

((RIN2120-AA64)(2004-0380)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10274. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The New Piper Aircraft, Inc. Models PA 28-161, 181, PA-28R-301, -301T, PA-32-301FT, PA-32-301XTC, PA-34-220T, PA-44-180, PA-46-350P, and PA-46-500TP Airplanes" ((RIN2120-AA64)(2004-0381)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10275. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Model 525 Airplanes" ((RIN2120-AA64)(2004-0382)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10276. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: International Aero Engines AGV2500-AL, V2522-AL, V2524-A5, V2525-D5, V2527-A5, V2527M-A5, V2528-D5, V2530-A5, and V2533-A5 Turbofan Engines" ((RIN2120-AA64)(2004-0383)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10277. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica SA Model EMB 135 and 145 Series Airplanes" ((RIN2120-AA64)(2004-0498)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10278. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: MD Helicopters Inc Model 600N Helicopters" ((RIN2120-AA64)(2004-0500)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10279. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747-400, 400D, and 400F Series Airplanes; Equipped with General Electric or Pratt and Whitney Series Engines" ((RIN2120-AA64)(2004-0499)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10280. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 and 2B19 Airplanes" ((RIN2120-AA64)(2004-0501)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10281. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Various Transport Category Airplanes on Which Cargo Restraint Strap Assemblies Have Been Installed per Supplemental Type Certificate" ((RIN2120-AA64)(2004-0502)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10282. A communication from the Program Analyst, Federal Aviation Administra-

tion, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737-300, 400, and 500 Series Airplanes" ((RIN2120-AA64)(2004-0503)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10283. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Model MU 300-10, 400, 400A, and 400T Series Airplanes; and Raytheon Model Beech MU 300 Airplanes" ((RIN2120-AA64)(2004-0504)) received on December 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC-10284. A message from the President of the United States, transmitting, pursuant to law, a report relative to the Federal Payment for Emergency Planning and Security Costs in the District of Columbia; to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of South Carolina:
S. 3033. A bill for the relief of Ricardo F. Pedrotti; to the Committee on the Judiciary.

By Mr. PRYOR:
S. 3034. A bill for the relief of Susan Overton Huey; considered and passed.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 3035. A bill to amend the Oil Pollution Act of 1990 to prevent oil spills and increase liability limits, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. BIDEN, Ms. STABENOW, and Mr. CORZINE):

S. Res. 485. A resolution expressing the sense of the Senate regarding the November 21, 2004, Presidential runoff election in Ukraine; to the Committee on Foreign Relations.

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. BURNS, and Mr. LEAHY):

S. Res. 486. A resolution relative to the death of J. Stanley Kimmitt, Former Secretary of the Senate; considered and agreed to.

By Mr. SMITH (for himself, Mr. BIDEN, Mr. LUGAR, Ms. STABENOW, Mr. MCCAIN, and Mr. CORZINE):

S. Res. 487. A resolution expressing the sense of the Senate regarding the November 21, 2004, Presidential runoff election in Ukraine; considered and agreed to.

ADDITIONAL COSPONSORS

S. 585

At the request of Mr. NELSON of Florida, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 585, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation.

S. 2672

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2672, a bill to establish an Independent National Security Classification Board in the executive branch, and for other purposes.

S. 2889

At the request of Mr. ALEXANDER, the names of the Senator from Texas (Mr. CORNYN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2889, a bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the National symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes.

S. 2900

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2900, a bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wanamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to civil rights and dignity of the Native peoples of Alaska and the Nation.

S. 2994

At the request of Ms. SNOWE, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 2994, a bill to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Anti-deficiency Act, for a period of time.

S. 3026

At the request of Mr. TALENT, his name was added as a cosponsor of S. 3026, a bill to support the Boy Scouts of America and the Girl Scouts of the United States of America.

S. CON. RES. 152

At the request of Mr. ENZI, his name was added as a cosponsor of S. Con. Res. 152, a concurrent resolution expressing the sense of the Congress that the Department of Defense should continue to exercise its statutory authority to support the activities of the Boy Scouts of America, in particular the periodic national and world Boy Scout Jamborees.

At the request of Mr. SESSIONS, his name was added as a cosponsor of S. Con. Res. 152, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 3035. A bill to amend the Oil Pollution Act of 1990 to prevent oil spills and increase liability limits, and for other purposes; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Oil Spill Prevention and Liability Act of 2004. This bill encourages the oil industry to speed up the shift to double-hull tankers by phasing out liability caps on oil spills involving single-hull tankers. My bill also updates the liability caps—which haven't changed since 1990—for all other oil-carrying vessels and facilities.

I am introducing this bill because on November 26, the *Athos I*, a foreign-owned, single-hull tanker, leaked up to 473,000 gallons of Venezuelan crude oil into the Delaware River near Philadelphia. It is the Delaware River's worst oil spill in a decade. The effects of this spill are clearly devastating.

Eighty-five miles of shoreline have been contaminated. Scores of shorebirds have been killed and hunting and fishing areas have been closed. The spill is approaching inlets used as sources for drinking water. Two nuclear reactors have been shut down because contaminated water could damage cooling systems.

The effect on our economy is immense. The Philadelphia/Delaware River ports have more calls by general cargo vessels than any other port system in the country. Now, restrictions have been placed on all ships entering the port, and ships leaving the port have to be decontaminated first.

The clean-up effort, headed by the U.S. Coast Guard, is remarkable.

I want to thank the men and women who are involved. More than 1,600 people and 145 vessels are working on this response effort. But we are told that it will take months to complete.

And because of the type of oil spilled by the ship—raw crude oil—the ecological impacts of this spill could last for decades.

What is so infuriating is that this spill didn't have to happen. So why did it happen? Because the oil industry is dragging its feet when it comes to shifting from single-hull vessels to double-hull vessels—that is why.

They are supposed to be doing that under the Oil Pollution Act of 1990, a bill I co-sponsored. I also served on the conference committee on the bill.

The 1990 act was our response to the infamous *Exxon Valdez* oil spill in 1989, which devastated the pristine Prince William Sound of Alaska with more than 11 million gallons of oil.

We all remember the enormous cost of that spill to the community, the environment, and the economy—costs which continue to this day.

The 1990 act improved our ability to prevent and respond to oil spills.

Since that act was passed, we have not built any single-hull tankers in the United States. That is the good news. But the oil industry is still using old, single-hull vessels, and it is evident

that the industry will continue to use them until the last minute, putting private profit over the public good. That is the bad news.

As of last year, 14 years after the most catastrophic oil spill in our Nation's history, there were still more single-hull tankers operating out of Valdez, AK, than double-hull tankers.

Apparently, the lessons of the *Exxon Valdez* have been lost on the oil industry. And now we are paying the price on the Delaware River.

When we passed the 1990 act, we gave the oil industry plenty of time to phase out single-hull tankers in an orderly fashion. But the industry hasn't acted in good faith. The fact is, the only way we are going to get the industry to stop relying on single-hull vessels is to lift the liability caps on their use.

That is why my bill phases out the liability cap for single-hull vessels by 2010, the same year the Coast Guard predicts that the Federal Oil Spill Trust Fund will run out of money. The Trust Fund has been used to clean up over 7,500 oil spills in nearly every State of the Nation.

Right now, the liability for the owner of the *Athos I* is capped at \$45 million.

That may seem like a lot, but the full costs of this spill may continue to accrue for years to come.

Why should we cap liability for companies that insist on using old, unsafe single-hull vessels when they are supposed to be upgrading their fleets to newer, safer double-hull vessels?

The bill I am introducing today has several other features to help protect our ports and waterways from oil spills:

It requires more frequent inspections of older single-hull tankers. Other countries do this; why shouldn't we? Are we getting their rejects?

The bill would double liability caps set in the 1990 act for other oil-carrying vessels and facilities. This provision is extremely important since, as I mentioned, the Federal Oil Spill Trust Fund will run out of money by 2010.

Also, since many ports simply can't handle an interruption of commerce that could be caused by a major oil spill, the bill would require the Coast Guard to establish procedures for determining what types of vessels and cargo are just too risky for certain ports to handle.

I am pleased that Senator CORZINE has joined me as a cosponsor of this bill.

I urge my other colleagues to support this bill, too. Single-hull oil tankers pose a titanic risk to our oceans, coasts, rivers, lakes, and ports; it is time we got back on the right course when it comes to fighting and cleaning up oil spills.

I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3035

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 "Oil Spill Prevention and Liability Act of 2004".

SEC. 2. DEFINITION OF RESPONSIBLE PARTY.

Section 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)) is amended by striking subparagraph (A) and inserting the following:

"(A) VESSELS.—

"(i) IN GENERAL.—In the case of a vessel other than a single-hull tank vessel, any person that owns, operates, or demise charters the vessel.

"(ii) SINGLE-HULL TANK VESSELS.—In the case of a single-hull tank vessel, any person that—

"(I) owns, operates, or demise charters the vessel; or

"(II) by contract or agreement, through an agent, or otherwise, arranges for the shipment in a single-hull tank vessel of oil owned or possessed by the person or any other person."

SEC. 3. LIMITS ON LIABILITY.

(a) INCREASE IN LIABILITY LIMITS.—Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended—

(1) in paragraph (1)—

(A) by striking "for a tank vessel, the greater of—" and inserting "for a double-hull tank vessel, after December 31, 2004, the greater of—";

(B) in subparagraph (A), by striking "\$1,200" and inserting "\$2,400"; and

(C) in subparagraph (B)—

(i) in clause (i), by striking "\$10,000,000" and inserting "\$20,000,000"; and

(ii) in clause (ii), by striking "\$2,000,000" and inserting "\$4,000,000";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

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

"(2) for a single-hull tank vessel—

"(A) during the period beginning January 1, 2005, and ending December 31, 2005, the greater of—

"(i) \$2,400 per gross ton; or

"(ii)(I) in the case of a vessel of greater than 3,000 gross tons, \$20,000,000; or

"(II) in the case of a vessel of 3,000 gross tons or less, \$4,000,000;

"(B) during the period beginning January 1, 2006, and ending December 31, 2006, the greater of—

"(i) \$3,600 per gross ton; or

"(ii)(I) in the case of a vessel of greater than 3,000 gross tons, \$30,000,000; or

"(II) in the case of a vessel of 3,000 gross tons or less, \$6,000,000;

"(C) during the period beginning January 1, 2007, and ending December 31, 2007, the greater of—

"(i) \$4,800 per gross ton; or

"(ii)(I) in the case of a vessel of greater than 3,000 gross tons, \$40,000,000; or

"(II) in the case of a vessel of 3,000 gross tons or less, \$8,000,000;

"(D) during the period beginning January 1, 2008, and ending December 31, 2008, the greater of—

"(i) \$6,000 per gross ton; or

"(ii)(I) in the case of a vessel of greater than 3,000 gross tons, \$50,000,000; or

"(II) in the case of a vessel of 3,000 gross tons or less, \$10,000,000;

"(E) during the period beginning January 1, 2009, and ending December 31, 2009, the greater of—

"(i) \$7,200 per gross ton; or

"(ii)(I) in the case of a vessel of greater than 3,000 gross tons, \$60,000,000; or

“(II) in the case of a vessel of 3,000 gross tons or less, \$12,000,000; and

“(F) after December 31, 2009, the maximum amount permitted under the Constitution;”;

(4) in paragraph (3) (as redesignated by paragraph (2))—

(A) by striking “\$600” and inserting “\$1,200”; and

(B) by striking “\$500,000” and inserting “\$1,000,000”;

(5) in paragraph (4) (as redesignated by paragraph (2)), by striking “\$75,000,000” and inserting “\$150,000,000”; and

(6) in paragraph (5) (as redesignated by paragraph (2)), by striking “\$350,000,000” and inserting “\$700,000,000”.

(b) ADJUSTMENT OF LIABILITY LIMITS.—Section 1004(d) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

“(1) DEEPWATER PORTS AND ASSOCIATED VESSELS.—The Secretary may establish a limit of liability of less than \$700,000,000, but not less than \$100,000,000, for the transportation of oil by vessel to deepwater ports (as defined in section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502).”; and

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

(c) ADJUSTMENT FOR INFLATION.—Paragraph (2) of section 1004(d) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)) (as redesignated by subsection (b)(2)) is amended—

(1) by striking “The President” and inserting “The Secretary of the department in which the Coast Guard is located, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior.”; and

(2) by striking “significant”.

SEC. 4. CARRIAGE OF LIQUID BULK DANGEROUS CARGOES.

(a) CONDITIONS FOR ENTRY TO PORTS IN THE UNITED STATES.—Section 9 of the Ports and Waterways Safety Act (33 U.S.C. 1228) is amended by adding at the end the following:

“(c) RISK OF SEVERE HARM.—Not later than January 1, 2006, the Secretary of the department in which the Coast Guard is located shall promulgate regulations under which the owner or operator of a port on the navigable waters of the United States may, after December 31, 2009, request the Secretary of the department in which the Coast Guard is located to place restrictions on the entry into port of the shipment of an individual tank vessel, or class of tank vessels, that presents a risk of severe harm to the environment, economy, or public safety of the port or port region.”.

