

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 re-

moved 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.  
INOUE, 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—EX-PRESSING 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 stand-

ards 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.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1464. Mr. DURBIN (for Mrs. FEINSTEIN for herself and Mr. GRASSLEY) proposed an amendment to the bill S. 1612, to provide the Department of Justice with additional tools to target extraterritorial drug trafficking activity.

## TEXT OF AMENDMENTS

**SA 1464.** Mr. DURBIN (for Mrs. FEINSTEIN for herself and Mr. GRASSLEY) proposed an amendment to the bill S. 1612, to provide the Department of Justice with additional tools to target extraterritorial drug trafficking activity; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Targeting Transnational Drug Trafficking Act of 2011".

**SEC. 2. POSSESSION, MANUFACTURE OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATIONS.**

Section 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 959) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) in subsection (a), by striking "It shall" and all that follows and inserting the following: "It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II or flunitrazepam or a listed chemical intending, knowing, or having reasonable cause to believe that such substance or chemical will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

"(b) It shall be unlawful for any person to manufacture or distribute a listed chemical—

"(1) intending or knowing that the listed chemical will be used to manufacture a controlled substance; and

"(2) intending, knowing, or having reasonable cause to believe that the controlled substance will be unlawfully imported into the United States."

## AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on December 15, 2011, at 10:30 a.m. in room 328A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR SAFETY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works and the Subcommittee on Clean Air and Nuclear Safety be authorized to meet during the session of the Senate on December 15, 2011, at 10 a.m. in room 406 of the Dirksen Senate Office Building to conduct a joint hearing entitled, "Review of the NRC's Near-Term Task Force Recommendations

for Enhancing Reactor Safety in the 21st Century."

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on December 15, 2011 at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled "Prescription Drug Shortages: Examining a Public Health Concern and Potential Solutions" on December 15, 2011, at 10 a.m. in room 106 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on December 15, 2011, at 10 a.m. in room SD-226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 15, 2011, at 2:15 p.m., to hold an African Affairs subcommittee hearing entitled, "Improving Governance in the Democratic Republic of Congo."

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND THE COAST GUARD

Mr. DURBIN. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on December 15, 2011, at 10:30 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, "Environmental Risks of Genetically Engineered Fish."

The PRESIDING OFFICER. Without objection, it is so ordered.

## SUBCOMMITTEE ON WESTERN HEMISPHERE, PEACE CORPS, AND GLOBAL NARCOTICS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 15, 2011, at 11 a.m., to hold a Western Hemisphere, Peace

Corps, and Global Narcotics Affairs subcommittee hearing entitled, "The U.S.-Caribbean Shared Security Partnership: Responding to the Growth of Trafficking Narcotics in the Caribbean."

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that Patrick Norton and Will Frey, interns in Senator PAUL's office, be granted floor privileges for the remainder of the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that MAJ James Long, an Air Force fellow in Senator THUNE's office, be granted floor privileges during today's and tomorrow's sessions of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that LTC John Novak, a legislative fellow in my office, be granted floor privileges during the remainder of today's session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FALLEN HEROES OF 9/11 ACT

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to H.R. 3421.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3421) to award Congressional Gold Medals in honor of the men and women who perished as a result of the terrorist attacks on the United States on September 11, 2001.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3421) was ordered to a third reading, was read the third time, and passed.

The PRESIDING OFFICER. The Senator from Michigan.

## CORRECTING THE ENROLLMENT OF H.R. 2845

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to consideration of H. Con. Res. 93, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows: