Mr. COCHRAN. Emergency trade provisions, humanitarian assistance, cooperator program, for a total of $988 million; is that what the Senator is saying the CBO has verified the cost to be?

Mr. HARKIN. That is the amount of money we specifically provide in the amendment.

Mr. DORGAN. Will the Senator yield?

Mr. HARKIN. I am delighted to yield, and I want to thank the Senator from North Dakota with whom I serve on the agriculture appropriations subcommittee.

I appreciate the very strong help in putting this package together. It has been a very difficult year for farmers in North Dakota as well as Iowa and I can say without fear of contradiction the Senator from North Dakota has been very helpful on welfare issues. We in actually putting this package together.

I appreciate the support.

Mr. DORGAN. I want to address the question to the Senator from Iowa. The discussion we had about income support for farmers in the nature of a disaster program being income support in the form of a transition payment or AMTA, the whole notion of a transition payment is to transition farmers out of a farm program into the free market.

This chart shows what has happened to the price of wheat since 1996. This chart is similar to the corn chart and the price of corn which the Senator from Iowa shared. This is what has happened to the so-called “free market” for wheat. The price of wheat has collapsed. The notion of a transition was philosophically by those in this Chamber who said let’s transition people out of a farm program.

Isn’t that the base of an AMTA payment?

Mr. HARKIN. As I read the debate and all the talk on the Freedom to Farm bill when it passed, the idea was that we would transition out of farm programs with AMTA payments.

Mr. DORGAN. This is the right subject and the right time; we are debating the right issues. The Senator said it well. We have an economy that is growing and prospering, more people are working, fewer people are unemployed, fewer people in welfare, inflation is down. So many good things are going on in this country, but in rural America family farmers are in desperate trouble through no fault of their own.

If any group of Americans found their income had collapsed, or if the salary for Members of Congress had fallen where income for family farmers had fallen, we would have dealt with this immediately and a long time ago.

The same is true with corporate earnings.

However, we are here through no fault of the family farmers but because they are trying to do business in a marketplace where prices have just collapsed. If we don’t take action soon, we won’t have many family farmers left across the bread basket of the country.

Mr. HARKIN. The Senator is absolutely correct. The Freedom to Farm bill was premised that we would put farmers on the free market. As the Senator from Kansas said, they would have high net income for the next several years. However, Freedom to Farm ripped the safety net out from agriculture.

As I pointed out, our exports are up. We are exporting more of our key commodities, but there is no price. The safety net has been taken out from underneath agriculture. Farmers all across America recognize that Freedom to Farm has been a total and absolute disaster when it comes to protecting farm income, and it has to be changed. That is why the first thing we need to do is get the emergency package, but then we have to address the end-of-the-line problem of Freedom to Farm.

Mr. WELLSTONE. Madam President, I have a question.

Mr. HARKIN. I yield for a question.

Mr. WELLSTONE. I actually have three quick questions. First of all, dealing with the urgency of now, is it not true that the Senator from Iowa and other Democrat Senators have tried to pass an emergency assistance package and we have been working on this for some time? Would the Senator from Iowa give a little bit of a historical background? I think farmers are wondering how much more has to happen to them before there is some assistance.

Mr. HARKIN. I thank my friend from Minnesota. I also thank him for his help in putting this package together.

The Senator is right. We started this spring, in the emergency supplemental appropriations bill, trying to add some money. We got beat on a nearly straight party-line vote. All but one Republican voted no; Democrats voted yes.

We then came back, as the Senator from Minnesota knows, and tried it again in the subcommittee on this bill. We again lost on a straight party-line vote.

Now we are on the floor. I will say we are making some progress. At least now our friends on the other side recognize there is a problem. At least they are willing to address it somewhat. The amendment that the Senator from Mississippi sent to the desk is better than nothing, but it is not going to do enough to help get our farmers through this winter. It is only a little more than half of what is needed.

Mr. WELLSTONE. If I might ask my colleague from Iowa a question, is it to be clear about what is at stake—we will all have a chance to speak later. My colleague from Iowa says that what the Senator from Mississippi intro-
1999

CONGRESSIONAL RECORD—SENATE

August 2, 1999

1989, which was signed into law by President Bush on November 6, 1990. H.R. 2391 prohibited solicitations by private organizations promoting the purchase of products or services or the contribution of funds or membership fees, which imply false federal government connection or endorsement.

At the time, our main focus was on mailings that led one to believe that they were endorsed by the government—for example, offers that promise consumers information on federal benefits for which they may be eligible for a fee, when in fact such information is available at no cost directly from federal agencies.

The legislation barred the use of any seal, insignia, trade or brand name, or other symbol designed to construe government connection or endorsement. Today, we have all heard to support S. 335, which builds on the foundation laid by the 1990 law, in recognition of the problems that have emerged as sweepstakes offers have proliferated, with all of the accompanying abuses we have witnessed.

How many times have each of us received an offer in the mail promising enormous sweepstakes payoffs or other prizes? These promises are a clever way to market magazine subscriptions and other products. The old adage—"if it's too good to be true, it probably is"—comes to mind. Regrettably, for many, such offers seem too good to pass up, particularly when the recipients are accompanied by dire warnings such as "urgent advisory," "don't risk losing your multimillion dollar prize," or "don't risk forfeiture now!" Many consumers are misled by this type of advertising, which is deliberately designed to mislead.

Many offers are designed to entice the consumer into believing that he or she has already won a valuable prize. For example, or is on the verge of winning, when in fact, the odds against winning may be astronomical.

The sad truth is that companies use deceptive advertising because it works—it sells more product. And the tragic problem facing us today is this: too often, the consumer who is being victimized is a senior on a fixed income or is disabled.

We have heard the horror stories about unwitting victims on fixed incomes who have purchased hundreds or thousands of dollars worth of magazine subscriptions—sometimes multiple subscriptions to the same magazine—thinking that they would improve their chances of winning a prize. We have heard the tragic accounts of individuals flying to another city or state to claim a prize, genuinely believing that they had been selected as the winner, only to find that they have become a victim. Some have squandered life savings on misleading offers. When these types of incidents become commonplace, I think, we have a good indication that there is a problem. And we have a responsibility to correct the problem. And so the challenge today is one that companies that have demonstrated that they will not police themselves.

Among other things, S. 335 requires sweepstakes mailings to display rules clearly and state explicitly that no purchase is necessary to increase one's chance of winning. It requires the sponsor of an offer to clearly state the odds of winning and the value of the prize, and prohibits companies from making false statements, such as an individual is a winner, unless they have actually won a prize. It also strengthens safeguards to protect those who have requested not to receive sweepstakes mailings and other such offers, and enhances the Postal Service's authority to investigate, penalize, and stop deceptive mailings.

S. 335 does not prohibit legitimate offers. Rather, it puts fair, common sense restrictions in place in order to protect consumers, particularly those most at risk, such as seniors, or the disabled.

This week, the Senate Commerce Committee, of which I am a member, is scheduled to hold a hearing on fraud against seniors. It is a serious problem, and one that is not going to go away on its own. We must address the problem, and the deceptive mailings which S. 335 seeks to curb are certainly a component of this problem.

I am pleased that S. 335 has generated so much debate on this issue, because I believe that in addition to government action, the key to this challenge is increased awareness and personal responsibility on the part of companies and individual consumers and families.

Companies should police themselves. Likewise, there are steps that consumers can take to protect themselves. For example, always read the rules for any offer very carefully, especially if it sounds too good to be true. And if it sounds too good to be true, it probably is. If you receive a letter in the mail informing you that you have won a prize, and it sounds a bit fishy, it probably is. A legitimate offer is not going to cost you a shipping or handling fee, be wary. This type of offer should raise a red flag, and could be a fraud. Finally, make sure you know the company is a reputable one, and don't give out your bank account or credit card numbers.

I hope this legislation will be a constructive step forward in this important effort, and I hope that it sends a strong message that government takes its responsibility as a watchdog and regulator of anti-consumer practices very seriously.

Mr. CAMPBELL, Madame President, today the Senate is taking another important step toward enacting sweepstakes reform legislation.

