

To me, the answer is obvious. We do need to increase the Federal investment in education, but at the same time we need to empower our local school boards, our parents, our teachers, and our principals to make the decisions and set the priorities. We need to hold them accountable for improved education achievement, but we do not need a Washington-knows-best, a one-size-fits-all approach to education policy.

There is other good news in the omnibus appropriations bill, and that is good news for students and their families who are pursuing higher education. Since I have come to the Senate, one of my highest priorities has been to increase Pell grants and student loans so that no qualified student faces a financial barrier that makes it impossible for him or her to attend college.

Prior to coming to the Senate, I worked at a small business and health college in Bangor, ME, known as Husson College. It was there that I first became aware of how critically important Federal financial assistance was for students who are attending college.

Eighty-five percent of the students at Husson College could not afford to attend college but for the assistance they were provided from student loans and from Pell grants. This assistance was absolutely essential in allowing them to attend college. Many of them were first-generation college students. They were the first people in their families to have the opportunity to attend college. They were taking a big step they knew would ensure a brighter future for them and more opportunities.

We know the vast majority of new jobs that are being created into the next century will require some kind of postsecondary education, either attendance at a technical college, a private college, or a university. We are going to need more and more skills, more and more education, if we are to compete for the jobs of the future. That is why I am so delighted the legislation provides a significant increase for Pell grants.

As you can see, the maximum Pell grant will be increased in the appropriations bill. Currently, it is \$3,125. The President proposed \$3,250. The appropriations bill passed by the Senate proposed \$3,325. Those are good steps. They will help make college a little bit more affordable for our Nation's young people; indeed, also for older adults who are returning to college because they realize they need additional skills.

Once again, it is important we emphasize, the Senate increased spending for these essential Pell grants beyond what the President recommended. This is a budget of which we can be proud. It does not include every provision each of us would like. It reflects hours, weeks, and months of work. It reflects compromise. That is what the system is all about.

Each of us would write this bill differently. Each of us wishes the process

could be cleaner, that we could work to get our legislation accomplished earlier, that we had more cooperation with the White House in achieving this goal. But the fact is, this legislation will ensure brighter futures for the families of America.

I appreciate the opportunity to set the record straight on these important issues. The bill, which will be before us later today, is not perfect but it is good legislation that deserves the support of all our colleagues.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

Ms. COLLINS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 335) to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 335) entitled "An Act to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

##### SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

##### Sec. 1. Table of contents.

#### TITLE I—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT

##### Sec. 101. Short title.

##### Sec. 102. Restrictions on mailings using misleading references to the United States Government.

##### Sec. 103. Restrictions on sweepstakes and deceptive mailings.

##### Sec. 104. Postal service orders to prohibit deceptive mailings.

##### Sec. 105. Temporary restraining order for deceptive mailings.

##### Sec. 106. Civil penalties and costs.

##### Sec. 107. Administrative subpoenas.

##### Sec. 108. Requirements of promoters of skill contests or sweepstakes mailings.

##### Sec. 109. State law not preempted.

##### Sec. 110. Technical and conforming amendments.

##### Sec. 111. Effective date.

#### TITLE II—FEDERAL RESERVE BOARD RETIREMENT PORTABILITY

##### Sec. 201. Short title.

##### Sec. 202. Portability of service credit.

Sec. 203. Certain transfers to be treated as a separation from service for purposes of the thrift savings plan.

Sec. 204. Clarifying amendments.

#### TITLE III—AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

Sec. 301. Transfer of certain property to State and local governments.

#### TITLE I—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Deceptive Mail Prevention and Enforcement Act".

##### SEC. 102. RESTRICTIONS ON MAILINGS USING MISLEADING REFERENCES TO THE UNITED STATES GOVERNMENT.

Section 3001 of title 39, United States Code, is amended—

(1) in subsection (h)—

(A) in the first sentence by striking "contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement" and inserting the following: "which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government"; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "and" at the end;

(ii) in subparagraph (B) by striking "or" at the end and inserting "and"; and

(iii) by inserting after subparagraph (B) the following:

"(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or";

(2) in subsection (i) in the first sentence—

(A) in the first sentence by striking "contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement" and inserting the following: "which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government"; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "and" at the end;

(ii) in subparagraph (B) by striking "or" at the end and inserting "and"; and

(iii) by inserting after subparagraph (B) the following:

"(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or";

(3) by redesignating subsections (j) and (k) as subsections (m) and (n), respectively; and

(4) by inserting after subsection (i) the following:

"(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(2) Matter described in this paragraph is any matter that—

"(A) constitutes a solicitation for the purchase of or payment for any product or service that—

"(i) is provided by the Federal Government; and

"(ii) may be obtained without cost from the Federal Government; and

"(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A)."

**SEC. 103. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS.**

Section 3001 of title 39, United States Code, is amended by inserting after subsection (j) (as added by section 102(4)) the following:

"(k)(1) In this subsection—

"(A) the term 'clearly and conspicuously displayed' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

"(B) the term 'facsimile check' means any matter that—

"(i) is designed to resemble a check or other negotiable instrument; but

"(ii) is not negotiable;

"(C) the term 'skill contest' means a puzzle, game, competition, or other contest in which—

"(i) a prize is awarded or offered;

"(ii) the outcome depends predominately on the skill of the contestant; and

"(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

"(D) the term 'sweepstakes' means a game of chance for which no consideration is required to enter.

