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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. 355) 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.

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) the term ‘clearly and conspicuously display’ 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 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 (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

SEC. 103. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS. Section 3001 of title 39, United States Code, is amended by inserting after subsection (i) (as added by section 102(4)) the following—(1) in subsection (k)—(i) the term ‘correctly and conspicuously display’ means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated; (ii) the term ‘facsimile check’ means any matter that—(i) is designed to resemble a check or other negotiable instrument; but (ii) is not negotiable; (iii) 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 enter the contest; and (iv) the term ‘sweepstakes’ means a game of chance for which no consideration is required to enter.
(2) 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) does not contain a statement that dis- cles in the mailing, in the rules, and on the order or entry form, that no purchase is nec- essary to enter such sweepstakes;
(III) does not contain a statement that dis- cles in the mailing, in the rules, and on the order or entry form, that a purchase will not im- prove 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 busi- ness or an address at which the sponsor or mail- er may be contacted;
(V) does not contain sweepstakes rules that—
(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 pur- chasing 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 prod- uct or service previously ordered;
(VIII) represents that an individual is a win- ner of a prize unless that individual has won such prize; or
(IX) contains a representation that con- tradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made with respect to the entry, 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) 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 busi- ness or an address at which the sponsor or mail- er 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 con- test or the approximate number or percentage of entrants correctly solving the past 3 skill con- tests conducted by the sponsor;
(ee) the identity or description of the qualifi- cations 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;
(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.

(2) Matter that appears in a magazine, newspa- per, or other media 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 as a condition to the service of a prize;
(5) Any statement, notice, or disclaimer re- quired 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 case of any order 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, is amended—
(B) by striking “section and section 3006 of this Act” and inserting “section 3006”; and
(2) CONFORMING AMENDMENTS.—(A) Section 3011(c) of title 39, United States Code, is amend- ed by striking “section and section 3006 of this Act,” and inserting “section 3006.”
(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) by striking subsection (a) by striking “$10,000 for each day that such person engages in conduct described in paragraph (1), (2), or (3) of this subsection,” and inserting “$10,000 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 fol- lowing: “, (c), or (d)”;
(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and
(4) by inserting after subsection (b) the fol- lowing:
(C) 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 and $100,000 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.

SEC. 101. ADMINISTRATIVE SUBPOENAS.

(a) I N GENERAL.—Section 3007 of title 39, United States Code, is amended by striking the following:
(b) IN GENERAL.—Section 3007 of title 39, United States Code, is amended by striking the following:
(A) by striking “any State government officer who transmits the request” and inserting “the attorney general of the appropriate State (or the United States attorney for the appropriate district)”; and
(2) the provisions of 47 U.S.C. 551 (section 551).

(3) Mail detain ed—
(A) be made available at the post office of mailing or delivery for examination by the de- fendant in the presence of a postal employee;
(B) be delivered as addressed if such mail is not clearly shown to be the subject of pro- ceedings under section 3005.
(4) In any proceeding under section 3005, 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 wrapper in which those mate- rials are mailed.
(4)(1) Any person who uses the mails for any matter to which subsection (b), (i), (f), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a con- sensor, guardian, or individual with power of attorney—
(A) submits to the mailer of such matter a written request that such matter not be mailed to such person; or
(B) submits 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 re- quest to the mailer.
(2) Any person who mails matter to which subsection (b), (i), (f), or (k) applies shall main- tain or cause to be maintained a record of all re- quests made under paragraph (1). The records shall be maintained in a form to allow the expres- sion 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 “, (i), or (k)” after “(i) each place it appears.

SEC. 105. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

(a) I N GENERAL.—Section 3007 of title 39, United States Code, is amended—
(1) by redesignating subsection (b) as sub- section (c); and
(2) by striking subsection (a) and inserting the following:
(a)(1) In preparation for or during the pend- ency of proceedings under section 3005, the Postal Service may, under the provisions of sec- tion 409(a), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enter- prise, 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 re- quirements 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 or- ders issued under the proceedings; and
(ii) provide for the detention by the postmaster, in any and all districts, of the defendant’s incom- ing 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.
(4) by inserting after “of subsection (a)” the fol- lowing: “, (c), or (d)”;
(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and
(4) by inserting after subsection (b) the fol- lowing:
(C) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil pen- alty taking into account the nature, cir- cumstances, 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.
(4) Any person who violates section 3001(1) 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) I N GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:
(b) IN GENERAL.—In any investigation con- ducted under section 3005(a), the Postmaster
General may require by subpoena the production of any books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

(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 to 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 Postal Service 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.

(4) 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 Postal Service shall 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;

(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 thereof 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 return post office receipt of delivery of such subpoena.

