



# HEIDI HEITKAMP

UNITED STATES SENATOR *for* NORTH DAKOTA

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## Heitkamp & Ernst Introduce Bipartisan Bill to Increase Small Businesses Role in Regulatory Process

*New Bill Builds on Heitkamp's Efforts to Improve How Regulations are Developed*

**\*\*[Video](#) and [Audio](#): Heitkamp Discusses Bipartisan Prove It Act\*\***

**WASHINGTON, D.C.** – U.S. Senators Heidi Heitkamp (D-ND) and Joni Ernst (R-IA), members of the Senate Committee on Small Business and Entrepreneurship, today introduced the bipartisan Prove It Act.

This legislation aims to improve transparency and strengthen the voices of small businesses in the rulemaking process by giving the Small Business Administration's (SBA) Office of Advocacy an opportunity to ask agencies to defend their regulatory analysis when proposing a rule that may significantly impact small businesses.

"Small businesses are the backbone of North Dakota's economy, and we need to make sure they have a level playing field to grow, thrive, and create jobs," **Heitkamp said**. "The needs of small businesses have to be considered as regulations are created so we can prevent red tape and burdensome rules from unfairly impacting them. That's why Senator Ernst and I are introducing this bipartisan legislation to give small businesses a bigger seat at the table and a stronger voice if a proposed regulation could hurt their ability to grow. For years, I've heard from North Dakota small business owners that one of their biggest concerns is federal rules, and the Prove It Act will make sure their voices are heard."

"Small businesses make up 97 percent of all of Iowa's employers, meaning their success is our state's success," **said Senator Ernst**. "The bipartisan Prove It Act serves as a check on the federal agency certification and analysis process, allowing the small business community the opportunity to question a rule, and, if a discrepancy is found, allowing for it to be re-evaluated before it's finalized. I am grateful to have the support of Senator Heitkamp as we work to rein

in burdensome regulations to foster a more thoughtful and efficient rulemaking process for our small businesses.”

The Prove It Act builds on years of work by Heitkamp to improve how regulations are developed through her role as the ranking member of the U.S. Senate Committee on Homeland Security & Governmental Affairs Subcommittee on Regulatory Affairs and Federal Management, which oversees the federal regulatory process. Heitkamp has helped lead over a dozen Senate hearings about improving how regulations are created and reviewed.

In April, Heitkamp joined with U.S. Senator Rob Portman (R-OH) [to introduce the Regulatory Accountability Act](#) -- new, bipartisan legislation designed to make federal regulations smarter and more effective so they better support businesses, families, and jobs by modernizing the federal regulatory process that hasn't been significantly reformed in 70 years. The bill [passed](#) in the Homeland Security & Governmental Affairs Committee in May.

In 2015, Heitkamp and U.S. Senator James Lankford (R-OK) launched their [#CutRedTape Initiative](#) to gather stories from Americans across the country to help determine how the federal government could be more efficient and effective.

The Prove It Act specifically would give small business a stronger voice and require agencies to prove their regulatory analysis if the SBA's Office of Advocacy disagrees with the agency's decision to certify that the rule would not have a significant economic impact on small entities. For example, the proposed [Waters of the U.S. \(WOTUS\)](#) rule drastically expanded federal authority over land and water regulated by the Environmental Protection Agency (EPA). The SBA's Office of Advocacy found that the EPA and Army Corps improperly certified this rule, and, despite the EPA claiming otherwise, the rule would indeed have a costly and direct impact on small businesses. Provisions in the Prove It Act would have allowed for reconsideration of the certification before the rule advanced and was finalized.

In Fiscal Year 2016, the Office of Advocacy provided 20 official public comment letters to federal agencies on a variety of proposed rules. Most frequently, the concerns were raised over the inadequacy of an agency's analysis of a proposed rule.

#### **The Prove It Act would:**

- **Determine the impact of rules on small businesses.** Under the Regulatory Flexibility Act (RFA), federal agencies are required to certify whether a rule has a significant economic impact on a substantial number of small businesses. If the rule does, agencies would then be required to perform an analysis of the small business impacts. Agencies would also have the discretion to certify that the rule would not impact small businesses significantly and can then bypass further analysis requirements.

- **Give small businesses a seat at the table.** The Prove It Act would give small businesses a stronger voice and requires agencies to defend their regulatory analysis if the Small Business Administration Office of Advocacy disagrees with the agency's decision to certify that the rule would not have a significant economic impact.
- **Provide stronger transparency.** The request for review must be published in the Federal Register and on the SBA Office of Advocacy's website to ensure transparency.

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