CRAPO) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the ''Year of the Girl'' and Congratulating Girl Scouts of the USA on its 100th anniversary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 2000. A bill to amend the copyright law to secure the rights of artists of works of visual art to provide for royalties, and for other purposes; to the Committee on the Judiciary.

Mr. KOHL. Mr. President, I rise today to introduce the Equity for Visual Artists Act of 2011. This bill would enable visual artists to benefit from their copyrights in a meaningful way similar to other creators of literary and artistic works such as authors, playwrights and composers. It provides for the payment of a copyright royalty long recognized in international law to be paid at the time a work of visual art is sold at auction in the United States. Half of this royalty payment will go directly to the artists or their estate and the other half will be made available to nonprofit American art museums as an endowment to be used by them to purchase the works of living American artists so that these works may be freely enjoyed by everyone.

Like all authors, the primary legal right of an artist in his or her work is the copyright. Yet, visual artists stand alone within America's creative community in their inability to gain any significant income under existing copyright law. As an example, creators of music will collect nearly $2 billion in copyright royalty payments this year. By contrast, America's visual artists receive only a tiny amount of copyright income, primarily when their works are reproduced in publications such as museum catalogues. Visual art often generates money only when the original work itself is first sold. The vast majority of money-making sales are not by artists themselves but by collectors, dealers and auction houses who trade in their works after their first sale. Under current law artists receive no income from these sales.

For nearly 100 years international copyright law under the Berne Convention on Literary and Artistic Works, of which the United States is a party, has given artists a right to royalties each time their works are resold. However, unlike other rights protected under the Convention, individual countries are not required to recognize the artists' resale right. While over 40 other countries, including all members of the European Union, provide their artists with income from resale of their works, the United States does not. Under the Convention's reciprocity rule, these countries will only pay royalties to artists from countries that also recognize the resale right. As a result, American artists receive no money from these sales.

In 1990, Congress enacted the Visual Artists Rights Act that asked the Copyright Office to study the issue of resale royalties and report back with recommendations. The Copyright Office reported back to Congress that creation of new artworks would be encouraged by adoption of the Berne Convention provisions on resale rights, but it recommended that we wait to see whether the European Union would first require all of its member countries to join those like France and Germany who had long provided their artists with such a right. In 2001, the European Union decided to make resale royalties mandatory throughout its territory, underpinning the Copyright Office's initial conclusions about the positive effects of introducing resale rights. In 2006, the United Kingdom was the last EU country to implement its law.

In order to make the administration of a resale right as simple as possible, the bill would take 7 percent of any sale $10,000 or more from only the most public and easily accountable transactions, auction sales, and divide the amount by artists or their beneficiaries and non-profit museums to purchase American art. The legislation would apply only to sales by entities that have $25 million per year of cumulative sales of visual art. It also excludes entities that solely conduct business in online auctions over the Internet. The bill gives primary responsibility for collecting and distributing royalties to non-governmental collecting societies with oversight by the Copyright Office and reporting requirements to Congress.

This legislation is a long overdue step in fulfilling our obligation under the Berne Convention to award visual artists the benefits derived from the resale of their works, a right that literary and musical artists have enjoyed for decades. Under current law, visual artists are denied royalties for lucrative sales of their art, and this bill is a meaningful start for providing them with just compensation. It is only fair that, as stipulated by international law, visual artists profit from the appreciation in value of their work.

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

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

S. 2000

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 ''Equity for Visual Artists Act of 2011''.

SEC. 2. DEFINITIONS.

Section 101 of title 17, United States Code, is amended by—

(1) inserting after the definition of ''architectural work'' the following:

''For purposes of section 106(b), 'auction' means a public sale run by an entity that sells to the highest bidder works of visual art in which the cumulative amount of such works sold during the previous year is more than $25,000,000 and does not solely conduct the sale of visual art by the entity on the Internet.''.

(2) inserting after the definition of ''proprietor'' and prior to the definition of ''pseudonymous work'' the following:

''For purposes of section 106(b), 'price' is the aggregate of all installments paid in cash or in-kind by or on behalf of a purchaser for a work as the result of auction of that work.'';

(3) inserting at the end of the definition of ''Publication'' the following: ''For purposes of section 106(b), in the case of a work of visual art as defined in this section, a publication does not include photographic reproductions or other images of the work, including castings of a sculptural work, made or distributed prior to January 1, 1978, in connection with the exhibition of such work by a gallery or museum, whether for purposes of sale of the original work, or in connection with any publication authorized by a gallery or museum in possession of the work regardless of whether such publication was with the consent of the author. In no other circumstances is a work of visual art considered to have been published prior to January 1, 1978, unless such publication has been authorized by the express written consent of the author of such work.'';

(4) inserting after the definition of ''registration'' and prior to the definition of ''sound recordings'' the following:

''For purposes of sections 106(b) and 701(b)(5), 'sale' means transfer of ownership or physical possession of a work as the result of the auction of that work.''; and

(5) amending paragraph (1) of the definition of a ''work of visual art'' to read as follows:

''(1) a painting, drawing, print, sculpture, or photograph, existing either in the original embodiment or in a limited edition of 200 copies or fewer that bear the signature or other identifying mark of the author and are consecutively numbered by the author, or, in the case of a sculpture in multiple cast, carved, or fabricated sculptures of 200 or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or''.

SEC. 3. EXCLUSIVE RIGHTS.

Section 106 of title 17, United States Code, is amended by—

(1) inserting ''(a)'' before ''Subject to sections 107 through 122''; and

(2) adding at the end the following:

''(b)(1) In this subsection, the term 'net royalty' means the royalty amount collected less administrative expenses of the visual artists' collecting society. In no case shall the administrative expenses of the visual artists' collecting society subtracted from the royalty amount collected exceed 18 percent.

''(2) Whenever a work of visual art is sold as the result of auction of that work by someone other than the artist who is the author of the work, the entity that collects the money or other consideration paid for the sale of the work shall, within 90 days of collecting such money or other consideration, pay out of the proceeds of the sale a royalty equal to 7 percent of the price. Such royalty shall be paid to a visual artists' collecting society. The collecting society shall distribute, no fewer than 4 times per year, 50 percent of the net royalty to the artist or his or her successor as copyright owner. After payment to the artist or his or her successor as copyright owner, the remaining 50 percent of the net royalty shall be deposited into an escrow account established by the collecting society for the purposes of funding purchases by nonprofit art museums in the United States of works of visual art authored by living artists domiciled in the United States. The right to receive such royalty and the obligation to deposit the remaining share of

sale proceeds into the escrow account provided in this subsection may not be waived by the artist or his successor as copyright owner. Failure of the entity collecting the money or other consideration resulting from the sale of the work to pay the royalty provided under this section shall constitute an infringement of copyright. Any such infringement shall be subject to the payment of statutory damages under section 504.

''(3) Paragraph (2) shall not apply to the sale of a work for a gross sales price of less than $10,000, or in exchange for property with a fair market value of less than $10,000.''.

SEC. 4. NOTICE OF COPYRIGHT.

Section 401 of title 17, United States Code, is amended by adding at the end the following:

''(e) NON APPLICABILITY TO WORKS OF VISUAL ART.—The provisions of this section shall not apply to a work of visual art.''.