"(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is non-mailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(3) Matter described in this paragraph is any matter that—

"(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

"(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

"(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with such entry;

"(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes;

"(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

"(V) does not contain sweepstakes rules that state—

"(aa) the estimated odds of winning each prize;

"(bb) the quantity, estimated retail value, and nature of each prize; and

"(cc) the schedule of any payments made over time;

"(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

"(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

"(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

"(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any

statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

"(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

"(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

"(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

"(III) does not contain skill contest rules that state, as applicable—

"(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

"(bb) that subsequent rounds or levels will be more difficult to solve;

"(cc) the maximum cost to enter all rounds or levels;

"(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

"(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

"(ff) the method used in judging;

"(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

"(hh) the quantity, estimated retail value, and nature of each prize; and

"(ii) the schedule of any payments made over time; or

"(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

"(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

"(A) is not directed to a named individual; or

"(B) does not include an opportunity to make a payment or order a product or service.

"(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

"(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

"(1)(I) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

"(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

"(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

"(ii) that attorney general transmits such request to the mailer.

"(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer."

**SEC. 104. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.**

Section 3005(a) of title 39, United States Code, is amended—

(1) by striking "or" after "(h)," each place it appears; and

(2) by inserting ", (j), or (k)" after "(i)" each place it appears.

**SEC. 105. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.**

(a) IN GENERAL.—Section 3007 of title 39, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking subsection (a) and inserting the following:

"(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

"(2)(A) Upon a proper showing, the court shall enter an order which shall—

"(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

"(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

"(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

"(3) Mail detained under paragraph (2) shall—

"(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

"(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

"(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

"(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued."

(b) REPEAL.—

(1) IN GENERAL.—Section 3006 of title 39, United States Code, and the item relating to such section in the table of sections for chapter 30 of such title are repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 3005(c) of title 39, United States Code, is amended by striking "section and section 3006 of this title," and inserting "section,".

(B) Section 3011(e) of title 39, United States Code, is amended by striking "3006, 3007," and inserting "3007".

**SEC. 106. CIVIL PENALTIES AND COSTS.**

Section 3012 of title 39, United States Code, is amended—

(1) in subsection (a) by striking "\$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection." and inserting "\$50,000 for each mailing of less than 50,000 pieces; \$100,000 for each mailing of 50,000 to 100,000 pieces; with an additional \$10,000 for each additional 10,000 pieces above 100,000, not to exceed \$2,000,000.";

(2) in paragraphs (1) and (2) of subsection (b) by inserting after "of subsection (a)" the following: ", (c), or (d)";

(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and

(4) by inserting after subsection (b) the following:

"(c)(1) In any proceeding in which the Postal Service may issue an order under section

3005(a), the Postal Service may in lieu of that order or as part of that order assess civil penalties in an amount not to exceed \$25,000 for each mailing of less than 50,000 pieces; \$50,000 for each mailing of 50,000 to 100,000 pieces; with an additional \$5,000 for each additional 10,000 pieces above 100,000, not to exceed \$1,000,000.

"(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

"(d) Any person who violates section 3001(l) shall be liable to the United States for a civil penalty not to exceed \$10,000 for each mailing to an individual."

#### SEC. 107. ADMINISTRATIVE SUBPOENAS.

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

##### "§3016. Administrative subpoenas

"(a) SUBPOENA AUTHORITY.—

"(1) INVESTIGATIONS.—

"(A) IN GENERAL.—In any investigation conducted under section 3005(a), the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

"(B) CONDITION.—No subpoena shall be issued under this paragraph except in accordance with procedures, established by the Postal Service, requiring that—

"(i) a specific case, with an individual or entity identified as the subject, be opened before a subpoena is requested;

"(ii) appropriate supervisory and legal review of a subpoena request be performed; and

"(iii) delegation of subpoena approval authority be limited to the Postal Service's General Counsel or a Deputy General Counsel.

"(2) STATUTORY PROCEEDINGS.—In any statutory proceeding conducted under section 3005(a), the Judicial Officer may require by subpoena the attendance and testimony of witnesses and the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Judicial Officer considers relevant or material to such proceeding.

"(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be considered to apply in any circumstance to which paragraph (1) applies.

"(b) SERVICE.—

"(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

"(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

"(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

"(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

"(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

"(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

"(A) delivering a duly executed copy to the person to be served; or

"(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

"(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court may be punished as contempt.

"(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5, United States Code."

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this section, the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement the amendment made by subsection (a).

(c) SEMIANNUAL REPORTS.—Section 3013 of title 39, United States Code, is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following:

"(5) the number of cases in which the authority described in section 3016 was used, and a comprehensive statement describing how that authority was used in each of those cases; and"

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"3016. Administrative subpoenas."

#### SEC. 108. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 107) is amended by adding after section 3016 the following:

#### "§3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

"(a) DEFINITIONS.—In this section—

"(1) the term 'promoter' means any person who—

"(A) originates and mails any skill contest or sweepstakes, except for any matter described in section 3001(k)(4); or

"(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described in section 3001(k)(4);

"(2) the term 'removal request' means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

"(3) the terms 'skill contest', 'sweepstakes', and 'clearly and conspicuously displayed' have the same meanings as given them in section 3001(k); and

"(4) the term 'duly authorized person', as used in connection with an individual, means a conservator or guardian of, or person granted power of attorney by, such individual.

