

S. 714. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. DAYTON, Mr. DURBIN, and Mr. LAUTENBERG):

S. 715. A bill to amend the Internal Revenue Code of 1986 to encourage investment in facilities using wind to produce electricity, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 716. A bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself and Ms. COLLINS):

S. 717. A bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. MCCONNELL, Mrs. MURRAY, Mr. DAYTON, Mr. CHAMBLISS, Mr. CORZINE, and Ms. CANTWELL):

S. 718. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide standards and procedures to guide both State and local law enforcement agencies and law enforcement officers during internal investigations, interrogation of law enforcement officers, and administrative disciplinary hearings, and to ensure accountability of law enforcement officers, to guarantee the due process rights of law enforcement officers, and to require States to enact law enforcement discipline, accountability, and due process laws; to the Committee on the Judiciary.

By Mr. SARBANES (for himself and Ms. MIKULSKI):

S. 719. A bill to extend Corridor O of the Appalachian Development Highway System from its current southern terminus at I-68 near Cumberland to Corridor H, which stretches from Weston, West Virginia, to Strasburg, Virginia; to the Committee on Environment and Public Works.

By Mr. BINGAMAN (for himself and Mr. SMITH):

S. 720. A bill to amend the Internal Revenue Code of 1986 to eliminate unnecessary paperwork burdens on government and small businesses by reducing the number of excise tax returns filed by small taxpayers that pay the Federal excise tax on wines and beer; to the Committee on Finance.

By Mr. VITTER:

S. 721. A bill to authorize the Secretary of the Army to carry out a program for ecosystem restoration for the Louisiana Coastal Area, Louisiana; to the Committee on Environment and Public Works.

By Mr. SANTORUM:

S. 722. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. BOND, and Mr. BINGAMAN):

S. 723. A bill to amend the Internal Revenue Code of 1986 to allow small businesses to set up simple cafeteria plans to provide nontaxable employee benefits to their employees, to make changes in the requirements for cafeteria plans, flexible spending accounts, and benefits provided under such plans or accounts, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. DURBIN, and Mr. SALAZAR):

S. 724. A bill to improve the No Child Left Behind Act of 2001, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Ms. COLLINS, Mrs. MURRAY, Mr. DURBIN, Mrs. CLINTON, Mr. INOUE, Mr. LEVIN, Mr. LAUTENBERG, and Mr. JOHNSON):

S. 725. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself and Mr. JOHNSON):

S. 726. A bill to promote the conservation and production of natural gas; to the Committee on Energy and Natural Resources.

By Mr. ALEXANDER (for himself and Mr. JOHNSON):

S. 727. A bill to provide tax incentives to promote the conservation and production of natural gas; to the Committee on Finance.

By Mr. BOND (for himself, Mr. INHOFE, Mr. VITTER, Mr. WARNER, Mr. VOINOVICH, Mr. ISAKSON, Mr. THUNE, Ms. MURKOWSKI, Mr. OBAMA, Ms. LANDRIEU, Mr. GRASSLEY, Mr. HARKIN, Mr. TALENT, Mr. CORNYN, Mr. COCHRAN, Mr. DOMENICI, and Mr. COLEMAN):

S. 728. A bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN:

S. 729. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEAHY (for himself and Ms. SNOWE):

S. 730. A bill to amend the Clean Air Act to establish requirements concerning the operation of fossil fuel-fired electric utility steam generating units, commercial and industrial boiler units, solid waste incineration units, medical waste incinerators, hazardous waste combustors, chlor-alkali plants, and Portland cement plants to reduce emissions of mercury to the environment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CONRAD (for himself, Mr. BURNS, Mr. JOHNSON, Mr. DORGAN, Mr. KOHL, Mr. DOMENICI, Mr. BINGAMAN, and Mr. THUNE):

S. 731. A bill to recruit and retain more qualified individuals to teach in Tribal Colleges or Universities; to the Committee on Indian Affairs.