SEC. 5. COPYRIGHT OFFICE.

Section 701(b) of title 17, United States Code, is amended by—

(1) redesignating paragraph (5) as paragraph (6); and

(2) inserting after paragraph (4) the following:

''(5) Issue regulations governing visual artists' collecting societies pursuant to section 106(b), which shall, at a minimum—

''(A) establish a process by which entities would be determined to be and designated as visual artists' collecting societies;

''(B) require that a visual artists' collecting society authorized to administer royalty collections and distributions under this title shall have had prior experience in licensing the copyrights of authors of works of visual art in the United States, or have been authorized by no fewer than 10,000 authors of works of visual art, either directly or by virtue of reciprocal agreements with foreign collecting societies, to license the rights granted under section 106;

''(C) exclude any entity from being considered a visual artists' collecting society where, after having been designated a visual artists' collecting society, the royalties collected for at least 5 consecutive years have not been distributed directly to authors after deduction of administrative expenses;

''(D) establish the methodology and procedures pursuant to which visual artists' collecting societies shall make grants to nonprofit museums for the purchase of works with the escrow funds provided in this section, after notice and opportunity to comment, including—

''(i) the criteria to be used by the visual artists' collecting societies for application by nonprofit art museums for the purchase of works out of the funds held in escrow for that purpose by such societies;

''(ii) the amount of the maximum grant for the purchase of an individual work of visual art;

''(iii) the maximum amount that may be granted to a nonprofit museum; and

''(iv) criteria for the award of grants when the amounts requested exceed the total amount of funds held in escrow;

''(E) require that each such society provide the Register of Copyrights with an annual audit of royalty funds collected under section 106(b)(1) that includes the total amount received from the sales of works of visual art, the total amount paid in distributions to artists or, if deceased, to their successors as owners of copyright, and the total amount paid in grants to each nonprofit museum for the purchase of works of visual art; and

''(F) make publicly available an annual report to the Congress setting forth the total amount of royalties received by each visual artists' collecting society and the amount disbursed to each nonprofit art museum receiving a grant or grants from the escrow funds established by each visual artists' collecting society.

Except as necessary for the report to Congress required pursuant to subparagraph (F), the Register of Copyrights shall not disclose any confidential or proprietary information provided to it in the annual audits made available pursuant to this section.''.

SEC. 6. COPYRIGHT OFFICE FEES.

Section 708(a) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively;

(2) by inserting after paragraph (9) the following:

''(10) for expenses associated with carrying out its responsibilities under section 701(b)(5), provided that such fees shall be paid out of the total royalty payments received by collecting societies pursuant to section 106(b), before deduction of such societies' administrative expenses; and provided further, that following the initial rulemaking necessary to carry out its obligations under section 701(b)(5), such fees shall not exceed 5 percent of the total annual amount of royalties received by such collecting societies;''; and

(3) in the matter following paragraph (12), as so redesignated, in the second sentence, by striking ''(10) and (11)'' and inserting ''(11) and (12)''.

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date that is 1 year after the date of enactment of this Act.

By Mr. WYDEN (for himself and Mr. MERKLEY):

S. 2001. A bill to expand the Wild Rogue Wilderness Area in the State of Oregon, to make additional wild and scenic river designations in the Rogue River area, to provide additional protections for Rogue River tributaries, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am pleased to introduce legislation to expand the Wild Rogue Wilderness Area and expand protections to Oregon's iconic Rogue River and its tributaries. I am pleased that Senator MERKLEY is joining me in this effort, and that Congressman DEFAZIO has introduced similar legislation in the House of Representatives.

The Wild Rogue Wilderness and the Rogue River that runs through it embody one of the Nation's premier recreation destinations, famous for the free flowing waters which provide numerous rafting and fishing opportunities. The headwaters of the Rogue River start in one of Oregon's other great gems Crater Lake National Park, and the river ultimately empties into the Pacific Ocean, near Gold Beach on Oregon's southwest coast. Along that stretch, the Rogue River flows through one of the most spectacular canyons and diverse natural areas in the United States. The Rogue River is a world class rafting river, offering everything from one day trips to week long trips through deep forested canyons. On the land, the Rogue River trail is also one of Oregon's most renowned backpacking routes.

The legislation I introduce today, the Rogue Wilderness Area Expansion Act of 2011, would add 60,000 acres of new wilderness to the existing Wild Rogue Wilderness. The Wild Rogue Wilderness expansion would protect habitat for bald eagles, osprey, spotted owls, bear, elk, cougar, wild coho, wild Chinook, wild steelhead and many others. It would also ensure these treasured lands are protected for generations to come.

My legislation would also protect an additional 143 miles of tributaries that feed the Rogue River with cold clean water; 93 miles would be designated Wild and Scenic Rivers and an additional 50 miles would be protected from mining. The areas receiving protection include Galice Creek, Little Windy Creek, Jenny Creek, Long Gulch, and 36 other tributaries of the Rogue. The Rogue River is one of Oregon's most iconic and beloved rivers. It is a river that teems with salmon leaping up rapids to spawn, and finds rafters down those very same rapids at other times of the year. The Rogue River is home to runs of coho, spring and fall Chinook, winter and summer steelhead, and it has the special distinction of being one of only a handful of rivers in the country with runs of green sturgeon. In 2008, American Rivers named the Rogue and its tributaries as the second most endangered river in the U.S. I am hoping to change that today by introducing legislation to protect this river and its tributaries.

I previously introduced legislation to protect the Rogue River tributaries in the last two Congresses. Since that time, I have worked with the timber industry and conservationists to find a compromise that protects one of America's treasures with additional wilderness designations and more targeted protections for the Rogue's tributaries. I am pleased that nearly 60 local businesses, and over 100 organizations and business in total, support protecting the Wild Rogue, and that support grows every day. Many of those businesses directly benefit from the Wild Rogue and the Rogue River. As I often say, protecting these gems is not just good for the environment, but also good for the economy. These protected landscapes are powerhouses of the recreation economy that draws visitors from around the world to this region and the Rogue River is one of Oregon's most important sport and commercial fisheries. The Wild Rogue is the second largest salmon fishery in Oregon behind the Columbia. The Wild Rogue provides the quality of life and recreational opportunities that create an economic engine that attracts businesses and brings in tourists from around the world. The Rogue River supports 450 local jobs in nearby communities like Grants Pass.

By protecting the Wild Rogue landscape and the tributaries that feed the mighty Rogue River, Congress will ensure that future generations can raft, fish, hike and enjoy the Wild Rogue as

it is enjoyed today and that the recreational economy of this region remains strong.

I want to express my thanks to the conservation and business communities of southern Oregon, who have worked diligently to protect these lands and waters and enable the outdoor recreationists to use and enjoy these rivers. I look forward to working with my House colleagues and the bill's supporters to advance our legislation to the President's desk.

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

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

S. 2001

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 ''Rogue Wilderness Area Expansion Act of 2011''.

SEC. 2. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(2) MAP.—The term ''map'' means the map entitled ''Wild Rogue Wilderness Additions'' and dated December 8, 2011.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of Oregon.

(5) WILDERNESS ADDITIONS.—The term ''Wilderness additions'' means the land added to the Wild Rogue Wilderness by section 3(a).

SEC. 3. EXPANSION OF WILD ROGUE WILDERNESS AREA.