"(b) NONMAILABLE MATTER.—

"(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described in paragraph (2)—

"(A) is nonmailable matter;

"(B) shall not be carried or delivered by mail; and

"(C) shall be disposed of as the Postal Service directs.

"(2) NONMAILABLE MATTER DESCRIBED.—Matter described in this paragraph is any matter that—

"(A) is a skill contest or sweepstakes, except for any matter described in section 3001(k)(4); and

"(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

"(ii) does not comply with subsection (c)(1).

"(c) REQUIREMENTS OF PROMOTERS.—

"(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

"(A) is clearly and conspicuously displayed;

"(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

"(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

"(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

"(d) ELECTION TO BE EXCLUDED FROM LISTS.—

"(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

"(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 60 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

"(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized

person) notifies the promoter in writing that such individual—

“(A) has changed the election; and

“(B) elects to receive skill contest or sweepstakes mailings from that promoter.

“(e) PRIVATE RIGHT OF ACTION.—

“(1) IN GENERAL.—An individual who receives one or more mailings in violation of subsection (d) may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

“(A) an action to enjoin such violation;

“(B) an action to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater; or

“(C) both such actions.

It shall be an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings in violation of subsection (d). If the court finds that the defendant willfully or knowingly violated subsection (d), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

“(2) ACTION ALLOWABLE BASED ON OTHER SUFFICIENT NOTICE.—A mailing sent in violation of section 3001(l) shall be actionable under this subsection, but only if such an action would not also be available under paragraph (1) (as a violation of subsection (d)) based on the same mailing.

“(f) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

“(1) a removal request is received by the promoter's notification system; and

“(2) the promoter has a good faith belief that the request is from—

“(A) the individual whose name and address is to be excluded; or

“(B) another duly authorized person.

“(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

“(1) IN GENERAL.—

“(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described in subparagraph (B) to another person for commercial use.

“(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

“(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed \$2,000,000 per violation.

“(h) CIVIL PENALTIES.—

“(1) IN GENERAL.—Any promoter—

“(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of \$10,000 per violation for each mailing to an individual of nonmailable matter; or

“(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

“(2) ENFORCEMENT.—The Postal Service shall, in accordance with the same procedures as set forth in section 3012(b), provide for the assessment of civil penalties under this section.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

“3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.”.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

#### SEC. 109. STATE LAW NOT PREEMPTED.

(a) IN GENERAL.—Nothing in the provisions of this title (including the amendments made by this title) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this title shall be construed to preempt any provision of State or local law.

(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.

#### SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO REPEALED PROVISIONS.—Section 3001(a) of title 39, United States Code, is amended by striking “1714,” and “1718.”.

(b) CONFORMANCE WITH INSPECTOR GENERAL ACT OF 1978.—

(1) IN GENERAL.—Section 3013 of title 39, United States Code, is amended—

(A) by striking “Board” each place it appears and inserting “Inspector General”;

(B) in the third sentence by striking “Each such report shall be submitted within sixty days after the close of the reporting period involved” and inserting “Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved”; and

(C) by striking the last sentence and inserting the following:

“The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the Postmaster General under this section include any information relating to activities of the Inspector General.”.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act, and the amendments made by this subsection shall apply with respect to semiannual reporting periods beginning on or after such date of enactment.

(3) SAVINGS PROVISION.—For purposes of any semiannual reporting period preceding the first semiannual reporting period referred to in paragraph (2), the provisions of title 39, United States Code, shall continue to apply as if the amendments made by this subsection had not been enacted.

#### SEC. 111. EFFECTIVE DATE.

Except as provided in section 108 or 110(b), this title shall take effect 120 days after the date of the enactment of this Act.

### TITLE II—FEDERAL RESERVE BOARD RETIREMENT PORTABILITY

#### SEC. 201. SHORT TITLE.

This title may be cited as the “Federal Reserve Board Retirement Portability Act”.

#### SEC. 202. PORTABILITY OF SERVICE CREDIT.

(a) CREDITABLE SERVICE.—

(1) IN GENERAL.—Section 8411(b) of title 5, United States Code, is amended—

(A) by striking “and” at the end of paragraph (3);

(B) in paragraph (4)—

(i) by striking “of the preceding provisions” and inserting “other paragraph”; and

(ii) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(5) a period of service (other than any service under any other paragraph of this sub-

section, any military service, and any service performed in the employ of a Federal Reserve Bank) that was creditable under the Bank Plan (as defined in subsection (i)), if the employee waives credit for such service under the Bank Plan and makes a payment to the Fund equal to the amount that would have been deducted from pay under section 8422(a) had the employee been subject to this chapter during such period of service (together with interest on such amount computed under paragraphs (2) and (3) of section 8334(e)).

Paragraph (5) shall not apply in the case of any employee as to whom subsection (g) (or, to the extent subchapter III of chapter 83 is involved, section 8332(n)) otherwise applies.”.

(2) BANK PLAN DEFINED.—Section 8411 of title 5, United States Code, is amended by adding at the end the following:

“(i) For purposes of subsection (b)(5), the term ‘Bank Plan’ means the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of this chapter).”.

