

*Resolved*, That the United States Senate commends Stephen G. Bale for his exemplary service to the Senate and the Nation; wishes to express its deep appreciation for his long, faithful and outstanding service; and extends its very best wishes upon his retirement.

SEC. 2. That the Secretary of the Senate shall transmit a copy of this resolution to Stephen G. bale.

SENATE RESOLUTION 241—TO DIRECT THE SENATE COMMISSION ON ART TO RECOMMEND TO THE SENATE TWO OUTSTANDING INDIVIDUALS WHOSE PAINTINGS SHALL BE PLACED IN TWO OF THE REMAINING UNFILLED SPACES IN THE SENATE RECEPTION ROOM

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 241

Whereas the reception room in the Capitol outside the Senate Chamber was originally designed to contain medallion likenesses of outstanding Americans;

Whereas there are at present 6 unfilled spaces in the Senate reception room for such medallions; and

Whereas it is in the public interest to accomplish the original objective of the design of the Senate reception room by selecting individuals who were outstanding Senate legislators with a deep appreciation for the Senate, who will serve as role models for future Americans: Now, therefore, be it

*Resolved*, That (a) the Senate Commission on Art established under section 901 of the Arizona-Idaho Conservation Act of 1988 (40 U.S.C. 188b) (referred to as the "Commission") shall select 2 outstanding individuals whose paintings shall be placed in 2 of the remaining unfilled spaces in the Senate reception room, upon approval by the Senate.

(b)(1) The Commission shall select individuals from among Senators, without consideration to party affiliation, who have not served as a Senator in the last 21 years. The Commission shall not select a living individual.

(2) The Commission shall consider first those Senators who are not already commemorated in the Capitol or Senate Office Buildings, although such commemoration shall serve as an absolute bar to consideration or selection only for those who have served as President of the Senate, as the latter are visibly and appropriately commemorated through the Vice Presidential bust collection.

(3) The Commission also shall give primary consideration to the service of the Senator while in the Senate, as opposed to other service to the United States.

(c) The Commission is authorized to seek advice and recommendations from historians and other sources in carrying out this resolution.

SEC. 2. The Commission shall make its selections and recommendations pursuant to the first section no later than the close of the second session of the 106th Congress.

SEC. 3. For purposes of making the recommendations required by this resolution, a member of the Commission may designate another Senator to act in place of that member.

AMENDMENTS SUBMITTED

INTERNET GAMBLING PROHIBITION ACT OF 1999

KYL (AND BRYAN) AMENDMENT NO. 2782

Ms. COLLINS (for Mr. KYL (for himself and Mr. BRYAN)) proposed an amendment to the bill (S. 692) to prohibit Internet gambling, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. PROHIBITION ON INTERNET GAMBLING.

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

“§ 1085. Internet gambling

“(a) DEFINITIONS.—In this section:

“(1) BETS OR WAGERS.—The term ‘bets or wagers’—

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

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

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

“(D) does not include—

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

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

“(iii) a contract of indemnity or guarantee; or

“(iv) a contract for life, health, or accident insurance.

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

“(A) a device or combination of devices—

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

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

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

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

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

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

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

“(i) involves—

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

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

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

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

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

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

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

“(B) does not include—

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

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

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

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

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

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

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

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

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

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

“(A) private dedicated lines; or

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

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

“(12) SUBSCRIBER.—The term ‘subscriber’—  
“(A) means any person with a business relationship with the interactive computer service provider through which such person receives access to the system, service, or network of that provider, even if no formal subscription agreement exists; and

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

“(b) INTERNET GAMBLING.—

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

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

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

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

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

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

“(ii) \$20,000;

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

“(C) both.

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

“(c) CIVIL REMEDIES.—

“(1) JURISDICTION.—The district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain violations of this section by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this section.

“(2) PROCEEDINGS.—

“(A) INSTITUTION BY FEDERAL GOVERNMENT.—

“(i) IN GENERAL.—The United States may institute proceedings under this subsection to prevent or restrain a violation of this section.

