SENATE—*Tuesday, July 11, 1995*

(Legislative day of Monday, July 10, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign God, we all have two things in common as we begin this day. We all have great concerns, but we also have You, a great Lord, who will help us with those concerns. Often, we worry about loved ones and friends. In our work, unfinished projects and unresolved perplexities weigh us down. Problems in our Nation and world distress us. Uncertainty about the future, and our inability to solve everything, remind us of our human limitations. We need release from the tension of trying to manage our burdens on our own strength.

Help us to hear and accept the psalmist's prescription for peace. "Cast your burden on the Lord and He shall sustain you".—Psalm 55:22.

In this quiet moment of liberating prayer, we deliberately commit each one of our burdens, large or small, into Your gracious care. Help us not to snatch them back. Give us an extra measure of Your wisdom, insight, and discernment as we tackle the challenges of this day. Make this a productive day in which we live with confidence that You will guide our thinking, unravel our difficulties, and empower our decisions. We are ready for the day. We intend to live it with freedom and joy, in Your powerful name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Colorado, the acting majority leader, is recognized.

SCHEDULE

Mr. CAMPBELL. Mr. President, this morning, the leader time has been reserved, and there will be a period for morning business until the hour of 9:45 a.m., with Senators permitted to speak up to 10 minutes each. At 9:45 a.m., the Senate will resume consideration of S. 343, the regulatory reform bill. Rollcall votes can be expected throughout today's session of the Senate. Also, the Senate will be in recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons to meet.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRIST). Under the previous order, there now will be a period for the transaction of morning business, not to extend beyond the hour of 9:45 a.m., with Senators permitted to speak therein for not to exceed 10 minutes each.

ANIMAS LA PLATA

Mr. CAMPBELL. Mr. President, I rise today to comment on an article which appeared in the June 29, 1995, issue of the Washington Post, regarding the Animas La Plata water storage project in my home State of Colorado. There were a great many omissions in that article which, unfortunately, created a false impression that the Animas La Plata project was unneeded, which I consider to be very unfair and certainly untrue.

It is especially appropriate that I respond to that article and the false impression it created, since the House of Representatives is taking up the Interior appropriations bill this week. I trust that my colleagues in the House will be advised of my comments today.

In fairness to the Washington Post, I will presume that its editors were simply unaware of several key considerations which mandate the Federal Government's full support of this crucial project. Otherwise, it would appear that the Post is knowingly joining in a deliberate misinformation campaign on the part of high-dollar environmental groups seeking to describe the Animas La Plata as one of the last great dam projects to be built in the American West.

There is no dam on the Animas River. There is no dam on the La Plata River and there is none planned.

There is, however, a small, off-river dam proposed on a small arroyo which is necessary to create a water storage reservoir. The entire project entails a pumping plant, nothing more, on the bank of the Animas River at Durango, CO.

Under the project plan, water could be pumped out of the river and into the Ridges Basin Reservoir. Pumping would cease if the water level reaches a certain minimum flow necessary to protect fish. Most water would be pumped during flood stages.

The fact is that the Ute Indian Tribes own the senior water rights to the Animas, La Plata, and Florida River systems—as well as four other rivers—by virtue of various treaties with the U.S. Government. These treaty rights have been upheld by the Supreme Court of the United States when disputes have arisen in other States. Those disputes took the form of expensive and protracted litigation in the Federal courts.

The tribes and the water districts chose negotiation over litigation. Rather than engage in expensive and divisive legal battles, the tribes and the citizens of Colorado and New Mexico chose to pursue a negotiated settlement. The Ute Nations agreed to share their water with all people.

The people came together in partnership and cooperation with the Federal Government to reach a mutually beneficial solution: the Animas La Plata project. Their settlement agreement was executed on December 10, 1986. The Settlement Act was ratified by Congress and signed into law on November 3, 1988.

The Settlement Act is Federal law: the law of the land. It also provided a cost-sharing agreement.

The water districts and the States of Colorado and New Mexico have "put their money where their mouth is" and have already lived up to the terms of these agreements:

First, the State of Colorado has:

Committed $30 million to the settlement of the tribes' water rights claims;

Has expended $6 million to construct a domestic pipeline from the Cortez municipal water treatment plant to the Ute Mountain Ute Indian Reservation at Towaoc; and

Has contributed $5 million to the tribal development funds.

Second, the U.S. Congress has appropriated and turned over to the Ute Mountain Ute and Southern Ute Indian Tribes $49.5 million as part of their tribal development funds, and

Third, water user organizations have signed repayment contracts with the Bureau of Reclamation.

The construction of the Animas La Plata project is the only missing piece to the successful implementation of the settlement agreement and the Settlement Act. It is time that the U.S. Government kept its commitment to the people.

Historically, this country has chosen to ignore its obligations to our Indian people. Members of the Ute Tribe had been living in a state of poverty that can only be described as obscene. Their only source of drinking water was from ditches dug in the ground. I find it most distressing that the same groups and special interests who are now

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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scrambling to block this project also, in other contexts, hold themselves out as the only real defenders of minority rights in this country. Hogwash.

This project would provide adequate water reserves to not only the Ute Nation, but to people in southwestern Colorado, northern New Mexico, and other downstream users who rely on this water system for a variety of crucial needs which range from endangered species protection to safe drinking water in towns and cities—perhaps even filling swimming pools for some of our critics.

Opponents of the Animas La Plata project have alleged that the Bureau of Reclamation [BUREC], has not adequately analyzed alternative projects. That is not true.

BUREC has performed a thorough analysis of all reasonable alternatives. No new circumstances exist which require reevaluation of the prior alternatives studies.

Exhaustive studies, involving extensive public participation have demonstrated that there is no realistic alternative to the Animas La Plata project.

This public alternatives process involved an advisory team consisting of representatives of all of the entities potentially interested in receiving water from the project and environmental groups such as the Sierra Club and the San Juan Ecological Society.

The advisory team met 11 times in a 2½-year period. In addition, 10 other public meetings were held with specific groups during that same period.

The advisory team evaluated alternatives by comparing critical items for each alternative; alternatives were eliminated until the best overall plan was identified.

Critical items included: impact on wildlife habitat, fisheries, any potential visual degradation, conservation impacts, construction costs, operation costs, water conservation, river flows for rafting and fishery protection, power usage, recreation, impact on national historic monuments, and others.

Over 60 reservoir sites were identified by the team, approximately 20 in the La Plata River drainage and the remainder in the Animas River drainage. The best potential site in the La Plata River drainage is the Southern Ute Reservoir site included in the 1979 Definite Plan Report [DPR]. The Ridges Basin Reservoir site was determined to be the best site in the Animas River drainage from an engineering and environmental perspective.

In both La Plata County, CO, and San Juan County, NM, public elections were held on Reclamation's decision to move forward with the A/LP project.

All of the so-called current objections were raised and discussed in public forums during the course of the election campaigns in those communities, including the following issues: no analysis of alternatives, adverse impact on rafting, no water for the Indians, reduced flows in the Animas River, ability of farmers to pay for water, effect on wetlands, and the impact on trout and elk habitat.

At the end of the process, the general public voted overwhelmingly, on December 8, 1987, in La Plata County, CO, and on April 17, 1990, in San Juan County, NM, to endorse Reclamation's construction of the A/LP project.

In a last ditch effort, two environmental organizations, the Sierra Club and the Environmental Defense Fund, again raised "environmental concerns." Additional meetings were held to address those unstated concerns and the groups simply decided not to show up. When asked why, they just responded that they would "get back to us."

They never did.

Since then, they have chosen to simply funnel money into opposition campaigns. These groups have no real suggestions to make. They simply believe themselves to be somehow more pure, environmentally, than anyone else.

The only alternative these groups suggest is to "buy off" the Indians. Of course, the proposed "buy off" would be funded by hundreds of millions of taxpayer dollars but the groups do not care about that.

The Animas La Plata project is a good deal for the taxpayers.

The Southern Ute Indians and the Ute Mountain Ute Indian Tribes have rejected the buyout proposals. Just like everyone else in our country, they simply want decent and reliable water supplies—using their own water—for their people.

In exchange, all the people of the area will benefit. Opponents are apparently willing to spend even more tax dollars to "buy off" the Indians than it would cost to complete the project.

So, as the Washington Post suggested, there are, indeed, "politics" behind the Animas La Plata controversy.

I would suggest, however, the political "games" are not being played by project supporters, but rather by a few elite and select high dollar special interest groups—"beltway environmentalists"—and their ensconced cronies in the Department of the Interior and the EPA.