(b) INSPECTION AND EXAMINATION.—Section 3714(a) of title 46, United States Code, is amended by adding at the end the following:

“(6) In addition to the inspections required under paragraphs (1) and (2), each single-hull tank vessel that is more than 15 years of age shall undergo an annual inspection in accordance with the Condition Assessment Scheme of the Marine Environment Protection Committee of the International Maritime Organization, adopted by Resolution 94(46) on April 27, 2001, as determined in accordance with regulations promulgated by the Secretary.”.

SEC. 5. STUDY.

(a) ADMINISTRATION.—The Commandant of the Coast Guard shall offer to enter into a contract with the National Academy of Sciences to conduct a study to assess the total economic cost of oil spills, and the types of costs resulting from oil spills, in the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report describing the results of the study.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on January 1, 2005.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 485—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NOVEMBER 21, 2004, PRESIDENTIAL RUNOFF ELECTION IN UKRAINE

Mr. SMITH (for himself, Mr. BIDEN, Ms. STABENOW, and Mr. CORZINE) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 485

Whereas on November 21, 2004, Ukraine held a presidential runoff election between former Prime Minister and opposition candidate Victor Yushchenko and current Prime Minister Viktor Yanukovych;

Whereas the Ukrainian Central Election Commission reported that Mr. Yanukovych won 49.42 percent of the vote and Mr. Yushchenko won 46.7 percent of the vote in the runoff election, despite the fact that several exit polls indicated that Mr. Yushchenko secured significantly more votes than Mr. Yanukovych;

Whereas the International Election Observation Mission from the Organization for Security and Cooperation in Europe (OSCE) determined that the runoff election did not meet international standards for democratic elections, and specifically declared that state resources were abused to support the candidacy of Prime Minister Yanukovych;

Whereas the Committee of Voters of Ukraine, a nongovernmental electoral organization in Ukraine, reported on illegal voting by absentee ballot, multiple voting, assaults on electoral observers and journalists, the use of counterfeit ballots, and even kidnapping;

Whereas such reports of fraud were also echoed by Senator Richard Lugar of Indiana, Chairman of the Committee on Foreign Relations of the Senate, an observer to the runoff election designated by President George W. Bush;

Whereas since November 22, 2004, tens of thousands of people have engaged in peaceful demonstrations in Kiev, Ukraine, to protest the declaration by the Central Election Commission of Mr. Yanukovych as the winner of the runoff election;

Whereas antigovernment protests in support of opposition candidate Mr. Yushchenko took place in cities throughout Ukraine, and several city councils adopted resolutions that declared Mr. Yushchenko as the legally elected president;

Whereas on November 23, 2004, opposition candidate Mr. Yushchenko declared victory in the runoff election and took a symbolic oath of office;

Whereas the United States has called for a complete and immediate investigation into the conduct of the runoff election to examine fully the reports of fraud and corruption;

Whereas the European Union has also stated that authorities in Ukraine must redress election irregularities and that the reported results do not reflect the will of the people of Ukraine;

Whereas the Ukrainian Supreme Court blocked the publication of the official runoff election results stating that Mr. Yanukovych was the winner, thus preventing his inauguration as President of Ukraine until the court examined the reports of voter fraud;

Whereas on November 27, 2004, the Parliament of Ukraine passed a resolution declaring that there were violations of law during the runoff election but on November 30, 2004, with support from progovernment and communist parties, canceled the resolution;

Whereas 15 eastern and southern regions in Ukraine that supported the candidacy of Mr. Yanukovych threatened to split off from the country if an illegitimate president were to come to power;

Whereas on December 1, 2004, the Parliament of Ukraine passed a no confidence motion in the cabinet of Prime Minister Yanukovych as approximately 100,000 supporters of Mr. Yushchenko demonstrated in front of the parliament building;

Whereas Mr. Yanukovych and Mr. Yushchenko, along with European mediators and current Ukraine President Leonid Kuchma, began discussions on December 1, 2004, to attempt to work out a resolution to the standoff;

Whereas on December 3, 2004, the Ukrainian Supreme Court ruled that the November 21, 2004, runoff election was invalid and ordered a new vote on December 26, 2004;

Whereas on December 8, 2004, the Parliament of Ukraine passed electoral changes to reform the Central Election Commission and close loopholes for fraud, as well as constitutional changes to reduce the power of the President of Ukraine; and

Whereas the manner in which this crisis is resolved will have significant implications for the perceptions of the democratic institutions of Ukraine by the international community: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the widespread fraud in the November 21, 2004, runoff presidential election in Ukraine;

(2) objects to the separatist initiatives in Ukraine that are being used by one side to influence the outcome of the election dispute; and

(3) supports a peaceful political and legal settlement in Ukraine that is based on the principles of democracy and reflects the will of the people of Ukraine.

