

SENATE RESOLUTION 157—DESIGNATING APRIL 21, 2011, AS “POWERTALK 21 DAY”

Ms. KLOBUCHAR (for herself and Mr. VITTER) submitted the following resolution; which was considered and agreed to:

S. RES. 157

Whereas the goal of PowerTalk 21 Day is to encourage parents and caregivers to embrace their important role in influencing the decisions of the young people of the United States about drinking alcohol;

Whereas high school students who use alcohol or other substances are 5 times more likely to drop out of school or believe good grades are not important;

Whereas teen alcohol use kills about 6,000 people each year, more than all other illegal drugs combined; and

Whereas 74 percent of kids say that their parents are their primary influence when it comes to decisions about drinking alcohol: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates April 21, 2011, as “PowerTalk 21 Day”;

(2) recognizes the importance of parents talking with their teens about alcohol; and

(3) urges all people of the United States to join in the efforts to raise awareness of the importance of parents and teens talking together about alcohol in order to reduce the risks and dangers posed to teens and communities by underage drinking.

SENATE CONCURRENT RESOLUTION 13—HONORING THE SERVICE AND SACRIFICE OF MEMBERS OF THE UNITED STATES ARMED FORCES WHO ARE SERVING IN, OR HAVE SERVED IN, OPERATION ENDURING FREEDOM, OPERATION IRAQI FREEDOM, AND OPERATION NEW DAWN

Mr. ISAKSON (for himself, Mr. BEGICH, Mr. BOOZMAN, Mr. BROWN of Massachusetts, Mr. BURR, Mr. JOHANNES, Mr. MORAN, Mrs. MURRAY, Mr. SANDERS, and Mr. WEBB) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 13

Whereas over 2,000,000 members of the United States Armed Forces have deployed to theaters of war since the commencement of Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn;

Whereas hundreds of thousands of members of the United States Armed Forces have deployed for multiple tours of duty, leaving their homes, their families, and in many cases, their civilian jobs;

Whereas more than 5,500 members of the United States Armed Forces have made the ultimate sacrifice for the United States while serving in Iraq or Afghanistan;

Whereas tens of thousands of members of the United States Armed Forces have been seriously wounded in the line of duty while serving in Iraq or Afghanistan;

Whereas the members of the United States Armed Forces who have participated in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn have answered the call to duty of the United States, serving bravely and nobly and, in most cases, without fanfare or acclaim;

Whereas those members of the United States Armed Forces and veterans have personified the virtues of patriotism, service, duty, courage, and sacrifice; and

Whereas the people of the United States recognize the service and sacrifices made by those members of the United States Armed Forces and veterans, as well as their families: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) honors the members of the United States Armed Forces who are serving in, or have served in, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; and

(2) calls on the people of the United States to reflect on the service of those members of the United States Armed Forces and veterans and to hold those members and veterans in a special place of honor, both now and in the future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 295. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table.

SA 296. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 186 proposed by Mr. CORNYN to the bill S. 493, supra; which was ordered to lie on the table.

SA 297. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 298. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 299. Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 493, supra; which was ordered to lie on the table.

SA 300. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 199 proposed by Mr. PAUL to the bill S. 493, supra; which was ordered to lie on the table.

SA 301. Mr. REID (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 109, honoring and supporting women in North Africa and the Middle East whose bravery, compassion, and commitment to putting the wellbeing of others before their own have proven that courage can be contagious.

SA 302. Mr. REID (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 109, supra.

TEXT OF AMENDMENTS

SA 295. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. \_\_\_\_ . INCLUSION OF APPLICATION TO INDEPENDENT REGULATORY AGENCIES.

(a) IN GENERAL.—Section 421(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(1)) is amended by striking “, but does not include independent regulatory agencies”.

(b) EXEMPTION FOR MONETARY POLICY.—The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.) is amended by inserting after section 5 the following:

“SEC. 6. EXEMPTION FOR MONETARY POLICY.

“Nothing in title II, III, or IV shall apply to rules that concern monetary policy pro-

posed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.”.

