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

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

PRIVILEGE OF THE FLOOR

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

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

INTERNET GAMBLING PROHIBITION ACT OF 1999

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

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

The clerk will report the bill by title.

The legislative clerk read as follows:

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

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

S. 692

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

SECTION 1. SHORT TITLE.

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

SEC. 2. PROHIBITION ON INTERNET GAMBLING.

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

''§ 1085. Internet gambling

''(a) DEFINITIONS.—In this section:

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

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

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

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

''(D) does not include—

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

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

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

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

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

''(A) a device or combination of devices—

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

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

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

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

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

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

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

''(i) involves—

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

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

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

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

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

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

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

''(B) does not include—

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

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

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

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

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

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

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

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

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

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

''(A) private dedicated lines; or

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

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

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

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

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

''(b) INTERNET GAMBLING.—

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

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

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

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

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

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

''(ii) $20,000;

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

''(C) both.

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

''(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) INDIAN LANDS.—Notwithstanding subparagraphs (A) and (B), for a violation that is alleged to have occurred, or may occur, on Indian lands (as that term is 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) 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.

''(D) 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) 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) to comply with a notice described in paragraph (2)(B), or complying with any court order issued under paragraph (3).

''(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.); 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) RULE OF CONSTRUCTION.—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 3 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 being used to gamble on the Internet.

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.

AMENDMENT NO. 2782

(Purpose: To provide a complete substitute)

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. KYL, for himself and Mr. BRYAN, proposes an amendment numbered 2782.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 2783 TO AMENDMENT NO. 2782

Ms. COLLINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. CAMPBELL, proposes an amendment numbered 2783 to amendment No. 2782.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is 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.

Mr. KYL. Mr. President, I rise in strong support of S. 692, the Internet Gambling Prohibition Act of 1999. As we move toward passage of this landmark legislation, I want to thank especially Senator BRYAN, the original cosponsor of S. 692, Senator FEINSTEIN, the ranking member of the Subcommittee on Technology, Terrorism, and Government Information, and Senator HATCH, the Chairman of the Judiciary Committee. I also want to acknowledge the role of Senator CAMPBELL in helping ensure that the legislation addressed issues of concern to Indian tribes, and Senator LEAHY, the ranking member of the Judiciary Committee, who helped advance S. 692 notwithstanding his differences with some of its features. Finally, I want to thank all of my colleagues who joined the legislation as cosponsors following its introduction.

S. 692 enjoys extraordinarily broad public support. Those supporting it—ranging from Federal and State law-enforcement authorities to religious, consumer, and family groups, from the professional and amateur sports leagues to the thoroughbred racing industry—are fully identified in the Judiciary Committee report accompanying the bill. I want to acknowledge, in particular, the support of the National Association of Attorneys General, the National Football League, and the National Collegiate Athletic Association, and the constructive role played by the American Horse Council, the Major League Baseball Players Association, and America Online, which spearheaded a coalition of Internet service providers and others interested in this legislation. I would particularly like to thank David Remes, Gerry Waldron, Marty Gold, Daniel Nestel, and Stephen Higgins, whose hard work and diplomatic skills played an important role in securing the passage of the bill by unanimous consent.

The bill we are voting on today, which the Judiciary Committee approved in June by a recorded vote of 16–1, is the culmination of efforts begun in the last Congress, when Senator BRYAN and I first introduced legislation to prohibit Internet gambling. That legislation, S. 474, was approved by the Judiciary Committee in August 1997 and passed by a 90–10 vote as an amendment to the Commerce-Justice-State appropriations bill in July 1998. The Subcommittee on Crime of the House Judiciary Committee held hearings on an Internet gambling bill in that the last Congress (H.R. 2380) and approved a revised version of the bill (H.R. 4427), but the House did not complete action on the legislation due to the lateness of the session, and the Senate language was not included in the final version of the appropriations measure. New legislation, similar to S. 692, has been introduced in the House in this Congress, and I am quite hopeful that Internet gambling legislation will be enacted into law early next year.

Mr. President, as documented in the Judiciary Committee's report, both the number of Internet gambling sites, and Internet gambling revenues, have grown rapidly since Internet gambling first appeared in the summer of 1995. Two studies cited by the National Gambling Impact Study Commission in its ''Final Report'' to Congress this summer indicate that Internet gambling revenues have doubled every year for the past three years. One study reported growth from $300 million in 1998 to $651 million in 1999, and projected revenues of $2.3 billion by 2001. Another study reported growth from $445.4 million in 1997 to $919.1 million in 1998. The Commission noted estimates by the Financial Times and Smith Barney that Internet gambling will reach annual revenues of $10 billion early in the new millennium. A third study cited by the Commission found that the number of online gamblers had increased from 6.9 million to 14.5 million between 1997 and 1998. According to the Commission, ''virtually all observers assume the rapid growth of Internet gambling will continue.''

It is no exaggeration to say that the Internet has brought gambling into every home that has purchased a computer and chosen to go online. According to the Department of Commerce, 26.2 percent of U.S. households had Internet access at the end of 1998, representing 27 million households. That percentage will undoubtedly continue to grow (millions of other U.S. households have computers but simply have not yet chosen to go online) until, not long from now, online home computers will be as commonplace as the humble telephone—which, like the telegraph before it, seemed as revolutionary and wondrous, in its day, as the Internet seems today.

As a new technology, the Internet presents new problems that current law must be updated to address. These problems, which S. 692 is designed to remedy, are extensively documented in the Judiciary Committee's report. They include, among others, serious harms to our young people, who are the most adept users of Internet; harms from gambling on professional and amateur sports events and athletic performances; and harms relating to pathological gambling and criminal activity. It is vital that we legislate to prevent the Internet from being used as an instrument of gambling and establish an effective mechanism—specifically tailored to this new medium—for enforcing that prohibition. In establishing such a mechanism, however, it is also important to avoid impeding or disrupting the use of the Internet as an instrument of lawful activity. I am confident that S. 602 meets these objectives. Moreover, the fact that the legislation is strongly supported by the chief law enforcement officers of the States is compelling evidence that it strikes the right balance between Federal and State authority in this area.

S. 692 creates a new section 1085 of title 18. It prohibits any person engaged in a gambling business from using the Internet to place, receive, or otherwise make a bet or wager, or to send, receive, or invite information assisting in the placing of a bet or wager, and it establishes mechanisms tailored to the Internet to enforce this prohibition. The new section provides criminal penalties for violations, authorizes civil enforcement proceedings by Federal and State authorities, and establishes mechanisms for requiring Internet service providers to terminate or block access to material or activity that violates the prohibition.

Because section 1085, as reported by the Judiciary Committee, is comprehensively analyzed in the Judiciary Committee's report, I will only describe its structure here. Section 1085(a) contains definitions. Section 1085(b) contains the prohibitions and criminal penalties. Section 1085(c) provides for civil actions by the United States and the States to prevent and restrain violations, applicable to persons other than Internet service providers. Section 1085(d) establishes responsibilities for Internet service providers, enforceable through civil injunction actions by Federal and State authorities, and grants providers specified immunities from liability. Section 1085(e) specifies that the availability of relief under subsections (c) and (d), which is civil in nature, is independent of any criminal action under subsection (b) or any other Federal or State law. Section 1085(f) specifies categories of activities that, if otherwise lawful, are not subject to the prohibition of subsection (b). This subsection addresses State lotteries, pari-mutuel animal wagering, Indian gaming, and fantasy sports league games and contests. Section 1085(f) specifically preserves the regulatory authority of the States with respect to gambling and gambling-related activities not subject to the prohibition of subsection (b), but nothing in section 1085 authorizes discriminatory or other action by a State that would otherwise violate the Commerce Clause. Section 1085(g) specifies that section 1085 does not create immunity from any criminal prosecution under any provision of Federal or State law, except as provided in subsection (d), and does not affect any prohibition or remedy applicable to a person engaged in a gambling business under any other provision of Federal or State law.