(b) EXCLUSION FROM CHAPTER 84.—

(1) IN GENERAL.—Paragraph (2) of section 8402(b) of title 5, United States Code, is amended by striking the matter before subparagraph (B) and inserting the following:

“(2)(A) any employee or Member who has separated from the service after—

“(i) having been subject to—

“(I) subchapter III of chapter 83 of this title;

“(II) subchapter I of chapter 8 of title I of the Foreign Service Act of 1980; or

“(III) the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act; and

“(ii) having completed—

“(I) at least 5 years of civilian service creditable under subchapter III of chapter 83 of this title;

“(II) at least 5 years of civilian service creditable under subchapter I of chapter 8 of title I of the Foreign Service Act of 1980; or

“(III) at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act, determined without regard to any deposit or re-deposit requirement under either such subchapter or under such benefit structure, or any requirement that the individual become subject to either such subchapter or to such benefit structure after performing the service involved; or”.

(2) EXCEPTION.—Subsection (d) of section 8402 of title 5, United States Code, is amended to read as follows:

“(d) Paragraph (2) of subsection (b) shall not apply to an individual who—

“(1) becomes subject to—

“(A) subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election; or

“(B) the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established

under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of this chapter); and

"(2) subsequently enters a position in which, but for paragraph (2) of subsection (b), such individual would be subject to this chapter."

(c) PROVISIONS RELATING TO CERTAIN FORMER EMPLOYEES.—A former employee of the Board of Governors of the Federal Reserve System who—

(1) has at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act;

(2) was subsequently employed subject to the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of chapter 84 of title 5, United States Code); and

(3) after service described in paragraph (2), becomes subject to and thereafter entitled to benefits under chapter 84 of title 5, United States Code,

shall, for purposes of section 302 of the Federal Employees' Retirement System Act of 1986 (100 Stat. 601; 5 U.S.C. 8331 note) be considered to have become subject to chapter 84 of title 5, United States Code, pursuant to an election under section 301 of such Act.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to succeeding provisions of this subsection, this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PROVISIONS RELATING TO CREDITABILITY AND CERTAIN FORMER EMPLOYEES.—The amendments made by subsection (a) and the provisions of subsection (c) shall apply only to individuals who separate from service subject to chapter 84 of title 5, United States Code, on or after the date of the enactment of this Act.

(3) PROVISIONS RELATING TO EXCLUSION FROM CHAPTER.—The amendments made by subsection (b) shall not apply to any former employee of the Board of Governors of the Federal Reserve System who, subsequent to his or her last period of service as an employee of the Board of Governors of the Federal Reserve System and prior to the date of the enactment of this Act, became subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, under the law in effect at the time of the individual's appointment.

**SEC. 203. CERTAIN TRANSFERS TO BE TREATED AS A SEPARATION FROM SERVICE FOR PURPOSES OF THE THRIFT SAVINGS PLAN.**

(a) AMENDMENTS TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subchapter III of chapter 84 of title 5, United States Code, is amended by inserting before section 8432 the following:

**"§8431. Certain transfers to be treated as a separation**

**"(a) For purposes of this subchapter, separation from Government employment includes a transfer from a position that is subject to one of the retirement systems described in subsection (b) to a position that is not subject to any of them.**

**"(b) The retirement systems described in this subsection are—**

**"(1) the retirement system under this chapter;**

**"(2) the retirement system under subchapter III of chapter 83; and**

**"(3) any other retirement system under which individuals may contribute to the Thrift Savings Fund through withholdings from pay."**

(2) CLERICAL AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting before the item relating to section 8432 the following:

**"8431. Certain transfers to be treated as a separation."**

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 8351 of title 5, United States Code, is amended by redesignating paragraph (11) as paragraph (8), and by adding at the end the following:

**"(9) For the purpose of this section, separation from Government employment includes a transfer described in section 8431."**

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transfers occurring before, on, or after the date of the enactment of this Act, except that, for purposes of applying such amendments with respect to any transfer occurring before such date of enactment, the date of such transfer shall be considered to be the date of the enactment of this Act. The Executive Director (within the meaning of section 8401(13) of title 5, United States Code) may prescribe any regulations necessary to carry out this subsection.

**SEC. 204. CLARIFYING AMENDMENTS.**

(a) IN GENERAL.—Subsection (f) of section 3304 of title 5, United States Code, as added by section 2 of Public Law 105-339, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

**"(2) If selected, a preference eligible or veteran described in paragraph (1) shall acquire competitive status and shall receive a career or career-conditional appointment, as appropriate."**

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on October 31, 1998.

**TITLE III—AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949**

**SEC. 301. TRANSFER OF CERTAIN PROPERTY TO STATE AND LOCAL GOVERNMENTS.**

Section 203(p)(1)(B)(ii) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)(B)(ii)) is amended by striking "December 31, 1999," and inserting "July 31, 2000. During the period beginning January 1, 2000, and ending July 31, 2000, the Administrator may not convey any property under subparagraph (A), but may accept, consider, and approve applications for transfer of property under that subparagraph."

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate agree to the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I am delighted the Senate has now sent S. 335, the Deceptive Mail Prevention and Enforcement Act that I introduced to curb deceptive mailings, to the President for his signature.

The Senate originally passed this legislation by a vote of 93-0 on August 2. It will impose new disclosure requirements on sweepstakes mailings to protect consumers. It will also provide new authority to the Postal Service to take enforcement action against those companies sending deceptive mailings.

I want to thank several people whose hard work has made passage today pos-

sible. I particularly want to acknowledge the contributions of Senator LEVIN of Michigan, the ranking minority member of the permanent Subcommittee on Investigations, and the chief cosponsor of this important legislation. In addition, Senator COCHRAN and Senator EDWARDS were real leaders in this effort and contributed greatly to the legislation.