It is time to end the trail of broken treaties and fulfill our commitments. Great nations, like great people, keep their words of honor.

I implore my colleagues in the House to help us keep our word to the people of Colorado and New Mexico.

I thank the Chair, and I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

NORMALIZATION OF RELATIONS WITH VIETNAM

Mr. MURKOWSKI. Mr. President, it is my intention to speak on two subjects this morning. One is a very timely subject relative to an announcement that we anticipate will be made today by the President with regard to relations between the United States and Vietnam.

I want to commend our President. By moving to establish full diplomatic relations with the Government of Vietnam, the two-decade-long campaign to obtain the fullest possible accounting of our MIA's in Southeast Asia really now enters a new and more positive phase.

I support the President's decision because I continue to believe, and the evidence supports, that increased access to Vietnam leads to increased progress on the accounting issue. Resolving the fate of our MIA's has been and will remain the highest priority of our Government. This Nation owes that to the men and the families of the men who made the ultimate sacrifice for their country and for freedom.

In pursuit of that goal, I have personally traveled to Vietnam on three occasions. I held over 40 hours of hearings on that subject as chairman of the Veterans' Committee back in 1986. I think the comparison between the situation in 1986 and today is truly a dramatic one. In 1986, I was appalled to learn that we had no first-hand information about the fate of POW/MIA's because we had no access to the Vietnamese Government, to its military archives or to its prisons. We could not travel to crash sites. We had no opportunity to interview Vietnamese individuals or officials.

All of this has now changed. American Joint Task Force-Full Accounting (JTF–FA) personnel located in Hanoi now have access to Vietnam's Government, to its military archives, and to its prisons. They now travel freely to crash sites and interview Vietnamese citizens and individuals. The extent of United States access is illustrated by an excavation last month that involved overturning a Vietnamese gravesite.

As a result of these developments, the overall number of MIA's in Vietnam has been reduced to 1,621 through a painstaking identification process. Most of the missing involve men lost over water or in other circumstances where survival was doubtful and where recovery of remains is difficult or unlikely. Significantly, the number of discrepancy cases—the cases of those servicemen where the available information indicated that either the individual survived or could have survived—has been reduced from 196 to 55. The remaining 55 cases have been investigated at least once, and some several times.

Much, if not most, of this progress has come since 1991 when President

Bush established an office in Hanoi devoted to resolving the fate of our MIA's. Opening this office ended almost two decades of isolation, a policy which failed to achieve America's goals.

It is an understatement to say that our efforts to resolve the fates of our MIA's from the Vietnam war have constituted the most extensive such accounting in the history of human warfare.

There are over 8,000 remaining MIA's from the Korean war. A large number of those are believed to have perished in North Korea, and we have had little cooperation from the Government of North Korea on that issue. There are over 78,000 remaining MIA's from World War II. These are wars where we were victorious and controlled the battlefield. So I find it ironic that we have already moved to set up liaison offices in North Korea when that Government has not agreed to the joint operation teams that have been used successfully in Vietnam. Nor has North Korea granted access to archives, gravesites, or former POW camps. Vietnam, on the other hand, has worked steadily over the last 4 years to meet the vigorous goal posts laid down by successive United States administrations.

In 1993, opponents of ending our isolationist policy argued that lifting the trade embargo would mean an end to Vietnamese cooperation. This is distinctly not the case. As the Pentagon assessment from the Presidential delegation's recent trip to Vietnam notes, the records offered are "the most detailed and informative reports" provided so far by the Government of Vietnam on missing Americans.

During the post-embargo period, the Vietnamese Government cooperated on other issues as well, including resolving millions of dollars of diplomatic property and private claims of Americans who lost property at the end of the war.

While we have made progress, Americans should not be satisfied by any means. But there are limits to the results we can obtain by continuing a policy which, even though modified, remains rooted in the past and is still dominated by the principle of isolation. I think we have reached that limit, Mr. President. It is time to try a policy of full engagement.

Recognizing Vietnam does not mean forgetting our MIA's, by any means. Recognizing Vietnam does not mean that we agree with the policies of the Government of Vietnam. But recognizing Vietnam does help us promote basic American values, such as freedom, democracy, human rights, and the marketplace. When Americans go abroad or export their products, we export an idea, a philosophy, and a government. We export the very ideals that Americans went to fight for in Vietnam.

We justify most-favored-nation status for China for many reasons, one of which is that it allows us a means to interact and to communicate with the Chinese in an attempt to bring about change in China. The same application is appropriate for Vietnam.

Moreover, diplomatic relations give us greater latitude to use the carrot and stick approach. Diplomatic, economic, and cultural relations should flourish, but we retain leverage because Vietnam still seeks most-favored-nation status and other trading privileges which the United States controls.

Establishing diplomatic relations should also advance other important U.S. goals. A prosperous, stable, and friendly Vietnam integrated into the international community will serve as an important impediment to Chinese expansionism. Normalization should offer new opportunities for the United States to promote respect for human rights in Vietnam. Finally, competitive United States businesses which have entered the Vietnamese market after the lifting of the trade embargo will have greater success with the full faith and confidence of the United States Government behind them.

Mr. President, let me conclude by saying that I hope this step will continue this country's healing process. I think the time has come to treat Vietnam as a country and not as a war.

PRINCIPLES FOR RISK ASSESSMENT

Mr. MURKOWSKI. Mr. President, I want to talk briefly about the matter that is currently before this body, regulatory reform.

Very briefly, we have been reviewing some of the principles associated with regulatory reform. I would like to talk a little bit about risk assessment this morning and some guidelines for which the applicability of risk assessment should be used, and why it can be very, very helpful as we address the responsibility of determining which policies make sense and which policies are redundant and costly and inefficient.

If we establish principles for risk assessment, some of the bases for evaluation should include the following:

First, the use of sound science and analysis as the basis for conclusions about risk.

Second, to use the appropriate level of detail for any analysis.

Third, to use postulates, or assumptions, only when actual data is not available.

Fourth, to not express risk as a single, high-end estimate that uses the worst-case scenario.

I think we have all heard horror stories about various cases where applications are promoted and promulgated, and over an extended period of time, when much expenditure has taken place in evaluating the prospects for a particular approval, we find that the agency has evaluated under a worst-case basis. If we, in our daily lives, were to make our decisions based on a worst-case scenario, we probably would not get out of bed in the morning. As a consequence, to reach that kind of an evaluation is clearly misleading, in many cases, to the applicant that never would have proceeded with a request for approval from the various agencies if the applicant had assumed that the agency would come down to the worst-case basis.

Oftentimes the agency will follow a particular line to reach a worst-case basis, and after expending a great deal of money and time, they look at another alternative, but only at the conclusion of reaching a worst-case scenario. So there are other opportunities that should be pursued with regard to that.

Further, some of the other principles for risk assessment would require comparing the risk to others that people encounter every day to place it in a perspective. I could speak at some length on that, but I think that is obvious to all of us.

Further, to describe the new or substitute risks that will be created if the risk in question is regulated.

Use independent and external peer review to evaluate risk results.

Finally, to provide appropriate opportunities for public participation.

So what we are talking about here is improved risk assessment, which helps the homeowners, farmer, small business, taxpayers, consumers—all Americans. To conclude, risk reduction equals benefit.

I thank the Chair and yield the floor.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. THURMOND. Mr. President, I rise today in support of S. 343, the Comprehensive Regulatory Reform Act of 1995. Regulatory reform is a critical issue which the Congress should act on promptly in order to significantly benefit our Nation.

When unnecessary regulations are avoided or eliminated, American production will be more competitive and provide more jobs for American workers. With true regulatory reform, American consumers will have more choices at lower prices.

We all are concerned that the health and safety of Americans not be compromised. By using more common sense, however, our Nation can achieve the same level of health and safety at far lower costs. Avoiding unnecessary regulations frees up our economic resources to be used for more important purposes. Every billion dollars saved by avoiding wasteful regulations is a billion dollars that the private sector can invest in new enterprises and new jobs.

This will generate additional revenues to bolster our national defense, education, crime reduction, and other priorities.

The principle of applying cost-benefit analysis and risk assessment to Government regulations is hard to seriously dispute. It is based on the simple concept that the Government should not impose rules and regulations unless the benefits justify all the costs. The legislation which we are now considering has been through numerous drafts and compromises in order to achieve this purpose.

