

“(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 Yanukovich;

Whereas the Ukrainian Central Election Commission reported that Mr. Yanukovich 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. Yanukovich;

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 Yanukovich;

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. Yanukovich 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. Yanukovich 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. Yanukovich 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 Yanukovich as approximately 100,000 supporters of Mr. Yushchenko demonstrated in front of the parliament building;

Whereas Mr. Yanukovich 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