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106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-468 }

AMENDING CHAPTER 36 OF TITLE 39,
UNITED STATES CODE, TO MODIFY RATES
RELATING TO REDUCED RATE MAIL MAT-
TER, AND FOR OTHER PURPOSES

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2686

TO AMEND CHAPTER 36 OF TITLE 39, UNITED STATES CODE, TO
MODIFY RATES RELATING TO REDUCED RATE MAIL MATTER,
AND FOR OTHER PURPOSES



OCTOBER 3 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

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OCTOBER 3 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. THOMPSON, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany S. 2686]

The Committee on Governmental Affairs, to which was referred the bill (S. 2686) to amend chapter 36 of title 39, United States Code, to modify rates relating to reduced rate mail matter, and for other purposes, having considered the same, reports favorably without amendment and recommends that the bill do pass.

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I. PURPOSE

S. 2686, as reported by the Committee on Governmental Affairs, amends chapter 36 of title 39, United States Code, to modify the procedures for establishing mail rates for nonprofit and other reduced rate mailers. The legislation is designed to address technical problems in the nonprofit ratesetting structure by locking in the current rate relationship between nonprofit and commercial rate mail.

II. BACKGROUND

Historically, certain classes of mail and types of mailers have been entitled to mail at “preferred” or reduced rates of postage under postal laws. As identified by reference to the sections that established them in former title 39, United States Code, in effect before the enactment of the Postal Reorganization Act of 1970, Public Law No. 91–375, these preferred categories include: Non-profit and Classroom Periodicals (former sections 4358(d), (e)); Non-profit Standard (A) Mail (former sections 4452(b), (c)); Library and Educational Matter (former sections 4554(b), (c)); and In-County Publications (former sections 4358(a), (b)).

The Postal Reorganization Act continued the preferred rate treatment for these categories of mail. Although the rates of postage for these categories, after an extended phase-in period, were required to cover their attributable costs, they were not required (like other categories of mail) to cover any part of the institutional costs of the Postal Service. An annual appropriation was authorized to reimburse the Postal Service for the “revenue forgone” on reduced-rate mail (the difference between the revenue received from preferred mailers and the revenue that would have been received if the reduced rate provisions had not been enacted).

In 1993, Congress established a new method of setting rates for nonprofit and other reduced-rate mailers by the Revenue Forgone Reform Act (RFRA) of 1993, enacted as Title VII of Public Law No. 103–123, the Treasury, Postal Service, and General Government Appropriations Act, 1994. The RFRA was intended to be a federal deficit reduction measure that would end the annual federal subsidy for preferred rates of postage, reimburse the Postal Service for past shortfalls in the appropriations for revenue forgone, and provide for a more equitable apportionment of institutional costs among reduced-rate and regular-rate mailers. The law included a phasing mechanism that was designed to phase in rate increases for reduced-rate mailers gradually, and to spread the impact of the change fairly between nonprofit and commercial customers. This phasing process scheduled six annual increases (known as “step” increases) for reduced-rate mailers, ending in fiscal year 1998. The RFRA mandated a formula for the development of nonprofit rates throughout the phasing schedule. At the end of the phasing process, the institutional cost contribution of each reduced-rate category (commonly referred to as the “markup” on that mail) was to be equal to one-half of the “markup” on the comparable commercial subclass of mail. This requirement, known as the “fifty percent markup rule” or “one-half markup rule”, was designed to ensure that the rates paid by nonprofit and other reduced-rate mailers made a continuing contribution toward the institutional costs of the Postal Service.

The RFRA was intended to be an equitable way to phase out the taxpayer subsidy of reduced postage rates. In practice, however, the application of the one-half markup rule frequently had troublesome effects. For nonprofit Standard (A), for example, it was found that changes in the underlying costs could yield significant rate swings. The one-half markup rule severely curtailed the ability of the Postal Service and the Postal Rate Commission to mitigate the price effects of cost changes for reduced-rate mailers by adjusting

the markup on the subclasses involved. If the costs for a nonprofit subclass changed dramatically, the rates followed suit because the markup could not be reduced to lessen the impact of the cost swing (as is commonly done for commercial subclasses). Thus, cost changes translated directly into rate changes.

For Nonprofit and Classroom Periodicals, an even greater anomaly appeared. For these types of mail, it was learned that the complexity of the rate structure and the low markup for the commercial subclass could yield rates that were lower for a commercial publication than for a similar nonprofit publication. In such cases, the one-half markup rule again made it difficult, if not impossible, to devise a remedy.