The bill articulates standards by which the costs and benefits of regulations are to be compared, and provides for judicial review of actions by the Government. The bill applies not only to new regulations as they are formulated, but also to existing rules. The legislation applies to relatively large regulations, which impose substantial costs. Importantly, risk assessments are standardized and must rely on the best available science.

Mr. President, it is my belief that the principles in S. 343 are vital for this Nation. Great effort has been put forth to bring the bill to this point, and everyone involved in moving this bill forward deserves our thanks.

For all of these reasons, I urge my colleagues to support this regulatory reform legislation.

In closing, Mr. President, I wish to commend the able Senator from Texas [Mrs. HUTCHISON] for the great job she has done on this important matter, which will be of such benefit to our Nation.

I yield the floor.

FEDERAL OVERREGULATION

Mrs. HUTCHISON. Thank you, Mr. President. I want to commend the senior Senator from South Carolina and also the dean of the Senate for the statement that he made.

Senator THURMOND has been in this Senate a long time. He has seen the evolution of the regulations that have come as a result of the laws that are passed by Congress.

I think the Senator from South Carolina is saying that the regulators have gone far beyond congressional intent. He believes, as I do, that we must bring back the regulators, tell them what our congressional intent is, and try to bring some balance into the system.

I thank the senior Senator from South Carolina for his leadership in this area and appreciate very much that, with his long experience, he would weigh in on behalf of this bill. In fact, it is a very important bill.

One issue about which all Members have heard from our constituents over and over again is the need for fundamental reform of the tortured and increasingly tangled web of Federal overregulation.

Congress passes laws. We delegate their implementation to regulators. If the regulators do not do what is envisioned by Congress, it is our responsibility to step in.

In recent months, I have spoken on the floor of the Senate offering examples of Federal Government overregulation and unintended consequences of regulatory excess that puts Americans out of work. It usurps our constitutional rights. It saps our productivity. It saps our economic competitiveness.

Americans have a right to expect their Government to work for them, not against them. Instead, Americans have to fight their Government in order to drive their cars, graze cattle on their ranches, or operate their small businesses in a reasonable, commonsense manner.

I hear this every time I go home, or when I go to other States. The people of this country are tired of the harassment of their Government, and I think that was the message they sent in November 1994.

The legislation before the Senate today provides lawmakers with a tool for ensuring that Federal agencies are carrying out Congress' regulatory intent properly and within the confines of Congress and no farther. Agencies have gotten into the habit of issuing regulations which go far beyond the intended purpose of the authorizing legislation. This bill is simply an extension of the system of checks and balances which has served our country so well for more than two centuries.

Senator THURMOND has not been here for all two centuries, but we all know that it has gotten out of whack since Senator THURMOND has been in this Senate, and most certainly in the last 10 years, or 5 years, we have seen the balance go in the wrong direction. It is time to put the balance back in our Government and the ability of our Government to regulate our people.

In November, the voters sent a message: We are tired of the arrogance of Washington, DC. Nothing demonstrates that arrogance more than the volumes of one-size-fits-all regulations which pour out of this city and impact on the daily life of the American people.

The regulators in Washington, it seems, believe that everyone can fit into one cookie-cutter mold. They do not take into account the different situations in each business, in each State, in each city, and the things that might be affecting safety or whatever the regulation is covering in that city.

I believe the voters went to the polls because they felt harassed by their Government, the Government that issues regulations without any thought of the impact on the small businesses of this country.

You just do not feel the pinch of being a small business person unless you have been there, unless you have lived with the regulations and the mandates and the taxes that our small business people live with every day.

Our small business people, Mr. President, are the economic engine of this country. Government is not the economic engine of America. Small business is. They create 80 percent of the new jobs in this country. Sometimes they feel like their Government is trying to keep them from growing and prospering and creating new jobs.

If they do not grow and prosper and create new jobs, how are we going to absorb the new people coming into our economic system, the young people graduating from college, the immigrants who are coming into our country? How are we going to absorb them if we continue to force our small businesses to put money into regulatory compliance and redtape and filling out forms, instead of into the business to buy new machines that create new jobs. That is the issue we are talking about today.

When I meet with small business people, men and women across our country, complaints about excessive Federal regulations are always at the top of their list. In fact, a few weeks ago the White House hosted a conference on small business and, according to those with whom I spoke who went to the conference, no one issue and no one agency energized the participants more than the need for comprehensive regulatory reform.

They talk about taxes, yes. But, mostly, those small business people say, "If you will get the regulations off our backs so we can compete, that's when we will be able to throw the shackles off and grow and prosper and create the new jobs for our country."

So, Mr. President, I am proud to be a cosponsor of the Comprehensive Regulatory Reform Act of 1995. This bill is necessary to get the regulatory process under control. The Republican majority of this Congress recognizes that the problems that business owners face are hurting our country and we are committed to doing something about it. We are committed to regulatory reform legislation that will establish a flexible decisionmaking framework for Federal agents, so they know what the parameters are. We need to make our congressional intent very clear.

Some of the regulators might have gotten out of control unwittingly. Maybe we were not clear enough. Congress has passed broad, general sorts of guidelines in the past. Maybe it is time we pass laws that are specific, so the regulators have no doubts. I think that is our responsibility, and this bill will take a step in that direction.

We need to increase public participation in the regulatory decisionmaking process. That is what this bill will do. It will bring in peer groups to talk about the effects of the regulations so the regulators will know if there is a scientific basis for this regulation, if

we really need it, how does it affect the workplace, the marketplace, worker safety, worker harassment—that is what this bill will speak to.

It will require political and judicial accountability. If you do not have judicial accountability, there will not be any teeth in this law. So we will have the ability to have judicial review, to see if the regulation meets the test of the law that is passed.

This bill will require the regulators to ask and answer the questions, "Is the regulation worth the cost?" And, "Does this approach maximize the benefits to society as a whole?" That is what the basic concept of this bill is.

We have heard a lot about food safety. That is something the press has really talked about in the last couple of days. They have shown meatpacking plants and talked about the E. coli virus and the things that might happen if we have regulatory reform that will require the things we are talking about.

The fact is, food safety is exempt from this bill. It is not spoken to. It is exempt because no one wants to worry about the safety of our food. So it is very important, as we look at the press that is going to be coming out of this bill, that we realize there are some very important exceptions because we want to make sure we do not do something that is going to hurt the health or welfare of the people of this country.

No, the Regulatory Reform Act of 1995 is trying to put balance and common sense back into the system. We have survived in this country for 2 centuries with a balanced approach. It is only in the last 5 or 10 years that we have gone so far in the direction of excesses that we must now say to our business people, "We are going to try to put some common sense into this equation. We are going to put people ahead of blind salamanders." That is the purpose of this act.

The key principle embodied in this bill is cost-benefit analysis. Is it worth it? The premise is simple. Before an agency promulgates a regulation, it systematically measures the benefits of the regulation and compares those benefits to the costs. This analysis allows a full and complete understanding of the regulatory burden imposed on consumers by the Federal Government. Is the price increase, necessitated by the regulation, to people who are in the grocery store, worth the benefit to be gained? And, further, will the benefit actually be gained? That is a question that is not asked. Will the regulation actually achieve the purpose that it is supposed to achieve? That is a very important, basic concept, and that is what a cost-benefit analysis does.

I want to talk more about cost-benefit analysis because there have been some studies done that show that we can spend $900 million to possibly save one life when we could take the same $900 million and assure that we would save hundreds of lives in other ways. So it becomes a matter of how we spend our resources. How will it benefit the most people? And that is what bringing common sense into the system will do.

Risk assessment is an important complement to cost-benefit analysis. The problem with the current regulatory process is that it often focuses on minor risks while ignoring far greater threats to public health and safety. There are many risks to public health and, without effective risk assessment, funds available to address these risks will be needlessly squandered on questionable programs that do little to really promote public health and safety and environmental protection.

In my home State of Texas we had the incredible experience of having a new mandate put on the citizens of Dallas and Houston and El Paso and Beaumont—cities that were in nonattainment areas for air quality, cities that are trying desperately to do something about it. El Paso has tried in every way to clean its air. But, because there is smoke coming across the border from Juarez, they are not able to do anything. And it is not their fault.

Nevertheless, they were put under a mandate to have a vehicles emissions test by a certain specific machine that would possibly, we are told, have cleaned the air maybe 0.5 percent—maybe, rather than with other types of machines that are much cheaper, that would not have required the hassle to every consumer in those cities, and which would have done much the same but at much less cost. And it was not even proven that was the only machine that would be able to detect these emissions. Yet we had the requirement that we had to go to certain centers with just that machine, and the cost was in the hundreds of millions of dollars to the consumers of Texas. We were faced with doing that because of dealing with the EPA and not being able to have the flexibility to do what we could in a cost-beneficial manner.