“(ii) RELIEF.—Upon application of the United States under this subparagraph, the district court may enter a temporary restraining order or an injunction against any person to prevent or restrain a violation of this section if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

“(B) INSTITUTION BY STATE ATTORNEY GENERAL.—

“(i) IN GENERAL.—The attorney general of a State (or other appropriate State official) in which a violation of this section allegedly has occurred or will occur, after providing written notice to the United States, may institute proceedings under this subsection to prevent or restrain the violation.

“(ii) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this subparagraph, the district court may enter a temporary restraining order or an injunction against any person to prevent or restrain a violation of this section if the court determines, after notice and an opportunity for a hearing, that there is a substantial probability that such violation has occurred or will occur.

“(C) PROCEEDINGS BY A SPORTS ORGANIZATION.—A professional sports organization or an amateur sports organization (as those terms are defined in section 3701 of title 28) whose games, or the performances of whose athletes in such games, are alleged to be the basis of a violation of this section, may, after providing written notice to the United States, institute civil proceedings in an appropriate district court of the United States to prevent or restrain such violation. Upon application of the professional or amateur sports organization, the district court may enter any relief authorized by this subsection in proceedings instituted thereunder by the United States or a State Attorney General (or other appropriate State official). This subparagraph does not authorize proceedings against an interactive computer service provider described in subsection (d)(1)(B).

“(D) INDIAN LANDS.—Notwithstanding subparagraph (A), (B), or (C), for a violation that is alleged to have occurred, or may occur, on Indian lands (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703))—

“(i) the United States shall have the enforcement authority provided under subparagraph (A); and

“(ii) in the case of an alleged violation that involves class III gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)), the enforcement authorities specified in an applicable Tribal-State compact negotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

“(E) EXPIRATION.—Any temporary restraining order or preliminary injunction entered pursuant to subparagraph (A) or (B) shall expire if, and as soon as, the United States, or the attorney general (or other appropriate State official) of the State, as applicable, notifies the court that issued the order or injunction that the United States or the State, as applicable, will not seek a permanent injunction.

“(3) EXPEDITED PROCEEDINGS.—

“(A) IN GENERAL.—In addition to any proceeding under paragraph (2), a district court may, in exigent circumstances, enter a temporary restraining order against a person alleged to be in violation of this section upon application of the United States under paragraph (2)(A), or the attorney general (or other appropriate State official) of an affected State under paragraph (2)(B), without notice and the opportunity for a hearing as provided in rule 65(b) of the Federal Rules of Civil Procedure (except as provided in subsection (d)(3)), if the United States or the State, as applicable, demonstrates that there is probable cause to believe that the use of the Internet or other interactive computer service at issue violates this section.

“(B) HEARINGS.—A hearing requested concerning an order entered under this paragraph shall be held at the earliest practicable time.

“(d) INTERACTIVE COMPUTER SERVICE PROVIDERS.—

“(1) IMMUNITY FROM LIABILITY FOR USE BY ANOTHER.—

“(A) IN GENERAL.—An interactive computer service provider described in subparagraph (B) shall not be liable, under this section or any other provision of Federal or State law prohibiting or regulating gambling or gambling-related activities, for the use of its facilities or services by another person to engage in Internet gambling activity that violates such law—

“(i) arising out of any transmitting, routing, or providing of connections for gambling-related material or activity (including intermediate and temporary storage in the course of such transmitting, routing, or providing connections) by the provider, if—

“(I) the material or activity was initiated by or at the direction of a person other than the provider;

“(II) the transmitting, routing, or providing of connections is carried out through an automatic process without selection of the material or activity by the provider;

“(III) the provider does not select the recipients of the material or activity, except as an automatic response to the request of another person; and

“(IV) the material or activity is transmitted through the system or network of the provider without modification of its content; or

“(ii) arising out of any gambling-related material or activity at an online site residing on a computer server owned, controlled, or operated by or for the provider, or arising out of referring or linking users to an online location containing such material or activity, if the material or activity was initiated by or at the direction of a person other than the provider, unless the provider fails to take expeditiously, with respect to the particular material or activity at issue, the actions described in paragraph (2)(A) following the receipt by the provider of a notice described in paragraph (2)(B).