By Mr. INHOFE:

S. 732. A bill to authorize funds to Federal aid highways, highway safety programs, and transit programs, and for other purposes; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. VITTER:

S. 733. A bill to amend the Outer Continental Shelf Lands Act to provide a domestic offshore energy reinvestment program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 734. A bill to provide for agreements between Federal agencies to partner or transfer funds to accomplish erosion goals relating to the coastal area of Louisiana, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. VITTER:

S. 735. A bill to amend the Submerged Lands Act to make the seaward boundaries of the States of Louisiana, Alabama, and Mississippi equivalent to the seaward boundaries of the State of Texas and the Gulf Coast of Florida; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 736. A bill to amend the Outer Continental Shelf Lands Act to promote uses on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. DURBIN, Mr. SUNUNU, Mr. FEINGOLD, Ms. MURKOWSKI, and Mr. SALAZAR):

S. 737. A bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 738. A bill to provide relief for the cotton shirt industry; to the Committee on Finance.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FRIST (for himself and Mr. ALEXANDER):

S. Res. 97. A resolution commending Patricia Sue Head Summitt, head women's basketball coach at the University of Tennessee, for three decades of excellence as a proven leader, motivated teacher, and established champion; considered and agreed to.

By Mr. BURR (for himself and Mrs. DOLE):

S. Res. 98. A resolution commending the University of North Carolina men's basketball team for winning the 2005 National Collegiate Athletic Association Division I Men's Basketball Championship; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. LEVIN, Mr. SARBANES, and Mr. LIEBERMAN):

S. Res. 99. A resolution expressing the sense of the Senate to condemn the inhumane and unnecessary slaughter of small cetaceans, including Dall's porpoise, the bottlenose dolphin, Risso's dolphin, false killer whales, pilot whales, the striped dolphin, and the spotted dolphin in certain nations; to the Committee on Foreign Relations.

By Mr. DORGAN (for himself and Mr. BYRD):

S. Res. 100. A resolution disapproving the request of the President for extension under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade promotion authorities under that Act; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. SPECTER, and Mr. LAUTENBERG):

S. Res. 101. A resolution recognizing the 50th anniversary of the development of the Salk polio vaccine and its importance in eradicating the incidence of polio; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 132

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

At the request of Mr. SMITH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 132, *supra*.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 224

At the request of Mr. KENNEDY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 224, a bill to extend the period for COBRA coverage for victims of the terrorist attacks of September 11, 2001.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 267

At the request of Mr. CRAIG, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 267, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 339

At the request of Mr. REID, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 339, a bill to reaffirm the authority of States to regulate certain hunting and fishing activities.

S. 382

At the request of Mr. ENSIGN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from New Hampshire (Mr. GREGG), the Senator from Michigan (Mr. LEVIN), the Senator from Indiana (Mr. BAYH), the Sen-

ator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. JEFFORDS), the Senator from California (Mrs. BOXER) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 461

At the request of Mr. ROCKEFELLER, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 461, a bill to amend title 37, United States Code, to require that a member of the uniformed services who is wounded or otherwise injured while serving in a combat zone continue to be paid monthly military pay and allowances, while the member recovers from the wound or injury, at least equal to the monthly military pay and allowances the member received immediately before receiving the wound or injury, to continue the combat zone tax exclusion for the member during the recovery period, and for other purposes.

S. 467

At the request of Mr. DODD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 484

At the request of Mr. WARNER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 495

At the request of Mr. CORZINE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 513

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 521

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 521, a bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection.

S. 548

At the request of Mr. CONRAD, the names of the Senator from Wyoming

(Mr. ENZI), the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. COLEMAN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 566

At the request of Mr. ROCKEFELLER, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 566, a bill to continue State coverage of Medicaid prescription drug coverage to Medicare dual eligible beneficiaries for 6 months while still allowing the Medicare part D benefit to be implemented as scheduled.

S. 577

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 583

At the request of Ms. LANDRIEU, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 583, a bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 654

At the request of Mr. LEAHY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 654, a bill to prohibit the expulsion, return, or extradition of persons by the United States to countries engaging in torture, and for other purposes.

S. 657

At the request of Mr. ENSIGN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 657, a bill to amend title XVIII of the Social Security Act to make a technical correction in the definition of outpatient speech-language pathology services.