It is not the first time the Senate has acted to ensure that consumers have a voice in the fight against misleading advertising. Our nation's seniors and other vulnerable consumers are clearly being taken advantage of, and in some cases
sponsors of this important legislation.

Mr. DODD. Mr. President, I rise today in support of S. 335, the Deceptive Mail Prevention and Enforcement Act. I am proud to be one of the co-sponsors of this important legislation. I commend Senators COLLINS and LEVIN for their efforts in addressing the serious problems with deceptive mailings involving sweepstakes, skill contests, facsimile checks, and mailings made to look like government documents. The investigation and hearings of the Senate Governmental Affairs Permanent Subcommittee on Investigations have shed light on sweepstakes and other mailings that promise extravagant prizes in order to entice individuals to make unnecessary purchases.

Far too many of these mailings are full of deceptive and misleading statements, which lead unsuspecting recipients to believe that they must purchase various items in order to be a winner or in order to improve their chances of winning. In too many cases, the prizes and awards are never granted. In many instances, the customer receives a trinket or coupon book of little value. Those consumers who respond to these mailings are then bombarded with additional mailings seeking more money for the same or similar items.

The effect on many consumers can be devastating. One of my constituents wrote about his 88-year-old father, who had spent thousands of dollars in hopes of receiving a large cash prize. This legislation would set new standards for mailings that use sweepstakes, skill contests, and facsimile checks as promotions to sell merchandise. More disclosures would be required, disclosures which are clear and conspicuous, displayed in a manner that is readily noticeable, readable and understandable. Sweepstakes mailings must include prominent notice that no purchase is necessary to win, and that a purchase will not increase the chances of winning. In addition, the mailing must state the estimated odds of winning.

While S. 335 will probably not put an end to all of the egregious practices that the unscrupulous companies employ, I am hopeful that this bill will result in fewer deceptive mailings and that fewer consumers will lose their hard-earned savings and retirement funds.

One important provision of this bill would require each company that sends these mailings to have a toll-free number that consumers may call to have their names removed from that company's mailing list. This is a first step in making it possible for individuals to have their names removed from mailing lists. However, this particular system places an undue burden on the consumer to call each company that sends him mailings. The unscrupulous companies could circumvent the intent of this provision by forming a new company that would then use the old mailing lists.

To minimize this risk, I encourage industry groups to establish a system whereby consumers would have one toll-free number to call which would serve as the mechanism to remove their names from all mailing lists for all sweepstakes, skill contests, facsimile checks and government look-alike mailings. This system has worked in other areas, and I believe that it would work here, as well.

I urge my colleagues to support this bill.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Madam President, I rise today to urge my colleagues to vote in favor of the sweepstakes legislation, which is S. 335, the Deceptive Mail Prevention and Enforcement Act.

Let me say first, I thank my colleague, Senator LEVIN—I do not see him on the floor right now—also, my colleague, Senator COLLINS. They worked so hard and so long on this remarkably important piece of legislation.

Let me start by telling a story. It is a story I have told before, but I think it goes to the very heart of what this legislation is about.

There is an elderly man in North Carolina who lives in Raleigh, NC. I believe—right outside of Raleigh—named Bobby Bagwell. Bobby Bagwell is an elderly man who was watched over by his family, his daughter-in-law. Although he lived alone, he had a difficult time living alone.

His daughter-in-law went over to his house one day. When going through his various belongings, she discovered boxes and boxes of sweepstakes mailings. She came to discover in addition to that, in response to these sweepstakes mailings, Mr. Bagwell had purchased thousands and thousands of dollars of devices—goods that were basically useless. They were of no value to him at all. When she questioned her father-in-law about why he had bought these goods, the response was that he believed it would increase his chances of winning the sweepstakes. He had spent, I think, something on the order of $20,000, which was basically his life’s savings, on purchasing this useless, worthless material.

