(Ms. STABENOW) was added as a cosponsor of amendment No. 1206 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1225

At the request of Ms. KLOBUCHAR, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of amendment No. 1225 intended to be proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1257

At the request of Mr. MERKLEY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of amendment No. 1257 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1294

At the request of Mr. REED, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 1294 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1401

At the request of Mr. CORKER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 1401 intended to be proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1414

At the request of Mr. MENENDEZ, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Ohio (Mr. PORTMAN), the Senator from Arkansas (Mr. PRYOR), the Senator from Minnesota (Mr. FRANKEN), the Senator from New Mexico (Mr. UDALL), the Senator from Virginia (Mr. WARNER), the Senator from Texas (Mr. CORNYN), the Senator from Colorado (Mr. BENNET), the Senator from Mississippi (Mr. WICKER), the Senator from Colorado (Mr. UDALL), the Senator from California (Mrs. BOXER) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of amendment No. 1414 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

At the request of Mr. GRASSLEY, his name was added as a cosponsor of amendment No. 1414 proposed to S. 1867, supra.

At the request of Ms. AYOTTE, her name was added as a cosponsor of amendment No. 1414 proposed to S. 1867, supra.

AMENDMENT NO. 1451

At the request of Mr. RUBIO, the names of the Senator from Arizona (Mr. KYL), the Senator from Illinois (Mr. KIRK) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 1451 intended to be proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HAGAN (for herself, Ms. COLLINS, Mr. SCHUMER, Mr. KIRK, and Mr. AKAKA):

S. 1935. A bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HAGAN. Mr. President, today I am proud to introduce the March of Dimes Commemorative Coin Act.

For almost 75 years, the March of Dimes has fought to combat and prevent diseases that strike our youngest children, while also supporting mothers-to-be and families with infants in intensive care. The March of Dimes was founded in 1938 by President Franklin Roosevelt as the National Foundation for Infantile Paralysis, at a time when polio was on the rise. The Foundation established a polio patient aid program and funded research for vaccines developed by Jonas Salk, MD, and Albert Sabin, MD. These vaccines effectively ended epidemic polio in the United States.

Today one in 33 babies born in the United States is affected by a birth defect, and tragically, more than 5,500 infants die every year because of a birth defect. Moreover, an additional 500,000 children are diagnosed with developmental disabilities each year.

Almost 13 percent of babies born in America are born prematurely—an increase of 36 percent since the early 1980s. In 2003, the March of Dimes took on the cause of reducing the number of infants who are born prematurely. And thanks to the great work of the March of Dimes and others, after three decades of increase, the pre-term birth rate has now dropped for the third year in a row.

You would be hard pressed to find someone today who doesn't have a friend, a family member, a neighbor or a coworker who's had a baby born prematurely or born with some kind of birth defect. A month ago, I had the pleasure of meeting the 2011 March of Dimes National Ambassador: Lauren Fleming, and her parents, Nikki and Densel from Marvin, NC. Lauren was born three and a half months early and weighed just 2 pounds, 1 ounce. She spent the first 5 months of her life in the intensive care unit, being treated for respiratory distress and undergoing multiple surgeries. In part, because of the research and support provided by the March of Dimes, Lauren is now an adorable, vivacious 7-year old, and a hero to young children and their families throughout the country.

Although some progress has been made over the past several decades on reducing and preventing birth defects and prematurity, we need organizations such as the March of Dimes to continue to push for more research, more innovation and more prevention efforts.

The March of Dimes makes a difference. By investing millions of dollars to study premature births, birth defects, and infant mortality, including $5.6 million in North Carolina over the past 5 years, the March of Dimes is helping to ensure that we can reduce these occurrences.

But we can do more. That is why today I am introducing the March of Dimes Commemorative Coin Act of 2011. This bill would mint coins in recognition and celebration of the March of Dimes' 75 anniversary in 2014. Proceeds from the commemorative coin will be used to support the March of Dimes' Prematurity Campaign, an intensive multi-year campaign to raise awareness among health professionals and the general public and find the causes of prematurity.

Not only will the Commemorative Coin raise awareness of the March of Dimes' efforts, but it will also help raise more funding for their efforts. I cannot think of a more appropriate way to honor the March of Dimes than to mint actual ''dimes'' celebrating their work.

I want to thank my Republican colleague, Senator SUSAN COLLINS, as well as Senators SCHUMER, KIRK, and AKAKA for joining me in cosponsoring this measure.