SA 296. Mr. PORTMAN submitted an amendment intended to be proposed to amendment SA 186 proposed by Mr. CORNYN to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. \_\_\_\_ . INCLUSION OF APPLICATION TO INDEPENDENT REGULATORY AGENCIES.

(a) IN GENERAL.—Section 421(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 658(1)) is amended by striking “, but does not include independent regulatory agencies”.

(b) EXEMPTION FOR MONETARY POLICY.—The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 et seq.) is amended by inserting after section 5 the following:

“SEC. 6. EXEMPTION FOR MONETARY POLICY.

“Nothing in title II, III, or IV shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.”.

SA 297. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 89, strike line 18 and all that follows through page 91, line 6, and insert the following:

“(A) continue the most recent study under this section relating to the issues described in subparagraphs (A), (B), (C), and (E) of subsection (a)(1), except that, for purposes of this subparagraph, subparagraphs (A), (B), (C), and (E) of subsection (a)(1) shall be applied by substituting ‘SBIR program and STTR program’ for ‘SBIR program’ each place it appears;

“(B) evaluate, for the STTR program—

“(i) the partnerships created between small businesses and research institutions, including the number of new partnerships created, the effectiveness of partnerships in achieving technical objectives of research projects and the degree of difficulty or ease in negotiating details of cooperative research agreements, including issues relating to intellectual property rights; and

“(ii) the effectiveness of the program at transferring technology and capabilities developed by Federal funding from research institutions to small business concerns;

“(C) study the effectiveness of the government and public databases described in section 9(k) of the Small Business Act (15 U.S.C. 638(k)) in reducing vulnerabilities of the SBIR program and the STTR program to fraud, waste, and abuse, particularly with respect to Federal agencies funding duplicative proposals and business concerns falsifying information in proposals;

“(D) estimate, to the extent practicable, the number of jobs created by the SBIR programs and STTR programs of the agencies; and

“(E) make recommendations with respect to the issues described in subparagraphs (B) and (C) of this subparagraph and subparagraphs (A), (D), and (E) of subsection (a)(2), except that, for purposes of this subparagraph, subparagraphs (A), (D), and (E) of subsection (a)(2) shall be applied by substituting

‘SBIR program and STTR program’ for ‘SBIR program’ each place it appears.

“(2) CONSULTATION.—An agreement under paragraph (1) shall require the National Research Council to ensure there is participation by and consultation with the small business community, the Administration, and other interested parties as described in subsection (b).

“(3) REPORTING.—An agreement under paragraph (1) shall require that not later than 4 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 4 years thereafter, the National Research Council shall submit to the head of each agency entering into the agreement, the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives a report regarding the study conducted under paragraph (1) that contains the recommendations described in paragraph (1).”.

**SA 298.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, line 13, strike the quotation marks and the second period and insert the following:

“(4) REPORTS.—For each of the 3 full fiscal years beginning after the date of enactment of this subsection, each Federal agency that uses funds in accordance with this subsection shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Science, Space, and Technology and the Committee on Small Business of the House of Representatives a report that includes—

“(A) the total amount used in accordance with this subsection; and

“(B) the amount used for each of the activities described in subparagraphs (A) through (K) of paragraph (1).”.

**SA 299.** Ms. SNOWE (for herself and Mr. COBURN) submitted an amendment intended to be proposed by her to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE—SMALL BUSINESS REGULATORY FREEDOM**

**SEC. 01. FINDINGS.**

Congress finds the following:

(1) A vibrant and growing small business sector is critical to the recovery of the economy of the United States.

(2) Regulations designed for application to large-scale entities have been applied uniformly to small businesses and other small entities, sometimes inhibiting the ability of small entities to create new jobs.

(3) Uniform Federal regulatory and reporting requirements in many instances have imposed on small businesses and other small entities unnecessary and disproportionately burdensome demands, including legal, accounting, and consulting costs, thereby threatening the viability of small entities and the ability of small entities to compete and create new jobs in a global marketplace.

(4) Since 1980, Federal agencies have been required to recognize and take account of the differences in the scale and resources of regulated entities, but in many instances have failed to do so.

(5) In 2009, there were nearly 70,000 pages in the Federal Register, and, according to research by the Office of Advocacy of the Small Business Administration, the annual cost of Federal regulations totals \$1,750,000,000,000. Small firms bear a disproportionate burden, paying approximately 36 percent more per employee than larger firms in annual regulatory compliance costs.

(6) All agencies in the Federal Government should fully consider the costs, including indirect economic impacts and the potential for job loss, of proposed rules, periodically review existing regulations to determine their impact on small entities, and repeal regulations that are unnecessarily duplicative or have outlived their stated purpose.

(7) It is the intention of Congress to amend chapter 6 of title 5, United States Code, to ensure that all impacts, including foreseeable indirect effects, of proposed and final rules are considered by agencies during the rulemaking process and that the agencies assess a full range of alternatives that will limit adverse economic consequences, enhance economic benefits, and fully address potential job loss.

**SEC. 02. INCLUDING INDIRECT ECONOMIC IMPACT IN SMALL ENTITY ANALYSES.**

Section 601 of title 5, United States Code, is amended by adding at the end the following:

“(9) the term ‘economic impact’ means, with respect to a proposed or final rule—

“(A) the economic effects on small entities directly regulated by the rule; and

“(B) the reasonably foreseeable economic effects of the rule on small entities that—

“(i) purchase products or services from, sell products or services to, or otherwise conduct business with entities directly regulated by the rule;

“(ii) are directly regulated by other governmental entities as a result of the rule; or

“(iii) are not directly regulated by the agency as a result of the rule but are otherwise subject to other agency regulations as a result of the rule.”.

**SEC. 03. JUDICIAL REVIEW TO ALLOW SMALL ENTITIES TO CHALLENGE PROPOSED REGULATIONS.**

Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting “603,” after “601.”;

(2) in paragraph (2), by inserting “603,” after “601.”;

(3) by striking paragraph (3) and inserting the following:

“(3) A small entity may seek such review during the 1-year period beginning on the date of final agency action, except that—

“(A) if a provision of law requires that an action challenging a final agency action be commenced before the expiration of 1 year, the lesser period shall apply to an action for judicial review under this section; and

“(B) in the case of noncompliance with section 603 or 605(b), a small entity may seek judicial review of agency compliance with such section before the close of the public comment period.”; and

(4) in paragraph (4)—

(A) in subparagraph (A), by striking “, and” and inserting a semicolon;

(B) in subparagraph (B), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(C) issuing an injunction prohibiting an agency from taking any agency action with respect to a rulemaking until that agency is in compliance with the requirements of section 603 or 605.”.

**SEC. 04. PERIODIC REVIEW.**

Section 610 of title 5, United States Code, is amended to read as follows:

**“§ 610. Periodic review of rules**

“(a)(1) Not later than 180 days after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, each agency shall establish a plan for the periodic review of—

“(A) each rule issued by the agency that the head of the agency determines has a significant economic impact on a substantial number of small entities, without regard to whether the agency performed an analysis under section 604 with respect to the rule; and

“(B) any small entity compliance guide required to be published by the agency under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note).

“(2) In reviewing rules and small entity compliance guides under paragraph (1), the agency shall determine whether the rules and guides should—

“(A) be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant adverse economic impacts on a substantial number of small entities (including an estimate of any adverse impacts on job creation and employment by small entities); or

“(B) continue in effect without change.

“(3) Each agency shall publish the plan established under paragraph (1) in the Federal Register and on the Web site of the agency.

“(4) An agency may amend the plan established under paragraph (1) at any time by publishing the amendment in the Federal Register and on the Web site of the agency.

“(b) Each plan established under subsection (a) shall provide for—

“(1) the review of each rule and small entity compliance guide described in subsection (a)(1) in effect on the date of enactment of the SBIR/STTR Reauthorization Act of 2011—

“(A) not later than 9 years after the date of publication of the plan in the Federal Register; and

“(B) every 9 years thereafter; and

“(2) the review of each rule adopted and small entity compliance guide described in subsection (a)(1) that is published after the date of enactment of the SBIR/STTR Reauthorization Act of 2011—

“(A) not later than 9 years after the publication of the final rule in the Federal Register; and

“(B) every 9 years thereafter.