As I mentioned earlier, Mr. Bagwell was an elderly man. For that reason, he was vulnerable. But there is an even worse part to this story. Mr. Bagwell, as it turns out, suffers from dementia. So he could not remember from day to day what he had bought, how much money he had spent, or why he had spent it. His daughter-in-law, doing everything in her power to do something about this very sad situation, contacted the sweepstakes companies, asking them to take him off the mailing lists. She got no response. She then sent a doctor’s order to the sweepstakes companies saying, “My father-in-law suffers from dementia. I ask you, take him off your lists for sweepstakes mailings because he is buying all these goods, he doesn’t remember that he is spending his life’s savings, and we need to take him off the lists so he does not continue to engage in this kind of behavior.” For the second time, she got no response.

Finally, when they contacted me and I became aware of the situation and I contacted the sweepstakes companies, they responded appropriately and took him off the lists.

I agree that every North Carolina story is that in this country, in this day and time, it was necessary for a Senator to contact the sweepstakes companies in order to get this accomplished. That goes to the very heart of what this sweepstakes legislation is about. It is the reason Senator COLLINS has done such a remarkable job in conducting hearings and bringing this matter to the attention of the American people so something can be done about it. It is something for which I believe we have broad bipartisan support, support on both sides of the aisle. Everyone knows and recognizes something needs to be done about this problem.

I do want to discuss one specific feature. The bill has many wonderful provisions, including provisions that require the sweepstakes companies, for example, to tell people that buying these goods does not increase their chances of winning. That would save a man such as Bobby Bagwell from being taken advantage of.

One specific provision I worked on awfully hard, with Senator COLLINS and Senator LEVIN, basically provides that sweepstakes companies be required to provide a vehicle for people to be taken off these mailing lists so someone such as Bobby Bagwell, who has dementia, an elderly person who is being taken advantage of, who is vulnerable, can be protected and can be taken off the lists. In addition to that, it provides support to the truth in these sweepstakes mailings.

We all recognized during the course of the hearings there are some reputable, legitimate companies that engage in these sweepstakes techniques as a marketing tool. But people need to have a way to get off these lists if they want to get off the lists. One of the provisions in this legislation specifically provides for this.

The bottom line is this. This legislation goes a long way toward eliminating any sort of deceptive, misleading sweepstakes mailings. It allows
people who do not want to receive these mailings to no longer receive them. Ultimately, what it does is it empowers American families who want to make sure the elderly members of their families—their parents, their in-laws—are taken care of. It empowers them to make sure they are not taken advantage of with these sweepstakes mailings. In fact, if they so choose, that they no longer continue to receive these mailings.

This is a wonderful piece of legislation. As I mentioned earlier, it has bipartisan support. And very, very, very, very truly important to the American people. I commend her on it. I also want to commend Senator Edwards. He made a major contribution to this bill by making it possible for people who no longer want to receive these sweepstakes to call a phone number to stop the deluge of mail which is received in so many homes. As in so many other areas, he is already making a great contribution to this Senate. I especially thank him for his contribution to this bipartisan bill. That part of this bill is a very important part. It is a very creative part of the bill. Again, it makes it possible, in a very practical way, for people who get sick and tired of the swamping of their mailboxes with these sweepstakes offers, to end that.

This bill attempts to end these sweepstakes mailings, which are swamping our Nation. The sweepstakes scams are part of a $1 billion industry, an industry which is too often based on deception, an industry which too often tells people they have won a prize, dangles in front of them a promised prize, and then, of course, encloses the promotional materials that create the impression that buying a product will help to get that prize.

Most people are skeptical when they get this mail. They realize there could be 100,000 people who are told they have just won a huge amount of money, but there is a significant percentage of our people who are misled. These companies that do this prey on some of the most vulnerable among us and they take special advantage of our seniors. This is shown, in particular, when somebody responds to one of these promotions and then they are frequently inundated with followup targeted promotions. In fact, according to one of our witnesses, a prominent company, as 144 mailings from one company in 1 year and that, by the way, is one of the larger companies that does that, one of the so-called legitimate companies.

Our bill is aimed at ending these mailings and the deceit, and the scams. It will require the companies that are using these sweepstakes to display clearly and conspicuously and in a prominent place and in a prominent manner a statement that no purchase is necessary to enter the contest and, even more important, in my judgment at least, a statement saying that a purchase will not improve their chances of winning.

There are other requirements in this bill, and they are important requirements, but I think those are two of the most important requirements that we do now impose on an industry to see if we can clean up some of these abuses.

We also give the Postal Service some subpoena authority. The Postal Service will have subpoena authority. The Postal Service will no longer have to take two steps before clamping down on the deception; they will be able to do it in one step. If the representation is true and follows the bill, the Postal Service will be able to act directly and not have to first go through an order which, in turn, will have to be violated as is the current law.

If someone violates the law, they should not need two steps. One step should be enough to stop the violation and punish the perpetrator. This bill is intended to close the loopholes in our law, to end the deceptions that permit too many of these sweepstakes to take in too many people, usually too many vulnerable people, raising hundreds of millions of dollars from people who usually cannot afford the dollars they are scammed into sending to the deceptive mailers of some of these sweepstakes.

As I mentioned earlier, I commend the Senator from Maine, Ms. Collins, her really strong leadership of our subcommittee in so many consumer protection measures. This is one of many on which Senator Collins has been the leader. That leadership is critically important to the American people. I commend her on it. I also want to commend Senator Edwards. He made a major contribution to this bill by making it possible for people who no longer want to receive these sweepstakes to call a phone number to stop the deluge of mail which is received in so many homes. As in so many other areas, he is already making a great contribution to this Senate. I especially thank him for his contribution to this bipartisan bill. That part of this bill is a very important part. It is a very creative part of the bill. Again, it makes it possible, in a very practical way, for people who get sick and tired of the swamping of their mailboxes with these sweepstakes offers, to end that.

This bill attempts to end these sweepstakes mailings, which are swamping our Nation. The sweepstakes scams are part of a $1 billion industry, an industry which is too often based on deception, an industry which too often tells people they have won a prize, dangles in front of them a promised prize, and then, of course, encloses the promotional materials that create the impression that buying a product will help to get that prize.

Most people are skeptical when they get this mail. They realize there could be 100,000 people who are told they have just won a huge amount of money, but there is a significant percentage of our people who are misled. These companies that do this prey on some of the most vulnerable among us and they take special advantage of our seniors. This is shown, in particular, when somebody responds to one of these promotions and then they are frequently inundated with followup targeted promotions. In fact, according to one of our witnesses, a prominent company, as 144 mailings from one company in 1 year and that, by the way, is one of the larger companies that does that, one of the so-called legitimate companies.

Our bill is aimed at ending the abuses and the deceptions and the scams. It will require the companies that are using these sweepstakes to display clearly and conspicuously and in a prominent place and in a prominent manner a statement that no purchase is necessary to enter the contest and, even more important, in my judgment at least, a statement saying that a purchase will not improve their chances of winning.

There are other requirements in this bill, and they are important requirements, but I think those are two of the most important requirements that we do now impose on an industry to see if we can clean up some of these abuses.

We also give the Postal Service some subpoena authority. The Postal Service will have subpoena authority. The Postal Service will no longer have to take two steps before clamping down on the deception; they will be able to do it in one step. If the representation is true and follows the bill, the Postal Service will be able to act directly and not have to first go through an order which, in turn, will have to be violated as is the current law.

If someone violates the law, they should not need two steps. One step should be enough to stop the violation and punish the perpetrator. This bill is intended to close the loopholes in our law, to end the deceptions that permit too many of these sweepstakes to take in too many people, usually too many vulnerable people, raising hundreds of millions of dollars from people who usually cannot afford the dollars they are scammed into sending to the deceptive mailers of some of these sweepstakes.
to avoid financial hardship, wasted savings, and a great deal of heartache for countless other vulnerable citizens by passing this legislation.

It is my hope that we will have a very strong vote today and that it will prompt the House to act and we will see this important legislation signed into law before we adjourn this year.

I yield back the remainder of my time. I ask for the yeas and nays. I think they have already been ordered, but if they have not, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. COLLINS. I believe that vote is slated for 5:30 p.m. Seeing no other speakers requesting time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Madam President, I ask unanimous consent that the Senator from Minnesota, Mr. WELLSSTONE, be added as a cosponsor of the bill S. 335.

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

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the Senator from Pennsylvania, Mr. GRASSLEY, be added as a cosponsor of the bill S. 335.