I urge my other colleagues to join us in supporting this important bill.

By Ms. SNOWE:

S. 1938. A bill to amend chapter 6 of title 5, United States Code (commonly

known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. SNOWE. Mr. President, I rise today to introduce the Regulatory Flexibility Improvements Act of 2011. Originally introduced in the House by Representative LAMAR SMITH of Texas, this targeted regulatory reform bill would amend the Regulatory Flexibility Act, RFA, the seminal legislation enacted in 1980 that requires Federal agencies to consider the cost and impact of proposed regulations on small businesses if such regulation would significantly affect a substantial number of small entities.

As a steadfast proponent for regulatory reform, I have been deeply troubled by this chamber's unwillingness to act on an issue so critical to our Nation's job creators. In stark contrast, our House counterparts are poised to pass this legislation, offering relief to our Nation's small business job creators. I encourage my colleagues in the Senate to seize this opportunity and support this legislation.

If anyone believes this is a solution in need of a problem, there is ample evidence to the contrary. In fact, an October 24 Gallup poll of American small business owners revealed that the number one problem they face is ''complying with government regulations.'' What I find increasingly frustrating is that although small businesses repeatedly express their concerns, the Senate continues to sit idly by, failing to take serious action!

At a time when unemployment stands at an unacceptable nine percent, and small businesses are struggling to create jobs, the imperative to focus our attention on regulatory reform couldn't be clearer. Unfortunately, small businesses, which historically create two-thirds of all new jobs, face an unequal federal regulatory burden. A September 2010, study commissioned by the Small Business Administration, SBA, Office of Advocacy found that small firms with fewer than 20 employees bear a disproportionate burden in complying with federal regulations. They pay an annual regulatory cost of $10,585 per employee, which is 36 percent higher than the regulatory cost facing larger firms.

This must change, and the Regulatory Flexibility Improvements Act of 2011 aims to do just that. This bill reforms the flawed rulemaking process to ensure that federal agencies consider small business impact before a rule is promulgated, not after. For example, one provision of this legislation would expand the small business review panel process to apply to all agencies. These panels currently only apply to the Environmental Protection Agency, EPA, Occupational Safety and Health Administration, OSHA, and, thanks to an amendment that I included in the Wall Street Reform legislation, the new Consumer Financial Protection Bureau, CFPB. These panels have worked well at EPA and OSHA since 1996. Why not apply this stipulation to every Federal agency, so small businesses are considered at the forefront of the rulemaking process?

Another provision would require agencies to consider foreseeable ''indirect'' economic effects when determining whether a rule will have a significant impact on a substantial number of small businesses. Currently, only ''direct'' economic impacts are considered in the analysis. The RFA has already saved billions for small businesses by forcing government regulators to address the direct impact of proposed rules on small firms. If billions of dollars can be saved by filtering out overly cumbersome or duplicative direct regulatory mandates upon small business while improving workplace safety and environmental conditions, even more can be saved by filtering out unnecessary or burdensome costs to those small businesses indirectly impacted by regulation.

This type of commonsense reform is why the Regulatory Flexibility Improvements Act enjoys the support of more than 150 small business advocacy organizations, including the U.S. Chamber of Commerce and the National Federation of Independent Business, NFIB.

President Obama himself has identified government regulations as harmful to job creation. In a January 18 Wall Street Journal op-ed, he wrote that, ''[s]ometimes, those rules have gotten out of balance, placing unreasonable burdens on business—burdens that have stifled innovation and have had a chilling effect on growth and jobs.'' More recently, my friend, former Democratic Senator Blanche Lincoln, partnered with NFIB President Dan Danner to write an open letter to President Obama calling for sensible regulatory reform.

Winston Churchill once said, ''If you have 10,000 regulations, you destroy all respect for the law!'' And certainly, looking at the expanding universe of rules waiting on the horizon, and the vast labyrinth of existing ones, we should ponder how business can dedicate any time and resources to their principal mission of creating products, offering services, innovating and growing.

Consider that, since President Obama took office, his administration has approved 613 Federal rules, 129 of which have an economic impact topping $100 million. In fact, the President's health reform legislation alone mandates 41 separate rulemakings, at least 100 additional regulatory guidance documents, and 129 reports, according to the U.S. Chamber of Commerce. How can our Nation's small businesses compete in a global economy when Washington, DC agencies continue to saddle them with overwhelming regulatory burdens year after year? How can entrepreneurs grow their companies when the regulatory environment dissuades them from investing in new equipment or hiring additional workers?