There were many other Senators, as well, who cosponsored this measure. In particular, I want to recognize the contributions of several members of the Committee on Governmental Affairs, including Chairman THOMPSON, Senators LIEBERMAN, STEVENS, DURBIN, DOMENICI, AKAKA, and SPECTER. They were early cosponsors of this legislation.

Senator CAMPBELL has also played an important role. He first introduced legislation to curb some of the deceptive practices of sweepstakes companies.

In addition, there are several Members of the House of Representatives who have also worked very hard to bring to about passage today. They include Congressman JOHN MCHUGH, who is chairman of the Subcommittee on the Postal Service; Congressman FATTAH, who is the ranking minority member of the subcommittee; Congressman LOBIONDO, Congressman ROGAN, Congressman MCCOLLUM, Congressman and Chairman DAN BURTON, and Congressman HENRY WAXMAN. All of them worked very hard to forge workable legislation that is going to make a real difference.

I also want to express my thanks to the members of my staff who worked very hard on this. On the subcommittee staff, Lee Blalack and Kirk Walder were instrumental, and on my personal staff, Michael Bopp, my legislative director—all of them worked very hard.

The requirements in this legislation will reduce the deceptive techniques that have caused countless Americans, hundreds of thousands of Americans, many of them elderly, to purchase products they do not need nor do they want. Once this legislation takes effect, mailings will be required to make crystal clear to consumers that no purchase is necessary to enter a sweepstakes and that making a purchase will not improve your chances of winning.

That is the primary misconception our investigation identified. Too many consumers believe if they make a purchase, somehow they will improve their chances of winning, but nothing could be further from the truth. It is easy to see why they have that misconception because that is exactly the impression these deceptive mailings are intended to leave.

In addition, the legislation will prohibit sweepstakes companies from telling people they are a winner unless they really have won a prize.

Enactment of this legislation concludes a year-long investigation by the Permanent Subcommittee on Investigations, which I chair. Prompted by

complaints from my constituents in Maine, I began an investigation to examine deceptive mailings. Hearings before the subcommittee demonstrated that the deceptive techniques of major sweepstakes companies were misleading thousands of Americans into making purchases of products. Further investigation into the activities of the smaller sweepstakes companies, the ones that I call the "stealth companies," showed that their practices were even more deceptive. In some cases, they bordered on outright fraud.

The subcommittee heard heart-breaking testimony that deceptive sweepstakes can induce trusting consumers to buy thousands of dollars of unnecessary and unwanted merchandise. One example was a magazine subscription extending to the year 2018 that one witness testified that her 82-year-old father-in-law purchased because of sweepstakes promotions.

We found that our senior citizens are particularly vulnerable to these kinds of deceptive mailings. They are a trusting generation. Many seniors tend to believe what they read, particularly if it is endorsed by a trusted spokesman, comes from a well-known company, or involves a mailing that has been designed to appear as if it is from the Federal Government.

Family members told us of loved ones who were so convinced that they had won a sweepstakes that they refused to leave their home for fear they would miss the Prize Patrol. One constituent of mine actually canceled needed surgery because she did not want to miss Ed McMahon's visit. Sadly, of course, Ed McMahon never showed up.

We found cases of seniors enticed by the bold promises of sweepstakes who spent their Social Security checks, squandered their life's savings, and even borrowed money to buy unwanted magazines and other merchandise.

I will never forget the testimony of one man who broke down in tears as he recounted how the sweepstakes companies had deceived him into purchasing \$15,000 worth of products in an effort to win the big prize.

The loss suffered by consumers cannot be measured in dollars alone. As one elderly gentleman put it:

My wife has finally come to realize that she has been duped by the sweepstakes solicitations for all these years. Although the financial train is now halted, the loss of her dignity is incalculable.

Unfortunately, these are not isolated examples. According to a survey commissioned by the AARP, 40 percent of seniors surveyed believe there is a connection between purchasing and winning. It is easy to see why consumers believe they have already won or that they will win if they just purchase something as a result of these mailings.

I would like to show you, Mr. President, and read from a sweepstakes mailing that I received last week at my home in Bangor, ME. As you can see, in

bold print, it proclaims: "Our sweepstakes results are now final." "Ms. Susan M. Collins has won a cash prize of \$833,337." "A bank check for \$833,337 is on its way to"—my address—"in Bangor." It further warns that I will forfeit the entire amount if I refuse to respond to this notice. On the back it says, again, "A bank check for \$833,337 in cash will be sent to you by certified mail if you respond now."

I have a feeling you will not be surprised to learn that I am not the big winner. But if I relied on the information in this mailing, it would be easy to see why many people would be deceived into thinking they have, indeed, won the grand prize.

Now, in the small print—not in the bold type—but in the small print it explains that I have to have the winning number to really win the prize.

That message is overwhelming by the bold proclamations telling me I am a winner. Of course, in case I am tempted not to enter, there is what appears to be a personal note that says, "Please don't say no now," and implores me to enter and to buy the product offered. This is not unusual. This is typical of the kinds of deceptive mailings that are all too common and that flood the mailboxes of American consumers with more than a billion pieces of mail a year.

