

Report to accompany S. 1293, A bill to criminalize the sending of predatory and abusive e-mail (Rept. No. 108-170).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Ms. COLLINS for the Committee on Governmental Affairs.

Joseph Michael Francis Ryan III, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Jerry Stewart Byrd, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Brian F. Holeman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Craig S. Iscoe, of the District of Columbia, to be Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

\*Dale Cabaniss, of Virginia, to be a Member of the Federal Labor Relations Authority for a term of five years expiring July 29, 2007.

By Mr. CAMPBELL for the Committee on Indian Affairs.

\*David Wayne Anderson, of Minnesota, to be an Assistant Secretary of the Interior.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### 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. SANTORUM (for himself and Mr. CARPER):

S. 1773. A bill to permit biomedical research corporations to engage in certain equity financings without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. CORZINE, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. LEVIN, Mr. REED, and Mr. SCHUMER):

S. 1774. A bill to repeal the sunset provisions in the Undetectable Firearms Act of 1988; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. GRAHAM of South Carolina, and Mr. TALENT):

S. 1775. A bill to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. MILLER:

S. Res. 249. A resolution to strike paragraph 2 of rule XXII of the Standing Rules of

the Senate, relating to cloture; to the Committee on Rules and Administration.

By Mrs. CLINTON (for herself, Mr. SHELBY, Mrs. LINCOLN, Mr. DEWINE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. HAGEL, and Mr. MILLER):

S. Con. Res. 74. A concurrent resolution expressing the sense of the Congress that a postage stamp should be issued as a testimonial to the Nation's tireless commitment to reuniting America's missing children with their families, and to honor the memories of those children who were victims of abduction and murder; to the Committee on Governmental Affairs.

#### ADDITIONAL COSPONSORS

S. 286

At the request of Mr. BOND, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 286, a bill to revise and extend the Birth Defects Prevention Act of 1998.

S. 392

At the request of Mr. REID, the names of the Senator from Connecticut (Mr. DODD) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 478

At the request of Mr. SARBANES, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 478, a bill to grant a Federal charter Korean War Veterans Association, Incorporated, and for other purposes.

S. 816

At the request of Mr. CONRAD, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 816, a bill to amend title XVIII of the Social Security Act to protect and preserve access of medicare beneficiaries to health care provided by hospitals in rural areas, and for other purposes.

S. 877

At the request of Mr. PRYOR, his name was added as a cosponsor of S. 877, a bill to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

At the request of Mr. MCCAIN, his name and the name of the Senator from Illinois (Mr. FITZGERALD) were added as cosponsors of S. 877, supra.

S. 976

At the request of Mr. WARNER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of

S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 985

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1098

At the request of Mr. CONRAD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1098, a bill to amend title XVIII of the Social Security Act to update the renal dialysis composite rate.

S. 1143

At the request of Mrs. HUTCHISON, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1143, 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. 1297

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 1297, a bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1380, a bill to distribute universal

service support equitably throughout rural America, and for other purposes.

S. 1506

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1506, a bill to amend the Internal Revenue Code of 1986 to allow distilled spirits wholesalers a credit against income tax for their cost of carrying Federal excise taxes prior to the sale of the product bearing the tax.

S. 1531

At the request of Mr. HATCH, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1557

At the request of Mr. SARBANES, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1595

At the request of Mr. KERRY, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1595, a bill to amend the Internal Revenue Code of 1986 to allow small business employers a credit against income tax with respect to employees who participate in the military reserve components and are called to active duty and with respect to replacement employees and to allow a comparable credit for activated military reservists who are self-employed individuals, and for other purposes.

S. 1612

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1612, a bill to establish a technology, equipment, and information transfer within the Department of Homeland Security.

S. 1619

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1619, a bill to amend the Individuals with Disabilities Education Act to ensure that children with disabilities who are homeless or are wards of the State have access to special education services, and for other purposes.

S. 1637

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1637, a bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes.

S. 1664

At the request of Mr. COCHRAN, the name of the Senator from Montana

(Mr. BURNS) was added as a cosponsor of S. 1664, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to provide for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, and to extend and improve the collection of maintenance fees.