While members of both parties are now calling for small business regulatory reform, the United States Senate remains regrettably disengaged. I urge my colleagues to change course and put the interest of small business, our Nation's economic engines, ahead of petty politics at a time when more than 14 million Americans are unemployed and have been so for the longest time since World War II.

The days of working together to craft innovative solutions for the good of the American people do not have to be over. It is well beyond time for this body to pass small business regulatory reform and I urge my colleagues to support this critical legislation.

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

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

S. 1938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Regulatory Flexibility Improvements Act of 2011''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.

(a) IN GENERAL.—Paragraph (2) of section 601 of title 5, United States Code, is amended to read as follows:

''(2) RULE.—The term 'rule' has the meaning given such term in section 551(4) of this title, except that such term does not include a rule of particular (and not general) applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.''.

(b) INCLUSION OF RULES WITH INDIRECT EFFECTS.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(9) ECONOMIC IMPACT.—The term 'economic impact' means, with respect to a proposed or final rule—

''(A) any direct economic effect on small entities of such rule; and

''(B) any indirect economic effect on small entities that is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).''.

(c) INCLUSION OF RULES WITH BENEFICIAL EFFECTS.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (c) of section 603 of title 5, United States Code, is amended by striking the first sentence and inserting ''Each initial regulatory flexibility analysis shall also contain a detailed description of alternatives to the proposed rule which minimize any adverse significant economic impact or maximize any beneficial significant economic impact on small entities.''.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604(a) of title 5, United States Code, is amended, in the first paragraph designated as paragraph (6), by striking ''minimize the significant economic impact'' and inserting ''minimize the adverse significant economic impact or maximize the beneficial significant economic impact''.

(d) INCLUSION OF RULES AFFECTING TRIBAL ORGANIZATIONS.—Paragraph (5) of section 601 of title 5, United States Code, is amended by striking ''or special districts'' and inserting ''special districts, or tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)))''.

(e) INCLUSION OF LAND MANAGEMENT PLANS AND FORMAL RULE MAKING.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 603 of title 5, United States Code, is amended in the first sentence—

(A) by striking ''or'' after ''proposed rule,''; and

(B) by inserting ''or publishes a revision or amendment to a land management plan,'' after ''United States,''.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 604 of title 5, United States Code, is amended, in the first sentence—

(A) by striking ''or'' after ''proposed rulemaking,''; and

(B) by inserting ''or adopts a revision or amendment to a land management plan,'' after ''section 603(a),''.

(3) LAND MANAGEMENT PLAN DEFINED.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(10) LAND MANAGEMENT PLAN.—

''(A) IN GENERAL.—The term 'land management plan' means—

''(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and

''(ii) any plan developed by the Secretary of Interior under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

''(B) REVISION.—The term 'revision', when used with respect to a land management plan, means any change to a land management plan which—

''(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(5) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or

''(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5–6 of title 43, Code of Federal Regulations (or any successor regulation).

''(C) AMENDMENT.—The term 'amendment', when used with respect to a land management plan, means any change to a land management plan which—

''(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)) and with respect to which the Secretary of Agriculture prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); or

''(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5–5 of title 43, Code of Federal Regulations (or any successor regulation) and with respect to which the Secretary of the Interior prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).''.

(f) INCLUSION OF CERTAIN INTERPRETIVE RULES INVOLVING THE INTERNAL REVENUE LAWS.—

(1) IN GENERAL.—Subsection (a) of section 603 of title 5, United States Code, is amended by striking the period at the end and inserting ''or a recordkeeping requirement, and without regard to whether such requirement is imposed by statute or regulation.''.

(2) COLLECTION OF INFORMATION.—Paragraph (7) of section 601 of title 5, United States Code, is amended to read as follows:

''(7) COLLECTION OF INFORMATION.—The term 'collection of information' has the meaning given such term in section 3502(3) of title 44.''.

(3) RECORDKEEPING REQUIREMENT.—Paragraph (8) of section 601 of title 5, United States Code, is amended to read as follows:

''(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' has the meaning given such term in section 3502(13) of title 44.''.

(g) DEFINITION OF SMALL ORGANIZATION.—Paragraph (4) of section 601 of title 5, United States Code, is amended to read as follows:

''(4) SMALL ORGANIZATION.—

''(A) IN GENERAL.—The term 'small organization' means any not-for-profit enterprise that, as of the issuance of the notice of proposed rulemaking—

''(i) in the case of an enterprise which is described by a classification code of the North American Industrial Classification System, does not exceed the size standard established by the Administrator of the Small Business Administration pursuant to section 3 of the Small Business Act (15 U.S.C. 632) for small business concerns described by such classification code; and

''(ii) in the case of any other enterprise, has a net worth that does not exceed $7,000,000 and has not more than 500 employees.

''(B) LOCAL LABOR ORGANIZATIONS.—In the case of any local labor organization, subparagraph (A) shall be applied without regard to any national or international organization of which such local labor organization is a part.

''(C) AGENCY DEFINITIONS.—Subparagraphs (A) and (B) shall not apply to the extent that an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions for such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register.''.

SEC. 3. EXPANSION OF REPORT OF REGULATORY AGENDA.

Section 602 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking '', and'' at the end and inserting a semicolon;

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) a brief description of the sector of the North American Industrial Classification System that is primarily affected by any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities; and''; and

(2) in subsection (c), to read as follows:

''(c) Not later than 3 days after the date on which an agency publishes a regulatory flexibility agenda in the Federal Register under subsection (a), the agency shall prominently display a plain language summary of the information contained in the regulatory flexibility agenda on the website of the agency. The Office of Advocacy of the Small Business Administration shall compile and prominently display plain language summaries of each regulatory flexibility agenda published under subsection (a) on the website of the Office of Advocacy, not later than 3 days after the date on which the agency publishes the regulatory flexibility agenda the Federal Register.''.

SEC. 4. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:

''(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;

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed on the class of small entities by the agency or why such an estimate is not available; and

''(7) describing any disproportionate economic impact on small entities or a specific class of small entities.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

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

(A) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation'';

(B) in each of paragraphs (4), (5), and the first paragraph designated as paragraph (6), by inserting ''detailed'' before ''description''; and

(C) by adding at the end the following:

''(7) a description any disproportionate economic impact on small entities or a specific class of small entities.''.

(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Paragraph (2) of section 604(a) of title 5, United States Code, is amended by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis''.

(3) PUBLICATION OF ANALYSIS ON WEBSITE.—Subsection (b) of section 604 of title 5, United States Code, is amended to read as follows:

''(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including by making the entire analysis available on the website of the

agency, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof which includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.''.

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

''(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis which is required by any other law and which satisfies such requirement.''.

(d) CERTIFICATIONS.—Subsection (b) of section 605 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 and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.''.

SEC. 5. REPEAL OF WAIVER AND DELAY AUTHORITY; ADDITIONAL POWERS OF THE CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Section 608 of title 5, United States Code, is amended to read as follows:

''§ 608. Additional powers of Chief Counsel for Advocacy

''(a)(1) Not later than 270 days after the date of the enactment of the Regulatory Flexibility Improvements Act of 2011, the Chief Counsel for Advocacy of the Small Business Administration shall, after opportunity for notice and comment under section 553, issue rules governing agency compliance with this chapter. The Chief Counsel may modify or amend such rules after notice and comment under section 553. This chapter (other than this subsection) shall not apply with respect to the issuance, modification, or amendment of rules under this paragraph.

''(2) An agency shall not issue rules which supplement the rules issued under subsection (a) unless such agency has first consulted with the Chief Counsel for Advocacy of the Small Business Administration to ensure that such supplemental rules comply with this chapter and the rules issued under paragraph (1).

''(b) Notwithstanding any other provision of law, the Chief Counsel for Advocacy of the Small Business Administration may intervene in any agency adjudication (unless such agency is authorized to impose a fine or penalty under such adjudication), and may inform the agency of the impact that any decision on the record may have on small entities. The Chief Counsel shall not initiate an appeal with respect to any adjudication in which the Chief Counsel intervenes under this subsection.

''(c) The Chief Counsel for Advocacy of the Small Business Administration may file comments in response to any agency notice requesting comment, regardless of whether the agency is required to file a general notice of proposed rulemaking under section 553.''.

(b) CONFORMING AMENDMENTS.—Section 611(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''608(b),'';

(2) in paragraph (2), by striking ''608(b),''; and

(3) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by striking ''(3)(A) A small entity'' and inserting the following:

''(3) A small entity''.

SEC. 6. PROCEDURES FOR GATHERING COMMENTS.