S. 679

At the request of Mr. COLEMAN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 679, a bill to amend title 10, United States Code, to require the registration

of contractors' taxpayer identification numbers in the Central Contractor Registry database of the Department of Defense, and for other purposes.

S. 702

At the request of Mr. BAUCUS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 702, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. CON. RES. 16

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

S. RES. 31

At the request of Mr. COLEMAN, the names of the Senator from Montana (Mr. BURNS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as "National Health Center Week" in order to raise awareness of health services provided by community, migrant, public housing, and homeless health centers, and for other purposes.

S. RES. 83

At the request of Mr. SANTORUM, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 83, a resolution commemorating the 65th Anniversary of the Black Press of America.

S. RES. 85

At the request of Mr. THOMAS, the names of the Senator from Florida (Mr. MARTINEZ), the Senator from Montana (Mr. BAUCUS) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. Res. 85, a resolution designating July 23, 2005, and July 22, 2006, as "National Day of the American Cowboy".

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SMITH (for himself, Mr. INOUE, Ms. SNOWE, Mr. DORGAN, Mr. SUNUNU, Mr. BURNS, Mr. LAUTENBERG, and Mr. STEVENS):

S. 714. A bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senator INOUE and other colleagues to introduce the "Junk Fax Prevention Act of 2005." This bill will strengthen existing laws by providing consumers the ability to prevent unsolicited fax advertisements and provide greater Congressional oversight of enforcement efforts by the Federal Com-

munications Commission (FCC). This bill will also help businesses by allowing them to continue to send faxes to their customers in a manner that has proven successful with both businesses and consumers.

In July of 2003, the FCC reconsidered its Telephone Consumer Protection Act (TCPA) rules and elected to eliminate the ability for businesses to contact their customers even where there exists an established business relationship. The effect of the FCC's rule would be to prevent a business from sending a fax solicitation to any person, whether it is a supplier or customer, without first obtaining prior written consent. This approach, while seemingly sensible, would impose significant costs on businesses in the form of extensive record keeping. Recognizing the problems created by this rule, the Commission has twice delayed the effective date, with the current extension of stay expiring on June 30, 2005.

The purpose of this legislation is to preserve the established business relationship exception currently recognized under the TCPA. In addition, this bill will allow consumers to opt out of receiving further unsolicited faxes. This is a new consumer protection that does not exist under the TCPA today.

We believe that this bipartisan bill strikes the appropriate balance in providing significant protections to consumers from unwanted unsolicited fax advertisements and preserves the many benefits that result from legitimate fax communications.

In the 108th Congress, this legislation passed both the Senate and House but was not signed into law prior to the adjournment of Congress. We hope that both the Senate and House can pass this legislation in a timely manner, prior to June 30, 2005, when the FCC's stay expires.

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

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

S. 714

*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 "Junk Fax Prevention Act of 2005".

#### SEC. 2. 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; and

"(ii) 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 ma-

chine 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 that failure to comply, within the shortest reasonable time, as determined by the Commission, with such a request meeting the requirements under subparagraph (E) is unlawful;

"(iii) the notice sets forth the requirements for a request under subparagraph (E);

"(iv) the notice includes—

"(I) a domestic contact telephone and facsimile machine number for the recipient to transmit such a request to the sender; and

"(II) a cost-free mechanism for a recipient to transmit a request pursuant to such notice to the sender of the unsolicited advertisement; the Commission shall by rule require the sender to provide such a mechanism and may, in the discretion of the Commission and subject to such conditions as the Commission may prescribe, exempt certain classes of small business senders, but only if the Commission determines that the costs to such class are unduly burdensome given the revenues generated by such small businesses;

"(v) the telephone and facsimile machine numbers and the cost-free mechanism set forth pursuant to clause (iv) permit an individual or business to make such a request during regular business hours; and

"(vi) the notice complies with the requirements of subsection (d)."

(d) REQUEST TO OPT-OUT OF FUTURE UNSOLICITED ADVERTISEMENTS.—Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)), as amended by subsection (c), is further amended by adding at the end the following: