

Massachusetts Senator Scott Brown Introduces "Asset Forfeiture Responsibility Act of 2011"

WASHINGTON - June 30, 2011 - Senator Scott Brown (R-Massachusetts) appeared on the [WBSM/Saving Seafood radio hour](#) this morning to announce his intention to introduce the Asset Forfeiture Responsibility Act of 2011. This announcement comes in the wake of last week's [Boston field hearing of the Federal Financial Management subcommittee](#). He then spoke on the floor of the Senate and introduced the legislation.

Senator Brown described the legislation as targeted at ending Washington's abusive treatment of America's fishing industry.

THE FOLLOWING WAS RELEASED BY SENATOR BROWN'S OFFICE:

WASHINGTON, DC - June 30, 2011- As part of his ongoing effort to address the enforcement abuses within the National Oceanic and Atmospheric Administration's (NOAA) Asset Forfeiture Fund (AFF), U.S. Senator Scott Brown (R-MA) today introduced the Asset Forfeiture Responsibility Act of 2011.

The legislation will replace the AFF with a new Fisheries Investment Fund that will be kept at the Treasury Department and focused on helping fishermen meet the ever-growing costs of compliance.

"This legislation will help end a sad chapter in government mismanagement," said Sen. Brown. "Replacing the scandal-plagued Asset Forfeiture Fund and its corrupt incentives will help our fishermen and bring jobs back to the fishing industry. My bill will also take a much-needed step toward restoring accountability to a Washington agency that for too long has run rogue with its enforcement."

Last week, Senator Brown along with U.S. Senator Tom Carper (D-DE), held a field hearing in Faneuil Hall and heard directly from fishermen about the longstanding problems with the AFF.

A recent report from the Department of Commerce Inspector General's revealed that NOAA has mismanaged this fund for many years, wasting taxpayer money on exorbitant foreign travel, unauthorized purchases of vehicles and a \$300,000 luxury boat.

ABOUT THE BILL:

PURPOSE: To correct NOAA's gross federal financial mismanagement by ending their role in managing these funds. Unlike other efforts to modify the asset forfeiture fund (AFF), this bill entirely replaces the existing Asset Forfeiture Fund (AFF) with a new Fisheries Investment Fund (FIF) at the Treasury Department, with uses of the new fund restricted to activities that will actually help the fishing industry deal with federal regulation.

- Directs money collected from fishermen toward assisting them with the ever growing costs of compliance, such as at-sea observers and shore side monitoring.
- Addresses the unfunded mandates currently affecting the private fishing industry.
- Keeps monies that have been collected in a particular region in that same region.
- Ensures that funds can only be used for legitimate enforcement activity.
- Specifically prohibits funds from being used to buy leisure items.
- Allows fishing councils the flexibility to use funds to support and sustain the fishery.
- Authorizes Secretary of Commerce to reimburse lawyer fees for those who have been hit hard by NOAA enforcement and have been identified in the Special Master Swartwood report.

BACKGROUND: Previously, the AFF was controlled by NOAA. In this bill, the new Fishing Investment Fund (FIF) will now hold fines and seizures and will be restricted for use in facilitating sound fisheries management. By placing the funds at the Treasury Department, the funds will be kept out of NOAA's hands and will be audited annually for the first three years.

NEED FOR LEGISLATION: On June 20, 2011 Senator Brown held a field hearing in Boston on the longstanding problems NOAA has had managing the Asset Forfeiture Fund. During this hearing the Department of Commerce Inspector General's excellent work revealed NOAA has mismanaged the fund for many years wasting taxpayer funds on exorbitant foreign travel, unauthorized purchase of more vehicles than employees in the enforcement unit and a "luxurious" \$300,000 boat.

Fishermen have complained for years about arbitrary fines, over-zealous enforcement, and violations of due process rights at the hands of NOAA. After decades of such complaints, mostly in the Northeast, the Commerce Department appointed a distinguished retired judge to serve as a Special Master and investigate enforcement abuses by NOAA.

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THE FOLLOWING IS THE TEXT OF THE SENATOR'S SPEECH AS DELIVERED:

ON THE SENATE FLOOR -- June 30, 2011 -- 12:45 p.m. --- I'm here to speak today on a couple of issues. First, the Asset Forfeiture Act of 2011, an act that I have filed and will speak upon in a moment. I ask to speak as if we're in morning business.

Before I do, I want to thank and comment on [Defense] Secretary [Robert] Gates' last day. I was just over at the Pentagon doing some work and noted that he was being honored there today. And I want to thank him for his dedication and service to our country. He leaves behind an incredible record of service. Our military and their families, while strained, have never been more prepared to fight and win in today's conflict. I've gained an enormous level of respect for his tireless leadership and committed resolve on behalf of our men and women in uniform and their families. So, Mr. Secretary, thank you for your incredible service to this nation, and you've made us all very, very proud.

Also, Madam President, today one of our finest officers our nation has ever produced, General David Petraeus, leaves behind a distinguished record of military service and moves on to a new job. The wealth of his experience and the experience he brings to this critical post will be invaluable as he and other dedicated public servants at the [Central Intelligence Agency] work to keep our nation safe from harm. I have the utmost faith in his leadership and look forward to the contributions he will make to the agency and to our country.

Now, Madam President, getting back to what I was here to speak with you about, and others, I rise to speak about overregulation, something that's really putting a wet blanket on many businesses throughout our country and especially in Massachusetts. And that's why I'm introducing a bill to reform the national oceanic and atmospheric administration, or NOAA's asset forfeiture fund.

The fund is authorized by the Magnuson fisheries conservation act and allows NOAA to retain fines and penalties for legitimate enforcement purposes. And as the Department of Commerce Inspector General's excellent work revealed, NOAA has mismanaged that fund for many years, wasting taxpayer funds on exorbitant foreign travel, unauthorized purchase of vehicles. As a matter of fact, they have more -- they purchase more vehicles than they actually have employees. So that speaks for itself. They also purchased a \$300,000 luxury boat with the funds collected in that forfeiture fund.

The reason I'm standing on the floor today is because the way the fund has been implemented has actually corrupted the relationship between the fishermen and the regulators. The fishermen have complained for years about the arbitrary fines, overzealous enforcement and violation of their due process rights when it comes to dealing with NOAA.

After decades of such complaints mostly in the northeast, the Department of Commerce appointed a distinguished retired judge to serve as a special master in investigate -- and investigate format actions and abuse by NOAA. In one case, Madam President, a New Bedford, Massachusetts, fisherman lost his livelihood and a farm that had been in the family since the 1640's, forced to sell it due to the punitive NOAA penalties. The commerce department concluded the perverse incentive to fill the asset forfeiture fund with funds was the motivating factor in how NOAA handled this.

A gentleman named Larry Yacubian got not only a check but an apology from Washington because of those abuses. He will never get his home back. My role as ranking member of the federal financial manager along with Tom Carper of Delaware, we held a field hearing in Boston on June 20 to identify a lot of these long-standing problems and identify the problems with the asset forfeiture fund itself.

Unfortunately, the hearing revealed that while NOAA has instituted some reforms to its management of the fund, including auditing the fund for the first time in nearly four decades, it still intends to utilize the seized assets of fishermen to pay for foreign travel, which I feel is completely inappropriate.

The years of NOAA's mismanagement and abuse of the asset forfeiture fund have bred mistrust among the fishermen and federal officials and can only be broken by removing the fund for NOAA. It is for these reasons I'm introducing the asset forfeiture act of 2011, which will hopefully end a sad chapter of financial mismanagement by this agency, and replacing the existing funds with a new fisheries investment fund and the funds will be kept at the treasury department for the benefit of regional councils in NOAA.

The fund will be audited for the next few years. The Fishing Investment Fund will direct moneys from those fishermen who break the rules towards assisting fishermen with the ever-growing cost of regulatory compliance and to reimburse the legal fees incurred by fishermen whose fines were actually remitted by the recommendation of the special master.

Currently appropriated funds assist fishermen with the cost of compliance, but in these difficult fiscal times, this funding is actually at risk. So, Madam President, this legislation would allow a more reliable source of funds to offset the increasing cost of compliance while allowing the fishing councils to have the flexibility to actually address other priorities such as preparing fishing impact statements and addressing other priorities to rebuild or maintain the fisheries and the fishing stocks.

As I have always said since I got elected and involved in this issue, all the fishermen want is to have a level playing field and the assurances that those who break the rules will be caught. And that they'll be fined and fined appropriately. That's why I have maintained funding for NOAA's legitimate law enforcement responsibilities.

However, in the end, Madam President, we should be focused, quite frankly, in this chamber on bettering the economic security and ability of the American people to make an honest living. This bill will bring back jobs to the hardworking men and women of the American fishing industry while restoring their trust in government. It's the right thing to do.

Madam President, I'm hopeful that we will continue to work together and try to get through a lot of these fiscal challenges that we have. I, for one, along with many others still look forward to finding common solutions to move our country forward and step back from that financial precipice we're approaching. So I want to thank you, Madam President....