Mr. President, the bill we are voting on today has been modified in several

respects from the version reported by the Judiciary Committee. All but one of those modifications affect section 1085. The other affects section 3 of the bill, which calls for a report to Congress by the Department of Justice two years after enactment.

Proceedings by Sports Organizations. The bill has been amended by adding a new subparagraph (C) to section 1085(c)(2) to authorize a professional or amateur sports organization whose games, or the performances of whose athletes in such games, are alleged to be the basis of a violation of section 1085 to institute civil proceedings in an appropriate district court of the United States to prevent or restrain the violation. The right of action provided by this subparagraph is similar to the right of action for sports organizations provided in the Professional and Amateur Sports Protection Act, 28 U.S.C. 3701 et seq., which Congress passed in 1992 to halt the spread of legalized sports betting and S. 692 is intended to reinforce. The new subparagraph limits proceedings, by sports organizations against interactive computer service providers.

Advertising and promotion of Non-Internet Gambling. The bill has been amended by adding a new paragraph (4) to section 1085(d) to address the responsibilities and immunities of an Internet service provider relating to the use of its facilities by another person to advertise or promote non-online gambling. Paragraph (4) generally mirrors the approach of paragraph (1), which addresses the responsibilities and immunities of an Internet service provider relating to the use of its facilities by another person to engage in online gambling activity. Paragraph (4) provides that, if specified conditions are met, a provider 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, either (1) for content, provided by another person, that advertises or promotes non-Internet gambling activity that is unlawful under such Federal or State law, arising out of any of the activities described in section 1085(d)(1)(A)(i) or (ii); or (2) for content, provided by another person, that advertises or promotes non-Internet gambling activity that is lawful under both Federal law and the law of the State where the gambling activity is being conducted. To be eligible for immunity under paragraph (4), a provider must, among other things, offer residential customers at reasonable cost computer software, or another filtering or blocking system, that includes the capability of filtering or blocking access by minors to Internet gambling sites that violate section 1085. Paragraph (4) provides for injunctive relief under specified circumstances.

Horse Racing. The bill has been amended by adding language to subsection (f)(1)(B)(v)(I) to recognize, expressly, the authority of the State in which the bet or wager originates to prohibit or regulate the activity relating to live horse races described in subparagraph (B). this authority was implicit; the amendment makes it explicit.

Indian Gaming. The bill has been amended to address Indian gaming by adding a new paragraph (4) to section 1085(f). The new paragraph specifies that the prohibitions of section 1085 regarding the use of the Internet or other interactive computer service do 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 the Indian Gaming Regulatory Act), or the sending, receiving, or inviting of information assisting in the placing of any such bet or wager, as applicable, if four conditions are met.

First, the game must be one that is permitted under and conducted in accordance with the Indian Gaming Regulatory Act.

Second, each person placing, receiving, or otherwise making such bet or wager, or transmitting (i.e., sending, receiving, or inviting) such information, must be physically located in a gaming facility on Indian lands when such person places, receives, or otherwise makes the bet or wager, or transmits such information.

Third, the game must be conducted on a closed-loop subscriber-based system or a private network.

Fourth, in the case of a game that constitutes class III gaming, the game must be authorized under, and be conducted in accordance with, the respective Tribal-State compacts that govern gaming activity on the Indian lands 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. In addition, each such Tribal-State compact must expressly provide 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.

To illustrate one application of the fourth condition, suppose that Person A, a player who is physically located on Indian lands in Florida, by using the Internet or other interactive computer service, places or makes a bet or wager with Person B, a person operating or employed by a casino who is physically located on Indian lands in Idaho. To be lawful under section 1085 in this illustration, the game, among other things, must be one that is expressly authorized (1) by the compact that governs gaming activity on the Indian lands in Florida on which Person A is physically located when he places or makes the bet or wager, and (2) by the compact that governs gaming activity on the Indian lands in Idaho on which Person B is physically located when the bet is placed, received, or otherwise made. In addition, both compacts must expressly provide such gaming activity may be conducted using the Internet or other interactive computer service only on a closed-loop subscriber-based system or a private network.