“(c) In reviewing rules under the plan required under subsection (a), the agency shall consider—

“(1) the continued need for the rule;

“(2) the nature of complaints received by the agency from small entities concerning the rule;

“(3) comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration;

“(4) the complexity of the rule;

“(5) the extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules;

“(6) the contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such a calculation cannot be made;

“(7) the length of time since the rule has been evaluated, or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule; and

“(8) the economic impact of the rule, including—

“(A) the estimated number of small entities to which the rule will apply;

“(B) the estimated number of small entity jobs that will be lost or created due to the rule; and

“(C) the projected reporting, record-keeping, and other compliance requirements of the proposed rule, including—

“(i) an estimate of the classes of small entities that will be subject to the requirement; and

“(ii) the type of professional skills necessary for preparation of the report or record.

“(d)(1) Each agency shall submit an annual report regarding the results of the review required under subsection (a) to—

“(A) Congress; and

“(B) in the case of an agency that is not an independent regulatory agency (as defined in section 3502(5) of title 44), the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget.

“(2) Each report required under paragraph (1) shall include a description of any rule or guide with respect to which the agency made a determination of infeasibility under paragraph (5) or (6) of subsection (c), together with a detailed explanation of the reasons for the determination.

“(e) Each agency shall publish in the Federal Register and on the Web site of the agency a list of the rules and small entity compliance guides to be reviewed under the plan required under subsection (a) that includes—

“(1) a brief description of each rule or guide;

“(2) for each rule, the reason why the head of the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether the agency had prepared a final regulatory flexibility analysis for the rule); and

“(3) a request for comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rules or publication of the guides.

“(f)(1) Not later than 6 months after each date described in subsection (b)(1), the Inspector General for each agency shall—

“(A) determine whether the agency has conducted the review required under subsection (b) appropriately; and

“(B) notify the head of the agency of—

“(i) the results of the determination under subparagraph (A); and

“(ii) any issues preventing the Inspector General from determining that the agency has conducted the review under subsection (b) appropriately.

“(2)(A) Not later than 6 months after the date on which the head of an agency receives a notice under paragraph (1)(B) that the agency has not conducted the review under subsection (b) appropriately, the agency shall address the issues identified in the notice.

“(B) Not later than 30 days after the last day of the 6-month period described in subparagraph (A), the Inspector General for an agency that receives a notice described in subparagraph (A) shall—

“(i) determine whether the agency has addressed the issues identified in the notice; and

“(ii) notify Congress if the Inspector General determines that the agency has not addressed the issues identified in the notice; and

“(C) Not later than 30 days after the date on which the Inspector General for an agency transmits a notice under subparagraph (B)(ii), an amount equal to 1 percent of the amount appropriated for the fiscal year to the appropriations account of the agency that is used to pay salaries shall be rescinded.

“(D) Nothing in this paragraph may be construed to prevent Congress from acting to prevent a rescission under subparagraph (C).”

**SEC. 05. REQUIRING SMALL BUSINESS REVIEW PANELS FOR ADDITIONAL AGENCIES.**

(a) AGENCIES.—Section 609 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “a covered agency” the first place it appears and inserting “an agency designated under subsection (d)”; and

(B) by striking “a covered agency” each place it appears and inserting “the agency”;

(2) by striking subsection (d), as amended by section 1100G(a) of Public Law 111-203 (124 Stat. 2112), and inserting the following:

“(d)(1)(A) On and after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor shall be—

“(i) agencies designated under this subsection; and

“(ii) subject to the requirements of subsection (b).

“(B) On and after the designated transfer date established under section 1062 of Public Law 111-203 (12 U.S.C. 5582), the Bureau of Consumer Financial Protection shall be—

“(i) an agency designated under this subsection; and

“(ii) subject to the requirements of subsection (b).