Section 609 of title 5, United States Code, is amended by striking subsection (b) and all that follows through the end of the section and inserting the following:

''(b)(1) Prior to publication of any proposed rule described in subsection (e), the agency making such rule shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel for Advocacy with—

''(A) all materials prepared or utilized by the agency in making the proposed rule, including the draft of the proposed rule, except as provided in paragraph (2); and

''(B) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities and the type of small entities that might be affected.

''(2) An agency may provide a summary of any draft if the rule—

''(A) relates to the internal revenue laws of the United States; or

''(B) is proposed by an independent regulatory agency (as defined in section 3502(5) of title 44).

''(c) Not later than 15 days after the receipt of materials and information under subsection (b), the Chief Counsel for Advocacy of the Small Business Administration shall—

''(1) identify small entities or representatives of small entities or a combination of both for the purpose of obtaining advice, input, and recommendations from those persons about the potential economic impacts of the proposed rule and the compliance of the agency with section 603; and

''(2) convene a review panel consisting of an employee from the Office of Advocacy of the Small Business Administration, an employee from the agency making the rule, and in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), an employee from the Office of Information and Regulatory Affairs of the Office of Management and Budget to review the materials and information provided to the Chief Counsel for Advocacy of the Small Business Administration under subsection (b).

''(d)(1) Not later than 60 days after the review panel described in subsection (c)(2) is convened, the Chief Counsel for Advocacy of the Small Business Administration shall, after consultation with the members of such panel, submit a report to the agency and, in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Such report shall include an assessment of the economic impact of the proposed rule on small entities, including an assessment of the proposed rule's impact on the cost that small entities pay for energy, and a discussion of any alternatives that will minimize adverse significant economic impacts or maximize beneficial significant economic impacts on small entities.

''(3) Such report shall become part of the rulemaking record. In the publication of the proposed rule, the agency shall explain what actions, if any, the agency took in response to such report.

''(e) A proposed rule is described by this subsection if the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, the head of the agency (or the delegatee of the head of the agency), or an independent regulatory agency determines that the proposed rule is likely to result in—

''(1) an annual effect on the economy of $100,000,000 or more;

''(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, tribal organizations, or geographic regions;

''(3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or

''(4) a significant economic impact on a substantial number of small entities.

''(f) Upon application by the agency, the Chief Counsel for Advocacy of the Small Business Administration may waive the requirements of subsections (b) through (e) if the Chief Counsel for Advocacy of the Small Business Administration determines that compliance with the requirements of such subsections are impracticable, unnecessary, or contrary to the public interest.''.

SEC. 7. PERIODIC REVIEW OF RULES.

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

''§ 610. Periodic review of rules

''(a) Not later than 180 days after the enactment of the Regulatory Flexibility Improvements Act of 2011, each agency shall publish in the Federal Register and make available on the website of the agency a plan for the periodic review of rules issued by the agency which the head of the agency determines have a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any beneficial significant economic impacts on a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register and subsequently making the amended plan available on the website of the agency.

''(b) The plan shall provide for the review of all such agency rules existing on the date of the enactment of the Regulatory Flexibility Improvements Act of 2011 within 10 years of the date of publication of the plan in the Federal Register and for review of rules adopted after the date of enactment of the Regulatory Flexibility Improvements Act of 2011 within 10 years after the publication of the final rule in the Federal Register. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the head of the agency shall so certify in a statement published in the Federal Register and may extend the review for not longer than 2 years after publication of notice of extension in the Federal Register. Such certification and notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration and the Congress.

''(c) The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities for the purposes of carrying out this section. The agency shall include in this section a plan for how the agency will contact small

entities and gather their input on existing agency rules.

''(d) Each agency shall annually submit a report regarding the results of its review pursuant to such plan to the Congress, the Chief Counsel for Advocacy of the Small Business Administration, and, in the case of agencies other than independent regulatory agencies (as defined in section 3502(5) of title 44) to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include the identification of any rule with respect to which the head of the agency made a determination described in paragraph (5) or (6) of subsection (e) and a detailed explanation of the reasons for such determination.

''(e) In reviewing a rule pursuant to subsections (a) through (d), the agency shall amend or rescind the rule to minimize any adverse significant economic impact on a substantial number of small entities or disproportionate economic impact on a specific class of small entities, or maximize any beneficial significant economic impact of the rule on a substantial number of small entities to the greatest extent possible, consistent with the stated objectives of applicable statutes. In amending or rescinding the rule, the agency shall consider the following factors:

''(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, territorial, 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 calculations cannot be made and reports that determination in the annual report required under subsection (d).