(a) EXPANSION.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the approximately 60,000 acres of Bureau of Land Management land, as generally depicted on the map, is included in the Wild Rogue Wilderness, a component of the National Wilderness Preservation System.

(b) MAP; LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the wilderness area designated by subsection (a), with—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(2) FORCE OF LAW.—The map and legal description filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) ADMINISTRATION.—Subject to valid existing rights, the Wilderness additions shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary.

(d) FISH AND WILDLIFE.—Nothing in this section affects the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(e) ADJACENT MANAGEMENT.—

(1) IN GENERAL.—Nothing in this section creates any protective perimeter or buffer zone around the Wilderness additions.

(2) ACTIVITIES OUTSIDE WILDERNESS.—The fact that a nonwilderness activity or use on land outside the Wilderness additions can be seen or heard within the Wilderness additions shall not preclude the activity or use outside the boundary of the Wilderness additions.

(f) PROTECTION OF TRIBAL RIGHTS.—Nothing in this section diminishes any treaty rights of an Indian tribe.

(g) WITHDRAWAL.—Subject to valid existing rights, the Wilderness additions are withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SEC. 4. WILD AND SCENIC RIVER DESIGNATIONS, ROGUE RIVER AREA.

(a) AMENDMENTS.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by striking paragraph (5) and inserting the following:

''(5) ROGUE, OREGON.—

''(A) IN GENERAL.—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge, to be administered by the Secretary of the Interior or the Secretary of Agriculture, as agreed to by the Secretaries of the Interior and Agriculture or as directed by the President.

''(B) ADDITIONS.—In addition to the segment described in subparagraph (A), there are designated the following segments in the Rogue River:

''(i) KELSEY CREEK.—The approximately 4.8-mile segment of Kelsey Creek from the east section line of T. 32 S., R. 9 W., sec. 34, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(ii) EAST FORK KELSEY CREEK.—The approximately 4.6-mile segment of East Fork Kelsey Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 5, Willamette Meridian, to the confluence with Kelsey Creek, as a wild river.

''(iii) WHISKY CREEK.—

''(I) RECREATIONAL RIVER.—The approximately 0.6-mile segment of Whisky Creek from the confluence of the East Fork and West Fork to 0.1 miles downstream from road 33-8-23, as a recreational river.

''(II) WILD RIVER.—The approximately 1.9-mile segment of Whisky Creek from 0.1 miles downstream from road 33-8-23 to the confluence with the Rogue River, as a wild river.

''(iv) EAST FORK WHISKY CREEK.—

''(I) WILD RIVER.—The approximately 2.6-mile segment of East Fork Whisky Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 11, Willamette Meridian., to 0.1 miles downstream of road 33-8-26 crossing, as a wild river.

''(II) RECREATIONAL RIVER.—The approximately 0.3-mile segment of East Fork Whisky Creek from 0.1 miles downstream of road 33-8-26 to the confluence with Whisky Creek, as a recreational river.

''(v) WEST FORK WHISKY CREEK.—The approximately 4.8-mile segment of West Fork Whisky Creek from its headwaters to the confluence with Whisky Creek, as a wild river.

''(vi) BIG WINDY CREEK.—

''(I) SCENIC RIVER.—The approximately 1.5-mile segment of Big Windy Creek from its headwaters to 0.1 miles downstream from road 34-9-17.1, as a scenic river.

''(II) WILD RIVER.—The approximately 5.8-mile segment of Big Windy Creek from 0.1 miles downstream from road 34-9-17.1 to the confluence with the Rogue River, as a wild river.

''(vii) EAST FORK BIG WINDY CREEK.—

''(I) SCENIC RIVER.—The approximately 0.2-mile segment of East Fork Big Windy Creek from its headwaters to 0.1 miles downstream from road 34-8-36, as a scenic river.

''(II) WILD RIVER.—The approximately 3.7-mile segment of East Fork Big Windy Creek from 0.1 miles downstream from road 34-8-36 to the confluence with Big Windy Creek, as a wild river.

''(viii) LITTLE WINDY CREEK.—The approximately 1.9-mile segment of Little Windy Creek from 0.1 miles downstream of road 34-8-36 to the confluence with the Rogue River, as a wild river.

''(ix) HOWARD CREEK.—

''(I) SCENIC RIVER.—The approximately 0.3-mile segment of Howard Creek from its headwaters to 0.1 miles downstream of road 34-9-34, as a scenic river.

''(II) WILD RIVER.—The approximately 6.9-mile segment of Howard Creek from 0.1 miles downstream of road 34-9-34 to the confluence with the Rogue River, as a wild river.

''(x) MULE CREEK.—The approximately 6.3-mile segment of Mule Creek from the east section line of T. 32 S., R. 10 W., sec. 25, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xi) ANNA CREEK.—The approximately 3.5-mile segment of Anna Creek from its headwaters to the confluence with Howard Creek, as a wild river.

''(xii) MISSOURI CREEK.—The approximately 1.6-mile segment of Missouri Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 10 W., sec. 24, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xiii) JENNY CREEK.—The approximately 1.8-mile segment of Jenny Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 9 W., sec.28, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xiv) RUM CREEK.—The approximately 2.2-mile segment of Rum Creek from the Wild Rogue Wilderness boundary in T. 34 S., R. 8 W., sec. 9, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xv) EAST FORK RUM CREEK.—The approximately 1.3-mile segment of East Rum Creek from the Wild Rogue Wilderness boundary in T. 34 S., R. 8 W., sec. 10, Willamette Meridian, to the confluence with Rum Creek, as a wild river.

''(xvi) WILDCAT CREEK.—The approximately 1.7-mile segment of Wildcat Creek from its headwaters downstream to the confluence with the Rogue River, as a wild river.

''(xvii) MONTGOMERY CREEK.—The approximately 1.8-mile segment of Montgomery Creek from its headwaters downstream to the confluence with the Rogue River, as a wild river.

''(xviii) HEWITT CREEK.—The approximately 1.2-mile segment of Hewitt Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 9 W., sec. 19, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xix) BUNKER CREEK.—The approximately 6.6-mile segment of Bunker Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xx) DULOG CREEK.—

''(I) SCENIC RIVER.—The approximately 0.8-mile segment of Dulog Creek from its headwaters to 0.1 miles downstream of road 34-8-36, as a scenic river.

''(II) WILD RIVER.—The approximately 1.0-mile segment of Dulog Creek from 0.1 miles

downstream of road 34-8-36 to the confluence with the Rogue River, as a wild river.

''(xxi) QUAIL CREEK.—The approximately 1.7-mile segment of Quail Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 10 W., sec. 1, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xxii) MEADOW CREEK.—The approximately 4.1-mile segment of Meadow Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxiii) RUSSIAN CREEK.—The approximately 2.5-mile segment of Russian Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 20, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xxiv) ALDER CREEK.—The approximately 1.2-mile segment of Alder Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxv) BOOZE CREEK.—The approximately 1.5-mile segment of Booze Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxvi) BRONCO CREEK.—The approximately 1.8-mile segment of Bronco Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxvii) COPSEY CREEK.—The approximately 1.5-mile segment of Copsey Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxviii) CORRAL CREEK.—The approximately 0.5-mile segment of Corral Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxix) COWLEY CREEK.—The approximately 0.9-mile segment of Cowley Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxx) DITCH CREEK.—The approximately 1.8-mile segment of Ditch Creek from the Wild Rogue Wilderness boundary in T. 33 S., R. 9 W., sec. 5, Willamette Meridian, to its confluence with the Rogue River, as a wild river.