“(2) The Chief Counsel for Advocacy shall designate as agencies that shall be subject to the requirements of subsection (b) on and after the date of the designation—

“(A) 3 agencies for the first year after the date of enactment of the SBIR/STTR Reauthorization Act of 2011;

“(B) in addition to the agencies designated under subparagraph (A), 3 agencies for the second year after the date of enactment of the SBIR/STTR Reauthorization Act of 2011; and

“(C) in addition to the agencies designated under subparagraphs (A) and (B), 3 agencies for the third year after the date of enactment of the SBIR/STTR Reauthorization Act of 2011.

“(3) The Chief Counsel for Advocacy shall designate agencies under paragraph (2) based on the economic impact of the rules of the agency on small entities, beginning with agencies with the largest economic impact on small entities.”; and

(3) in subsection (e)(1), by striking “the covered agency” and inserting “the agency”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 603.—Section 603(d) of title 5, United States Code, as added by section 1100G(b) of Public Law 111-203 (124 Stat. 2112), is amended—

(A) in paragraph (1), by striking “a covered agency, as defined in section 609(d)(2)” and inserting “the Bureau of Consumer Financial Protection”; and

(B) in paragraph (2), by striking “A covered agency, as defined in section 609(d)(2),” and inserting “The Bureau of Consumer Financial Protection”.

(2) SECTION 604.—Section 604(a) of title 5, United States Code, is amended—

(A) by redesignating the second paragraph designated as paragraph (6) (relating to covered agencies), as added by section 1100G(c)(3) of Public Law 111-203 (124 Stat. 2113), as paragraph (7); and

(B) in paragraph (7), as so redesignated—

(i) by striking “a covered agency, as defined in section 609(d)(2)” and inserting “the Bureau of Consumer Financial Protection”; and

(ii) by striking “the agency” and inserting “the Bureau”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act and apply on and after the designated transfer date established under section 1062 of Public Law 111-203 (12 U.S.C. 5582).

**SEC. 06. EXPANDING THE REGULATORY FLEXIBILITY ACT TO AGENCY GUIDANCE DOCUMENTS.**

Section 601(2) of title 5, United States Code, is amended by inserting after “public comment” the following: “and any significant guidance document, as defined in the Office of Management and Budget Final Bulletin for Agency Good Guidance Procedures (72 Fed. Reg. 3432; January 25, 2007)”.

**SEC. 07. REQUIRING THE INTERNAL REVENUE SERVICE TO CONSIDER SMALL ENTITY IMPACT.**

(a) IN GENERAL.—Section 603(a) of title 5, United States Code, is amended, in the fifth sentence, by striking “but only” and all that follows through the period at the end and inserting “but only to the extent that such interpretative rules, or the statutes upon which such rules are based, impose on small entities a collection of information requirement or a recordkeeping requirement.”

(b) DEFINITIONS.—Section 601 of title 5, United States Code, as amended by section 3 of this Act, is amended—

(1) in paragraph (6), by striking “and” at the end; and

(2) by striking paragraphs (7) and (8) and inserting the following:

“(7) the term ‘collection of information’ has the meaning given that term in section 3502(3) of title 44;

“(8) the term ‘recordkeeping requirement’ has the meaning given that term in section 3502(13) of title 44; and”.

**SEC. 08. REPORTING ON ENFORCEMENT ACTIONS RELATING TO SMALL ENTITIES.**

Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended—

(1) in subsection (a)—

(A) by striking “Each agency” and inserting the following:

“(1) ESTABLISHMENT OF POLICY OR PROGRAM.—Each agency”; and

(B) by adding at the end the following:

“(2) REVIEW OF CIVIL PENALTIES.—Not later than 2 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 2 years thereafter, each agency regulating the activities of small entities shall review the civil penalties imposed by the agency for violations of a statutory or regulatory requirement by a small entity to determine whether a reduction or waiver of the civil penalties is appropriate.”; and

(2) in subsection (c)—

(A) by striking “Agencies shall report” and all that follows through “the scope” and inserting “Not later than 2 years after the date of enactment of the SBIR/STTR Reauthorization Act of 2011, and every 2 years thereafter, each agency shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Small Business and the Committee on the Judiciary of the House of Representatives a report discussing the scope”; and

(B) by striking “and the total amount of penalty reductions and waivers” and inserting “the total amount of penalty reductions and waivers, and the results of the most recent review under subsection (a)(2)”.