You shouldn't have to be a lawyer, you shouldn't have to have a magnifying glass, to figure out the rules of the game and the odds of winning. Our legislation will make a real difference by requiring honest disclosures, by preventing sweepstakes companies from telling people they have won when they have not, and, most importantly, by making crystal clear to consumers that you don't have to make a purchase to win and that making a purchase will not increase your chances of winning.

Mr. President, as I said, I am pleased that the Senate is now poised to send my legislation to curb deceptive mailings to the President for his signature.

As I have described to my colleagues previously, you only have to look at some of these sweepstakes mailings to understand why. For example, one mailing by Publisher's Clearing House, which is famous for its Prize Patrol, tells the consumer to "Open Your Door To \$31 Million on January 31." This mailing suggests to the reader that his or her past purchases are paying off. Specifically, the mailing states: "You see, your recent order and entry has proven to us that you're indeed one of our loyal friends and a savvy sweepstakes player. And now I'm pleased to tell you that you've passed our selection criteria to receive this special invitation."

Another mailing from American Family Publishers stated, "It's Down to a 2 person race for \$11,000,000—You And One Other Person In Georgia Were Issued the Winning Number . . . Whoever Returns It First Wins It All!" Most people probably didn't see the

fine print that declared, "If you have the winning number." Unless the contestant reads and understands this fine print, the mailing leaves the unmistakable impression that the recipient and one other person have the winning number for the \$11 million prize.

Mr. President, the bill adopted by the Senate would curb these problems by, for the first time, establishing federal standards for a variety of promotional mailings, including sweepstakes mailings. Such mailings must clearly and conspicuously display several important disclosures, including statements that no purchase is necessary to enter the contest and that a purchase will not improve your chances of winning; the odds of winning; the value and nature of each prize; and the name and address of the sponsor. Sweepstakes mailings would also be required to include all the rules and entry procedures for the sweepstakes.

This legislation also addresses another problem consumers experience in dealing with sweepstakes companies. The Subcommittee heard from many individuals who found it difficult to have their name or a parent's name removed from the mailing lists of sweepstakes companies, or who were told that the name removal process might take as long as six months. To address this problem, this legislation includes a section developed by Senator EDWARDS that would require companies sending sweepstakes or skill contests to establish a system allowing consumers to call or write to have their names removed from the companies' mailing lists.

The House made several modifications to this section of the bill, including extending the time from 35 days to 60 days by which companies must remove names of consumers who do not wish to receive future sweepstakes or skill contest mailings. Non-profit mailers who use sweepstakes contests requested a time limit of longer than 35 days, arguing that their limited resources might not allow the establishment of a system to quickly remove names. The 60-day limit in the bill, however, should not be used by any company to continue to inundate with more mailings those consumers who have asked to be removed from sweepstakes mailing lists. Accordingly, companies should make every effort to remove names as quickly as possible.

The House also added provisions to allow consumers to bring a private right of action in state court if they receive a mailing after previously requesting to be removed from the mailing list of a skill contest or sweepstakes promoter. Sweepstakes promoters will have an affirmative defense if they have established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings that would violate the section on name removal.

The notification system in the bill passed by the Senate, and modified by the House, requires companies to include in every mailing the address or a

toll-free telephone number of the notification system, but does not require that consumers submit their name in writing to comply with the removal system. Companies are encouraged to adopt a consumer friendly system for the removal of names from their mailing lists, which may include the ability to have names removed by calling a toll-free number. Under this legislation, companies using a toll-free number to permit the removal of names would not need to require a consumer to also provide their name in writing. Any appropriate method of establishing a record of removal requests by consumers would comply with the requirements of Section 8(d) of the legislation. For example, companies may wish to electronically verify the consumer's election to be removed from their mailing list.

The legislation would strengthen the ability of the Postal Service to investigate, penalize, and stop deceptive mailings. It grants the Postal Inspection Service subpoena authority, nationwide stop mail authority, and the ability to impose tougher civil penalties. The House made several changes in the subpoena authority, including requiring the Postal Service to develop procedures for the issuance of subpoenas and their approval by the General Counsel or a Deputy General Counsel of the Postal Service. The new subpoena authority will give the Postal Inspection Service better ability to investigate and stop deceptive mailings, and I encourage the General Counsel of the Postal Service to recognize that effective enforcement of this legislation requires the timely issuance of subpoenas.

Mr. President, S. 335 will provide important new consumer protections against the many deceptive techniques currently used in promotional mailings. I thank my colleagues for their support of this measure.

I yield to the subcommittee's ranking minority member, Senator LEVIN. As I explained earlier in my remarks, he has been the chief cosponsor of this legislation and a true leader in the effort to crack down on deceptive mailings.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the good Senator from Maine for her leadership in this and so many other consumer issues. This bill would not be here on the floor of the Senate without her leadership on the Permanent Subcommittee on Investigations, which has taken responsibility for getting this bill passed.

S. 335, the bill we have just passed and sent to the President is going to crack down on deceptive sweepstakes practices that have affected people in all of our States. Most of us have personal knowledge of the kind of egregious deceptive practices which have been perpetrated by too many companies, including some otherwise reputable companies that are using decep-

tive practices to suck into their net people who will be lured into believing that if they buy something or subscribe to something, somehow or other that will increase their chances of winning a prize.

The bill we are passing today is similar to one I had introduced in the 105th Congress to curb abuse of sweepstakes solicitations and provide for additional enforcement tools against deceptive mailings by the Postal Service. There were hearings held in September of 1998 in the Governmental Affairs Committee Federal Services Subcommittee that was then chaired by Senator COCHRAN.