''(xxxi) FRANCIS CREEK.—The approximately 0.9-mile segment of Francis Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxxii) LONG GULCH.—The approximately 1.1-mile segment of Long Gulch from the Wild Rogue Wilderness boundary in T. 33 S., R. 10 W., sec. 23, Willamette Meridian, to the confluence with the Rogue River, as a wild river.

''(xxxiii) BAILEY CREEK.—The approximately 1.7-mile segment of Bailey Creek from the west section line of T. 34 S., R.8 W., sec.14, Willamette Meridian, to the confluence of the Rogue River, as a wild river.

''(xxxiv) SHADY CREEK.—The approximately 0.7-mile segment of Shady Creek from its headwaters to the confluence with the Rogue River, as a wild river.

''(xxxv) SLIDE CREEK.—

''(I) SCENIC RIVER.—The approximately 0.5-mile segment of Slide Creek from its headwaters to 0.1 miles downstream from road 33-9-6, as a scenic river.

''(II) WILD RIVER.—The approximately 0.7-mile section of Slide Creek from 0.1 miles downstream of road 33-9-6 to the confluence with the Rogue River, as a wild river.''.

(b) MANAGEMENT.—Each river segment designated by subparagraph (B) of section 3(a)(5) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(5)) (as added by subsection (a)) shall be managed as part of the Rogue Wild and Scenic River.

(c) WITHDRAWAL.—Subject to valid existing rights, the Federal land within the boundaries of the river segments designated under subparagraph (B) of section 3(a)(5) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(5)) (as added by subsection (a)) is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SEC. 5. ADDITIONAL PROTECTIONS FOR ROGUE RIVER TRIBUTARIES.

(a) LICENSING BY COMMISSION.—The Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works on or directly affecting any stream described in subsection (d).

(b) OTHER AGENCIES.—

(1) IN GENERAL.—No department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project on or directly affecting any stream segment that is described in subsection (d), except to maintain or repair water resources projects in existence on the date of enactment of this Act.

(2) EFFECT.—Nothing in this subsection prohibits any department or agency of the United States in assisting by loan, grant, license, or otherwise, a water resources project—

(A) the primary purpose of which is ecological or aquatic restoration; and

(B) that provides a net benefit to water quality and aquatic resources.

(c) WITHDRAWAL.—Subject to valid existing rights, the Federal land located within a ¼ mile on either side of the stream segments described in subsection (d), is withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

(d) DESCRIPTION OF STREAM SEGMENTS.—The following are the stream segments referred to in subsection (a):

(1) KELSEY CREEK.—The approximately 4.5-mile segment of Kelsey Creek from its headwaters to the east section line of T. 32 S., R. 9 W., sec. 34.

(2) EAST FORK KELSEY CREEK.—The approximately 0.2-mile segment of East Fork Kelsey Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 5.

(3) EAST FORK WHISKY CREEK.—The approximately 0.9-mile segment of East Fork Whisky Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 11.

(4) LITTLE WINDY CREEK.—The approximately 1.2-mile segment of Little Windy Creek from its headwaters to the west section line of T. 33 S., R. 9 W., sec. 34.

(5) MULE CREEK.—The approximately 5.1-mile segment of Mule Creek from its headwaters to the east section line of T. 32 S., R. 10 W., sec. 25.

(6) MISSOURI CREEK.—The approximately 3.1-mile segment of Missouri Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 10 W., sec. 24.

(7) JENNY CREEK.—The approximately 3.1-mile segment of Jenny Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 9 W., sec. 28.

(8) RUM CREEK.—The approximately 2.2-mile segment of Rum Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 34 S., R. 8 W., sec. 9.

(9) EAST FORK RUM CREEK.—The approximately 0.8-mile segment of East Fork Rum Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 34 S., R. 8 W., sec. 10.

(10) HEWITT CREEK.—The approximately 1.4-mile segment of Hewitt Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 9 W., sec. 19.

(11) QUAIL CREEK.—The approximately 0.8-mile segment of Quail Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 10 W., sec. 1.

(12) RUSSIAN CREEK.—The approximately 0.1-mile segment of Russian Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 8 W., sec. 20.

(13) DITCH CREEK.—The approximately 0.7-mile segment of Ditch Creek from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 9 W., sec. 5.

(14) LONG GULCH.—The approximately 1.4-mile segment of Long Gulch from its headwaters to the Wild Rogue Wilderness boundary in T. 33 S., R. 10 W., sec. 23.

(15) BAILEY CREEK.—The approximately 1.4-mile segment of Bailey Creek from its headwaters to the west section line of T. 34 S., R. 8 W., sec. 14.

(16) QUARTZ CREEK.—The approximately 3.3-mile segment of Quartz Creek from its headwaters to its confluence with the North Fork Galice Creek.

(17) NORTH FORK GALICE CREEK.—The approximately 5.7-mile segment of the North Fork Galice Creek from its headwaters to its confluence with Galice Creek.

(18) GRAVE CREEK.—The approximately 10.2-mile segment of Grave Creek from the confluence of Wolf Creek downstream to the confluence with the Rogue River.

(19) CENTENNIAL GULCH.—The approximately 2.2-mile segment of Centennial Gulch from its headwaters to its confluence with the Rogue River.

(20) GALICE CREEK.—The approximately 2.2-mile segment of Galice Creek from the confluence with the South Fork Galice Creek downstream to the Rogue River.

By Mrs. FEINSTEIN (for herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. CORNYN):

S. 2002. A bill to amend the Federal Food, Drug, and Cosmetic Act to improve the safety of Internet pharmacies; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation that will help stop criminals from exploiting the Internet to illegally sell prescription drugs. I am pleased to be joined in this effort by Senator SESSIONS, Senator SCHUMER, and Senator CORNYN.

I first became concerned about the issue of illegitimate online pharmacies in 2001, when one of my constituents, high school student Ryan Haight, died from an overdose of the controlled substance Vicodin. He had purchased the Vicodin from a rogue online pharmacy after simply filling out an online questionnaire in which he described himself as a 25-year-old male suffering from chronic back pain. The doctor prescribing the drug never met or personally examined Ryan.

Ryan's death was a terrible tragedy. He was a remarkable young man, an honors student and an athlete. He looked forward to going to college. Instead, his life was cut short.

In response, I introduced legislation, beginning in 2004, to better regulate

the online sale of prescription drugs that are controlled substances.

In 2008, the Ryan Haight Online Pharmacy Consumer Protection Act, Ryan Haight Act, was enacted into law, and it became effective in April 2009. Senator SESSIONS was the lead cosponsor on that legislation.

The Ryan Haight Act makes it a violation of the Controlled Substances Act to dispense a prescription for a controlled substance by means of the Internet without a practitioner having conducted at least one in-person medical evaluation of the purchaser. The act also requires online pharmacies to register with the Drug Enforcement Administration, DEA, and comply with DEA regulations.

The Ryan Haight Act has helped to prevent illegitimate online sales of prescribed controlled substances. However, illegitimate online sellers continue to sell other types of prescription drugs, and stronger laws are needed to stop them.