**SEC. 09. REQUIRING MORE DETAILED SMALL ENTITY ANALYSES.**

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, as amended by section 1100G(b) of Public Law 111-203 (124 Stat. 2112), is amended—

(1) by striking subsection (b) and inserting the following:

“(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

“(1) describing the reasons why action by the agency is being considered;

“(2) describing the objectives of, and legal basis for, the proposed rule;

“(3) estimating the number and type of small entities to which the proposed rule will apply;

“(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

“(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided; and

“(6) estimating the additional cumulative economic impact of the proposed rule on small entities, including job loss by small entities, beyond that already imposed on the class of small entities by the agency, or the reasons why such an estimate is not available.”; and

(2) by adding at the end the following:

“(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities—

“(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget under Executive Order 12866, if that order requires the submission; or

“(2) if no submission to the Office of Information and Regulatory Affairs is required—

“(A) a reasonable period before publication of the rule by the agency; and

“(B) in any event, not later than 3 months before the date on which the agency publishes the rule.”.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) by inserting “detailed” before “description” each place it appears;

(B) in paragraph (2)—

(i) by inserting “detailed” before “statement” each place it appears; and

(ii) by inserting “(or certification of the proposed rule under section 605(b))” after “initial regulatory flexibility analysis”;

(C) in paragraph (4), by striking “an explanation” and inserting “a detailed explanation”; and

(D) in paragraph (6) (relating to a description of steps taken to minimize significant economic impact), as added by section 1601 of the Small Business Jobs Act of 2010 (Public Law 111-240; 124 Stat. 2251), by inserting “detailed” before “statement”.

(2) PUBLICATION OF ANALYSIS ON WEB SITE, ETC.—Section 604(b) of title 5, United States Code, is amended to read as follows:

“(b) The agency shall—

“(1) make copies of the final regulatory flexibility analysis available to the public, including by publishing the entire final regulatory flexibility analysis on the Web site of the agency; and

“(2) publish in the Federal Register the final regulatory flexibility analysis, or a summary of the analysis that includes the telephone number, mailing address, and address of the Web site where the complete final regulatory flexibility analysis may be obtained.”.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Section 605(a) of title 5, United States Code, is amended to read as follows:

“(a) A Federal agency shall be deemed to have satisfied a requirement regarding the content of a regulatory flexibility agenda or regulatory flexibility analysis under section 602, 603, or 604, if the Federal agency provides in the agenda or regulatory flexibility analysis a cross-reference to the specific portion of an agenda or analysis that is required by another law and that satisfies the requirement under section 602, 603, or 604.”.

(d) CERTIFICATIONS.—Section 605(b) of title 5, United States Code, is amended, in the second sentence, by striking “statement providing the factual” and inserting “detailed statement providing the factual and legal”.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

“§ 607. Quantification requirements

“In complying with sections 603 and 604, an agency shall provide—

“(1) a quantifiable or numerical description of the effects of the proposed or final rule, including an estimate of the potential for job loss, and alternatives to the proposed or final rule; or

“(2) a more general descriptive statement regarding the potential for job loss and a detailed statement explaining why quantification under paragraph (1) is not practicable or reliable.”.

SEC. 10. ENSURING THAT AGENCIES CONSIDER SMALL ENTITY IMPACT DURING THE RULEMAKING PROCESS.

Section 605(b) of title 5, United States Code, is amended—

(1) by inserting “(1)” after “(b)”; and

(2) by adding at the end the following:

“(2) If, after publication of the certification required under paragraph (1), the head of the agency determines that there will be a significant economic impact on a substantial number of small entities, the agency shall comply with the requirements of section 603 before the publication of the final rule, by—

“(A) publishing an initial regulatory flexibility analysis for public comment; or

“(B) re-proposing the rule with an initial regulatory flexibility analysis.