''(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.

''(f) The agency shall publish in the Federal Register and on the website of the agency a list of rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.''.

SEC. 8. JUDICIAL REVIEW OF COMPLIANCE WITH THE REQUIREMENTS OF THE REGULATORY FLEXIBILITY ACT AVAILABLE AFTER PUBLICATION OF THE FINAL RULE.

(a) IN GENERAL.—Paragraph (1) of section 611(a) of title 5, United States Code, is amended by striking ''final agency action'' and inserting ''such rule''.

(b) JURISDICTION.—Paragraph (2) of section 611(a) of title 5, United States Code, is amended by inserting ''(or which would have such jurisdiction if publication of the final rule constituted final agency action)'' after ''provision of law,''.

(c) TIME FOR BRINGING ACTION.—Paragraph (3) of section 611(a) of title 5, United States Code, is amended—

(1) by striking ''final agency action'' and inserting ''publication of the final rule''; and

(2) by inserting '', in the case of a rule for which the date of final agency action is the same date as the publication of the final rule,'' after ''except that''.

(d) INTERVENTION BY CHIEF COUNSEL FOR ADVOCACY.—Subsection (b) of section 612 of title 5, United States Code, is amended by inserting before the first period ''or agency compliance with section 601, 603, 604, 605(b), 609, or 610''.

SEC. 9. JURISDICTION OF COURT OF APPEALS OVER RULES IMPLEMENTING THE REGULATORY FLEXIBILITY ACT.

(a) IN GENERAL.—Section 2342 of title 28, United States Code, is amended—

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

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (7) the following new paragraph:

''(8) all final rules under section 608(a) of title 5.''.

(b) CONFORMING AMENDMENTS.—Paragraph (3) of section 2341 of title 28, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(F) the Office of Advocacy of the Small Business Administration, when the final rule is under section 608(a) of title 5.''.

(c) AUTHORIZATION TO INTERVENE AND COMMENT ON AGENCY COMPLIANCE WITH ADMINISTRATIVE PROCEDURE.—Subsection (b) of section 612 of title 5, United States Code, is amended by inserting ''chapter 5, and chapter 7,'' after ''this chapter,''.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 601 of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking ''(1) the term'' and inserting the following:

''(1) AGENCY.—The term'';

(2) in paragraph (3)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking ''(3) the term'' and inserting the following:

''(3) SMALL BUSINESS.—The term'';

(3) in paragraph (5)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking ''(5) the term'' and inserting the following:

''(5) SMALL GOVERNMENTAL JURISDICTION.—The term''; and

(4) in paragraph (6)—

(A) by striking ''; and'' and inserting a period; and

(B) by striking ''(6) the term'' and inserting the following:

''(6) SMALL ENTITY.—The term''.

(b) SECTION 605.—The heading of section 605 of title 5, United States Code, is amended to read as follows:

''§ 605. Incorporations by reference and certifications''.

(c) 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 new item:

''605. Incorporations by reference and certifications.'';

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

''607. Quantification requirements.''; and

(3) by striking the item relating to section 608 and inserting the following:

''608. Additional powers of Chief Counsel for Advocacy.''.

(d) OTHER AMENDMENTS.—Chapter 6 of title 5, United States Code, is amended—

(1) in section 603, by striking subsection (d); and

(2) in section 604(a) by striking the second paragraph designated as paragraph (6).

SEC. 11. AGENCY PREPARATION OF GUIDES.

Section 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended to read as follows:

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to distribute such guides. In developing guides, agencies shall solicit input from affected small entities or associations of affected small entities. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.''.

SEPTEMBER 21, 2011.

Re Business Letter on H.R. 527, the Regulatory Flexibility Improvements Act of 2011

MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: We are writing to express our support for H.R. 527, the Regulatory Flexibility Improvements Act of 2011, and to ask you to cosponsor this legislation, if you have not done so already. The legislation improves the regulatory process by strengthening agency analysis of a rule's impact on small businesses.

Small businesses are the backbone of our nation's economy, and their ability to operate efficiently and free of unnecessary regulatory burdens is critical for our country's economic recovery. Research from a 2010 study released by the Small Business Administration (SBA) Office of Advocacy illustrates that the small business community is disproportionately affected by burdensome federal regulations. This legislation addresses that small business challenge directly.