“(B) ELIGIBILITY.—An interactive computer service provider is described in this subparagraph only if the provider—

“(i) maintains and implements a written or electronic policy that requires the provider to terminate the account of a subscriber of its system or network expeditiously following the receipt by the provider of a notice described in paragraph (2)(B) alleging that such subscriber has violated or is violating this section; and

“(ii) with respect to the particular material or activity at issue, has not knowingly permitted its computer server to be used to

engage in activity that the provider knows is prohibited by this section, with the specific intent that such server be used for such purpose.

**“(2) NOTICE TO INTERACTIVE COMPUTER SERVICE PROVIDERS.—**

“(A) IN GENERAL.—If an interactive computer service provider receives from a Federal or State law enforcement agency, acting within its authority and jurisdiction, a written or electronic notice described in subparagraph (B), that a particular online site residing on a computer server owned, controlled, or operated by or for the provider is being used by another person to violate this section, the provider shall expeditiously—

“(i) remove or disable access to the material or activity residing at that online site that allegedly violates this section; or

“(ii) in any case in which the provider does not control the site at which the subject material or activity resides, the provider, through any agent of the provider designated in accordance with section 512(c)(2) of title 17, or other responsible identified employee or contractor—

“(I) notify the Federal or State law enforcement agency that the provider is not the proper recipient of such notice; and

“(II) upon receipt of a subpoena, cooperate with the Federal or State law enforcement agency in identifying the person or persons who control the site.

“(B) NOTICE.—A notice is described in this subparagraph only if it—

“(i) identifies the material or activity that allegedly violates this section, and alleges that such material or activity violates this section;

“(ii) provides information reasonably sufficient to permit the provider to locate (and, as appropriate, in a notice issued pursuant to paragraph (3)(A) to block access to) the material or activity;

“(iii) is supplied to any agent of a provider designated in accordance with section 512(c)(2) of title 17, if information regarding such designation is readily available to the public;

“(iv) provides information that is reasonably sufficient to permit the provider to contact the law enforcement agency that issued the notice, including the name of the law enforcement agency, and the name and telephone number of an individual to contact at the law enforcement agency (and, if available, the electronic mail address of that individual); and

“(v) declares under penalties of perjury that the person submitting the notice is an official of the law enforcement agency described in clause (iv).

**“(3) INJUNCTIVE RELIEF.—**

“(A) IN GENERAL.—The United States, or a State law enforcement agency acting within its authority and jurisdiction, may, not less than 24 hours following the issuance to an interactive computer service provider of a notice described in paragraph (2)(B), in a civil action, obtain a temporary restraining order, or an injunction to prevent the use of the interactive computer service by another person in violation of this section.

“(B) LIMITATIONS.—Notwithstanding any other provision of this section, in the case of any application for a temporary restraining order or an injunction against an interactive computer service provider described in paragraph (1)(B) to prevent a violation of this section—

“(i) arising out of activity described in paragraph (1)(A)(i), the injunctive relief is limited to—

“(I) an order restraining the provider from providing access to an identified subscriber

of the system or network of the interactive computer service provider, if the court determines that there is probable cause to believe that such subscriber is using that access to violate this section (or to engage with another person in a communication that violates this section), by terminating the specified account of that subscriber; and

“(II) an order restraining the provider from providing access, by taking reasonable steps specified in the order to block access, to a specific, identified, foreign online location;

“(ii) arising out of activity described in paragraph (1)(A)(ii), the injunctive relief is limited to—

“(I) the orders described in clause (i)(I);

“(II) an order restraining the provider from providing access to the material or activity that violates this section at a particular online site residing on a computer server operated or controlled by the provider; and

“(III) such other injunctive remedies as the court considers necessary to prevent or restrain access to specified material or activity that is prohibited by this section at a particular online location residing on a computer server operated or controlled by the provider, that are the least burdensome to the provider among the forms of relief that are comparably effective for that purpose.