More than 15 million magazines are mailed for students as part of the kindergarten through grade 12 educational curriculum and the Committee recognizes the importance of classroom publications in meeting the needs of students and teachers. While the discounts received by this subclass have eroded over time, S. 2686 is intended to provide relief to these publications. The bill would accord nonprofit periodicals and classroom publications the same treatment and will help to ensure that future rate increases for both subclasses are less volatile. Rates for this subclass will continue to be monitored to evaluate the impact postal rates have on the economic viability of these mailers and to determine if there is a need for a more fundamental resolution to the rate concerns of classroom publishers. The Postal Service is urged to examine available options to help ensure that postal rates for classroom periodicals and teacher guides remain at a price that ensures their availability and affordability to all classrooms.

Rate anomalies also appeared for Standard (B) publications, where the classification for Library and Educational Matter overlaps with the classification currently known as Special Standard Mail. (Both classifications contain materials such as books and sound recordings, but Special Standard Mail does not require either the mailer or the recipient to be a library, educational institution, museum, herbarium, or nonprofit institution.) This overlap, and the relatively small volumes of Library and Educational matter, made it difficult to collect adequate ratemaking data for these subclasses.

To address these problems, S. 2686 is designed to lock in the current rate relationship between nonprofit and commercial rate mail. It has three components designed to address the specific problems:

Nonprofit Standard (A) rates, overall, would be set so that the estimated average revenue per piece from each subclass would be equal, as nearly as practicable, to 60% of the estimated average revenue per piece from the corresponding regular-rate subclasses.

Nonprofit and Classroom Periodical rates would be set so that postage on each mailing of such mail would be as nearly as practicable 5% lower than the postage for a corresponding regular-rate mailing. (This discount would not apply to the advertising portion of a mailing, if the advertising portion exceeded 10% of the Publication involved.)

Library and Educational Matter rates would be set so that postage on each mailing of such mail would be as nearly as practicable 5% lower than the postage for a corresponding regular-rate mailing.

In addition, S. 2686 contains a transitional provision to mitigate the impact of these changes on regular-rate mailers in the pending postal rate proceeding before the Postal Rate Commission. Under this provision, the estimated reduction in postal revenue from Non-profit Standard (A) mail caused by the enactment of the new rate-making rules, if any, is to be treated as a reasonably assignable cost of the Postal Service to be apportioned among the various classes of mail and types of postal service in accordance with section 3622(b)(3) of title 39, U.S. Code.

III. LEGISLATIVE HISTORY

S. 2686 was introduced by Senators Thad Cochran and Daniel Akaka on June 7, 2000 and referred to the Committee on Governmental Affairs. On June 20, 2000 the bill was referred to the Subcommittee on International Security, Proliferation, and Federal Services. On September 8, 2000, the Subcommittee favorably reported S. 2686 by polling letter to the full Committee. No hearings were held on the bill.

On September 27, 2000 the Committee considered S. 2686. No amendments were offered and S. 2686 was ordered to be reported favorably by voice vote. Committee members present were Senators Roth, Stevens, Collins, Voinovich, Domenici, Cochran, Levin, Akaka, Durbin, Torricelli, Cleland, Edwards and Thompson.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Special ratemaking provisions

(a) Establishment of Regular Rates for Mail Classes With Certain Preferred Subclasses. This subsection inserts a new subsection (c) in 39 U.S.C. 3622 to establish a new method of establishing regular rates for classes or subclasses of mail that include one or more special rate categories for mail entitled to preferred rate treatment. These special rate categories are identified by reference to the sections that established them in former title 39, United States Code, as in effect before the enactment of the Postal Reorganization Act, Pub. L. No. 91-375, 84 Stat. 719 (Aug. 12, 1970). They include Nonprofit and Classroom Periodicals (former sections 4358(d), (e)); Nonprofit Standard (A) Mail (former sections 4452(b), (c)); and Library and Educational Matter (former sections 4554(b), (c)). Under the new method, the attributable costs of the regular rate mail in each affected class or subclass will be combined with the attributable costs of the preferred rate mail in that class or subclass for ratemaking purposes. The various ratemaking factors of 39 U.S.C. 3622(b) will then be applied to those costs to determine the new regular rate.