The sale of prescription drugs online by web sites acting unlawfully is a dangerous and widespread problem. The National Association of Boards of Pharmacy and other non-profit organizations that monitor the Internet have consistently found that about 96 percent of all Internet pharmacies don't require a prescription, aren't appropriately licensed, and sell unregulated drugs.

Theses illegitimate online pharmacies continue to cause serious harm. The National Association of Boards of Pharmacy reports that from the start of its Internet Drug Outlet Identification Program in April 2008, it has received 509 customer inquiries about online prescription drug sellers, and 21 of those customers have reported injuries. Some of these injuries were very serious leading to hospitalization, with customers suffering worsening symptoms caused by the ailment the medications were intended to treat, as well as severe side effects.

The easy accessibility of prescription drugs through illegitimate online drug sellers also contributes to a growing prescription drug abuse problem. A study published in the May 2011 edition of the Journal of Health Affairs suggests that the growth in high-speed Internet access has fueled prescription drug abuse. Conducted by investigators from Massachusetts General Hospital and the University of Southern California, the study found that, over a 7-year period, States with the greatest expansion in high-speed Internet access also had the largest increase in admissions for treatment of prescription drug abuse.

We should be particularly concerned about this problem when it comes to young people, who are frequently online unsupervised and vulnerable to rogue drug sellers on the Internet.

Not surprisingly, there is also a significant amount of fraud associated with illegitimate online drug sellers. Some of these websites simply take money without providing anything in return.

Web sites that dispense counterfeit drugs are an even more dangerous problem. These counterfeit drugs are frequently manufactured in unsanitary conditions and may contain contaminated ingredients, or the wrong ingredients. A recent CBS News story found that counterfeit drugs can contain paint, floor wax, and boric acid. So, instead of the appropriate medicine needed for their health problem, online consumers are receiving substances that may harm or even kill them.

The legislation I am introducing today will address these problems, and help stop illegitimate online drug sellers.

There are two main components to the legislation. First, it amends the Food, Drug and Cosmetic Act to add a definition of ''valid prescription,'' requiring at least one in-person medical evaluation of the patient. This is the same approach taken in the Ryan Haight Act with prescription drugs that are controlled substances. It will prevent illegitimate online pharmacies from selling drugs over the Internet with sham prescriptions.

The second critical element is the establishment, by the Food and Drug Administration, of a registry of legitimate online pharmacy websites. This will protect consumers who will know that they are dealing with lawful online pharmacies and help law enforcement crack down on the illegitimate websites.

The exploitation of the Internet by rogue online drug sellers continues to be a dangerous and deadly problem and we should not wait for more lives to be lost or ruined before we act.

Consumers deserve access to safe and legitimate online pharmacies and protection from illegitimate websites that sell counterfeit or otherwise illegitimate medication, and I urge my colleagues to support this legislation.

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

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

S. 2002

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 ''Online Pharmacy Safety Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) consumers in the United States are targeted by organized international crime networks that use Internet websites to sell illegal and often dangerous drugs under the guise of being legitimate online pharmacies;

(2) illegal online drug sellers offer products that do not meet the safety standards established by United States laws, and recent reports from the National Association of Boards of Pharmacy show that 92 to 95 percent of Internet websites offering to sell prescription medications online are illegitimate and operate in clear violation of United States laws enacted to protect patients;

(3) criminals are attracted to the high profit margin of business through illegitimate online drug sales, as counterfeit drug sales alone are estimated to have generated $75,000,000,000 in 2010, an increase of 92 percent from 2005;

(4) the World Health Organization estimates that 50 percent of the prescription medicines sold online by Internet websites that hide their physical address are counterfeit;

(5) research by The Partnership at Drugfree.org found that 1 in 6 consumers in the United States, a total of about 36,000,000 Americans, has bought or currently buys prescription medication online without a valid prescription;

(6) the prevalence of illegal online drug sellers, and their sale of counterfeit or otherwise illegitimate medicines, is a growing public health threat;

(7) people have been seriously injured or killed by products sold by illegal online drug sellers;

(8) the accessibility of controlled substances and other drugs without a valid prescription by illegal online drug sellers contributes to a growing prescription drug abuse problem in the United States that is endangering teenagers and public health;

(9) the anonymous and unregulated nature of the Internet contributes to the counterfeit drug trade and enables counterfeit medicines to reach United States consumers through illegitimate online drug sellers posing as legitimate pharmacies;

(10) counterfeit drugs that are sold through illegal online drug sellers are manufactured by criminals who deliberately and fraudulently misrepresent the product in order to trick consumers into thinking they are purchasing a legitimate and safe medicine;

(11) these counterfeit drugs are frequently manufactured in unsanitary conditions and may contain the wrong ingredients, lack active ingredients, have insufficient or contaminated active ingredients, or contain too many active ingredients;

(12) counterfeit drugs obtained from illegal online drug sellers have been found to contain harmful ingredients including arsenic, boric acid, brick dust, cement powder, chalk dust, floor polish, leaded road paint, nickel, shoe polish, and talcum powder;

(13) United States citizens deserve access to safe and legitimate online pharmacies and protection from illegal Internet websites that sell counterfeit or otherwise illegitimate medication;

(14) while the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 (Public Law 110–425) has helped to prevent illegitimate online sales of prescribed controlled substances, illegal online sellers continue to sell other types of prescription drugs and stronger laws are needed to stop them; and

(15) greater education and awareness regarding illegal online drug sellers will help to protect the United States drug supply chain from infiltration by unregulated and counterfeit products.

SEC. 3. VALID PRESCRIPTIONS.

Section 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)) is amended—

(1) in paragraph (1), in the matter following subparagraph (B), by striking ''shall be dispensed'' and all that follows through ''the pharmacist.'' and inserting the following: ''shall be dispensed only pursuant to a valid prescription that is (i) a written prescription of a practitioner licensed by law to administer such drug; (ii) an oral prescription of such practitioner which is reduced promptly to writing by the pharmacist; (iii) an electronic prescription issued by a practitioner licensed by law to administer such

drug; or (iv) the refill of any such written, oral, or electronic prescription if such refilling is authorized by the prescriber either in the original prescription, electronic prescription, or by oral order which is reduced promptly to writing by the pharmacist.''; and

(2) by adding at the end the following:

''(6) In this paragraph:

''(A) The term 'valid prescription' means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by—

''(i) a licensed practitioner who has conducted at least 1 in-person medical evaluation of the patient, subject to paragraph (7);

''(ii) a covering practitioner; or

''(iii) a practitioner engaged in the practice of telemedicine.

''(B)(i) The term 'in-person medical evaluation' means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

''(ii) Nothing in clause (i) shall be construed to imply that 1 in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

''(C) The term 'covering practitioner' means, with respect to a patient, a licensed practitioner who conducts a medical evaluation (other than an in-person medical evaluation) at the request of a licensed practitioner who—

''(i) has conducted at least 1 in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine, within the previous 24 months; and

''(ii) is temporarily unavailable to conduct the evaluation of the patient.

''(D) The term 'practice of telemedicine' has the meaning given that term in section 102 of the Controlled Substances Act.