“(3) The head of an agency may not make a certification relating to a rule under this subsection, unless the head of the agency has determined—

“(A) the average cost of the rule for small entities affected or reasonably presumed to be affected by the rule;

“(B) the number of small entities affected or reasonably presumed to be affected by the rule; and

“(C) the number of affected small entities for which that cost will be significant.

“(4) Before publishing a certification and a statement providing the factual basis for the certification under paragraph (1), the head of an agency shall—

“(A) transmit a copy of the certification and statement to the Chief Counsel for Advocacy of the Small Business Administration; and

“(B) consult with the Chief Counsel for Advocacy of the Small Business Administration on the accuracy of the certification and statement.”.

SEC. 11. ADDITIONAL POWERS OF THE OFFICE OF ADVOCACY.

Section 203 of Public Law 94-305 (15 U.S.C. 634c) is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “; and”; and

(3) by inserting after paragraph (6) the following:

“(7) at the discretion of the Chief Counsel for Advocacy, comment on regulatory action by an agency that affects small businesses,

without regard to whether the agency is required to file a notice of proposed rule-making under section 553 of title 5, United States Code, with respect to the action.”.

SEC. 12. FUNDING AND OFFSETS.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Small Business Administration, for any costs of carrying out this title and the amendments made by this title (including the costs of hiring additional employees)—

(1) \$1,000,000 for fiscal year 2012;

(2) \$2,000,000 for fiscal year 2013; and

(3) \$3,000,000 for fiscal year 2014.

(b) REPEALS.—In order to offset the costs of carrying out this title and the amendments made by this title and to reduce the Federal deficit, the following provisions of law are repealed, effective on the date of enactment of this Act:

(1) Section 21(n) of the Small Business Act (15 U.S.C. 648).

(2) Section 27 of the Small Business Act (15 U.S.C. 654).

(3) Section 1203(c) of the Energy Security and Efficiency Act of 2007 (15 U.S.C. 657h(c)).

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) HEADING.—Section 605 of title 5, United States Code, is amended in the section heading by striking “Avoidance” and all that follows and inserting the following: “Incorporations by reference and certification.”.

(b) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following:

“605. Incorporations by reference and certifications.”;

and

(2) by striking the item relating to section 607 inserting the following:

“607. Quantification requirements.”.

SA 300. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 199 proposed by Mr. PAUL to the bill S. 493, to reauthorize and improve the SBIR and STTR programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 6 of the amendment, after line 12, add the following:

SEC. 26. NATIONAL SECURITY WAIVER.

(a) NATIONAL SECURITY WAIVER.—The funding restrictions in sections 6, 8, 10, and 16 may be waived by the Secretary of Defense for programs or activities determined by the Secretary to be vital to the national security of the United States.

(b) CONGRESSIONAL EARMARKS OFFSET.—

(1) IN GENERAL.—Any language specifying an earmark in an appropriations Act for fiscal year 2010, or in a committee report or joint explanatory statement accompanying such an Act, shall have no legal effect.

(2) DEFINITION.—For purposes of this subsection, the term “earmark” means a congressional earmark or congressionally directed spending item, as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives and paragraph 5(a) of rule XLIV.

(3) REDUCTION REQUIRED.—Any funds appropriated in fiscal year 2011 to any program shall be reduced by the total amount of congressional earmarks or congressionally directed spending items contained within a committee report or jointly explanatory statement accompanying such an Act that provided appropriations to the program in fiscal year 2010.

(4) RESCISSION.—The amounts reduced by paragraph (3) are rescinded and returned to the Treasury.

(5) PRIOR LAW.—Paragraphs (3) and (4) shall not apply to any programs or accounts that were reduced in the same manner by the Further Continuing Appropriations Amendments, 2011 (Public Law 112-4) or any other Act that takes effect prior to date of enactment of this Act.