H.R. 527 gives the SBA Office of Advocacy additional authorities and requires the office to establish standards for conducting a ''regulatory flexibility analysis'' during the rulemaking process. It improves transparency and ensures that agencies thoughtfully consider the impact of regulations on small businesses.

The legislation would also improve the accuracy of benefit-cost analysis by requiring agencies to consider the indirect impact of regulations on small business.

Finally, the legislation's provisions on periodic review of rules are in line with President Obama's Executive Order 13563, which requires agencies to conduct a retrospective analysis of existing rules to identify and modify rules in need of reform.

The legislation strengthens the regulatory process and builds upon the intent of Congress when the Regulatory Flexibility Act was originally enacted in 1980.

Thank you for your support of small business and we urge you to cosponsor the Regulatory Flexibility Improvements Act of 2011, H.R. 527.

Sincerely,

Alabama Restaurant Association; American Architectural Manufacturers Association; American Beverage Association; American Coatings Association; American Composites Manufacturers Association; American Council of Engineering Companies; American Farm Bureau Federation; American Fiber Manufacturers Association; American Foundry Society; American Home Furnishings Alliance; American Hotel & Lodging Association; American Institute for International Steel; American Nursery and Landscape Association; American Sportfishing Association; American Trucking Associations; AR State Chamber of Commerce/Associated Industries of AR; Arizona Nursery Association; Arkansas Hospitality Association; Associated Builders & Contractors, Inc.; Associated General Contractors of America; Associated Industries of Massachusetts; Association For Hose and Accessories Distribution; Association of Washington Business Brick Industry Association; Business Council of Alabama; Business Council of New York State; California Manufacturers & Technology Association; California Restaurant Association; Carpet and Rug Institute; Colorado Association of Commerce & Industry; Colorado Restaurant Association; Connecticut Restaurant Association; Edison Electric Institute; European-American Business Council; Florida Restaurant & Lodging Association; Food Marketing Institute; Forging Industry Association; Georgia Restaurant Association; Golf Course Superintendents Association of America; Greeting Card Association; Hearth, Patio & Barbecue Association; Idaho Lodging & Restaurant Association; Idaho Retailers Association; Illinois Manufacturers' Association; Illinois Retail Merchants Association; Independent Electrical Contractors, Inc.; Independent Lubricant Manufacturers Association; Indiana Chamber of Commerce; Indiana Hotel & Lodging Association; Indiana Manufacturers Association; Industrial Fasteners Institute; Industrial Minerals Association—North America; Interlocking Concrete Pavement Institute; International Council of Shopping Centers; International Sign Association; Iowa Restaurant Association; IPC—Association Connecting Electronics Industries; Kansas Restaurant & Hospitality Association; Kentucky Restaurant Association; Kentucky Retail Federation; Kitchen Cabinet Manufacturers Association; Louisiana Association of Business and Industry; Louisiana Restaurant Association; Louisiana Retailers Association; Maine Merchants Association; Maine Restaurant Association; Manufacturers Association of Florida; Maryland Retailers Association; Maryland Retailers Association; Massachusetts Restaurant Association; Michigan Restaurant Association; Minnesota Restaurant Association; Minnesota Retailers Association; Mississippi Hospitality and Restaurant Association; Missouri Association of Manufacturers; Montana Chamber of Commerce; Montana Restaurant Association; Montana Retail Association; Motor and Equipment Manufacturers Association; National Association for the Self-Employed; National Association of Convenience Stores; National Association of Home Builders; National Association of Manufacturers; National Association of REALTORS; National Association of the Remodeling Industry; National Automatic Merchandising Association; National Black Chamber of Commerce; National Club Association; National Community Pharmacists Association; National Council of Chain Restaurants; National Federation of Independent Business; National Grocers Association; National Lumber and Building Material Dealers Association; National Marine Manufacturers Association; National On-site Testing Associates; National Restaurant Association; National Retail Federation; National Roofing Contractors Association; National Shooting Sports Foundation; Nebraska Chamber of Commerce & Industry; Nevada Manufacturers Association; Nevada Restaurant Association; New Mexico Restaurant Association; Non-Ferrous Founders' Society; North American Association of Food Equipment Manufacturers; North American Die Casting Association; North Dakota Hospitality Association; Northeast Pennsylvania Manufacturers and Employers Association; NPES The Association for Suppliers of Printing, Publishing and Converting Technologies; Ohio Restaurant Association; Oklahoma Restaurant Association; Oregon Restaurant and Lodging Association; Pennsylvania Manufacturers' Association; Pennsylvania Restaurant Association; Pennsylvania Retailers Association; Plumbing-Heating-Cooling Contractors—National Association; Precision Machined Products Association; Printing Industries of America; Puerto Rico Manufacturers Association; Resilient Floor Covering Institute; Restaurant Association of Maryland; Retailers Association of Massachusetts; Rhode Island Hospitality Association; Security Industry Association; Small Business & Entrepreneurship Council; Snack Food Association; Society of American Florists; Society of Chemical Manufacturers and Affiliates; Society of Glass & Ceramic Decorators Products; South Carolina Hospitality Association; South Dakota Retailers Association; Southeastern Lumber Manufacturers Association; Specialty Equipment Market Association; SPI: The Plastics Industry Trade Association; Tennessee Hospitality Association; Texas Association of Business; Texas Restaurant Association; Textile Care Allied Trades Association; The Greater El Paso Chamber of Commerce; Treated Wood Council; Tree Care Industry Association; U.S. Chamber of Commerce; U.S. Travel Association; Utah Food Industry Association; Utah Manufacturers Association; Utah Restaurant Association; Utah Retail Merchants Association; Ventura County Agricultural Association; Virginia Hospitality & Travel Association; Washington Restaurant Association; Washington Retail Association; West Virginia Manufacturers Association; Window & Door Manufacturers Association; Wisconsin Manufacturers & Commerce; Wisconsin Restaurant Association; Wood Machinery Manufacturers of America; Wyoming Lodging and Restaurant Association.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 342—HONORING THE LIFE AND LEGACY OF LAURA POLLÁN