(6) Enforcement.—

(a) In General.—Whenever any person, partnership, corporation, association, or entity fails to comply with any media 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.

(b) 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 reviewed on certiorari.

(c) 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.

(7) 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).

(a) Fiscal Year.—The Postal Service shall examine the financial reports for the years ending June 30 of each fiscal year.
SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.  
(a) REFERENCES TO REPEALED PROVISIONS.—Section 3601(a) of title 39, United States Code, is amended by striking "1714," and "1718,".  
(b) CONFORMING CHANGE 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 preceding 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 (as so amended) 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.  
(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)(6), 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 the Federal Reserve Act of 1980 or the Board of Governors of the Federal Reserve System for purposes of this chapter).".  
(b) EXCLUSION FROM CHAPTER 84.—  
(1) EFFECTIVE DATE.—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 the chapter III of chapter 83 of this title;  
"(II) chapter I of chapter 8 of title 1 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; or  
"(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 III or subchapter I; or  
"by striking the matter before subparagraph (B) and inserting the following:  
"(2) EXCEPTION.—Subsection (d) of section 8402 of title 5, United States Code, is amended to read as follows:  
"(A) Paragraph (2) of subsection (d) shall not apply to an individual who—  
"(I) becomes subject to—  
"(II) subsection I 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 the Federal Reserve Act of 1980 or the Board of Governors of the Federal Reserve System for purposes of this chapter); and  
"(c) PROVISIONS RELATING TO CERTAIN FORMER EMPLOYEES.—A former employee of the Board of Governors of the Federal Reserve System who—  
"(i) 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, determined without regard to any deposit or re-deposit requirement under either such subchapter III or subchapter I; or  
"by striking the matter before subparagraph (B) and inserting the following:  
"(2) 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 pre-empt any provision of State or local law that im-poses more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Rate Authority that any particular piece of mail or class of mail is in compliance with such provisions of this title shall be construed to pre-empt 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 any general civil or criminal statute of such State or any specific civil or criminal statute of such State.
of a Federal Reserve Bank) creditable under the benefit structure described in subsection (c) of title 5, United States Code, shall, after performance of service subject to chapter 83 or chapter 84 of title 5, United States Code, be transferred from a position that is subject to one of those chapters to another position that is subject to title 5, United States Code, under the laws in effect at the time of the individual’s appointment.

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 8431 of title 5, United States Code, is amended by redesignating paragraph (1) as paragraph (3), and by adding at the end the following:

"(3) 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 8431 of title 5, United States Code) may prescribe any regulations necessary to carry out this subsection.

SEC. 204. CLARIFYING AMENDMENTS.

(a) IN GENERAL.—Subtitle (f) of section 3304 of title 5, United States Code, as added by section 4 of Public Law 102–377, is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by adding at the end 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-conditioned 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.

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

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

"(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 after 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) retirement systems under subchapter III of chapter 83; and

"(3) any other retirement system under which individuals are eligible to be covered by the Thrift Savings Fund through withholdings from pay.

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

"§8431. Certain transfers to be treated as a separation."
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, or it is from a well-known company, or it is a personal note that says, "Please don't say no now," and implores me to enter, buy the product offered. This is not unusual. This is typical of the kinds of deceptive mailings that are all too common.

The losses 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 loss is precisely calculated, 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 $933,337. A bank check for $933,337 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 by what 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. Tell the consumer to "Open Your Door and 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 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 in 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 period of less 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 those who want 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. Finally, the House added teeth to the penalties for deceptive mailings, with companies who misrepresent will have an affirmative defense if they have established and implemented, with due care, reasonable practices and procedures to effectively..."
The 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 sponsor 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 deceptive 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 by 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 continuing 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. 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 are sent 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 provided good 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 sell 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 commercials. 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
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 30 of title 18, United States Code, is amended by adding at the end the following:

“§ 1085. Internet gambling

“(a) DEFINITIONS.—In this section:

“(I) 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. 78a(a)(47))) for the purchase, 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. 78a(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 by the provider of the wagering service to the extent that such person offers or provides such service.

“(3) FOREIGN JURISDICTION.—The term ‘foreign jurisdiction’ means a jurisdiction of a foreign country or political subdivision thereof.

“(A) GAMBLING BUSINESS.—The term ‘gambling business’ means—

“(I) a business that is conducted at a gambling establishment, or that—

“(a) involves—

“(i) the placing, receiving, or otherwise making of bets or wagers; or

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

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

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

“(b) 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).

“(C) INFORMATION ASSEMBLING 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 a 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, wherever located, if the information is used only for processing bets or wagers made with that facility under applicable law;

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

“(4) 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 instrumentation 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.

“(5) 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.

“(ii) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any 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, or engaged in the business of betting or wagering; 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.