“(C) CONSIDERATIONS.—The court, in determining appropriate injunctive relief under this paragraph, shall consider—

“(i) whether such an injunction, either alone or in combination with other such injunctions issued, and currently operative, against the same provider would significantly (and, in the case of relief under subparagraph (B)(ii), taking into account, among other factors, the conduct of the provider, unreasonably) burden either the provider or the operation of the system or network of the provider;

“(ii) whether implementation of such an injunction would be technically feasible and effective, and would not materially interfere with access to lawful material at other online locations;

“(iii) whether other less burdensome and comparably effective means of preventing or restraining access to the illegal material or activity are available; and

“(iv) the magnitude of the harm likely to be suffered by the community if the injunction is not granted.

“(D) NOTICE AND EX PARTE ORDERS.—Injunctive relief under this paragraph shall not be available without notice to the service provider and an opportunity for such provider to appear before the court, except for orders ensuring the preservation of evidence or other orders having no material adverse effect on the operation of the communications network of the service provider.

**“(4) ADVERTISING OR PROMOTION OF NON-INTERNET GAMBLING.—**

“(A) DEFINITIONS.—In this paragraph:

“(i) CONDUCTED.—With respect to a gambling activity, that activity is ‘conducted’ in a State if the State is the State in which the gambling establishment (as defined in section 1081) that offers the gambling activity being advertised or promoted is physically located.

“(ii) NON-INTERNET GAMBLING ACTIVITY.—The term ‘non-Internet gambling activity’ means—

“(I) a gambling activity in which the placing of the bet or wager is not conducted by the Internet; or

“(II) a gambling activity to which the prohibitions of this section do not apply.

“(B) IMMUNITY FROM LIABILITY FOR USE BY ANOTHER.—

“(i) IN GENERAL.—An interactive computer service provider described in clause (ii) shall not be liable, under any provision of Federal or State law prohibiting or regulating gambling or gambling-related activities, or under any State law prohibiting or regulating advertising and promotional activities, for—

“(I) content, provided by another person, that advertises or promotes non-Internet gambling activity that violates such law (unless the provider is engaged in the business of such gambling), arising out of any of the activities described in paragraph (1)(A) (i) or (ii); or

“(II) content, provided by another person, that advertises or promotes non-Internet gambling activity that is lawful under Federal law and the law of the State in which such gambling activity is conducted.

“(ii) ELIGIBILITY.—An interactive computer service is described in this clause only if the provider—

“(I) maintains and implements a written or electronic policy that requires the provider to terminate the account of a subscriber of its system or network expeditiously following the receipt by the provider of a notice described in paragraph (2)(B) alleging that such subscriber maintains a website on a computer server controlled or operated by the provider for the purpose of engaging in advertising or promotion of non-Internet gambling activity prohibited by a Federal law or a law of the State in which such activity is conducted;

“(II) with respect to the particular material or activity at issue, has not knowingly permitted its computer server to be used to engage in the advertising or promotion of non-Internet gambling activity that the provider knows is prohibited by a Federal law or a law of the State in which the activity is conducted, with the specific intent that such server be used for such purpose; and

“(III) at reasonable cost, offers residential customers of the provider’s Internet access service, if the provider provides Internet access service to such customers, computer software, or another filtering or blocking system that includes the capability of filtering or blocking access by minors to online Internet gambling sites that violate this section.

**“(C) NOTICE TO INTERACTIVE COMPUTER SERVICE PROVIDERS.—**

“(i) NOTICE FROM FEDERAL LAW ENFORCEMENT AGENCY.—If an interactive computer service provider receives from a Federal law enforcement agency, acting within its authority and jurisdiction, a written or electronic notice described in paragraph (2)(B), that a particular online site residing on a computer server owned, controlled, or operated by or for the provider is being used by another person to advertise or promote non-Internet gambling activity that violates a Federal law prohibiting or regulating gambling or gambling-related activities, the provider shall expeditiously take the actions described in paragraph (2)(A) (i) or (ii) with respect to the advertising or promotion identified in the notice.