We are all trying to clean up the air. Of course, we are. But how much is going to be the cost to possibly get a 0.5-percent benefit to the air quality? And we are not even sure that it was necessary just to have that one machine. We find that there are also infrared rays that will pick up at an entry ramp the emissions that do not meet the test. We have an experiment that is in the works right now that would give us the ability to buy some time and in a much more cost-efficient way with much less hassle for the consumers of the cities all across America that are in the noncontainment areas. We could have something just as effective for them at a much less cost. That is what risk assessment and cost-benefit analysis will do for our country and for the regulators.

Judicial review. Without judicial review, there is no way to ensure that the Federal agencies will use the risk assessment and the cost-benefit analysis to write the regulations. I mean, that is what we have to have. We have to have the leverage that is out there so that we will be able to go to the judges and say, "Did we meet the standard that is required under the law?" And Congress is being specific about congressional intent.

Good science, open science. It is important that we have the scientific basis for these regulations because we do not know for sure in many instances that there really is good, sound science in the sunshine in the regulations that are put forth.

This we assured in the bill with peer review. In most cases today, the scientific and technical assessment on which regulations are based are not subjected to independent external peer review. As a result, the scientific and technical underpinnings of agency actions that may have enormous consequences often are not adequately tested. Regulation reform is necessary to assure that there will be an independent external peer review. We can get many of the scientists that understand these issues to be on a peer review panel to make sure that we have the ability to say absolutely for certain this regulation will accomplish what it is intended to accomplish. So regulation reform will reduce the burden of unnecessary Federal regulation.

Requiring cost-benefit analysis, risk assessment, judicial review, and the threat of congressional action will go a long way toward ensuring common sense in the promulgation of Federal regulations.

There will be the ability in this bill for Congress to have 60 days to review any regulation and turn it back. That is a very important point. It is very important that Congress will be able to come in and say to regulators that they have gone beyond what we intended. That is the ultimate responsibility of Congress, and it is one that we must take.

So, Mr. President, we are beginning now to set the framework in this debate. There has been a lot of hot air in the last week about what might happen if we do not have this ability to come in and put checks on the system. A lot has been said about what will happen if we put some checks and balances in the system.

Mr. President, I think this is a great step for the small business people of this country, and I am proud that the sponsors of the bill have done such a terrific job on a bipartisan basis to help the small business people of our country compete.

Mr. President, I will stop here because I know that at 9:45 they are going to propose another amendment. But I just want to thank the managers

of the bill, the sponsors of the bill, and the leadership for taking this very important step to free our businesses to compete in the international marketplace and for our small businesses to be able to grow and prosper and create the jobs that are going to keep this economy vital for the new people and to keep the young people graduating from high school and college employed. That is the goal, Mr. President.

I thank the Chair. I yield the floor.

HONORING THE HUMANITARIAN EFFORTS OF PAUL H. HENSON

Mr. ASHCROFT. Mr. President, today I am proud to honor a man who has distinguished himself in business, as a civic leader, a caring neighbor, and a friend to those in need. Mr. Paul H. Henson will soon be awarded the International Humanitarian Award by the CARE Foundation at its 50th Anniversary International Humanitarian Award dinner. Mr. Henson was nominated for the award for his sustained support of humanitarian causes, for his community foresight, and for his business ingenuity. It is with much pleasure that I add my voice to the scores of others praising Mr. Henson for his efforts to aid the world's poor and help them achieve social and economic well-being.

Mr. Henson began his successful career in the telecommunications industry as a groundman for the Lincoln Telephone Co., in his native State of Nebraska. After attaining the position of chief engineer, Mr. Henson moved to United Telecom—now Sprint—in Kansas City. In 1964, at the age of 38, he became president of United and began to implement an aggressive leadership and expansion strategy to transform the predominantly rural telephone company into an international communications force. Henson presided over the construction of the first—and still the only—nationwide 100 percent digital, fiber-optic network and made it the centerpiece of the company's long-distance strategy. After his leadership of Sprint for 25 years, the company now claims over 6 million local telephone customers, 97 percent of which are digitally switched.

Mr. Henson currently serves as chairman of the board and chairman of the executive committee of Kansas City Southern Industries, Inc. He has also formed Kansas City Equity Partners, L.C., a venture capital fund dedicated to providing seed capital and management assistance for entrepreneurial activities.

Paul H. Henson's distinguished business career and his reinvestment in the community through support of the humanitarian initiatives championed by the CARE Foundation have rightly earned him the distinction of being awarded the Foundation's International Humanitarian Award.

IN MEMORY OF WHITE EAGLE

Mr. PRESSLER. Mr. President, last Friday, the operatic tenor White Eagle passed away at age 43. My wife, Harriet and I join with countless others from around the world in expressing our condolences to his friends and family. Our Nation has lost an exemplary individual who had an extraordinary voice.

White Eagle was a Lakota. His Lakota name was Wanbli ska. He first sang in public in his father's church. He was only 5 years old. It was the voice of the great Mario Lanza that inspired the young White Eagle to become an opera singer. In 1985, he graduated from the Merola Opera Program at the San Francisco Opera. He went on to perform with the Pennsylvania Opera Theater, the Florentine Opera, the Western Opera Theater, the Cleveland Opera, and the Skylight Comic Opera.

Many of my friends and colleagues here in Washington should remember well White Eagle's rich tenor voice. In 1989, White Eagle performed the finale at the Inaugural Gala for President George Bush. Two years later, the President and I had the opportunity to hear and appreciate his extraordinary talent at the Golden Anniversary of the Mount Rushmore National Memorial. And in 1993, he debuted in Carnegie Hall, and was inducted into the South Dakota Hall of Fame as Artist of the Year.

I am pleased that a scholarship fund has been established in his name. It is a fitting remembrance of his spirit, his leadership, and his legacy as a role model for native American youth.

It is said that a man's talents are a mere extension of his soul. That is certainly true of White Eagle. The strength, the beauty, and the richness of his voice were a reflection of his character, and the values of the Lakota Sioux—the values of bravery, integrity, wisdom, determination, and generosity. His voice moved us all.

Mr. President, White Eagle exemplified those values yet again when, in 1990, he was diagnosed with AIDS. After he made his illness public, he became a tireless advocate for AIDS awareness. His role as advocate was equal to his role as artist, because through his voice, through his message, he brought people together. His last years are a reminder to each of us of the capacity in ourselves to reach out to family and friends in times of human struggle and suffering.

White Eagle left us in the manner he lived among us—with dignity and bravery. He has left us richer for his courage and perseverance. For all the extraordinary gifts he possessed and shared with us, we are grateful. We will miss him.

ONE HUNDRED AND TWENTY-FIVE YEARS OF COPYRIGHT IN THE LIBRARY OF CONGRESS

Mr. HATCH. Mr. President, I rise today to recognize the 125th anniversary of the act of 1870 which established our first central national copyright registration and deposit system by bringing it into the Library of Congress. Last Saturday marked the anniversary of the act being signed into law and today Librarian of Congress James Billington and Register of Copyrights Marybeth Peters are hosting a program to honor the employees of the Copyright Office for the work they do both for our national copyright system and the Library.

Article 1 of the Constitution grants Congress the power to "promote Science * * *", or knowledge, by granting authors, for a limited time, exclusive rights in their writings. The intent of the Framers was to increase the knowledge of the people by encouraging authors to create works. The first copyright law, enacted in 1790, reflected that purpose in its title: "An act for the Encouragement of Learning * * * ". The 1790 act also established a system of copyright registration where a person wishing to register a work did so in the nearest Federal court and sent a copy of the work to the Secretary of State in the Nation's Capital.

The registration statute changed somewhat after 1790, but it was not until 1870 that Congress passed legislation which established the Library of Congress as the first central agency which would both perform the copyright registration function and serve as the custodian of copyright deposits in the United States.

The 1870 act allowed for a national system of copyright registration with improved efficiency for the Federal Government, for authors and artists, and for publishers. Works submitted for copyright registration were sent to one location and could be carefully recorded and cataloged. For the first time, a copy could be used as both a record of registration and as a resource available to future generations of Americans.

In addition to strengthening our copyright registration system, the 1870 act also ensured that the Library of Congress would be the recipient of the tremendous amount of material submitted for copyright registration. The 1870 act put the Library on a path to becoming the greatest repository of knowledge in the world. To this day, the Library relies on the works it receives through copyright.