We learned from witnesses at that hearing, including the Florida attorney general, the Michigan assistant attorney general, and the Postal Inspection Service, that senior citizens in particular are vulnerable to these deceptive solicitations and that the financial cost to seniors for deceptive and fraudulent sweepstakes is a serious problem. Deceptive sweepstakes solicitations not only cause significant financial losses but frequently carry heavy emotional losses as well.

We have constituents in Michigan, seniors, who have lost tens of thousands of dollars to deceptive sweepstakes. Their houses are frequently filled with hundreds of items they don't need that they bought because they thought somehow or other it might help them win the promised prize.

The Postal Service has inadequate tools to effectively shut down these deceptive marketing people, so we have added some tough enforcement tools in this bill.

Until this bill becomes law, the Postal Service, for instance, cannot impose a fine against a promoter who uses deceptive practices until the Postal Service first issues a stop order. Now, if you wait for a stop order to be violated before you can impose an administrative fine, what the deceptive sweepstakes promoter does is slightly modify in some way the deceptive mailing that is the subject of the stop order so they can avoid being caught by a violation of the Postal Service stop order. The Postal Service currently is too often powerless to stop these kinds of deceptive practices and the slight changes which are made in them which allow the companies that are using these practices to continue and ignore what appears to be a stop order.

In March and July of this year, Senator COLLINS chaired hearings in the Permanent Subcommittee on Investigations, where I serve as ranking member. The bill we are taking up today, S. 335, reflects what we learned at those hearings as well. Senator COLLINS has set forth for us some of the egregious examples. I will not take the time of this body to go through some of these additional examples we have. We have seen them all. We have seen the big print that says, "you have just won a big prize;" we have seen the fine,

unreadable print that says but only "if you have the winning number;" the headline which says "a million dollars is yours" or "just submit this number" and you will have this big prize. The fine print says "no," you haven't. We have all seen those kinds of examples and the way people are taken in.

Fortunately, most people aren't taken in, but enough people are, so that a billion pieces of this kind of mail, sweepstakes mail, is sent out each year, including by some companies that are otherwise companies that have good reputations. We have had these kinds of deceptive mailings sent out by Time Warner, by Reader's Digest, by other companies whose names have generally prompted positive responses in people because their products have been good products. Yet they have stooped, in the case of sweepstakes, to deceptive practices in order to lull the people who receive these sweepstakes mailings into believing that if they will just buy that magazine or just buy that product, they will really seal the deal and the truck will really show up with the check. We have seen these ads on television, the come-ons. Thank God, 90 or 95 percent of the people look at them and can see them for what they are. It is that 5 or 10 percent, frequently seniors, who are taken in. We are trying to stop these practices. This bill, hopefully, will do exactly that.

We are going to require that the statement that a purchase will not increase an individual's chances of winning and that no purchase is necessary to win be clearly and conspicuously displayed in the mailing—in fact more conspicuously displayed than the other information in the mailing.

The House changed the term "prominently" in our Senate bill, which was used to describe how these two key required statements must be displayed and substituted "more conspicuously" for "prominently" to better match previous uses of the term. The intent of both houses on this subject is the same, however, and we have emphasized that point in the committee report. There should be no misunderstanding by the Postal Service and by the direct mail industry on what we intend by this.

S. 335 is also going to provide the Postal Service with authority to issue a civil penalty for the first-time violation of the statute, and we are going to give the Postal Service subpoena authority. Those are some of the things we have done.

Again, I thank the good Senator from Maine, Ms. COLLINS, her staff, my staff, Linda Gustitus and her good crew, who have made it possible for this bill to happen. Senator EDWARDS has been extremely helpful with his provision requiring a delisting of persons not wanting to receive sweepstakes mailings. Senator COCHRAN has been very much in the forefront of this effort. Again, the majority and minority staffs of the

Permanent Subcommittee on Investigations have done an absolutely superb job of putting together these hearings and developing this legislation.

I am confident that with the Senate's passage today, the President will sign the bill into law. It is a bill that will help end the abuses which too often occur in this area and which take advantage of people who are too often vulnerable to the power of suggestion.

#### PRIVILEGE OF THE FLOOR

Ms. COLLINS. Mr. President, I ask unanimous consent that Benjamin Brown, a legislative assistant in Senator TED STEVENS' office, be granted floor privileges for the 19th and 20th of November.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### INTERNET GAMBLING PROHIBITION ACT OF 1999

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 158, S. 692.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title. The legislative clerk read as follows:

A bill (S. 692) to prohibit Internet gambling, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 692

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Internet Gambling Prohibition Act of 1999".*

#### SEC. 2. PROHIBITION ON INTERNET GAMBLING.

(a) IN GENERAL.—Chapter 50 of title 18, United States Code, is amended by adding at the end the following:

##### "§ 1085. Internet gambling

"(a) DEFINITIONS.—In this section:

"(1) BETS OR WAGERS.—The term 'bets or wagers'—

"(A) means the staking or risking by any person of something of value upon the outcome of a contest of others, a sporting event, or a game of chance, upon an agreement or understanding that the person or another person will receive something of value based on that outcome;

"(B) includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominantly subject to chance);

"(C) includes any scheme of a type described in section 3702 of title 28; and

"(D) does not include—

"(i) a bona fide business transaction governed by the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))) for the purchase or sale at a future date of securities (as that term is defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)));

"(ii) a transaction on or subject to the rules of a contract market designated pursuant to section 5 of the Commodity Exchange Act (7 U.S.C. 7);

"(iii) a contract of indemnity or guarantee; or  
 "(iv) a contract for life, health, or accident insurance.