“(ii) NOTICE FROM STATE LAW ENFORCEMENT AGENCY.—If an interactive computer service provider receives from a State law enforcement agency, acting within its authority and jurisdiction, a written or electronic notice described in paragraph (2)(B), that a particular online site residing on a computer server owned, controlled, or operated by or for the provider is being used by another person to advertise or promote non-Internet gambling activity that is conducted in that

State and that violates a law of that State prohibiting or regulating gambling or gambling-related activities, the provider shall expeditiously take the actions described in paragraph (2)(A) (i) or (ii) with respect to the advertising or promotion identified in the notice.

“(D) INJUNCTIVE RELIEF.—The United States, or a State law enforcement agency, acting within its authority and jurisdiction, may, not less than 24 hours following the issuance to an interactive computer service provider of a notice described in paragraph (2)(B), in a civil action, obtain a temporary restraining order, or an injunction, to prevent the use of the interactive computer service by another person to advertise or promote non-Internet gambling activity that violates a Federal law, or a law of the State in which such activity is conducted that prohibits or regulates gambling or gambling-related activities, as applicable. The procedures described in paragraph (3)(D) shall apply to actions brought under this subparagraph, and the relief in such actions shall be limited to—

“(i) an order requiring the provider to remove or disable access to the advertising or promotion of non-Internet gambling activity that violates Federal law, or the law of the State in which such activity is conducted, as applicable, at a particular online site residing on a computer server controlled or operated by the provider;

“(ii) an order restraining the provider from providing access to an identified subscriber of the system or network of the provider, if the court determines that such subscriber maintains a website on a computer server controlled or operated by the provider that the subscriber is knowingly using or knowingly permitting to be used to advertise or promote non-Internet gambling activity that violates Federal law or the law of the State in which such activity is conducted; and

“(iii) an order restraining the provider of the content of the advertising or promotion of such illegal gambling activity from disseminating such advertising or promotion on the computer server controlled or operated by the provider of such interactive computer service.

“(E) APPLICABILITY.—The provisions of subparagraphs (C) and (D) do not apply to the content described in subparagraph (B)(i)(II).

“(5) EFFECT ON OTHER LAW.—

“(A) IMMUNITY FROM LIABILITY FOR COMPLIANCE.—An interactive computer service provider shall not be liable for any damages, penalty, or forfeiture, civil or criminal, under Federal or State law for taking in good faith any action described in paragraph (2)(A) or (4) (B)(ii)(I) or (C) to comply with a notice described in paragraph (2)(B), or complying with any court order issued under paragraph (3) or (4)(C).

“(B) DISCLAIMER OF OBLIGATIONS.—Nothing in this section may be construed to impose or authorize an obligation on an interactive computer service provider described in paragraph (1)(B)—

“(i) to monitor material or use of its service; or

“(ii) except as required by a notice or an order of a court under this subsection, to gain access to, to remove, or to disable access to material.

“(C) RIGHTS OF SUBSCRIBERS.—Nothing in this section may be construed to prejudice the right of a subscriber to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that the account of

such subscriber should not be terminated pursuant to this subsection, or should be restored.

“(e) AVAILABILITY OF RELIEF.—The availability of relief under subsections (c) and (d) shall not depend on, or be affected by, the initiation or resolution of any action under subsection (b), or under any other provision of Federal or State law.