(b) Residual Rule for Preferred Periodical Mail. This subsection amends 39 U.S.C. 3626(a)(3)(A) to make it applicable only to those preferred rate Periodicals not covered by a special rule under sections 3626(a)(4) or (a)(5). As a practical matter these Periodicals will essentially be the in-county copies of newspapers and other Publications entitled to preferred rates under former sections 4358(a), (b). Under the residual rule, rates for these Periodicals will continue to be established using the so-called “one-half markup rule” of section 3626(a)(3)(B). That rule, however, will no longer apply to other types of preferred rate mail.

(c) *Special Rule for Nonprofit and Classroom Periodicals.* This subsection amends 39 U.S.C. 3626(a)(4) to establish a special rule for calculating postage on mailings of Nonprofit and Classroom Periodicals entitled to preferred rates under former sections 4358(d), (e). Under the special rule, the postage on each mailing of these preferred rate Periodicals shall be as nearly as practicable 5 percent lower than the postage on a corresponding regular rate category mailing. An exception to this rule will provide that the 5 percent discount will not apply to the advertising portion of a preferred rate mailing, if the advertising portion exceeds 10 percent of the Publication involved.

(d) *Special Rule for Nonprofit Standard (A) Mail.* This subsection adds a new 39 U.S.C. 3626(a)(6), a special rule for establishing the rates for Nonprofit Standard (A) Mail entitled to preferred rates under former sections 4452(b), (c). Under the special rule, rates will be set so that the estimated average revenue per piece to be received by the Postal Service from each subclass of Nonprofit Standard (A) mail will be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular rate subclass of mail. In making this calculation, the estimated average revenue per piece will be calculated on the basis of the expected volumes and mix of mail for each subclass at current rates in the test year of the rate proceeding. Rate differentials within each subclass of Nonprofit Standard (A) Mail will be established using the ratemaking policies of current title 39, United States Code, including the factors set forth in current 39 U.S.C. 3622(b).

(e) *Special Rule for Library and Educational Matter.* This subsection adds new 39 U.S.C. 3626(a)(7) to establish a special rule for calculating postage on mailings of Library and Educational Matter entitled to preferred rates under former sections 4554(b), (c). Under the special rule, the postage on each mailing of preferred rate matter shall be as nearly as practicable 5 percent lower than the postage on a corresponding regular rate category mailing.

Sec. 2. Transitional and technical provisions

(a) *Transitional Provision for Nonprofit Standard (A) Mail.* This subsection provides for the treatment of the transitional costs arising from the changes that new 39 U.S.C. 3626(a)(6) makes in the establishment of rates for Nonprofit Standard (A) Mail entitled to preferred rates under former sections 4452(b), (c). In any rate proceeding pending as of the date of enactment of section one, the estimated reduction in postal revenue from Nonprofit Standard (A) Mail caused by the enactment of new 39 U.S.C. 3626(a)(6)(A), if any, will be treated as a “reasonably assignable” cost of the Postal Service under current 39 U.S.C. 3622(b)(3).

(b) *Technical Amendment.* This subsection corrects a typographical error in 39 U.S.C. 3626(a)(1) by inserting the proper reference to the former sections 4554(b), (c) of title 39, concerning Library and Educational Matter.

V. REGULATORY IMPACT STATEMENT

S. 2686 would contain an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would raise the cost of certain types of reduced-

rate mail for certain groups of mailers. In effect, the bill would shift, to those that pay regular mail rates, about \$70 million a year of costs that would be borne by nonprofit and governmental entities under current law. For the public sector, the bill would reduce postage rates for certain governmental mailers, including public libraries and school, and would increase costs for some other agencies of state and local governments that pay regular mail rates. The Congressional Budget Office estimates that net costs, if any, to governmental entities would not exceed the annual threshold established in UMRA. For private-sector mailers, the bill would reduce postage rates for certain classes of non-profit mail and shift costs to regular-rate mailers. CBO estimates that net costs to private sector entities resulting from this shift would fall well below the annual threshold established in UMRA.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 2, 2000.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2686, a bill to amend chapter 36 of title 39, United States Code, to modify rates relating to reduced rate mail matter, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), Susan Sieg Tompkins (for the impact on state and local governments), and Paige Piper/Bach (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 2686—A bill to amend chapter 36 of title 39, United States Code, to modify rates relating to reduced rate mail matter, and for other purposes

S. 2686 would change the methods used by the Postal Service for setting mail rates for nonprofit and other reduced rate mailers. Because such rates would be lower than under current law, CBO expects that the Postal Service would increase its rates for other mail in order to continue to cover its costs. CBO estimates that the net effect of the bill on the federal budget would be negligible. Collections and spending by the Postal Service are classified as off-budget, so pay-as-you-go procedures would not apply.