"(2) CLOSED-LOOP SUBSCRIBER-BASED SERVICE.—The term 'closed-loop subscriber-based service' means any information service or system that uses—

"(A) a device or combination of devices—

"(i) expressly authorized and operated in accordance with the laws of a State, exclusively for placing, receiving, or otherwise making a bet or wager described in subsection (f)(1)(B); and

"(ii) by which a person located within any State must subscribe and be registered with the provider of the wagering service by name, address, and appropriate billing information to be authorized to place, receive, or otherwise make a bet or wager, and must be physically located within that State in order to be authorized to do so;

"(B) an effective customer verification and age verification system, expressly authorized and operated in accordance with the laws of the State in which it is located, to ensure that all applicable Federal and State legal and regulatory requirements for lawful gambling are met; and

"(C) appropriate data security standards to prevent unauthorized access by any person who has not subscribed or who is a minor.

"(3) FOREIGN JURISDICTION.—The term 'foreign jurisdiction' means a jurisdiction of a foreign country or political subdivision thereof.

"(4) GAMBLING BUSINESS.—The term 'gambling business' means—

"(A) a business that is conducted at a gambling establishment, or that—

"(i) involves—

"(I) the placing, receiving, or otherwise making of bets or wagers; or

"(II) the offering to engage in the placing, receiving, or otherwise making of bets or wagers;

"(ii) involves 1 or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

"(iii) has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of \$2,000 or more from such business during any 24-hour period; and

"(B) any soliciting agent of a business described in subparagraph (A).

"(5) INFORMATION ASSISTING IN THE PLACING OF A BET OR WAGER.—The term 'information assisting in the placing of a bet or wager'—

"(A) means information that is intended by the sender or recipient to be used by a person engaged in the business of betting or wagering to place, receive, or otherwise make a bet or wager; and

"(B) does not include—

"(i) information concerning parimutuel pools that is exchanged exclusively between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and 1 or more parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, if that information is used only to conduct common pool parimutuel pooling under applicable law;

"(ii) information exchanged exclusively between or among 1 or more racetracks or other parimutuel wagering facilities licensed by the State or approved by the foreign jurisdiction in which the facility is located, and a support service located in another State or foreign jurisdiction, if the information is used only for processing bets or wagers made with that facility under applicable law;

"(iii) information exchanged exclusively between or among 1 or more wagering facilities that are located within a single State and are licensed and regulated by that State, and any support service, wherever located, if the information is used only for the pooling or processing of bets or wagers made by or with the facility or facilities under applicable State law;

"(iv) any news reporting or analysis of wagering activity, including odds, racing or event results, race and event schedules, or categories of wagering; or

"(v) any posting or reporting of any educational information on how to make a bet or wager or the nature of betting or wagering.

"(6) INTERACTIVE COMPUTER SERVICE.—The term 'interactive computer service' means any information service, system, or access software provider that operates in, or uses a channel or instrumentality of, interstate or foreign commerce to provide or enable access by multiple users to a computer server, including specifically a service or system that provides access to the Internet.

"(7) INTERACTIVE COMPUTER SERVICE PROVIDER.—The term 'interactive computer service provider' means any person that provides an interactive computer service, to the extent that such person offers or provides such service.

"(8) INTERNET.—The term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks.

"(9) PERSON.—The term 'person' means any individual, association, partnership, joint venture, corporation (or any affiliate of a corporation), State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other government, organization, or entity (including any governmental entity (as defined in section 3701(2) of title 28)).

"(10) PRIVATE NETWORK.—The term 'private network' means a communications channel or channels, including voice or computer data transmission facilities, that use either—

"(A) private dedicated lines; or

"(B) the public communications infrastructure, if the infrastructure is secured by means of the appropriate private communications technology to prevent unauthorized access.

"(11) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a commonwealth, territory, or possession of the United States.

"(12) SUBSCRIBER.—The term 'subscriber'—

"(A) means any person with a business relationship with the interactive computer service provider through which such person receives access to the system, service, or network of that provider, even if no formal subscription agreement exists; and

"(B) includes registrants, students who are granted access to a university system or network, and employees or contractors who are granted access to the system or network of their employer.

"(b) INTERNET GAMBLING.—

"(1) PROHIBITION.—Subject to subsection (f), it shall be unlawful for a person engaged in a gambling business knowingly to use the Internet or any other interactive computer service—

"(A) to place, receive, or otherwise make a bet or wager; or

"(B) to send, receive, or invite information assisting in the placing of a bet or wager.

"(2) PENALTIES.—A person engaged in a gambling business who violates this section shall be—

"(A) fined in an amount equal to not more than the greater of—

"(i) the total amount that such person bet or wagered, or placed, received, or accepted in bets or wagers, as a result of engaging in that business in violation of this section; or

"(ii) \$20,000;

"(B) imprisoned not more than 4 years; or

"(C) both.

"(3) PERMANENT INJUNCTIONS.—Upon conviction of a person under this section, the court may enter a permanent injunction enjoining such person from placing, receiving, or otherwise making bets or wagers or sending, receiving, or inviting information assisting in the placing of bets or wagers.