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

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the Senator from Delaware, Mr. BIDEN, be added as a cosponsor of the bill S. 335.

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

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the Senator from New Mexico, Mr. DOMENICI, be added as a cosponsor of the bill S. 335.

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

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the Senator from Ohio, Mr. TAYLOR, be added as a cosponsor of the bill S. 335.

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

Ms. COLLINS. I suggest the absence of a quorum.
SEC. 4. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.

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

(1) by striking "or" after "(h)", both places it appears; and

(2) by inserting "(j), or (k)" after "(i)" in both such places.

SEC. 5. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

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 sections 3005 and 3006, the Postal Service, in accordance with section 406(d), may apply to the district court in the district in which mail is sent or received as part of the alleged scheme, de-

vice, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any other manner may be conducted, for a temporary restraining order and prelimi-

nary injunction under the procedural re-


(2) 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 re-

view of such proceedings, or any action to enforce orders issued under the proceedings; and

(ii) direct the detention by the post-
master, in any and all districts, of the de-
fendant’s incoming mail and outgoing mail, which is the subject of the proceedings under sections 3005 and 3006.

(3) A proper showing under this para-

paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005 or 3006.

(4) A 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 em-

ployee; and

(B) be delivered as addressed if such mail is clearly shown not to be the subject of pro-

ceedings under sections 3005 and 3006.

(5) No finding of the court that the in-

tent to make a false representation or to conduct a lottery is required to the issuance of an order under this section.

(6) If any order under subsection (a) and the proceedings under sections 3005 or

3006 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.

SEC. 6. 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" and inserting "$1,000,000 for each day"; and

(2) by inserting after "of subsection (a)" the following: "(c), (d), or (e)."

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

(4) by inserting after subsection (b) the fol-

lowing:

"(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 $10,000 for each ad-

ditional 10,000 pieces above 100,000, not to exceed $2,000,000.

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

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

(4) by inserting after subsection (b) the fol-

lowing:

"(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 $10,000 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 sub-

section the Postal Service shall determine the civil penalty taking into account the na-

ture, circumstances, extent, and gravity of the violation or violation 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 law-

ful business, any history of violations of such section, the degree of culpability and oth-

er such matters as justice may require.

(3) Any person who violates section 3001 shall be liable to the United States for a civil penalty not to exceed $10,000 for each mail-

ing to an individual; and

(4) if it is finally determined by any court of competent jurisdiction, which shall be

an order under section 3005 or 3006.
“§ 3016. Administrative subpoenas

“(a) Authorization of Use of Subpoenas by Postmaster General.—In any investigation conducted under subsection (1), 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 constitute or contain evidence which the Postmaster General finds relevant or material to the investigation.

“(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served upon any person who is not 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 in which the courts of the United States have jurisdiction to hear and determine the matter so presented, and to enter such order of such court 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. Any disobedience of any final order entered under this section by any court may be punished as contempt.

“(b) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5.

“(c) Requirement of Promoters.—(1) In general.—An individual (or other legal entity) 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.

“(2) 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:

“§ 3017. Nonmailable skill contests or sweepstakes mailings.

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

“(1) IN GENERAL.—Matter otherwise legally mailable in the mail described under paragraph (2).

“(A) is nonmailable matter;

“(B) shall not be carried or delivered by the Postal Service;

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

“(2) NONMAILABLE MATTER DESCRIBED.—Matter that is nonmailable matter referred to under paragraph (1) is any matter that—

“(A) is a skill contest or sweepstakes, except for any matter described under section 3001(a)(2), or

“(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 tele- phone number of the notification system established under subsection (b); 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 mailings from that promoter to such individual.

“(3) Effectiveness of Election.—An 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 the close of the 60th calendar day after the date the promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall return to the individual’s name and address from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

“(3) Effective Date 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) 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 acted with 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.

“(f) 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 under subparagraph (B) to another person for a commercial purpose.

(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.

(3) 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 assess 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 enactment of this Act.

SEC. 9. STATE LAW NOT PREEMPTED.

(a) In general.—Nothing in the provisions of this Act (including the amendments made by this Act) 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 Act 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. 10. EFFECTIVE DATE.