S. 2686 contains an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would raise the cost of certain types of reduced-rate mail for certain groups of mailers. In effect, the bill would shift, to those that pay regular mail rates, about \$70 million a year of costs that would be borne by nonprofit and governmental entities under cur-

rent law. (Such regular-rate mailers would include both private- and public-sector entities.)

For the public sector, the bill would reduce postage rates for certain governmental mailers, including public libraries and schools, and would increase costs for some other agencies of state and local governments that pay regular mail rates. CBO estimates that net costs, if any, to governmental entities would not exceed the annual threshold established in UMRA (\$55 million in 2000, adjusted annually for inflation).

For private-sector mailers, the bill also would reduce postage rates for certain classes of nonprofit mail and shift costs to regular-rate mailers. CBO estimates that net costs to private sector entities resulting from this shift would fall well below the annual threshold established in UMRA (\$109 million in 2000, adjusted annually for inflation).

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs), Susan Sieg Tompkins (for the impact on state and local governments), and Paige Piper/Bach (for the private-sector impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

TITLE 39—POSTAL SERVICE

* * * * *

PART IV—MAIL MATTER

* * * * *

CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

* * * * *

Subchapter II—Permanent Rates and Classes of Mail

* * * * *

Sec. 3622. Rates and fees

(a) * * *

(b) * * *

(c) *Regular rates for each class or subclass of mail that includes 1 or more special rate categories for mail under former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title shall be established by applying the policies of this title, including the factors of section 3622(b) of this title, to the costs attributable to the regular rate mail in each class or subclass combined with the mail in the*

corresponding special rate categories authorized by former section 4358 (d) or (e), 4452 (b) or (c), or 4554 (b) or (c) of this title.

[(c)] (d) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.

* * * * *

Sec. 3626. Reduced rates

(a)(1) Except as otherwise provided in this section, rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), [4454(b), or 4454(c)] *4554(b), or 4554(c)* of this title shall be established in accordance with the applicable provisions of this chapter.

(2) * * *

[(3)(A) Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358, 4452(b), 4452(c), 4554(b), or 4554(c) of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—

(i) the estimated costs attributable to such class of mail or kind of mailer; and

(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).]

(3)(A) *Except as provided in paragraph (4) or (5), rates of postage for a class of mail or kind of mailer under former section 4358 of this title shall be established in a manner such that the estimated revenues to be received by the Postal Service from such class of mail or kind of mailer shall be equal to the sum of—*

(i) the estimated costs attributable to such class of mail or kind of mailer; and

(ii) the product derived by multiplying the estimated costs referred to in clause (i) by the applicable percentage under subparagraph (B).

* * * * *

[(4) The rates for the advertising portion of any mail matter under former section 4358(d) or 4358(e) of this title shall be equal to the rates for the advertising portion of the most closely corresponding regular-rate category of mail, except that if the advertising portion does not exceed 10 percent of the issue of the publication involved, the advertising portion shall be subject to the same rates as apply to the nonadvertising portion.]

(4)(A) *Except as specified in subparagraph (B), rates of postage for a class of mail or kind of mailer under former section 4358 (d) or (e) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate category mailing.*

(B) *With respect to the postage for the advertising portion of any mail matter under former section 4358 (d) or (e) of this title, the 5-percent discount specified in subparagraph (A) shall not apply if the advertising portion exceeds 10 percent of the publication involved.*

(5) * * *

(6) *The rates for mail matter under former sections 4452 (b) and (c) of this title shall be established as follows:*

(A) *The estimated average revenue per piece to be received by the Postal Service from each subclass of mail under former sections 4452 (b) and (c) of this title shall be equal, as nearly as practicable, to 60 percent of the estimated average revenue per piece to be received from the most closely corresponding regular-rate subclass of mail.*

(B) *For purposes of subparagraph (A), the estimated average revenue per piece of each regular-rate subclass shall be calculated on the basis of expected volumes and mix of mail for such subclass at current rates in the test year of the proceeding.*

(C) *Rate differentials within each subclass of mail matter under former sections 4452 (b) and (c) shall reflect the policies of this title, including the factors set forth in section 3622(b) of this title.*

(7) *The rates for mail matter under former sections 4554 (b) and (c) of this title shall be established so that postage on each mailing of such mail shall be as nearly as practicable 5 percent lower than the postage for a corresponding regular-rate mailing.*

(b) * * *

* * * * *