“(f) APPLICABILITY.—

“(1) IN GENERAL.—Subject to paragraph (2), the prohibition in this section does not apply to—

“(A) any otherwise lawful bet or wager that is placed, received, or otherwise made wholly intrastate for a State lottery, or for a multi-State lottery operated jointly between 2 or more States in conjunction with State lotteries if—

“(i) each such lottery is expressly authorized, and licensed or regulated, under applicable State law;

“(ii) the bet or wager is placed on an interactive computer service that uses a private network;

“(iii) each person placing or otherwise making that bet or wager is physically located when such bet or wager is placed at a facility that is open to the general public; and

“(iv) each such lottery complies with sections 1301 through 1304, and other applicable provisions of Federal law;

“(B) any otherwise lawful bet or wager that is placed, received, or otherwise made on an interstate or intrastate basis on a live horse or a live dog race, or the sending, receiving, or inviting of information assisting in the placing of such a bet or wager, if such bet or wager, or the transmission of such information, as applicable, is—

“(i) expressly authorized, and licensed or regulated by the State in which such bet or wager is received, under applicable Federal and such State's laws;

“(ii) placed on a closed-loop subscriber-based service;

“(iii) initiated from a State in which betting or wagering on that same type of live horse or live dog racing is lawful and received in a State in which such betting or wagering is lawful;

“(iv) subject to the regulatory oversight of the State in which the bet or wager is received and subject by such State to minimum control standards for the accounting, regulatory inspection, and auditing of all such bets or wagers transmitted from 1 State to another; and

“(v) in the case of—

“(I) live horse racing, made in accordance with the Interstate Horse Racing Act of 1978 (15 U.S.C. 3001 et seq.) and the requirements, if any, established by an appropriate legislative or regulatory body or the State in which the bet or wager originates; or

“(II) live dog racing, subject to consent agreements that are comparable to those required by the Interstate Horse Racing Act of 1978, approved by the appropriate State regulatory agencies, in the State receiving the signal, and in the State in which the bet or wager originates; or

“(C) any otherwise lawful bet or wager that is placed, received, or otherwise made for a fantasy sports league game or contest.

“(2) BETS OR WAGERS MADE BY AGENTS OR PROXIES.—

“(A) IN GENERAL.—Paragraph (1) does not apply in any case in which a bet or wager is placed, received, or otherwise made by the use of an agent or proxy using the Internet or an interactive computer service.

“(B) QUALIFICATION.—Nothing in this paragraph may be construed to prohibit the

owner operator of a parimutuel wagering facility that is licensed by a State from employing an agent in the operation of the account wagering system owned or operated by the parimutuel facility.

“(3) ADVERTISING AND PROMOTION.—The prohibition of subsection (b)(1)(B) does not apply to advertising or promotion of any activity that is not prohibited by subsection (b)(1)(A).

“(g) RULES OF CONSTRUCTION.—

“(1) NO IMMUNITY FROM PROSECUTION.—Except as provided in subsection (d), nothing in this section may be construed to create immunity from criminal prosecution under any provision of Federal or State law.

“(2) OTHER PROHIBITIONS AND REMEDIES.—Nothing in this section may be construed to affect any prohibition or remedy applicable to a person engaged in a gambling business under any other provision of Federal or State law.”

(b) TECHNICAL AMENDMENT.—The analysis for chapter 50 of title 18, United States Code, is amended by adding at the end the following:

“1085. Internet gambling.”

### SEC. 3. REPORT ON ENFORCEMENT.

Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report, which shall include—

(1) an analysis of the problems, if any, associated with enforcing section 1085 of title 18, United States Code, as added by section 2 of this Act;

(2) recommendations for the best use of the resources of the Department of Justice to enforce that section; and

(3) an estimate of the amount of activity and money that continue to be used to gamble on the Internet, despite the prohibition of section 1085 of title 18, United States Code, as added by section 2 of this Act, together with—

(A) a detailed description of the factors contributing to successful evasion of that prohibition; and

(B) recommendations concerning means of closing the channels used to evade that prohibition.

### SEC. 4. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of this Act and the provisions of such amendments to any other person or circumstance shall not be affected thereby.

### CAMPBELL AMENDMENT NO. 2783

Ms. COLLINS (for Mr. CAMPBELL) proposed an amendment to amendment No. 2782 proposed by Mr. KYL to the bill, S. 692, supra; as follows:

On page 35 of the Kyl-Bryan substitute, after line 18, insert the following:

(4) INDIAN GAMING.

(A) IN GENERAL.—Subject to paragraph (2), the prohibition in this section does not apply to any otherwise lawful bet or wager that is placed, received, or otherwise made on any game that constitutes class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act, 25 U.S.C. 2703), or the sending, receiving, or inviting of information assisting in the placing of any such bet or wager, as applicable, if—

(i) the game is permitted under and conducted in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.);

(ii) each person placing, receiving, or otherwise making such bet or wager, or transmitting such information, is physically located on Indian lands (as that term is defined in section 4 of Indian Gaming Regulatory Act, 25 U.S.C. 2703) when such person places, receives, or otherwise makes the bet or wager, or transmits such information;

(iii) the game is conducted on a closed-loop subscriber-based system or a private network; and

(iv) in the case of a game that constitutes class III gaming—

(I) the game is authorized under, and is conducted in accordance with, the respective Tribal-State compacts (entered into and approved pursuant to section 11(d) of the Indian Gaming Regulatory Act, 25 U.S.C. 2710) governing gaming activity on the Indian lands, in each respective State, on which each person placing, receiving, or otherwise making such bet or wager, or transmitting such information, is physically located when such person places, receives, or otherwise makes the bet or wager, or transmits such information; and

(II) each such Tribal-State compact expressly provides that the game may be conducted using the Internet or other interactive computer service only on a closed-loop subscriber-based system or a private network.

(B) ACTIVITIES UNDER EXISTING COMPACTS.—The requirement of subparagraph (A)(iv)(II) shall not apply in the case of gaming activity, otherwise subject to this section, that was being conducted on Indian lands on September 1, 1999, with the approval of the state gaming commission or like regulatory authority of the State in which such Indian lands are located, but without such required compact approval, until the date on which the compact governing gaming activity on such Indian lands expires (exclusive of any automatic or discretionary renewal or extension of such compact), so long as such gaming activity is conducted using the Internet or other interactive computer service only on a closed-loop subscriber-based system or a private network. For purposes of this subparagraph, the phrase “conducted on Indian lands” shall refer to all Indian lands on which any person placing, receiving, or otherwise making a bet or wager, or sending, receiving, or inviting information assisting in the placing of a bet or wager, is physically located when such person places, receives, or otherwise makes the bet or wager, or sends, receives, or invites such information.

#### DATE-RAPE DRUG CONTROL ACT OF 1999

##### HUTCHISON AMENDMENT NO. 2784

Ms. COLLINS (for Mrs. HUTCHISON) proposed an amendment to the bill (S. 1561) to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, and for other purposes; as follows:

On page 1, beginning on line 4, strike “Samantha Reid and Hillory J. Farias” and insert “Hillory J. Farias and Samantha Reid”.

On page 6, line 21, strike “Samantha Reid and Hillory J. Farias” and insert “Hillory J. Farias and Samantha Reid”.

On page 7, line 12, strike “Samantha Reid and Hillory J. Farias” and insert “Hillory J. Farias and Samantha Reid”.

#### ELECTRONIC BENEFIT TRANSFER INTEROPERABILITY AND PORTABILITY ACT OF 1999

##### FITZGERALD AMENDMENT NO. 2785

Ms. COLLINS (for Mr. FITZGERALD) proposed an amendment to the bill (S. 1733) to amend the Food Stamp Act of 1977 to provide for a national standard of interoperability and portability applicable to electronic food stamp benefit transactions; as follows:

Strike all after the enacting clause and insert the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the “Electronic Benefit Transfer Interoperability and Portability Act of 1999”.

##### SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to protect the integrity of the food stamp program;

(2) to ensure cost-effective portability of food stamp benefits across State borders without imposing additional administrative expenses for special equipment to address problems relating to the portability;

(3) to enhance the flow of interstate commerce involving electronic transactions involving food stamp benefits under a uniform national standard of interoperability and portability; and

(4) to eliminate the inefficiencies resulting from a patchwork of State-administered systems and regulations established to carry out the food stamp program

##### SEC. 3. INTEROPERABILITY AND PORTABILITY OF FOOD STAMP TRANSACTIONS.

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:

“(k) INTEROPERABILITY AND PORTABILITY OF ELECTRONIC BENEFIT TRANSFER TRANSACTIONS.—

“(1) DEFINITIONS.—In this subsection:

“(A) ELECTRONIC BENEFIT TRANSFER CARD.—The term ‘electronic benefit transfer card’ means a card that provides benefits under this Act through an electronic benefit transfer service (as defined in subsection (i)(1)(A)).