''(7) For purposes of paragraph (6), an in-person medical evaluation of the patient is not required if—

''(A) the prescribing practitioner is issuing a prescription or dispensing a legend drug in accordance with the Expedited Partner Therapy in the Management of Sexually Transmitted Diseases guidance document issued by the Centers for Disease Control and Prevention; or

''(B) the prescription, administration, or dispensing is through a public health clinic or other distribution mechanism approved by the State health authority in order to prevent, mitigate, or treat a pandemic illness, infectious disease outbreak, or intentional or accidental release of a biological, chemical, or radiological agent.

''(8) The Secretary may by regulation establish exceptions to the requirements described in paragraph (6) with respect to a drug, based on criteria established by the Secretary.''.

SEC. 4. REGISTRY OF LEGITIMATE ONLINE PHARMACY WEBSITES.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 510 the following:

''SEC. 510A. REGISTRY OF LEGITIMATE ONLINE PHARMACY WEBSITES.

''(a) DEFINITIONS.—In this section:

''(1) DISPENSING PHARMACY.—The term 'dispensing pharmacy' means a pharmacy that dispenses, distributes, or supplies prescription drugs pursuant to orders made on, through, or on behalf of, an online pharmacy website.

''(2) DOMAIN NAME.—The term 'domain name' has the meaning given that term in section 45 of the Lanham Act (15 U.S.C. 1127).

''(3) FINANCIAL TRANSACTION PROVIDER.—The term 'financial transaction provider' has the meaning given that term in section 5362(4) of title 31, United States Code.

''(4) INTERNET WEBSITE.—The term 'Internet website' means the collection of digital assets, including links, indexes, or pointers to digital assets, accessible through the Internet that are addressed relative to a common domain name.

''(5) LEGITIMATE ONLINE PHARMACY WEBSITE.—The term 'legitimate online pharmacy website' means an online pharmacy website that is included in the Registry pursuant to a designation by the Secretary under this section.

''(6) ONLINE PHARMACY WEBSITE.—The term 'online pharmacy website' means an Internet website that offers, sells, dispenses, or distributes, or facilitates the sale, dispensing, or distribution of prescription or other drugs to consumers.

''(7) PRESCRIPTION DRUG.—The term 'prescription drug' means a drug that is subject to section 503(b)(1).

''(b) ESTABLISHMENT OF REGISTRY.—The Secretary shall establish a Registry of Legitimate Online Pharmacy Websites (referred to in this section as the 'Registry') for the purpose of educating consumers and promoting public health and safety.

''(c) CRITERIA.—The Secretary shall designate an online pharmacy website as a legitimate online pharmacy website, and include such legitimate online pharmacy website on the Registry, if the Secretary determines that—

''(1) the online pharmacy website is accredited by the United States National Association of Boards of Pharmacy Verified Internet Pharmacy Practice Sites program; or

''(2) the online pharmacy website meets each of the following requirements:

''(A) Prescription drugs ordered, sold, dispensed, distributed, supplied, or provided through or by the online pharmacy website are sold, dispensed, distributed, supplied, or provided solely by dispensing pharmacies that are domiciled in the United States and that maintain pharmacy licensure, a permit, or registration in good standing in all United States jurisdictions where such dispensing pharmacies provide services or are required to maintain such licensure, permit, or registration.

''(B) Each dispensing pharmacy affiliated with, or that dispenses, distributes, supplies, or provides prescription or other drugs on behalf of the online pharmacy website, maintains a valid Drug Enforcement Administration registration, unless such registration is not required by Drug Enforcement Administration regulations.

''(C) Each dispensing pharmacy affiliated with, or that dispenses, distributes, supplies, or provides prescription drugs on behalf of the online pharmacy website, dispenses, distributes, supplies, provides, or offers or attempts to dispense, distribute, supply, or provide, prescription drugs only pursuant to a valid prescription (as defined in section 503(b)).

''(D) Each dispensing pharmacy affiliated with, or that dispenses, distributes, supplies, or provides prescription drugs on behalf of the online pharmacy website, complies with applicable Federal and State laws and regulations applicable to pharmacy practice.

''(E) Each dispensing pharmacy affiliated with, or that dispenses, distributes, supplies, or provides prescription or other drugs on behalf of the online pharmacy website, does not dispense, distribute, supply, provide, offer or attempt to dispense, distribute, supply, or provide, advertise, or promote prescription or other drugs that have not been approved by the Food and Drug Administration.

''(F) The online pharmacy website prominently displays the following information:

''(i) An accurate United States street address of each dispensing pharmacy or the corporate or other legal business entity headquarters of each dispensing pharmacy.

''(ii) An accurate, readily accessible, and responsive telephone number or other secure accurate means that allows the consumer to contact or consult with the pharmacist about his or her prescription drug.

''(G) The online pharmacy website does not make any statements, regarding the nature of any dispensing pharmacy or product offered via the website, that are materially misleading or fraudulent.

''(H) The domain name registration information applicable to the online pharmacy website is accurate, not anonymous, and has a logical nexus to each dispensing pharmacy or the corporate or other legal business headquarters of each dispensing pharmacy.

''(I) The online pharmacy website, including any operator, content owner, or domain name registrant of the online pharmacy website, is not affiliated with, and does not own or control any other online pharmacy website that violates the requirements under this paragraph.

''(J) The online pharmacy website, including any operator, content owner, or domain name registrant of the online pharmacy website, is not affiliated with, and does not own or control any other online pharmacy website that violates Federal or State law.

''(K) Information that would be considered protected health information under the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (commonly referred to as the 'HIPAA Privacy Rule') is transmitted by the online pharmacy website and each dispensing pharmacy affiliated with, or that dispenses, distributes, supplies, or provides prescription drugs on behalf of the online pharmacy website, in accordance with the requirements of such Act, including the use of Secure-Socket Layer or equivalent technology for the transmission of protected health information, and the online pharmacy website displays its privacy policy and that such policy complies with the requirements of the HIPAA Privacy Rule.

''(L) The online pharmacy website complies with other requirements as determined appropriate by the Secretary, in consultation with other Federal and State agencies responsible for regulating the practice of pharmacy.

''(d) PROCESS.—

''(1) APPLICATION.—The Secretary shall develop an application process through which an interested operator, content owner, or domain name registrant of an online pharmacy website may apply for inclusion on the Registry. Such an application shall be submitted in such form and manner as required by the Secretary and shall include, at a minimum, information to determine whether the online pharmacy website satisfies the criteria described under subsection (c). The Secretary shall not charge a fee for submission of an application.

''(2) IDENTIFICATION WITHOUT APPLICATION.—

''(A) IN GENERAL.—The Secretary shall take reasonable steps to identify online pharmacy websites for which no application has been submitted under paragraph (1) and evaluate whether these online pharmacy websites satisfy the criteria described under subsection (c).

''(B) COMPLIANCE CONFIRMED.—In cases where satisfaction of the criteria described under subsection (c) can be verified without the receipt of an application, an online pharmacy website that the Secretary determines to satisfy such criteria may be designated as a legitimate online pharmacy website and

included on the Registry and the operator, content owner, or domain name registrant of such online pharmacy website shall be notified of such placement.

