

“(B) evidence that is not in the rulemaking record exists showing that the rule has a significant economic impact on a substantial number of small entities; and

“(C) there are reasonable alternatives to the requirements under the rule that would reduce the economic impact on small entities.”; and

(2) by striking subsection (c) and inserting the following:

“(c)(1) Each agency shall publish in the regulatory flexibility agenda required under section 602 a list of the rules of the agency that have a significant economic impact on a substantial number of small entities, that the agency will review under this section during the 6-month period following the date of publication of the regulatory flexibility agenda.

“(2) The list required under paragraph (1) shall include—

“(A) for a rule that is the subject of a petition under subsection (a)(2) that the agency receives not later than 60 days before the date of publication of the list—

“(i) a statement that the agency will review the rule under this section; or

“(ii) a detailed explanation of how the petition failed to meet the requirements under subsection (a)(2), if the agency determines it will not review the rule under this section;

“(B) for each rule, a brief description of the rule, the need for the rule, and the legal basis of the rule; and

“(C) an invitation for public comment on the rules to be reviewed.

“(d) Upon review of any rule under this section, an agency shall publish notice of and accept comment on an initial regulatory review with respect to the rule that contains—

“(1) an evaluation of the factors described in subsection (b);

“(2) a statement of the objectives of and legal basis for the rule;

“(3) a description of, and, if feasible, an estimate of the number of, small entities to which the rule applies;

“(4) a description of the reporting, record-keeping, and other compliance requirements of the rule, including the classes of small entities that are subject to the requirements and the type of professional skills necessary for preparation of any report or record required under the rule;

“(5) a description of any significant alternatives to the rule that accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the rule on small entities, including, as applicable—

“(A) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to the small entities;

“(B) the clarification, consolidation, or simplification of compliance and reporting requirement under the rule for the small entities;

“(C) the use of performance standards rather than design standards;

“(D) an exemption from application of the rule, or any part thereof, for the small entities; and

“(E) any significant alternative proposed by a person that submits a petition for review under subsection (a)(2) of this section.

“(e)(1) Except as provided in paragraph (2), not later than 180 days after the end of the comment period specified by an agency under subsection (d), the agency shall publish in the Federal Register and make available to the public a final regulatory review that contains—

“(A) a statement of the need for, and objectives of, the rule;

“(B) a description of any significant issues raised by public comment in response to the

initial regulatory review, and a statement of the assessment of the agency of the issues;

“(C) the response of the agency to any comment filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the initial regulatory review;

“(D) a description, and an estimate of the number, of small entities to which the rule applies, or an explanation of why no such estimate is available;

“(E) a description of the reporting, record-keeping, and other compliance requirements of the rule, including the classes of small entities that are subject to the requirement and the type of professional skills necessary for preparation of any report or record required under the rule; and

“(F) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for not selecting any significant alternative to the rule considered by the agency that would affect the impact on small entities.

“(2) An agency is not required to publish a final regulatory review under paragraph (1) if, not later than 180 days after the end of the comment period specified by the agency under subsection (d), the agency initiates a rulemaking for the purpose of proposing the adoption of a significant alternative to the rule under review.”.

#### SEC. 10. JUDICIAL REVIEW.

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

(1) in paragraph (1), by striking “608(b)” and inserting “608”;

(2) in paragraph (2), by striking “608(b)” and inserting “608”;

(3) in paragraph (3)(B), by inserting after “the issuance of” the following: “an initial regulatory flexibility analysis on an interim final rule pursuant to section 608(a) or”.

#### SEC. 11. SMALL ENTITY COMPLIANCE GUIDES.

(a) SMALL ENTITY COMPLIANCE GUIDES.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

##### “§ 613. Small entity compliance guides

“(a)(1) For each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis under section 604, the agency shall publish 1 or more guides to assist small entities in complying with the rule and shall entitle such publications ‘small entity compliance guides’ (referred to in this section as a ‘guide’).

“(2) The publication of each guide under this subsection shall include—

“(A) the posting of the guide in an easily identified location on the website of the agency; and

“(B) distribution of the guide to known contacts representing regulated small entities, including trade associations and business organizations.

“(3) An agency shall publish each guide (including the posting and distribution of the guide as described under paragraph (2))—

“(A) on the same date as the date of publication of the final rule (or as soon as possible after that date); and

“(B) not later than the date on which the requirements of that rule become effective.

“(4)(A) Each guide shall explain the actions a small entity is required to take to comply with a rule.

“(B) The explanation under subparagraph (A)—

“(i) shall include a description of actions needed to meet the requirements of a rule, to enable a small entity to know when such requirements are met; and

“(ii) if determined appropriate by the agency, may include a description of possible

procedures, such as conducting tests, that may assist a small entity in meeting such requirements, except that, compliance with any procedures described pursuant to this section does not establish compliance with the rule, or establish a presumption or inference of such compliance.

“(C) Procedures described under subparagraph (B)(ii)—

“(i) shall be suggestions to assist small entities; and

“(ii) shall not be additional requirements, or diminish requirements, relating to the rule.

“(5) An 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 trade associations and business representatives of small entities to develop and distribute such guides. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.

