (B) address in their respective reports any  
18 written comments received under this section;  
19 and

20 (C) comply with all applicable provisions of  
21 law relating to confidentiality, including any  
22 such provisions added by the amendments made  
23 by this Act; and

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1           (2) the Postal Service shall provide such infor-  
2           mation as needed by the Commission for the Com-  
3           mission to complete its report.

4           (d) CLARIFYING PROVISION.—Nothing in this section  
5           shall be considered to relate to any services that are not  
6           postal services (within the meaning of section 102 of title  
7           39, United States Code, as amended by section 101 of this  
8           Act).