The Copyright Office, a part of the Library, provides Congress with nonpartisan analysis of copyright law and implements all aspects of this law. It also serves as a valuable resource to the domestic and international copyright communities. The Office registers almost 600,000 works a year.

Copyright has been a critical element of American creative and economic life since the beginning of our Nation. Today, our core copyright industries have become an increasingly important part of our national economy and a major area of our international trade relationships. We in the Congress must continually ensure that the basic principles of copyright remain applicable to a scientific and creative world in which technology changes very rapidly.

I would like to join the Librarian and the Register in saluting the work of the Copyright Office and its staff on this day and in paying tribute to the important services they provide in keeping our copyright system strong and adaptive to change.

REGULATORY REFORM

Mr. PRESSLER. Mr. President, during consideration of S. 343, the Regulatory Reform Act, I intend to offer an amendment to waive administrative and civil penalties for local governments when Federal water pollution control compliance plans are in effect.

I believe this amendment is a simple issue of fairness to local governments and I urge my colleagues to join me in supporting this amendment. I ask unanimous consent that my amendment be printed in the RECORD, along with my "Dear Colleague" letter.

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

AMENDMENT NO. —

At the appropriate place, insert the following:

SEC. . WAIVER OF PENALTIES WHEN FEDERAL WATER POLLUTION CONTROL ACT COMPLIANCE PLANS ARE IN EFFECT.

Section 309 of the Federal Water Pollution Control Act (33 U.S.C. 1319) is amended by adding at the end the following:

"(h) WAIVER OF PENALTIES WHEN COMPLIANCE PLANS ARE IN EFFECT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of this Act, no civil or administrative penalty may be imposed under this Act against a unit of local government for a violation of a provision of this Act (including a violation of a condition of a permit issued under this Act)—

"(A) if the unit of local government has entered into an agreement with the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State to carry out a compliance plan with respect to a prior violation of the provision by the unit of local government; and

"(B) during the period—

"(i) beginning on the date on which the unit of local government and the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State enter into the agreement; and

"(ii) ending on the date on which the unit of local government is required to be in compliance with the provision under the plan.

"(2) REQUIREMENT OF GOOD FAITH.—Paragraph (1) shall not apply during any period in which the Administrator, the Secretary of the Army (in the case of a violation of section 404), or the State determines that the unit of local government is not carrying out the compliance plan in good faith.

"(3) OTHER ENFORCEMENT.—A waiver of penalties provided under paragraph (1) shall not apply with respect to a violation of any provision of this Act other than the provision that is the subject of the agreement described in paragraph (1)(A).".

WASHINGTON, DC,
June 27, 1995.

DEAR COLLEAGUE: When the Senate begins consideration of S. 343, the Regulatory Reform Bill, I intend to offer an amendment to lift the unfair burden of excessive civil penalties from the backs of local governments that are working in good faith with the Clean Water Act.

Under current law, civil penalties begin to accumulate the moment a local government violates the Clean Water Act. Once this happens, the law requires that the local government present a Municipal Compliance Plan for approval by the Administrator of the Environmental Protection Agency (EPA), or the Secretary of the Army in cases of Section 404 violations. However, even after a compliance plan has been approved, penalties continue to accumulate. In effect, existing law actually punishes local governments while they are trying to comply with the law.

Under my amendment, local governments would stop accumulating civil and administrative penalties once a Municipal Compliance Plan has been negotiated and the locality is acting in good faith to carry out the plan. Further, my amendment would act as an incentive to encourage governments to move quickly to achieve compliance with the Clean Water Act.

This amendment is a simple issue of fairness. Local governments must operate with a limited pool of resources. Localities should not have to devote their tax revenue to penalties, while having to comply with the law. Rather, by discontinuing burdensome penalties, local governments can better concentrate their resources to meet the intent of the law in protecting our water resources from pollution.

I hope you will join me in supporting this commonsense amendment for our towns and cities. If you have any questions or wish to cosponsor this amendment, please feel free to have a member of your staff contact Quinn Mast of my staff at 4-5842.

Sincerely,

LARRY PRESSLER,
United States Senator.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have "another go," as the British put it, with our little pop quiz. Remember—one question, one answer.

The question: How many million dollars in a trillion dollars? (While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.9 trillion.)

To be exact, as of the close of business yesterday, Monday, July 10, the exact Federal debt—down to the penny—stood at $4,924,014,991,181.29. This means that, on a per capita basis, every man, woman, and child in America now owes $18,691.65.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million million in a trillion.

THE 50TH SITTING BULL STAMPEDE

Mr. PRESSLER. Mr. President, last week marked the 50th Annual Sitting Bull Stampede in Mobridge, SD. People from across the State and Nation joined together in celebrating a long-standing tradition which first began in 1946. The stampede has a long and colorful history, and it serves to remind people of South Dakota's proud heritage.

It is appropriate that the Sitting Bull Stampede is named after the famed Sioux leader. The multicultural diversity of the event recognizes the contributions of both native Americans and non-native Americans to South Dakota in the last century. As my colleagues know, Sitting Bull was a famous leader and medicine man of the Lakota people. This native American hero was born in the Mobridge area and lived there for much of his life. His remains are buried on a nearby bluff overlooking the Missouri River.

The Sitting Bull Stampede began as a small rodeo organized by a group of cowboys. As the rodeo became more successful, the stampede began to take on a cultural focus. Last week's celebration was one of the biggest thus far, complete with parades, rodeos, a carnival, and many other festivities. More than 400 contestants competed in this year's rodeo. Miss Rodeo America, Jennifer Douglas, was on hand to assist in the crowning of this year's stampede queen, Anne Lopez of Keldron.

Mr. President, I am very proud of the accomplishments of the people of the Mobridge area in planning such a tremendous event. The Sitting Bull Stampede brings two cultures of our State together. It reminds us not to forget our past as we progress into the future. I extend my best wishes to the citizens of Mobridge and all who participated in this year's events.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 343, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 1487, in the nature of a substitute.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, will the Senator yield?

Mr. HEFLIN. Yes.

Mr. HATCH. I ask unanimous consent that no amendment be filed until Senator DOLE has an opportunity to get here from the wings.

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

Mr. HEFLIN. Mr. President, I am pleased to support and cosponsor S. 343, the Comprehensive Regulatory Reform Act of 1995. The time has come for meaningful regulatory reform and for the Congress to exercise its legitimate legislative function to set statutory standards to guide Federal agencies with regard to their rulemaking authority.

Since my term as chief justice of the Alabama Supreme Court when I and others set out to reform Alabama's antiquated judicial system, I learned that true reform never comes easy. Entrenched bureaucracy and vested interest groups will fight you every inch of the way, as I know they are now doing.

President Clinton acknowledged the need for regulatory reform in a speech on March 16 of this year when he called for common sense in approaching regulatory reform. He said, and I agree, that "government can be as innovative as the best of our private sector businesses. It can discard volume after volume of rules and, instead, set clear goals and challenge people to come up wit their own ways to meet them."

The substitute bill that has emerged is the product of several hearings before the Judiciary Committee, the Energy Committee, and the Governmental Affairs Committee. Extensive discussions have occurred over the last several weeks in an attempt to fashion a consensus bill which can pass the Senate and will be signed by the President. I believe our efforts will prove successful because the bill under consideration is not extreme reform.

It does not contain a supermandate, as the House bill does, which would overturn Federal laws to protect our environment, protect worker safety, or guarantee product safety.

The last time the Senate attempted to legislate in this area was 15 years ago when working in a bipartisan manner we passed 94–0 a bill known as S. 1080. Regretfully, certain interest groups prevailed upon the House of Representatives to kill our reform efforts.

I was a cosponsor of S. 1080 which was drafted to address deficiencies in the Federal regulatory system and to improve the rulemaking process of public notice and comment. The Judiciary Committee report at that time found that the "dramatic costs of regulation suggest that we may be expending our limited resources on uncertain regulatory remedies for various costs at a significant human cost by depriving other vital interests of these resources."

The 1982 report found that annual compliance costs of Federal regulation, that is, costs which are borne by those who must comply with regulations, were running "at more than $100 billion a year." The 1995 report from the Judiciary Committee concludes that these costs are now approximately $542 billion. Congress must act to address this problem.

RULEMAKING

I note that the first part of the substitute incorporates many procedural improvements to section 553 of the Administrative Procedure Act which defines the rulemaking process. This section substantially incorporates and updates the provisions of S. 1080.