S. 1686

At the request of Mr. GRASSLEY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1686, a bill to reauthorize the adoption incentive payments program under part E of title IV of the Social Security Act, and for other purposes.

S. 1708

At the request of Mr. KENNEDY, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1708, a bill to provide extended unemployment benefits to displaced workers, and to make other improvements in the unemployment insurance system.

S. 1717

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1717, a bill to amend the Public Health Service Act to establish a National Cord Blood Stem Cell Bank Network to prepare, store, and distribute human umbilical cord blood stem cells for the treatment of patients and to support peer-reviewed research using such cells.

S. 1741

At the request of Ms. COLLINS, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. VOINOVICH), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1741, a bill to provide a site for the National Women's History Museum in the District of Columbia.

S. 1751

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1751, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

At the request of Mr. HATCH, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1751, *supra*.

S. 1756

At the request of Mr. CONRAD, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 1756, a bill to amend the Internal Revenue Code of 1986 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by providing additional sources of revenue to the Fund, and for other purposes.

S. 1769

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 1769, a bill to provide for class action reform, and for other purposes.

At the request of Mr. BREAUX, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1769, *supra*.

S. CON. RES. 21

At the request of Mr. BUNNING, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Con. Res. 21, a concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

S. CON. RES. 58

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 58, a concurrent resolution expressing the sense of Congress with respect to raising awareness and encouraging prevention of stalking in the United States and supporting the goals and ideals of National Stalking Awareness Month.

S. CON. RES. 73

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 73, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932-33.

AMENDMENT NO. 1828

At the request of Mr. COCHRAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 1828 intended to be proposed to H.R. 1904, a bill to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

STATEMENTS ON INTRODUCED  
BILLS AND JOINT RESOLUTIONS

By Mr. SANTORUM (for himself and Mr. CARPER):

S. 1773. A bill to permit biomedical research corporations to engage in certain equity financings without incurring limitations on net operating loss carryforwards and certain built-in losses, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today, I am introducing the Biotechnology Future Investment Expansion Act of 2003. I am pleased that Senator CARPER is cosponsoring this important, bipartisan bill.

Biotechnology holds great promise for breakthroughs in health care, agriculture and defense against bioterrorism. However, recent years have seen promising biotech medical therapies endangered due to flawed tax treatment and a lack of willing capital. This legislation will level the playing field to encourage further investment and innovation in this vital sector of our economy.

The nearly 1,500 biotechnology companies in the U.S. have produced 130 FDA-approved products while another 350 biotech drug products and vaccines are currently in clinical trials. Most biotechnology researchers work in promising, but relatively narrow fields, and only a small number of their peers are qualified to evaluate the theoretical promise of any new idea. On average, it takes these researchers more than 10 years and \$500 million to develop a new biotech therapy, and this highly capital-intensive research is more often done at small-to-medium-sized companies that are yet to market a saleable product.

These factors combine to create an industry structure that is unique in our economic history. Unfortunately, this unique structure prevents the biotechnology industry from utilizing research incentives intended to promote just the kind of research it engages in. Specifically, net operating loss carryforwards (NOLs), which are meant to allow research-intensive industries like biotechnology to apply current losses against future profits for tax purposes, are routinely made worthless to biotech companies due to an unintended consequence of the tax code. In fact, the current tax treatment of NOLs impairs, rather than fosters, biotechnology research. This is because rules designed to prevent abuse of NOLs through acquisition often inadvertently trigger restrictions on the use of a biotech firm's NOLs, rendering them useless in many cases, when all the company has done is raise more capital.

Section 382, which for the most part has proven to be an effective guard against tax abusive NOL trafficking, describes the many circumstances that can be classified as an ownership change. Unfortunately, those circumstances apply to and penalize the frequent biotech practice of raising eq-

uity in successive financing rounds. This practice is essential to successfully negotiating the long product development and Food and Drug Administration approval processes.