SENATE RESOLUTION 486—RELATIVE TO THE DEATH OF J. STANLEY KIMMITT, FORMER SECRETARY OF THE SENATE

Mr. FRIST (for himself, Mr. DASCHLE, Mr. BURNS, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

S. RES. 486

Whereas Stan Kimmitt served with distinction in the United States Army for 25 years, served in combat during World War II in Europe and later in Korea, received the Silver Star, the Legion of Merit, and the Bronze Star for Valor with Three Oak Leaf Clusters, and retired with the rank of Colonel;

Whereas Stan Kimmitt began his service to the United States Senate in 1965 as administrative assistant to Majority Leader Mike Mansfield;

Whereas Stan Kimmitt served as Secretary for the Majority of the Senate from 1966 until 1977;

Whereas Stan Kimmitt served as Secretary of the Senate from 1977 until 1981;

Whereas after a distinguished career in the United States Army, Stan Kimmitt served as an employee of the Senate of the United States and ably and faithfully upheld the high standards and traditions of the staff of the Senate from 1965 until 1981;

Whereas Stan Kimmitt faithfully discharged the difficult duties and responsibilities of a wide variety of important and demanding positions in public life with honesty, integrity, loyalty and humility; and

Whereas Stan Kimmitt's clear understanding and appreciation of the challenges facing the Nation has left his mark on those many areas of public life: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Stan Kimmitt.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Stan Kimmitt.

SENATE RESOLUTION 487—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NOVEMBER 21, 2004, PRESIDENTIAL RUNOFF ELECTION IN UKRAINE

Mr. SMITH (for himself, Mr. BIDEN, Mr. LUGAR, Ms. STABENOW, Mr. MCCAIN, and Mr. CORZINE) submitted the following resolution; which was considered and agreed to:

S. RES. 487

Whereas on November 21, 2004, Ukraine held a presidential runoff election between former Prime Minister and opposition candidate Victor Yushchenko and current Prime Minister Viktor Yanukovych;

Whereas the Ukrainian Central Election Commission reported that Mr. Yanukovych won 49.42 percent of the vote and Mr. Yushchenko won 46.7 percent of the vote in the runoff election, despite the fact that several exit polls indicated that Mr. Yushchenko secured significantly more votes than Mr. Yanukovych;

Whereas the International Election Observation Mission from the Organization for Security and Cooperation in Europe (OSCE) determined that the runoff election did not meet international standards for democratic elections, and specifically declared that state resources were abused to support the candidacy of Prime Minister Yanukovych;

Whereas the Committee of Voters of Ukraine, a nongovernmental electoral organization in Ukraine, reported on illegal voting by absentee ballot, multiple voting, assaults on electoral observers and journalists and the use of counterfeit ballots;

Whereas such reports of fraud were also echoed by Senator Richard Lugar of Indiana, Chairman of the Committee on Foreign Relations of the Senate, an observer to the runoff election designated by President George W. Bush;

Whereas since November 22, 2004, tens of thousands of people have engaged in peaceful demonstrations in Kiev, Ukraine, to protest the declaration by the Central Election Commission of Mr. Yanukovych as the winner of the runoff election;

Whereas antigovernment protests in support of opposition candidate Mr. Yushchenko took place in cities throughout Ukraine, and several city councils adopted resolutions that declared Mr. Yushchenko as the legally elected president;

Whereas on November 23, 2004, opposition candidate Mr. Yushchenko declared victory in the runoff election;

Whereas the United States has called for a complete and immediate investigation into the conduct of the runoff election to examine fully the reports of fraud and corruption;

Whereas the European Union has also stated that authorities in Ukraine must redress election irregularities and that the reported results do not reflect the will of the people of Ukraine;

Whereas the Ukrainian Supreme Court blocked the publication of the official runoff

election results stating that Mr. Yanukovych was the winner, thus preventing his inauguration as President of Ukraine until the court examined the reports of voter fraud;

Whereas on November 27, 2004, the Parliament of Ukraine passed a resolution declaring that there were violations of law during the runoff election but on November 30, 2004, with support from progovernment and communist parties, canceled the resolution;

Whereas 15 eastern and southern regions in Ukraine that supported the candidacy of Mr. Yanukovych threatened to split off from the country if an illegitimate president were to come to power;

Whereas on December 1, 2004, the Parliament of Ukraine passed a no confidence motion in the cabinet of Prime Minister Yanukovych as approximately 100,000 supporters of Mr. Yushchenko demonstrated in front of the parliament building;

Whereas Mr. Yanukovych and Mr. Yushchenko, along with European mediators and current Ukraine President Leonid Kuchma, began discussions on December 1, 2004, to attempt to work out a resolution to the standoff;

Whereas on December 3, 2004, the Ukrainian Supreme Court ruled that the November 21, 2004, runoff election was invalid and ordered a new vote on December 26, 2004;

Whereas on December 8, 2004, the Parliament of Ukraine passed electoral changes to reform the Central Election Commission and close loopholes for fraud, as well as constitutional changes to reduce the power of the President of Ukraine; and

Whereas the manner in which this crisis is resolved will have significant implications for the perceptions of the democratic institutions of Ukraine by the international community: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the widespread fraud in the November 21, 2004, runoff presidential election in Ukraine; and

(2) supports a peaceful political and legal settlement in Ukraine that is based on the principles of democracy and reflects the will of the people of Ukraine.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4086. Mr. FRIST (for Mr. MCCAIN (for himself and Mr. CORNYN)) proposed an amendment to the bill S. 2603, to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

SA 4087. Mr. FRIST (for Mr. BINGAMAN (for himself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 387, commemorating the 40th Anniversary of the Wilderness Act.

SA 4088. Mr. FRIST (for Mr. ROBERTS) proposed an amendment to the bill H.R. 2121, to amend the Eisenhower Exchange Fellowship Act of 1990 to authorize additional appropriations for the Eisenhower Exchange Fellowship Program Trust Fund, and for other purposes.

TEXT OF AMENDMENTS

SA 4086. Mr. FRIST (for Mr. MCCAIN (for himself and Mr. CORNYN)) proposed an amendment to the bill S. 2603, to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; as follows:

TITLE I—JUNK FAXES

SEC. 101. SHORT TITLE.

This title may be cited as the “Junk Fax Prevention Act of 2004”.

SEC. 102. PROHIBITION ON FAX TRANSMISSIONS CONTAINING UNSOLICITED ADVERTISEMENTS.

(a) PROHIBITION.—Section 227(b)(1)(C) of the Communications Act of 1934 (47 U.S.C. 227(b)(1)(C)) is amended to read as follows:

“(C) to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement, unless—

“(i) the unsolicited advertisement is from a sender with an established business relationship with the recipient;

“(ii) in the case of an unsolicited advertisement sent based on the established business relationship to a residential telephone facsimile machine, or, after the date of enactment of the Junk Fax Prevention Act of 2004, in the case of an unsolicited advertisement sent based on the established business relationship to a business telephone facsimile machine, such number was obtained by the sender through—

“(I) the voluntary communication of such number, within the context of such established business relationship, from the recipient of the unsolicited advertisement, or

“(II) a directory, advertisement, or site on the World Wide Web to which the recipient voluntarily agreed to make available its facsimile number for public distribution; and

“(iii) the unsolicited advertisement contains a notice meeting the requirements under paragraph (2)(D), except that the exception under clauses (i) and (ii) shall not apply with respect to an unsolicited advertisement sent to a telephone facsimile machine by a sender to whom a request has been made not to send future unsolicited advertisements to such telephone facsimile machine that complies with the requirements under paragraph (2)(E); or”.

(b) DEFINITION OF ESTABLISHED BUSINESS RELATIONSHIP.—Section 227(a) of the Communications Act of 1934 (47 U.S.C. 227(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

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

“(2) The term ‘established business relationship’, for purposes only of subsection (b)(1)(C)(i), shall have the meaning given the term in section 64.1200 of title 47, Code of Federal Regulations, as in effect on January 1, 2003, except that—

“(A) such term shall include a relationship between a person or entity and a business subscriber subject to the same terms applicable under such section to a relationship between a person or entity and a residential subscriber; and

“(B) an established business relationship shall be subject to any time limitation established pursuant to paragraph (2)(G))”.

(c) REQUIRED NOTICE OF OPT-OUT OPPORTUNITY.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(D) shall provide that a notice contained in an unsolicited advertisement complies with the requirements under this subparagraph only if—

“(i) the notice is clear and conspicuous and on the first page of the unsolicited advertisement;

“(ii) the notice states that the recipient may make a request to the sender of the unsolicited advertisement not to send any future unsolicited advertisements to a telephone facsimile machine or machines and