This section requires public notice of proposed rulemaking in the Federal Register and expands the amount of information which must be given by an agency to the public so that it can adequately comment on the proposal. An exemption is established from this requirement where such a proposed rule would be "contrary to an important public interest or has an insignificant impact."

There are other provisions which are too numerous to mention, but this section is strongly supported by many legal scholars and the American Bar Association.

ANALYSIS OF AGENCY RULES

The second section of the substitute deals with the analysis of agency rules defining expansively the terms "costs" and "benefits" to include, not just quantitative considerations, but also qualitative considerations of what a cost-benefit analysis should contain. This section also contains a definition of a "major rule" which is set at $50 million, a figure that is arguably too low especially since every President since Gerald Ford has defined, by Executive order, a major rule to be $100 million, as does S. 291, the regulatory bill that reported out of the Governmental Affairs Committee.

An earlier draft of this legislation provided that a major rule could also be less that $50 million if it were likely to result in disproportionate costs to a class of persons or businesses within the regulated sector. This provision would have given relief to many small businesses who are all too often threatened with being put out of business due to the costs of implementing a rule. I support an amendment offered by Senator NUNN which will assure that our Nation's small businesses will derive the benefits intended by our reform efforts in this bill. The Nunn amendment would require that a proposed rule which has been determined to be subject to the Regulatory Flexibility Act be considered a major rule for the purposes of cost benefit analysis and periodic review. Agencies frequently propose rules whose annual economic impact would not rise to the $50 million threshold set by this bill, but those rules can and do place significant burdens on small businesses. The Nunn amendment will assure that cost benefit analysis benefit small businesses.

I might add that the substitute exempts from the definition of "rule" those rules which related to future rates, wages, prices, monetary policy, protection of deposit insurance funds, farm credit insurance funds, or rate proceedings of the Federal Energy Regulatory Commission.

Once an agency has determined that a rule is a major rule, the agency must conduct a cost-benefit analysis to demonstrate that, based on the rulemaking record as a whole, the benefits justify the costs and that the rule imposes the least cost of any of the reasonable alternatives that the agency has the discretion to adopt. Quite simply put, this means that if a Chevrolet will get you to your goal, pick it and not the Cadillac model.

AGENCY REVIEW AND PETITION

The next section of this substitute requires each agency to publish a list of existing rules, general statements of policy, or guidances that have the force and effect of rules, that the agency deems to be appropriate for review, and each agency must publish a schedule for systematic agency review of those rules. The agency schedule shall propose deadlines for review of each rule and the deadlines will occur not later than 11 years from the initial schedule established by the agency. This timeframe, to me, is a reasonable one and should allay concerns that agencies will be swamped with too much work as a result of this legislation.

This bill also provides a petition process to allow any interested person subject to a major rule to petition an agency to conduct a cost-benefit analysis on an existing rule if it is a major rule and that its benefits do not justify its costs, nor does the rule impose the least costs of the reasonable alternatives. A petitioner has a high standard to meet and will have to spend a great deal of money to conduct its own cost-benefit analysis to show there is a likelihood that the rule's benefits do not justify its costs.

I also supported an amendment offered by Senator ABRAHAM which will be included in this section to ensure that agencies periodically review the need for rules which have a substantial impact on small businesses. As section 623 is now written rules will not be subject to review unless an agency chooses to place them on the review schedule or unless an interested party successfully petitions to have the rule placed on the schedule. Thus rules which have a substantial impact on small businesses might be left off of the review schedule. The Abraham amendment would require agencies to include on their review schedules any rule designated for review by the Chief Counsel for Advocacy of the Small Business Administration. This amendment creates, in effect, a small business counterpart to the petition process available to larger industries and makes section 623 stronger and fairer for all the regulated community.

I, therefore, support the provisions of section 623 relating to agency review and the petitioning process. I believe that a reasonable effort and compromise has been achieved which will not overly burden our regulatory agencies and at the same time will ensure that current rules are revised, if necessary, and terminated if they become outdated or useless.

DECISIONAL CRITERIA

Let me turn briefly to the decisional criteria section of this legislation. In my judgment, it does not go as far as the House bill on the issue of supermandate. The House bill's provisions require that a rule's benefits must justify costs and that the rule achieves greater net benefits or the rule must be rescinded outright. The House bill thus supersedes, supermandates, and trumps all other previous statutory criteria. The provisions of this substitute "supplement any other decisional criteria otherwise provided by law." Despite what the critics may say, the Senate bill is not a supermandate, nor is it a wholesale massacre of our Nation's environmental, health, or safety laws and regulations.

Under this legislation, Federal agencies are directed to conduct cost-benefit analyses on all major rules they propose to issue. As a general rule, no final major rule shall be promulgated unless the agency head finds: First, that the benefits justify the costs; second, that the rule employs flexible alternatives, and third, that the rule adopts the "least cost alternative of the reasonable alternatives that achieve the objectives of the statute."

If the underlying statute does not allow the agency to consider whether a rule's benefits justify its cost, the agency can still issue the rule—unlike the House bill where the rule is precluded from going forward—as long as the rule employs flexible alternatives, and adopts the "least cost alternative that achieves the objectives of the statute."

What is unreasonable about Congress requiring agencies to follow these standards when a rule's benefits do not justify its costs? This is what regulatory reform is all about—trying to give the unelected Federal bureaucrats some guidance in their rulemaking authority.

JUDICIAL REVIEW

Next, the judicial review provisions of the substitute adequately address concerns that I have raised, and judicial review is granted to review final agency actions. Any cost-benefit analysis or risk assessment shall constitute part of the whole rulemaking record and not be subject to separate, independent consideration. The provisions in the substitute provide for effective judicial review of cost-benefit analyses and risk assessments "to determine whether the analysis or assessment conformed to the requirements" of the bill.

The judicial review provision does not allow judicial nitpicking to overturn a final rule if an agency fails to follow a procedure required by this law. However, if the substance of a cost-benefit analysis or risk assessment is flawed, a court can and should review such a flawed conclusion as a part of the final agency rulemaking.

MISCELLANEOUS

There are other provisions which I will not attempt to address at length at this time. There is an extensive provision relating to risk assessment, a section known as regulatory flexibility analysis which passed the Senate last year, which I supported, to give relief to small businesses and a provision supported by Senator GRASSLEY known as congressional review which will give Congress the right to veto agency rules before they take effect. Perhaps this should be limited to veto major rules or we may risk being inundated with paperwork. With congressional staffs shrinking, it may be wise to limit this provision, or this provision may prove meaningless.

The substitute bill before the Senate is a major step in the right direction toward meaningful regulatory reform. Congressional action to give agencies some greater guidance is warranted and long overdue. I applaud the administration for its recent actions to improve the situation, but it is not enough for my constituents who must live with the reality of regulatory overkill on some occasions. I am quite certain that the entrenched Federal bureaucracy will never approve of true reform. They want unlimited authority to make rules as they see fit.

However, I believe the Congress has a responsibility to set some reasonable standards for the bureaucrats to follow. This historic regulatory reform bill is the most comprehensive effort since the Administrative Procedure Act was adopted in 1946.

I began my public career reforming one system, and as I approach the end of my career, I am pleased to join the reform that is now needed for the Federal executive branch of the Government.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Chair advises the pending business is S. 343.

AMENDMENT NO. 1492 TO AMENDMENT NO. 1487

(Purpose: To address food safety concerns)

Mr. DOLE. Mr. President, I send an amendment to the desk to the substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1492 to amendment No. 1487.

On page 25, delete lines 7–15, and insert the following in lieu thereof:

"(f) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1493 TO AMENDMENT NO. 1492

(Purpose: To address food safety concerns)

Mr. DOLE. Mr. President, I send a second-degree amendment to the pending amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1493 to amendment No. 1492.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"(f) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

Mr. DOLE. Mr. President, the only change is that it becomes effective 1 day after the date of enactment in the second-degree amendment.

As I stated yesterday, opponents of regulatory reform have avoided the merits and, instead, have engaged in scare tactics.

One of the most recent, perhaps most offensive, of the scare tactics has been the suggestion that regulatory reform means tainted meat, specifically, further outbreaks of E. coli food poisoning. This is an insult to the American people.

It is also false. Opponents know that this claim is false, and the media knows it. Yesterday, I included in my statement and accompanying fact sheet in the RECORD two specific provisions already in the bill to make it obvious that this bill would not hold up meat inspection rules.