**SA 301.** Mr. REID (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 109, honoring and supporting women in North Africa and the Middle East whose bravery, compassion, and commitment to putting the wellbeing of others before their own have proven that courage can be contagious; as follows:

On page 4, beginning on line 12, strike “, and supports” and all that follows through “these rights” on line 14.

**SA 302.** Mr. REID (for Ms. SNOWE) proposed an amendment to the resolution S. Res. 109, honoring and supporting women in North Africa and the Middle East whose bravery, compassion, and commitment to putting the wellbeing of others before their own have proven that courage can be contagious; as follows:

In the ninth whereas clause of the preamble, strike “the United Nations Security Council and”.

#### NOTICE OF INTENT

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, Paragraph 2, for the purpose of proposing and considering DeMint Amendment No. 165 to S. 493, including germaneness requirements.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on April 14, 2011.

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

##### COMMITTEE ON FINANCE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 14, 2011.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on April 14, 2011, at 2:30 p.m., to hold a hearing entitled, “Assessing the FY 2012 Budget for Africa.”

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

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Com-

mittee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on April 14, 2011, at 10 a.m., to conduct a hearing entitled, “Federal Regulation: How Best to Advance the Public Interest?”.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on April 14, 2011, at 2:15 p.m., in room 628 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON THE JUDICIARY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on April 14, 2011, at 10 a.m., in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 14, 2011, at 2:30 p.m.

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

#### PRIVILEGES OF THE FLOOR

Mr. LEE. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Mitchell McBride, an intern on my staff.

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

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 59, 60, 63, 64, 65, 66, 68, 85, 87, 88, 89, 90, 91, 92, 93, 94, 96, 98, 99, 100, 101, 104, 105, and all the nominations on the Secretary's desk in the Marine Corps, Army, Navy, and Air Force; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to any of the nominations; that any statements related to the nominations be printed in the RECORD; that President Obama be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

##### OFFICE OF SPECIAL COUNSEL

Carolyn N. Lerner, of Maryland, to be Special Counsel, Office of Special Counsel, for the term of five years.

##### NATIONAL SCIENCE FOUNDATION

Kelvin K. Droegemeier, of Oklahoma, to be a Member of the National Science Board, Na-

tional Science Foundation for a term expiring May 10, 2016.

##### DEPARTMENT OF COMMERCE

Kathryn D. Sullivan, of Ohio, to be an Assistant Secretary of Commerce.

##### MARINE MAMMAL COMMISSION

Frances M.D. Gulland, of California, to be a Member of the Marine Mammal Commission for a term expiring May 13, 2012.

##### DEPARTMENT OF TRANSPORTATION

Ann D. Begeman, of Virginia, to be a Member of the Surface Transportation Board for a term expiring December 31, 2015.

##### FEDERAL MARITIME COMMISSION

Mario Cordero, of California, to be a Federal Maritime Commissioner for the term expiring June 30, 2014.

Rebecca F. Dye, of North Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2015.

##### DEPARTMENT OF ENERGY

Peter Bruce Lyons, of New Mexico, to be an Assistant Secretary of Energy (Nuclear Energy).

##### DEPARTMENT OF STATE

Nils Maarten Parin Daulaire, of Virginia, to be Representative of the United States on the Executive Board of the World Health Organization.

Joseph M. Torsella, of Pennsylvania, to be Representative of the United States of America to the United Nations for U.N. Management and Reform, with the rank of Ambassador.

Joseph M. Torsella, of Pennsylvania, to be Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations, during his tenure of service as Representative of the United States of America to the United Nations for U.N. Management and Reform.

Kurt Walter Tong, of Maryland, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as United States Senior Official for the Asia-Pacific Economic Cooperation (APEC) Forum.

Suzan D. Johnson Cook, of New York, to be Ambassador at Large for International Religious Freedom.

Robert Patterson, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkmenistan.

Jonathan Scott Gratton, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kenya.

Michelle D. Gavin, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

##### DEPARTMENT OF HOMELAND SECURITY

Rafael Borrás, of Maryland, to be Under Secretary for Management, Department of Homeland Security.

##### IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. Robert W. Cone

##### IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the