Except as provided in section 8, this Act shall take effect 120 days after the date of enactment of this Act.

The title was amended so as to read: "A bill 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.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000—Continued

The PRESIDING OFFICER (Mr. Fitzgerald). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I understand the parliamentary situation is that we are now back on the Agriculture Appropriations Committee. I am prepared for 30 minutes. The pending amendment is the Cochran amendment to the Daschle amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. COCHRAN. The Senator from Iowa asked unanimous consent before we permitted discussion of the Collins bill that he be recognized following the vote.

I am rising to clarify the situation, and also to inquire how long the distinguished Senator from Iowa is planning to speak at this point. I am hopeful that there will be time for the distinguished Senator from Indiana, Mr. Lugar, who is chairman of the Committee on Agriculture, to speak for about 30 minutes. He has to chair a committee hearing in the morning beginning at 9 o'clock and won't be available tomorrow morning. I am hopeful the Senator will either let Senator Lugar proceed now or after a reasonable time for the Senator to then be recognized.

That is the purpose of my inquiry of the Senator from Iowa. I did not object when the Senator sought unanimous consent to be recognized because I thought I had talked about 15 minutes and the Senator had talked about the same period of time, or maybe a little longer. That is the purpose of my inquiry.

Mr. HARKIN. I appreciate it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Privilege of the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent that Traci Parmenter, an intern in my office, be granted floor privileges for the duration of the debate on the Agriculture appropriations bill.

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

Mr. HARKIN. Mr. President, I say to my friend from Mississippi that I don't intend to talk too much longer. I did want to engage in a colloquy with a couple of Senators who wanted to do so. I don't imagine it will take that long—a little bit of time, not that long.

Mr. COCHRAN. I thank the Senator for his clarification.

Mr. HARKIN. We will not take that long. As the Senator knows, I have tremendous respect for my chairman of the Agriculture Committee. But I wanted to wrap up our presentation with a couple of my fellow Senators prior to yielding the floor. If I might, Mr. President, let me try to conclude the remarks that I had earlier.

Did the Senator have a question?

Mr. COCHRAN. No. My question of the merits is what much longer he thought he would take. This is for the purpose of advising my friend from Indiana how long he would sit on the floor and listen to your colloquy, or whatever it is the Senator intends to do, or for how long the Senator intends to do it. It is just a question. I am not suggesting the Senator does not have the right to talk all night, if he wishes. Mr. HARKIN. I am not going to talk all night.

Mr. COCHRAN. The Senator from Iowa has the floor. I am just curious about how much time he might take, or could we interrupt the remarks and let the Senator from Indiana proceed?

Mr. HARKIN. About 15 minutes—perhaps not that long. Let me conclude my earlier remarks. Quite frankly, I find myself in a very uncomfortable position. This is extremely uncomfortable for me. I think the pending amendments are the ultimate statement on the failure of the farm policy. We certainly don't find it uncomfortable for me? Because I don't like it when farmers have to rely on government payments because they are not getting enough from the marketplace.

I am uncomfortable with an amendment that provides above $10 billion in support for our farmers. I find myself extremely uncomfortable. That is why I view what we are doing here as part of a two-step process. First, we must get the emergency money; but second, we have to change the underlying failures of the Freedom to Farm bill or we will be right back where we are again next year, asking for billions more in emergency payments to deal with the crisis in the farm economy.

Our farm policy now is based on cash payments. Now we are back here talking about even more cash payments. We are forced into this situation because the underlying farm policy is wrong. And that is how the Republicans' proposal is shaped. It is a stop-gap gesture based on AMTA payments. So naturally, the larger farmers with the larger base acreages are going to get the most money. This policy goes against what government programs ought to be. Government programs ought to be for those who are in need. This amendment stands that principle on its head. The Republican proposal will give most of the money to the biggest farmers under the so-called AMTA payments. Our proposal offers a more equitable distribution by providing the assistance to producers who are actually on the farm right now and in relation to what they are growing now—not what they grew 20 or more years ago. That is a big difference between the two approaches.

The Republicans' said they wanted to get rid of the old farm programs when they passed Freedom to Farm, but...