''(C) ADDITIONAL INFORMATION REQUIRED.—In cases where satisfaction of the criteria described under subsection (c) cannot be verified without additional information or some corrective action by the online pharmacy website operator, content owner, or domain name registrant, the online pharmacy website shall not be designated as a legitimate online pharmacy website or placed on the Registry until the additional information is received by the Secretary and the Secretary determines that all applicable and necessary corrective actions have been taken.

''(3) REGULATIONS REGARDING APPLICATION PROCESS.—

''(A) IN GENERAL.—The Secretary shall promulgate regulations—

''(i) to establish the timeframes applicable to informing online pharmacy website operators, content owners, or domain name registrants that submit an application under paragraph (1) of the acceptance or denial of such application;

''(ii) to address what information may be shared with or withheld from online pharmacy website operators, content owners, or domain name registrants that submit such an application regarding corrective actions that would need to be taken to establish compliance with the Registry requirements;

''(iii) to establish an appeal process giving online pharmacy website operators, content owners, or domain name registrants that submit such an application the ability to request a second review of the application to determine compliance with the Registry requirements; and

''(iv) to address other procedural matters regarding the receipt and evaluation of applications submitted under paragraph (1) as the Secretary determines necessary.

''(B) LIMITATION REGARDING APPEALS PROCESS.—The appeals process established under subparagraph (A)(iii) shall in no case require the Secretary—

''(i) to disclose information that may impede an ongoing or potential criminal or regulatory investigation; or

''(ii) to provide an opportunity for appeal in cases where the Secretary determines, in the Secretary's sole discretion, that the violation of a Registry requirement is materially significant, such a violation is not likely to be curable, or the applicant has engaged in a pattern of violations of Federal or State law.

''(4) AUTHORITY AND PROCESS FOR REMOVAL FROM REGISTRY.—

''(A) IN GENERAL.—The Secretary shall have the authority to remove an online pharmacy website from the Registry—

''(i) upon determination that the online pharmacy website is not in compliance with the criteria as established by this section;

''(ii) upon determination that the online pharmacy website was mistakenly included in the Registry; or

''(iii) for good cause as determined by the Secretary based on credible evidence.

''(B) PROCESS.—If the Secretary determines that an online pharmacy website shall be removed from the Registry under subparagraph (A), the Secretary shall provide notice to the operator, content owner, or domain name registrant of the online pharmacy website of the determination, the date of the removal of the website from the Registry, and the reasons for removal.

''(C) REGULATIONS FOR APPEAL PROCESS.—

''(i) IN GENERAL.—The Secretary shall promulgate regulations that provide the operator, content owner, or domain name registrant of an online pharmacy website removed from the Registry the ability to appeal the removal and to provide information to correct matters that served as basis for removal from the Registry. Such regulations shall provide a reasonable time period to correct the grounds for removal.

''(ii) LIMITATION REGARDING APPEALS PROCESS.—The appeals process established under clause (i) shall in no case require the Secretary—

''(I) to disclose information that may impede an ongoing or potential criminal or regulatory investigation; or

''(II) to provide an opportunity for appeal in cases where the Secretary determines, in the Secretary's sole discretion, that the violation of a Registry requirement is materially significant, such a violation is not likely to be curable, or the applicant has engaged in a pattern of violations of Federal or State law.

''(e) CONTRACTS WITH PRIVATE ENTITIES.—

''(1) IN GENERAL.—The Secretary may enter into contracts with the United States National Association of Boards of Pharmacy or other private entities to—

''(A) review applications submitted under subsection (d)(1) and evaluate whether the online pharmacy website satisfies the criteria described under subsection (c);

''(B) on an ongoing basis, review and identify online pharmacy websites for which no application has been submitted under subsection (d)(1) and evaluate whether these online pharmacies satisfy the criteria described under subsection (c);

''(C) make recommendations to the Secretary as to whether an online pharmacy website, either through application or through identification under subparagraph (B), satisfies the criteria under subsection (c);

''(D) notify the Food and Drug Administration of online pharmacy websites that do not to satisfy such criteria; and

''(E) provide services to maintain the Registry.

''(2) CONTRACTING.—In contracting with entities under this subsection, the Secretary—

''(A) may waive such provisions of the Federal Acquisition Regulation, except for provisions relating to confidentiality of information, as necessary for the efficient implementation of this subsection and for selecting such entities; and

''(B) shall select entities that have demonstrated a history of competency in reviewing, evaluating, and determining the legitimacy of online pharmacy websites, based on standards approved by the United States National Association of Boards of Pharmacy.

''(3) TERMS OF CONTRACT.—A contract with an entity under this subsection shall include such terms and conditions as specified by the Secretary, including the following:

''(A) The entity shall monitor the Internet on an ongoing basis in order to sufficiently maintain a current list of legitimate online pharmacy websites for consideration by the Secretary.

''(B) On at least a monthly basis, the entity shall submit to the Secretary an updated list of legitimate online pharmacy websites recommended for inclusion on the Registry.

''(f) USE OF REGISTRY.—

''(1) PUBLIC AVAILABILITY.—The Secretary shall—

''(A) make the Registry available to Internet advertising services, financial transaction providers, domain name registries, domain name registrars, other domain name authorities, information location tool service providers, and others as determined necessary and appropriate by the Secretary to promote public health and safety;

''(B) make the Registry available to consumers and other interested persons through publication on the Internet website of the Food and Drug Administration; and

''(C) specify the Registry criteria used to designate legitimate online pharmacy websites on the Internet website of the Food and Drug Administration.

''(2) CONSUMER EDUCATION.—The Secretary shall—

''(A) engage in a campaign to educate consumers on the availability and use of the Registry to promote public health and safety through means as determined appropriate and necessary by the Secretary, which may include radio, television, print media, and Internet public service announcements; and

''(B) make consumer education materials available, on the Internet website of the Food and Drug Administration and in a consumer-friendly form and manner, regarding how to safely purchase drugs over the Internet.

''(g) REFUSAL OF SERVICE; IMMUNITY.—

''(1) REFUSAL OF SERVICE.—A domain name registry, domain name registrar, other domain name authority, financial transaction provider, information location tool service provider, or Internet advertising service, acting in good faith based on the Registry, may cease or refuse to provide services to an online pharmacy website that is not included on the Registry.

''(2) IMMUNITY FROM LIABILITY.—An entity described in paragraph (1), including the directors, officers, employees, or agents of such entity, that, acting in good faith, ceases or refuses to provide services to an online pharmacy website that is not listed on the Registry shall not be liable to any party under any Federal or State law for such action.

''(3) IMMUNITY FROM SUIT.—No cause of action shall lie in any court or administrative agency against any entity described in paragraph (1), including the directors, officers, employees, or agents of such entity, that, acting in good faith, ceases or refuses to provide services to an online pharmacy website that is not included on the Registry.''.

SEC. 5. FUNDING.

There is authorized to be appropriated such sums as may be necessary to carry out this Act (and the amendments made by this Act).

SEC. 6. EFFECTIVE DATE.

This Act (and the amendments made by this Act) shall take effect on the date that is 180 days after the date of enactment of this Act.

By Mr. UDALL of New Mexico (for himself, Mr. BINGAMAN, Mr. INOUYE, and Ms. LANDRIEU).

S. 2004. A bill to grant the Congressional Gold Medal to the troops who defended Bataan during World War II; to the Committee on Banking, Housing, and Urban Affairs.