Paragraph (4) further provides that the requirement of compact language expressly allowing the game to be conducted using the Internet or other interactive computer service, if a closed-loop subscriber-based system or a private network is used, as set forth in paragraph (4)(A)(iv)(II), shall not apply in the case of gaming activity, otherwise subject to section 1085, that was being conducted on Indian lands using the Internet or other interactive computer service 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 the compact language required by paragraph (4)(A)(iv)(II). The exemption applies only 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), and only to the extent that the gaming activity is conducted using the Interned or other interactive computer service on a closed-loop subscriber-based system or a private network. This exemption avoids the need to renegotiate compacts currently in effect if the specified conditions are satisfied. The exemption waives only the requirement of subparagraph (A)(iv)(II). It does not in any manner waive the compact authorization requirement of subparagraph (A)(iv)(I), the physical location requirement of subparagraph (A)(ii), the closed-loop or private network requirement of subparagraph (A)(iii), or any other requirement of subparagraph (A).

To use the previous illustration, if the compact that currently governs gaming on the Indian lands in Florida on which Person A is physically located when Person A places or makes the bet or wager does not expressly specify that the game may be conducted using the Internet or other interactive computer service (if a closed-loop subscriber-based system or a private network is used), the game may nevertheless be conducted on those Indian lands using the Internet or other interactive computer service (if a closed-loop subscriber-based system or a private network is used), notwithstanding section 1085, until that compact expires, if the game was one that was conducted on those Indian lands in Florida using the Internet or other interactive computer service on September 1, 1999, with the approval of the gaming commission or like regulatory authority of Florida. After the compact expires, however, any gaming

on those Indian lands using the Internet or other interactive computer service is subject to the requirement of express approval (limited to use of a closed-loop subscriber-based system or a private network) in subsequent compacts governing gaming activity on those Indian lands.

Rule of Construction. The bill has been amended by adding a new paragraph to section 1085(g) to make even more explicit that, except as provided in subsection (d), section 1085 does not create immunity from any criminal prosecution under any provision of Federal or State law. This amendment responds to a concern expressed by Senator LEAHY.

Report on Enforcement. Section 3 of S. 692 has been amended to require the Justice Department to include in the required report to Congress further information specified by the Gambling Impact Study Commission in its ''Final Report''.

Mr. President, S. 692 is urgently needed to address a serious social problem. It reflects the very best thinking on how to update existing law to meet the challenges of a new technology. I respectfully urge its passage.

Mr. LEAHY. Mr. President, I have long been an advocate for legislation that ensures that existing laws keep pace with developing technology. It is for this reason that I have sponsored and supported over the past few years a host of bills to bring us into the 21st Century.

This same impetus underlies my support of legislation to ensure our nation's gambling laws keep pace with developing technology, particularly the Internet. The Department of Justice has noted that ''the Internet has allowed for new types of electronic gambling, including interactive games such as poker or blackjack, that may not clearly be included within the types of gambling currently made illegal. . . .'' This new technology clearly has the potential to diminish the effectiveness of current gambling statutes.

Vermonters have spoken clearly that they do not want certain types of gambling permitted in our state, and they do not want current laws to be rendered obsolete by the Internet. Vermont Attorney General William Sorrell strongly supports federal legislation to address Internet gambling, as do other law enforcement officials in Vermont.

I believe, therefore, that there is considerable value in updating our federal gambling statutes, which is why I voted for S. 692, the ''Internet Gambling Prohibition Act,'' during Senate Judiciary Committee consideration. I support the bill as a step forward in our bipartisan efforts to make sure our federal laws continue to keep pace with emerging technologies.

I do, however, have concerns that S. 692 might unnecessarily weaken existing federal and state gambling laws.