These limitations unintentionally discourage biotechnology research and leave the firms that would otherwise conduct that research in dire financial straits. Without these firms, the money that is being poured into research at the National Institutes of Health (NIH) and elsewhere to combat diseases such as cancer, AIDS, hepatitis, cardiovascular ailments, diabetes, and central nervous system disorders, as well as many rare diseases, will have a significantly reduced potential to lead to new cures. We may never know what cures will be lost without action.

Recognizing the unique structure of the biotech industry—a structure that the architects and stewards of the Tax Code likely never imagined—this legislation is narrowly drafted to exempt certain qualified investments in biotechnology from Section 382 restrictions. This change will spur investment in biotechnology, so we can continue the pursuit of innovative and life-saving therapies, all while continuing to prevent the fraudulent use of NOLs, as Section 382 intends.

I encourage all of my colleagues to join us in supporting this bill.

By Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. CORZINE, Mrs. FEINSTEIN, Mr. LAUTENBERG, Mr. LEVIN, Mr. REED, and Mr. SCHUMER):

S. 1774. A bill to repeal the sunset provisions in the Undetectable Firearms Act of 1988; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the Terrorist Firearms Detection Act of 2003.

Since the atrocities of September 11, Congress has acted with strong bipartisan support to win the war on terrorism and protect the country from future attacks. We've improved the security of our airports and our borders, strengthened our defenses against bioterrorism, and given law enforcement new powers to investigate terrorist threats and prevent terrorism.

But Congress has not yet acted to renew one of the Nation's most essential protections against terrorism. The Undetectable Firearms Act—also known as the “plastic gun” law—makes it illegal to manufacture, import, possess, or transfer a firearm that is not detectable by walk-through metal detectors or airport x-ray machines. Only firearms necessary for certain military and intelligence uses are exempt.

This law was first enacted in 1988, long before the attacks on 9/11, and it is more important than ever now. It has been extended once since it was first enacted, but it is now scheduled to expire on December 10. The administra-

tion has made no public statements on the need to renew it, and neither has the Republican leadership of the House or Senate. Unless Congress and the President act soon, Americans will find themselves needlessly vulnerable to terrorist attacks and other gun violence in airlines, airports, schools, and office buildings.

The gun industry clearly has the technology to manufacture firearms that cannot be detected by metal detectors and x-ray machines.

As early as 1986, Congress's Office of Technology Assessment found that “technology does exist to manufacture certain firearms which would be completely or almost completely non-metallic,” and that “plastic handguns may be available on the commercial market quite soon.”

A 1985 report by the American Firearms Industry emphasized the profitability of plastic guns for the industry: “The American plastic gun will shortly make its appearance. Plastic is the ‘common’ word, but it's really liquid crystal polymer. . . . [I]n the long run, if a 100% plastic gun works, this would be great for sales. What this does is make everything that has been produced in this century obsolete. That is exactly what our industry desperately needs. This will give us a whole new, and real reason to resell every hunter and shooter in America.”

In 1986, Libyan dictator Muammar Qaddafi tried to purchase more than 100 handguns produced in Austria and made almost entirely of hardened plastic.

The technology of gun manufacturers has clearly improved since the 1980's—and the desire of terrorists to attack Americans has soared. We know that terrorists are exploiting the weaknesses and loopholes in U.S. gun laws.

In 2000, a member of the Middle East terrorist group Hezbollah was convicted in Detroit on gun charges and conspiracy to ship guns and ammunition to Lebanon. He had bought many of those guns at gun shows in Michigan.

In 2001, American soldiers found a terrorist training manual entitled “How Can I Train Myself for Jihad” in a house in Afghanistan. It stated: “In other countries, e.g., some states of USA. . . it is perfectly legal for members of the public to own certain types of firearms. If you live in such a country, obtain an assault rifle legally . . . learn how to use it properly and go and practice in the areas allowed for such training.”

What could be clearer? We know what's coming. Terrorists are eager to exploit weaknesses in our gun laws, and there is no doubt that Americans will be at much greater risk if Congress fails to renew the Undetectable Firearms Act.

Just last week, Admiral James M. Loy of the Transportation Security Administration testified that, according to U.S. intelligence, terrorists are more likely to try to hijack a commercial airliner than attempt to shoot