Mr. UDALL of New Mexico. Mr. President, last week we marked the 70th anniversary of the attack on Pearl Harbor, an event that led to the U.S. into the Second World War. But that wasn't the only important 70th anniversary commemorated last week. Seventy years ago, on December 8, 1941, the day after the attack on Pearl Harbor, halfway across the world the long battle for control of the strategically important country of the Philippines began.

This is a battle that began in the air and on the sea, but would ultimately see the surrendered American and Filipino troops forced on a brutal death

march, languishing in substandard POW camps, and in many cases, succumbing to malnourishment, mistreatment, and disease.

It is on behalf of all of these soldiers that I introduce legislation to honor the Defenders of Bataan, a peninsula on the island of Luzon where the battle ended, but the hellish journey began, with a Congressional Gold Medal. They are most deserving and this honor is, I believe, long overdue.

Soon after the air and naval battle for the Philippines began, the Japanese would land a sizable force to take control of Luzon. Ten days later the Japanese began their main offensive into the island.

On Christmas Eve, 1941, General MacArthur put War Plan Orange 3 into effect. This plan called for some troops to delay the Japanese advance as the greater force withdrew into Bataan. According to historical documents, the purpose of the plan was to keep Manila Bay from Japanese control until the U.S. Navy could reopen the supply lines that had been cut off after the attack on Pearl Harbor.

With the supply lines cut off, troops also had no hope of reinforcements. Despite this logistical nightmare, they valiantly fought to defend the Philippines. For months, against all odds, they held back the enemy advance. The Japanese, hoping for a swift victory, were forced to slow the pace of their Pacific strategy. The delay enabled U.S. and allied forces the chance to regroup in the Pacific and prepare for the eventual liberation of occupied Pacific islands and the Philippines.

But by April of 1942, the defenders of Bataan were malnourished and exhausted. With no hope of overcoming the overwhelming conditions, they were ordered to surrender. While many followed the order to lay down their arms, others still fought to disrupt the Japanese by forming guerrilla units to maintain the opposition.

One such guerrilla leader was Oklahoma native and Choctaw Warrior Lt. Colonel Edward McClish, who, according to the U.S. Navy's historical website, ''had an organization of more than 300 soldiers, with four machine guns, 150 rifles, and six boxes of ammunition.''

Following capture, the defenders of Bataan suffered three years of intense hardship. Many would not survive. They would be forced to endure what became known as the horrendous 65-mile Bataan Death March. They would languish in substandard POW camps, where their malnourishment worsened and disease was rampant. Many others would be shipped to Japan on the dreaded hell ships. One such ship, the Arisan Maru, claimed nearly 1,800 American lives.

For us New Mexicans, the events of Bataan strike home particularly hard. Eighteen hundred men from New Mexico's 200th and 515th regiments left their homes to fight. Approximately half returned. These soldiers, largely of Hispanic origin, earned the honor of being the first to fire and defend the Philippines on December 8. A special group, they were successors to the New Mexico National Guardsmen who made up part of Teddy Roosevelt's famed ''Rough Riders'' from the Spanish-American war.

One of these men, Eliseo Lopez, a Bataan defender who was born in Springer, NM, endured all the horrors Bataan had to offer. A member of the 200th Coast Artillery Regiment he trained at Ft. Bliss and was deployed to Manila before war broke out. He fought the Japanese on Bataan. He survived the Death March to Camp O'Donnell and was moved to Cabanatuan prison camp. He was taken on a hell ship to Japan, and was forced to labor in a copper mine until he was rescued in September of 1945. Mr. Lopez died this past November at the age of 92. His obituary alone is a record of the tremendous service to the United States given by the Bataan defenders.

In New Mexico, we continue to honor and respect our Bataan Defenders. We remember their suffering. We take pride in their heroism. Every year we commemorate their sacrifice with a march at White Sands Missile Range. Other States, such as Missouri, have similar marches. In April, Missouri will honor their Bataan veterans with a march on the Katy Trail State Park.

The people of the United States and Philippines are forever indebted to Eliseo Lopez and the other men who served with him and endured the similar horrors. They represented the best of America. They hailed from diverse locales, but were united in their valor and in their devotion to their country. Their courage and tenacity during the first four months of World War II, and their perseverance during 3 years of imprisonment truly deserves the recognition of a Congressional Gold Medal. I urge my colleagues to join me in supporting this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 348—EXPRESSING THE SENSE OF THE SENATE THAT THE SECRETARY OF THE TREASURY SHOULD TAKE ACTIONS TO INCREASE THE TRANSPARENCY AND ACCOUNTABILITY OF THE SMALL BUSINESS LENDING FUND PROGRAM

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Small Business and Entrepreneurship:

S. RES. 348

Whereas the Government Accountability Office published a report in December 2011 entitled ''Small Business Lending Fund: Additional Actions Needed to Improve Transparency and Accountability'' (GAO–12–183) (referred to in this preamble as the ''GAO Report'');

Whereas the GAO Report highlighted that ''Federal government internal control standards state that management should ensure that the agency has adequate means of communicating with and obtaining information from external stakeholders when such information could have a significant impact on the agency's achieving its goals.'';

Whereas the GAO Report found that the Secretary of the Treasury's ''lack of clarity in explaining program requirements and decisions created confusion among applicants'';

Whereas the GAO Report expressed the following: ''Internal control standards for the federal government state that internal control activities are a major part of efficiently and effectively managing a program. Control activities, such as (1) proper execution of transactions and events, (2) accurate and timely recording of transactions and events, (3) and establishing and reviewing performance measures, are an integral part of an agency's planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results. Establishing performance measures and developing a process for monitoring participating financial institutions will be critical to identifying and addressing any potential problems in these institutions' compliance with program requirements. Until Treasury finalizes its plans for monitoring compliance and assessing impact in a timely manner, it will not be positioned to anticipate and manage payment problems and other program risks.'';

Whereas the GAO Report concluded that the Secretary of the Treasury has not finalized plans for assessing the impact of the Small Business Lending Fund Program on small business lending or procedures for monitoring recipients for compliance with requirements of the Small Business Lending Fund Program; and

Whereas the GAO Report concluded that, until the Secretary of the Treasury finalizes plans for monitoring compliance with and assessing the impact of the Small Business Lending Fund Program in a timely manner, the Secretary will not be positioned to anticipate and manage payment problems and other program risks: Now, therefore, be it

Resolved, That it is the sense of the Senate that, as recommended by the Comptroller General of the United States in the December 2011 report entitled ''Small Business Lending Fund: Additional Actions Needed to Improve Transparency and Accountability'' (GAO–12–183)—

(1) to promote transparency and improve communication with participants in the Small Business Lending Fund Program and other interested stakeholders, such as Congress and the appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the Secretary of the Treasury should apply lessons learned from the application review phase of the Small Business Lending Fund Program to help improve the communication strategy of the Secretary; and

(2) to enhance the transparency and accountability of the Small Business Lending Fund Program, the Secretary of the Treasury should finalize—

(A) procedures for monitoring participants in the Small Business Lending Fund Program, including procedures to ensure that the Secretary is receiving accurate information on small business lending by such participants; and

(B) plans for assessing the performance of the Small Business Lending Fund Program, including measures that can isolate the impact of Small Business Lending Fund Program from other factors that affect small business lending.