My first concern is that the bill provides unnecessary exemptions from its Internet gambling ban for certain forms of gambling activities without a clear public policy justification. For example, the bill exempts parimutuel wagering on horse and dog racing from its ban on Internet gambling. The sponsors of S. 692 have offered no compelling reason for this special treatment of one form of gambling. Indeed, the Department of Justice is ''especially troubled by the broad exemptions given to parimutuel wagering, which essentially would make legal on the Internet types of parimutuel wagering that are not legal in the physical world,'' according to its June 9, 1999 views letter on S. 692.

Broad exemptions from the Internet gambling ban also contradict the recent recommendations to Congress of the National Gambling Impact Study Commission. After 2 years of taking testimony at hearings across the country, the Commission has endorsed the need for Federal legislation to prohibit Internet gambling. But the Commission clearly rejected adding new exemptions to the law in such a ban.

Indeed, in a letter to me dated June 15, 1999, Kay C. James, Chair, and William Bible, Commissioner, of the National Gambling Impact Study Commission, wrote:

> The Commission recommends to the President, Congress, and the Department of Justice (DOJ) that the Federal government should prohibit, *without allowing new exemptions or the expansion of existing federal exemptions to other jurisdictions,* Internet gambling not already authorized within the United States or among parties in the United States and any foreign jurisdiction. (emphasis in the original)

My second concern is that the bill unnecessarily creates a new section in our Federal gambling statutes, which may prove inconsistent with existing law and established legal precedent. Instead of updating section 1084 of title 18, which has prohibited interstate gambling through wire communications since 1961, S. 692 creates a new section 1085 to title 18 to cover Internet gambling only. Creating a new section out of whole cloth with different definitions and other provisions from existing Federal gambling statutes creates overlapping and inconsistent Federal gambling laws for no good reason.

According to its views letter on S. 692, the Department of Justice believes overlapping and inconsistent Federal gambling laws can be easily avoided by amending section 1084 of title 18 to cover Internet gambling:

> We therefore strongly recommend that Congress address the objective of this legislation through amending existing gambling laws, rather than creating new laws that specifically govern the Internet. Indeed, the Department of Justice believes that an amendment to section 1084 of title 18 could satisfy many of the concerns addressed in S. 692, as well as ensure that the same laws apply to gambling businesses, whether they operate over the Internet, the telephone, or some other instrumentality of interstate commerce.

I want to thank the sponsors of the legislation, Senators KYL and BRYAN, for addressing my third concern in their substitute amendment. I was concerned that the bill might unnecessarily create immunity from criminal prosecution under State law for Internet gambling. Any new immunity would have been in sharp contrast to existing Federal law, which specifically does not grant immunity from State prosecution for illegal gambling over wire communications.

To address this concern, the substitute amendment adds a new Rules of Construction section, section 2 (g)(1), which I authored. This section makes it clear that, except for the liability limits provided to Interactive Computer Service Providers in section 2 (d) of the bill, S. 692 does not provide any other immunity from Federal or State prosecution for illegal Internet gambling.

Indeed, the New York Attorney General recently prosecuted an offshore Internet gambling company, World Interactive Gaming Corporation, for targeting New York citizens in violation of State and Federal anti-gambling statutes. This past July, the New York State Supreme Court upheld that prosecution.

As a former State prosecutor in Vermont, I strongly believe that Congress should not tie the hands of our State crime-fighting partners in the battle against Internet gambling when we do not mandate Federal preemption of state criminal laws for other forms of illegal gambling. Instead, we need to foster effective Federal-State partnerships to combat illegal Internet gambling.

During our consideration of the Internet Gambling Prohibition Act in this Congress and the last, the sponsors of the bill and members of the Senate Judiciary Committee have improved and refined the bill on a bipartisan basis. The bill now applies only to gambling businesses, instead of individual betters. This will permit Federal authorities to target the prosecution of interstate gambling businesses, while rightly leaving the prosecution of individual bettors to the discretion of state authorities acting under state law.

As Senators continue to work together to enact a ban on Internet gambling, we should keep these words from the Department of Justice foremost in our minds: ''[A]ny prohibitions that are designed to prohibit criminal activity on the Internet must be carefully drafted to accomplish the legislation's objectives without stifling the growth of the Internet or chilling its use as a communication medium.''

I look forward to working with my colleagues on both sides of the aisle and the administration to enact into law carefully drafted legislation to update our Federal gambling statutes to ensure that new types of gambling activities made possible by emerging technologies are prohibited.

Mr. TORRICELLI. Mr. President, I express my deep appreciation and thanks to Senator KYL for his diligent

work to help resolve my concerns. This compromise is reflected in section 1085. This language is very important to permitting parimutuel wagering on horse racing to be exempted from the prohibition on Internet gambling that we are enacting.

The new language makes explicit which was implicit and assures that every State has the right to establish requirements for Internet and phone wagering that will best serve the public and governmental interests of the State and to do so, if it wishes, before such wagering takes place. I believe this is so important because it ensures that a State will have its traditional authority to safeguard the interests of its consumers and racing industry through the regulatory and approval process of proposed phone or Internet wagering.

Mr. CAMPBELL. Mr. President, today the Senate considers S. 692, entitled the ''Internet Gaming Prohibition Act.'' As my colleagues know, I support this measure but from the day this bill was introduced I have had concerns about its scope. As Chairman of the Committee on Indian Affairs I have been concerned that existing law, namely the Indian Gaming Regulatory Act, would be irreparably harmed unless we made certain changes to the bill.

This is an important bill and I support the intent of the bill's sponsors to make it more difficult for this kind of gaming to be conducted, particularly by underage players.

If enacted, this bill would prohibit Internet gambling, but make exceptions for certain segments of the gaming industry which currently use a variety of technologies to enhance traditional gaming.

It is important for my colleagues to realize that the bill does not prohibit all forms of gaming using available high-technology. When I reviewed S. 692 for the first time, I realized that certain gaming activities currently being conducted by Indian tribes would be prohibited by this bill.

My concerns centered on the fact that the same or similar activities were allowed to other entities—such as the states, the horse-racing industry and others—that were disallowed to tribes. This fundamental inequity is what led me to propose fair treatment for tribal governmental gaming.

In addition to issues of equity, the economic impacts of Indian gaming are substantial and should be acknowledged. These revenues provide an important source of development capital and jobs for many tribes across the country. Contrary to the views many here hold, Indian gaming is very highly regulated by federal, state and tribal officials, and has been subject to federal law for eleven years.

I addressed my concerns to the Senate Judiciary Committee in June of this year and began discussions on how best to address currently-legal Indian gaming in S. 692. My main concerns with drafting any language dealing with Indian gaming and the IGRA centered on the following requirements:

1. All gaming must be legal under current federal law;

2. All class III gaming (casino style) must be conducted pursuant to a tribal state compact; and

3. All aspects of the game must take place on Indian Lands (game, player, facility, server, etc.).

It is critical to note that there is no tribe in the U.S. that is currently offering online/Internet betting. Instead, several tribes currently use widely-available technology to broadcast bingo to numerous operations located on Indian lands or to link class III games for the purpose of determining an aggregate betting pool for the purpose of offering bigger prizes.

It is my understanding in supporting the substitute along with my amendment, that S. 692 allows tribes to continue their current practices regarding the use of technology to enhance the effectiveness and profitability of their operations, but does not authorize any tribe to operate betting on the Internet as it currently perceived by the general public.

The specific provisions of my amendment address all currently legal class II and class III gaming, as defined in the Indian Gaming Regulatory Act, 25 U.S.C. §2701 et seq.

Accordingly, for Indian gaming activities to not run afoul of the provisions of S. 692

1. The game must be conducted according to the requirements of IGRA.

2. All persons making or receiving a bet, or transmitting information regarding a bet must be on Indian lands. That means all aspects of the game must be located on tribal land, including the person playing the game, the actual machine which is the game, and any computer server which may be used to keep track of information relating to the play of the game. In the case of a satellite (which cannot be located on Indian land), all machinery used to receive the signal must be located on Indian land.

3. The game must be conducted on an interactive computer service which uses a closed-loop subscriber based service or a private network.

4. Where class III games are conducted, each tribe participating in a network must have a compact which authorizes games to be conducted using the technology described, that is, an interactive computer service which uses a closed-loop subscriber-based service or a private network. It is critical to understand that this means that a tribe must have a compact only in the state in which they are located, not that they compact with every state in which the network is located.

5. In jurisdictions where class III gaming is currently using technology to link games, but either have compacts which do not specifically authorize networked games, or that do authorize these games, but do not contain the specific authorization required in S. 692, the amendment allows them to continue the operations of those games until the expiration of their current compact. The current language addressing technology that is included in most compacts does not contain the exact terminology as defined in S. 692.

Additionally, there are other states where language that addresses the use of technology is not contained in the compact, but the state has consented to the use of technology. My amendment contains a ''grandfather clause'' for those operations, which will run until their compacts expire by their own terms. Once a tribe's compact expires, the compact must be renegotiated and will be required to contain language which conforms to the requirements of S. 692.

Contrary to the views of some, Indian tribes are not generally interested in operating games which are broadcast on the ''world wide web'' or the Internet, and in which a person sitting in their home may ''log on'' to a computer and begin placing bets.

Indian tribes are, however, interested in continuing the operation of the games they currently have, and which they have agreed with their states are legal. This amendment allows them to do just that.

Mr. FEINGOLD. Mr. President, I rise today to express my opposition to the Internet Gambling Prohibition Act of 1999. I voted against this bill when it was brought to the floor last year as an amendment to an appropriations bill and again this year when it came through the Judiciary Committee.

I am pleased to see that Senator KYL was able to reach an agreement with Senator CAMPBELL and others to address Indian gaming issues. The bill's special treatment of certain forms of gambling was one of the reasons I voted against this bill when it was before the Judiciary Committee. It allowed state lotteries, fantasy sports leagues, and horse and dog track racing to continue to operate over the Internet, but prohibited use of the Internet for Indian gaming, which is expressly authorized by federal law. Under Senator CAMPBELL's amendment to S. 692, Indian gaming can continue to operate over the Internet under certain circumstances.

While I am glad to see the Indian gaming issue addressed, I nevertheless remain concerned with the fact that this bill singles out one emerging technology, the Internet, to try to attack the broad, complex social problems associated with gambling. The Internet is an evolving technology, and its full potential as a medium of expression has not been reached. While I share some of the concerns about the dangers of gambling that have inspired the sponsors of this legislation, I am reluctant to start down the path of restricting the use of the Internet for any particular lawful purpose. Once we have prohibited gambling on the Internet, what will be the next on-line activity that we will try

to ban? We need to be very careful not to create a precedent that might stifle the commercial and educational development of this very exciting technological tool with unhealthy implications for the First Amendment. I fear that this bill starts us down a road in that direction.

Mr. President, in light of the expressed sentiment of this body last year, I did not object to the unanimous consent request to pass this bill in the closing days of this session, but I would like the record to reflect my continuing opposition to this bill.

Thank you. I yield the floor.

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendments be agreed to, the substitute amendment be agreed to, as amended, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2783) was agreed to.

The amendment (No. 2782) was agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 692), as amended, was read the third time and passed, as follows:

[The bill was not available for printing. It will appear in a future edition of the RECORD.]

DATE-RAPE DRUG CONTROL ACT OF 1999

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 416, S. 1561.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill to amend the Controlled Substance 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.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments as follows:

[Matter proposed to be deleted is enclosed in black brackets; new matter is printed in italic.]

S. 1516

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 ''Date-Rape Drug Control Act of 1999''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 1999''.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid (''GHB'') is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol which potentiates its impact.

(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

(6) Abuse of illicit GHB is an imminent hazard to public safety that requires immediate regulatory action under the Controlled Substances Act (21 U.S.C. 801 et seq.).

[SEC. 3. ADDITION OF GAMMA HYDROXYBUTYRIC ACID AND KETAMINE TO SCHEDULES OF CONTROLLED SUBSTANCES; GAMMA BUTYROLACTONE AS ADDITIONAL LIST I CHEMICAL.

[(a) ADDITION TO SCHEDULE I.—

[(1) IN GENERAL.—Section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end of schedule I the following:

[''(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following substance having a depressant effect on the central nervous system, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

[''(1) Gamma hydroxybutyric acid.''.

[(2) SECURITY OF FACILITIES.—For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, gamma hydroxybutyric acid and its salts, isomers, and salts of isomers manufactured, distributed, or possessed in accordance with an exemption approved under section 505(i) of the Federal Food, Drug, and Cosmetic Act shall be treated as a controlled substance in schedule III under section 202(c) of the Controlled Substances Act.

[(b) ADDITION TO SCHEDULE III.—Schedule III under section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended in (b)—

[(1) by redesignating (4) through (10) as (6) through (12), respectively; and

[(2) by redesignating (3) as (4);

[(3) by inserting after (2) the following:

[''(3) Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under section 505 of the Federal Food, Drug, and Cosmetic Act.''; and

[(4) by inserting after (4) (as so redesignated) the following:

[''(5) Ketamine and its salts, isomers, and salts of isomers.''.

[(c) ADDITIONAL LIST I CHEMICAL.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

[(1) by redesignating subparagraph (X) as subparagraph (Y); and

[(2) by inserting after subparagraph (W) the following subparagraph:

[''(X) Gamma butyrolactone.''.

[(d) RULE OF CONSTRUCTION REGARDING CONTROLLED SUBSTANCE ANALOGUES.—Section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)) is amended—

[(1) in subparagraph (A), by striking ''subparagraph (B)'' and inserting ''subparagraph (C)'';

[(2) by redesignating subparagraph (B) as subparagraph (C); and

[(3) by inserting after subparagraph (A) the following new subparagraph (B):

[''(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) that the chemical is a controlled substance analogue.''.

[(e) PENALTIES REGARDING SCHEDULE I.—

[(1) IN GENERAL.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended in the first sentence by inserting after ''schedule I or II,'' the following: ''gamma hydroxybutyric acid in schedule III,''.

[(2) CONFORMING AMENDMENT.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended by inserting ''(other than gamma hydroxybutyric acid)'' after ''schedule III''.

[(f) DISTRIBUTION WITH INTENT TO COMMIT CRIME OF VIOLENCE.—Section 401(b)(7)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(7)(A)) is amended by inserting ''or controlled substance analogue'' after ''distributing a controlled substance''.]

SEC. 3. EMERGENCY SCHEDULING OF GAMMA HYDROXYBUTYRIC ACID AND LISTING OF GAMMA BUTYROLACTONE AS LIST I CHEMICAL.

(a) EMERGENCY SCHEDULING OF GHB.—

(1) IN GENERAL.—The Congress finds that the abuse of illicit gamma hydroxybutyric acid is an imminent hazard to the public safety. Accordingly, the Attorney General, notwithstanding sections 201(a), 201(b), 201(c), and 202 of the Controlled Substances Act, shall issue, not later than 60 days after the date of the enactment of this Act, a final order that schedules such drug (together with its salts, isomers, and salts of isomers) in the same schedule under section 202(c) of the Controlled Substances Act as would apply to a scheduling of a substance by the Attorney General under section 201(h)(1) of such Act (relating to imminent hazards to the public safety), except as follows:

(A) For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, the final order shall treat such drug, when the drug is manufactured, distributed, or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (whether the exemption involved is authorized before, on, or after the date of the enactment of this Act), as being in the same schedule as that recommended by the Secretary of Health and Human Services for the drug when the drug is the subject of an authorized investigational new drug application (relating to such section 505(i)). The recommendation referred to in the preceding sentence is contained in the first paragraph of the letter transmitted on May 19, 1999, by such Secretary (acting through the Assistant Secretary for Health) to the Attorney