“(B) ELECTRONIC BENEFIT TRANSFER CONTRACT.—The term ‘electronic benefit transfer contract’ means a contract that provides for the issuance, use, or redemption of coupons in the form of electronic benefit transfer cards.

“(C) INTEROPERABILITY.—The term ‘interoperability’ means a system that enables a coupon issued in the form of an electronic benefit transfer card to be redeemed in any State.

“(D) INTERSTATE TRANSACTION.—The term ‘interstate transaction’ means a transaction that is initiated in 1 State by the use of an electronic benefit transfer card that is issued in another State.

“(E) PORTABILITY.—The term ‘portability’ means a system that enables a coupon issued in the form of an electronic benefit transfer card to be used in any State by a household to purchase food at a retail food store or wholesale food concern approved under this Act.

“(F) SETTLING.—The term ‘settling’ means movement, and reporting such movement, of

funds from an electronic benefit transfer card issuer that is located in 1 State to a retail food store, or wholesale food concern, that is located in another State, to accomplish an interstate transaction.

“(G) SMART CARD.—The term ‘smart card’ means an intelligent benefit card described in section 17(f).

“(H) SWITCHING.—The term ‘switching’ means the routing of an interstate transaction that consists of transmitting the details of a transaction electronically recorded through the use of an electronic benefit transfer card in 1 State to the issuer of the card that is in another State.

“(2) REQUIREMENT.—Not later than October 1, 2002, the Secretary shall ensure that systems that provide for the electronic issuance, use, and redemption of coupons in the form of electronic benefit transfer cards are interoperable, and food stamp benefits are portable, among all States.

“(3) COST.—The cost of achieving the interoperability and portability required under paragraph (2) shall not be imposed on any food stamp retail store, or any wholesale food concern, approved to participate in the food stamp program.

“(4) STANDARDS.—Not later than 210 days after the date of enactment of this subsection, the Secretary shall promulgate regulations that—

“(A) adopt a uniform national standard of interoperability and portability required under paragraph (2) that is based on the standard of interoperability and portability used by a majority of State agencies; and

“(B) require that any electronic benefit transfer contract that is entered into 30 days or more after the regulations are promulgated, by or on behalf of a State agency, provide for the interoperability and portability required under paragraph (2) in accordance with the national standard.

“(5) EXEMPTIONS.—

“(A) CONTRACTS.—The requirements of paragraph (2) shall not apply to the transfer of benefits under an electronic benefit transfer contract before the expiration of the term of the contract if the contract—

“(i) is entered into before the date that is 30 days after the regulations are promulgated under paragraph (4); and

“(ii) expires after October 1, 2002.

“(B) WAIVER.—At the request of a State agency, the Secretary may provide 1 waiver to temporarily exempt, for a period ending on or before the date specified under clause (ii), the State agency from complying with the requirements of paragraph (2), if the State agency—

“(i) establishes to the satisfaction of the Secretary that the State agency faces unusual technological barriers to achieving by October 1, 2002, the interoperability and portability required under paragraph (2);

“(ii) demonstrates that the best interest of the food stamp program would be served by granting the waiver with respect to the electronic benefit transfer system used by the State agency to administer the food stamp program; and

“(iii) specifies a date by which the State agency will achieve the interoperability and portability required under paragraph (2).

“(C) SMART CARD SYSTEMS.—The Secretary shall allow a State agency that is using smart cards for the delivery of food stamp program benefits to comply with the requirements of paragraph (2) at such time after October 1, 2002, as the Secretary determines that a practicable technological method is available for interoperability with electronic benefit transfer cards.