Mr. RUBIO submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 342

Whereas Laura Pollán founded the Ladies in White (Damas de Blanco) movement to protest the mass arrest of peaceful dissidents in Cuba;

Whereas the Ladies in White is composed of wives and female relatives of imprisoned political prisoners, prisoners of conscience, and peaceful dissidents in Cuba;

Whereas every Sunday, Laura Pollán led the Ladies in White on peaceful marches to attend Mass;

Whereas Laura Pollán was often subjected to physical and verbal assaults during her weekly peaceful marches;

Wheras Laura Pollán brought international attention to the human- and civil-rights abuses in Cuba; and

Whereas Laura Pollán passed away on October 14, 2011: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors Laura Pollán for her peaceful struggle to bring human rights and democracy to Cuba;

(2) honors the bravery of Laura Pollán and her dedication to human and civil rights in Cuba;

(3) offers heartfelt condolences to the family, friends, and loved ones of Laura Pollán; and

(4) expresses hope that in memory of Laura Pollán, peaceful dissidents in Cuba will no longer be incarcerated or subjected to human-rights abuses.

SENATE CONCURRENT RESOLUTION 33—REORGANIZING THE NEED TO IMPROVE PHYSICAL ACCESS TO MANY FEDERALLY FUNDED FACILITIES FOR ALL PEOPLE OF THE UNITED STATES, PARTICULARLY PEOPLE WITH DISABILITIES

Mr. BLUMENTHAL submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON RES. 33

Whereas in 2009, 12 percent of all people in the United States reported having some disability;

Whereas in 2008, 16.9 percent of veterans, amounting to more than 13,000,000 people, reported having a service-related disability to the Department of Veterans Affairs;

Whereas according to the Current Population Survey of the Bureau of the Census, the number of people in the United States that report having a disability is at a 20-year high;

Whereas the Act entitled ''An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped'', approved August 12, 1968 (42 U.S.C. 4151 et seq.), referred to in this preamble as the ''Architectural Barriers Act of 1968'', was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to people with disabilities and requires that physically handicapped persons have ready access to, and use of, post offices and other Federal facilities;

Whereas automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide a greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas a report commissioned by the Architectural and Transportation Barriers Compliance Board (referred to in this preamble as the ''Access Board''), an independent Federal agency created to ensure access to federally funded facilities for people with disabilities, recommends that all new buildings used by the public should have at least 1 automated door at an accessible entrance, except for small buildings where adding such a door may be a financial hardship for the building owners;

Whereas States and municipalities have begun to recognize the importance of automatic doors in improving accessibility;