One provision allows the implementation of a regulation without first complying with other requirements of the bill where there is "an emergency or health or safety threat."

That seems pretty clear to me. That is in the bill. It does not get any clearer than that. It is a sign of either sloppy journalism or extreme cynicism, and this amendment ought to be named the Ralph Nader-Margaret Carlson-Bob Herbert amendment. I have listened to these commentators—who probably never read the bill—and they talk about the terrible things that can happen and that we are all going to eat tainted meat. Margaret Carlson said 5,000 people are going to die, and then she corrected it to 500 before the program ended. It seems that the media do not worry about the facts if they have a good story. I hope to send a message to the media—at least those three—and those on the left who need to read the bill, to read what really happens. The media have chosen to buy into these distortions in the face of language that makes clear that we have responsibly taken health and safety concerns into account.

I do not believe for a moment that opponents are unaware of this health and safety exemption. But in an effort to ensure that we begin focusing on issues legitimately in this debate, I am offering an amendment to make crystal clear that S. 343, the regulatory reform bill before us, has no effect on efforts to address food safety. Period. End. That is it.

No one here, Democrat or Republican, wants to interfere with food safety. I hope we can lay that to rest by having a big vote on this amendment. The words "health and safety," already part of the bill, obviously include concerns about food safety. But this amendment adds the words "food safety, included an imminent threat from E. coli bacteria."

Mr. President, it concerns me that such distortions are being made. E. coli bacteria and the illnesses that occur as a result of that bacteria are serious problems for the people of this country. Every Member of Congress, regardless of party, is concerned. It is not a partisan issue and should not be a partisan issue. But opponents—I do not mean the opponents in the legislative body. I think the opponents have come from outside the bureaucracy and in the media. All these people who want to protect their little preserves are the ones who are peddling the false information and trying to scare people. Obviously, you can scare people if you distort the facts.

Now that I have offered the amendment, opponents will no doubt come up with more imaginary scenarios. But I am putting them on notice that we chose the broadest possible phrase. In the event that somebody missed it, it is, "emergency and health safety threats." We chose it in the first place for a very good reason. We want to make certain that every possible response to health and safety threats is exempted from delay where that is appropriate. Adding a laundry list, as opponents would have us do, undermines the very public policy goal opponents pretend they seek. This is so because it raises the possibility that someone could read this provision to exclude anything not specifically included. I do not think that is what ought to happen.

That is not our intent. We want the broadest possible language so that we can take care of all of the situations where health or safety threats exist.

Mr. President, I certainly urge the adoption of this amendment. It seems to me, as I have said earlier, based on the misinformation, flatout distortions, and flatout false statements that I have read in the media, heard in commentary, heard on television, I offer this amendment. It should not be necessary to offer this amendment, but, as I have suggested, it is being offered to make certain that nobody misunderstands—nobody on this floor, on either side of the aisle. There is nobody that I know of who does not support food safety.

Mr. President, I want to make an inquiry of the managers momentarily. In an effort to get a vote on this amendment and make certain this is the first amendment we will have a vote on, procedurally, I also would need to amend the bill itself. I am amending the substitute. But if I can have some assurance that we can have a vote without any further amendments to the bill on this issue, then I will not proceed to sort of fill up the tree. I make that inquiry of the Senator from Ohio.

Mr. GLENN. Mr. President, I am glad the majority leader has addressed the E. coli situation. I would like to check with some of the people who were interested in this on our side before we proceed with this. It might even be possible to accept it, I do not know. I would like to check on it further before I agree to anything at this point.

Mr. DOLE. It may be just a matter of—well, I will go ahead and fill up the tree and amend the bill in two degrees.

AMENDMENT NO. 1494

Mr. DOLE. Mr. President, I send an amendment to the desk ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1494.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike the word "analysis" in the bill and insert the following:

"analysis.

"( ) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources."

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1495 TO AMENDMENT NO. 1494

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 1495 to amendment No. 1494.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

"analysis.

"( ) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT

ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a food safety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources."

Mr. DOLE. Mr. President, I think this is a clear-cut issue. My view is that the amendment is not necessary. But this is an effort to have the opponents who are really concerned about this bill focus on the issues rather than trying to frighten the American people, saying that somehow anybody who is for this bill is out here trying to peddle dirty meat. That was a charge made over the weekend and in the past few days.

I think probably it is in the interest of everybody who supports regulatory reform that the amendments be offered. I am the one being criticized by the media. "Senator DOLE's bill is promoting dirty meat." And some say maybe I am doing it for the meatpackers. Well, I do not know any meatpackers. I do not have any connection there. In any event, this is just to calm down the hysteria of some in the media. But they will get hysterical about something else. They are good on their feet. As soon as this matter is resolved, they will have some other hysterical notion or a figment of somebody's imagination, and some statement will be made, or there will be a ludicrous charge that they will pick up on. There are, unfortunately, some people in the bureaucracy who believe that the Government should do everything in America. They do not want any regulatory reform.

They are not one of the American families who are paying an average of $6,000 a year for regulatory reform. They are not a farmer or rancher or small businessman or small businesswoman who is trying to make a living for their family and all they get are more and more and more regulations from the Federal Government.

I happen to believe that regardless of anybody's party affiliation, if you are a businessman, a businesswoman, a farmer, rancher, whatever, you have to believe there are too many regulations and you have to believe there is some way to protect health and safety as we should, also, to make certain that there is some way we can review and make certain that some of these regulations never are implemented, because they have no benefit, a great deal of cost, and all they do is put a burden on somebody in America.

Democrat, Republican, somebody out there will pay. That is why we find this coalition of the left and the media and those in the bureaucracy and others who are fearful they might lose a job, I guess, or they might make life easier for the average Americans, who are vitally opposed to any regulatory reform.

I mentioned to the President this morning, we had a meeting at the White House, and I apologize to the managers for being late, this was a bill that I thought had potential to have broad bipartisan support. I met privately with the President after a regular meeting. I told him the number of changes we have already made, and we are prepared to look at other changes that are legitimate, and we are still having ongoing—as I understand—the Senator from Utah has an ongoing discussion with Members on the other side.

I will not repeat what the President said. I do not want to repeat discussions of the President, but I want him to understand, talking about bipartisanship, and lowering the rhetoric, this is an opportunity, right here, this bill.

There is no reason this bill does not pass this body by a vote of 75 to 20 or 80 to 20—good, strong, regulatory reform bill. I would hope that we can continue in the spirit we have started.

I want to commend the Senator from Louisiana, the Senator from Utah, Senator HATCH, and the Senator from Delaware, Senator ROTH, and others, including the Presiding Officer, who have been working on this on a daily basis.

My view is if we were to work in a bipartisan way we can complete action on the bill this week. I am happy to yield the floor to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I want to thank the majority leader for his comments.

Mr. President, this amendment, in my view, is totally unnecessary, but if it helps to clarify and reassure, then I will support it. The provision that it amends was one of those provisions put in at our behest, and agreed to by the majority leader, in order to take care of this very situation.

Whether it is cryptosporidium, E. coli bacteria, or Ebola virus—whatever—the bill already covers that kind of health emergency. The bill says that you do not have to comply with either cost benefit or with risk assessment if they find that there is an emergency or health or safety threat that is likely to result in significant harm to the public or to natural resources.

Mr. President, it is clear the bill already covers that, and this was one of those 100-odd amendments that were accepted by the majority leader at our behest.

I believe it has been a very good bipartisan effort. It is not a complete and perfect bill yet. We still have some amendments which we hope will be accepted. There is an ongoing dialog about that.

Mr. President, I am still very hopeful this bill can be passed overwhelmingly on both sides of the aisle. I hope we can proceed not with drawing lines in the dirt and lines in the sand and tossing bombs at one another, but, rather, try to make this bill a more perfect bill, a better bill.

Believe me, Mr. President, risk assessment and cost-benefit analysis is needed by the taxpayers who are overburdened in this country today, and just to try to defeat this bill by phony issues is not the way to go. We should try to improve it with real amendments.

I believe that the distinguished Senator from Utah, the floor manager of this bill, and I believe the majority leader, will show cooperation, because they have so far.

I will vote for this amendment. It is totally unnecessary. The bill already covers this kind of emergency.

Mr. HATCH. Mr. President, I know the distinguished Senator from Ohio wants to comment. I will just take a few minutes.

I want to thank the distinguished Senator from Louisiana for his cogent remarks. He is right. This matter was taken care of in our negotiations. We have language in this bill that completely resolves this problem without this amendment.