“(6) The head of each agency shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate, the Committee on Small Business of the House of Representatives, and any other committee of relevant jurisdiction describing the status of the agency’s compliance with paragraphs (1) through (5).

“(b) Agencies shall cooperate to make available to small entities through comprehensive sources of information, the small entity compliance guides and all other available information on statutory and regulatory requirements affecting small entities.

“(c) An agency’s small entity compliance guide shall not be subject to judicial review, except that in any civil or administrative action against a small entity for a violation occurring after the effective date of section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note), the content of the small entity compliance guide may be considered as evidence of the reasonableness or appropriateness of any proposed fines, penalties or damages.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended by striking section 212.

(c) SAVINGS CLAUSE.—On and after the date of enactment of this Act, an agency may use a small entity compliance guide published under section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) before the date of enactment of this Act.

#### SEC. 12. TECHNICAL AND CONFORMING AMENDMENTS.

The table of sections for chapter 6 of title 5, United States Code, is amended—

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

“608. Procedure for delay of completion.”; and

(2) by adding at the end the following:

“613. Small entity compliance guides.”.

#### AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CARDIN. 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 13, 2011.

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

## COMMITTEE ON FINANCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 13, 2011, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled "Perspectives on Deficit Reduction."

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

## COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on April 13, 2011, at 2 p.m., to hold a hearing entitled "International Development Policy Priorities in the FY 2012 International Affairs Budget."

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

## COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on April 13, 2011, at 11 a.m.

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

## COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on April 13, 2011, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Fulfilling Our Commitment to Support Victims of Crime."

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

## COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on April 13, 2011, at 3 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Judicial and Executive Nominations."

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

## COMMITTEE ON RULES AND ADMINISTRATION

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on April 13, 2011, at 10 a.m.

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

## COMMITTEE ON VETERANS' AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on April 13, 2011, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

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

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 13, 2011, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

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

## SUBCOMMITTEE ON PERSONNEL

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on April 13, 2011, at 1:30 p.m.

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

## SUBCOMMITTEE ON STRATEGIC FORCES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on April 13, 2011, at 2:30 p.m.

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

## SPECIAL COMMITTEE ON AGING

Mr. CARDIN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on April 13, 2011, from 2-4 p.m. in Dirksen 562.

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

## PRIVILEGES OF THE FLOOR

Mr. COONS. Mr. President, I ask unanimous consent that privileges of the floor be granted to Ian Koski of my staff for the duration of the day.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Adam Rohloff of my staff be granted floor privileges during this period of time.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed on the Senate floor for the duration of the debate on S. 493: Lucy Emerson and Shannon Olberding.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Megan Cheney, Nicole Miya Ogawa, and Jan Spreitzenbarth of my staff be granted the privilege of the floor for the duration of today's session.

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

## REMEMBERING THE 1-YEAR ANNIVERSARY OF THE 2010 POLAND PRESIDENTIAL PLANE CRASH

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the For-

eign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 135.

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

The clerk will report the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 135) remembering the 1-year anniversary of the April 10, 2010, plane crash that claimed the lives of the President of Poland Lech Kaczynski, his wife, and 94 others, while they were en route to memorialize those Polish officers, officials, and civilians who were massacred by the Soviet Union in 1940.

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

Mr. WHITEHOUSE. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 135) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 135

Whereas, on April 10, 2010, the President of the Republic of Poland Lech Kaczynski, his wife Maria, and a cadre of current and former Polish statesmen, military officers, family members, and others departed Warsaw by plane to travel to the Russian region of Smolensk;

Whereas the purpose of the delegation's visit was to hold a ceremony in solemn remembrance of the more than 22,000 Polish military officers, police officers, judges, other government officials, and civilians who were executed by the Soviet secret police, the "NKVD", between April 3 and the end of May 1940;

Whereas more than 14,500 Polish victims of such executions have been documented at 3 sites in Katyn (in present day Belarus), in Miednoye (in present day Russia), and in Kharkiv (in present day Ukraine), while the remains of an estimated 7,000 such Polish victims have yet to be precisely located;

Whereas the plane carrying the Polish delegation on April 10, 2010, crashed in Smolensk, tragically killing all 96 persons on board;

Whereas Poland has been a leading member of the transatlantic community and the North Atlantic Treaty Organization (NATO), an Alliance vital to the interests of the United States, and Poland's membership in the Alliance has strengthened NATO;

Whereas the Polish armed forces have stood shoulder-to-shoulder and sacrificed with airmen, marines, sailors, and soldiers of the United States in Iraq, Afghanistan, the Balkans, and around the world;

Whereas Poland has been a leader in the promotion of human rights, not just in Central Europe, but elsewhere around the world; and

Whereas the deep friendship between the governments and people of Poland and the United States is grounded in our mutual respect, shared values, and common priorities on nuclear nonproliferation, counterterrorism, human rights, regional cooperation in Eastern Europe, democratization, and international development: Now, therefore, be it

*Resolved*, That the Senate—

(1) remembers the terrible tragedy that took place on April 10, 2010, when an aircraft