In the interest of trying to pacify and resolve some of the hysteria and fear that seems to pervade this body from time to time, and certainly the outside groups—I have to say, evidently, the media, or some aspects of the media. I actually have watched the media over the last number of years, and I think they have been for the most part responsible, but on this issue they have not been responsible since this bill has been laid down, or at least those who have been primary purveyors of what they think this bill stands for.

We have over 100 amendments we have agreed to with the White House and others on this bill, trying to accommodate and resolve these problems.

I might add, we have worked very closely with the distinguished Senator from Louisiana and others in doing so. I want to compliment the majority leader for his willingness to try and make this bill as perfect as we possibly can.

One of the amendments we agreed to was described by our distinguished Senator from Louisiana, that he fought for in our negotiations, that really solved this problem. I think it is unfortunate we have to resolve it again and again and again because of hysteria and the use of fear tactics on the part of the left, really, in this country.

I have to say, certain Members of the media, in my opinion, have acted irresponsibly. I hope that the media will read this bill, those who are responsible will read it, and start talking about this bill in the manner that it deserves.

It is amazing to me the lengths supporters of big government status quo

will go to in opposing the Dole-Johnston regulatory reform bill. The newest media myth spread at the end of last week is that the bill's cost-benefits requirement will somehow block the U.S. Department of Agriculture's meat safety rules for 2 or 3 years. That is pure bunk. It is apparent opponents of the bill are preying on the fear of the public and on individuals who have suffered from E. coli bacteria.

What these advocates of fear do not reveal, enforcement of food safety rules is predominantly done not through rules but through adjudicatory enforcement and inspection orders against meat processors and handlers, which are explicitly exempt from S. 343's requirements.

What they did not reveal is that S. 343, in any event, contains a provision that exempts health, safety, or emergency rules from cost-benefit analysis when there is a threat to the public.

They also do not reveal S. 343 mandates the promulgation of rules that are both cost efficient and that are likely to significantly reduce health, safety, and environmental risks.

They did not reveal that the USDA had already conducted a cost-benefit analysis and concluded that the benefits of the rule far outweighed its cost.

Finally, I want to mention the most outrageous statement attacking the bill in this media campaign of fear was made last Thursday on C-SPAN. To generate fear of S. 343's cost-benefit requirement, a spokesperson for the lobbying group Public Citizen, contended that cost-benefit analysis was something the Nazis conducted to compute the worth of prisoners in concentration camps.

That is highly offensive. Such claims are pure bunk. They are nonsense. It demonstrates how really desperate the desperate can be.

These people want overregulatory activity because that is where the power has been. They control the whole U.S. population from this little beltway called Washington, DC. When we come to this floor and bring reasonable rules that will change the status quo and cause people to be able to live within certain norms and restraints and save the taxpayers' moneys and cause our society to work better, then these defenders of the status quo, these leftists, start making these outrageous comments.

The Dole amendment makes crystal clear that S. 343 does not impede the all-important protection of public health and food safety.

In that regard, let me just take a couple more minutes, because I think this is a perfectly appropriate place for me to give my daily Top 10 List of Silly Regulations. Let me start with No. 10, a regulation holding up the residential building project for a wetland, .0006 acres in size—about the size of a Ping Pong table.

No. 9. Creating an Endangered Species Act recovery plan for a breed of snail that will only flourish in an ice age or during the ice ages.

No. 8. A regulation making the playing of a musical instrument near a campfire in a national forest a Federal class B misdemeanor. I mean, my goodness.

No. 7. Fining a company for not having a comprehensive hazardous communications program for its employees. Its employees were two part-time workers. That is our Federal Government in action.

No. 6. Requiring $6 hospital masks instead of $1.50 masks, without any evidence that the more expensive mask is needed.

No. 5. Requiring such stringent water testing, that local governments actually had to consider handing out bottled water in order to save money.

That is our Federal Government in action, at work.

No. 4. Denying a permit to build a pond to raise crawfish because the habitat provides food and shelter to "a wide variety of * * * fish * * * including the red swamp crawfish."

No. 3. Barring a couple from building their dream house because the goldencheeked warbler had been found in the canyons adjacent to their land. Just think about that. This is happening in America.

No. 2. Requiring so much paperwork for a company over 50 employees—8 pounds, by the way, 8 pounds of paperwork—that they purposely do not hire any more people.

The silliest of all as far as I am concerned, for today's list:

No. 1. A company was fined $34,000 by the EPA for failing to fill out form "R" in spite of the fact that they do not release any toxic material.

These are the type of things we are trying to correct. These are the type of things this bill will correct. These are the type of things that have Americans all over this country upset, and rightly so.

This is why we have worked so hard, the distinguished Senator from Louisiana and our majority leader and others, to come up with a bill that really makes sense, that will make a difference, that will help us all to get rid of some of these silly, ridiculous, costly and really harmful regulations and interpretations of regulations as well, and to give the people some power to make the bureaucrats have to think before they issue regulations and interpretations of those regulations as well.

At that point, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. GLENN. Mr. President, I am sorry the majority leader, who proposed the amendment, has left the floor. I hope he may be listening, because there is more reason to be concerned about this than he indicates.

We hear repeatedly, "This is not needed, it is not needed, it is not needed." Everybody says that. Yet we are still leaving it up to the agencies to make the decisions. Maybe that is OK. But let me tell you why we were planning to address E. coli this morning anyway before the majority leader came back and put in the amendment. There is a track record here, going back into committee, of Republicans not voting to take E. coli out of consideration here. We had a regulatory moratorium bill proposed a few months back that came before the Governmental Affairs Committee. It would have stopped everything in its tracks. It was a regulatory moratorium for everything from the last election on—any rule, any regulation that was in consideration. Even some of those that had been finalized already and were in effect were cut off.

We had a list of rules in committee that we thought should be exempted, that should not be subject to that regulatory moratorium. There was no exemption for health and safety in committee on that. And what happened? I put in an amendment in committee that would exempt rules to protect against E. coli. We had parents who lost children come before the committee and testify as to the horrible death that their children suffered with E. coli. Their children died. And I put in an amendment in committee to exempt E. coli from that moratorium. We had a record rollcall vote and I lost, because the Republicans opposed it. I lost on that, 7 to 7, one Republican being absent. I lost that vote to exempt E. coli, with seven Republicans on the other side of the aisle voting to keep E. coli in, in that regulatory moratorium.

Mr. JOHNSTON. Will the Senator yield?

Mr. GLENN. No, I will not yield at this point.

The PRESIDING OFFICER. The Senator has not yielded.

Mr. GLENN. I will not yield.

We hear it is not needed. We hear that such rules are exempted in this bill—but it still leaves it up to the agency. What if we have somebody in the agency who does not want to do this? I am not going to make too much out of that because, we have to trust the people in the agencies. But to say that we should have no concern, that nobody on this floor, nobody in the whole U.S. Senate is against health and safety rules when we had a vote in committee that prevented rules addressing E. coli and cryptosporidium, which was another vote, from being exempted from that moratorium is just not right. There is very, very good reason why we are concerned about this.

We did not have a single Democratic vote that was against exempting these important rules, but we did have votes on the Republican side that prevented

that exemption being made in committee. That is the reason we are concerned about this. This is not something we are making up. It is not something fictitious. It showed the intent on the other side, at least in that case, under the regulatory moratorium, of not being willing to give one inch on this issue. Not even when we have about 250 deaths a year, and over 20,000 people made ill by E. coli bacteria every year.

Further, under this bill, there are still problems even if the agency declares an emergency. An emergency exemption is provided, and I agree and I know the Senator from Louisiana is going to say that the agency has the discretion to exempt these rules, and they can. But the bill now says that within 180 days of putting the rule out, the agency has to go back and do the cost-benefit analysis and risk assessment. Even with that kind of an exemption by the agency, I do not know whether they can do a cost-benefit analysis or whole risk assessment in 180 days. That is very difficult. Sometimes these things take years—2, 3, or 4 years or more. If they cannot complete the work required what happens then? And even then, these rules would still be subject to the petition process. The agencies might have to review the rule again, which is subject in turn to judicial review, or judicial challenge, anywhere along the line. So there are still weaknesses and there are areas where we are still concerned about this.

But I come back to why we are concerned about this. We are not digging up things. We are not desperate. We are not wild-eyed leftists over here. We are trying to protect the people of this country from E. coli in this particular case. I think the majority leader has addressed some of the problem with this. Maybe it is sufficient. I do not know. We will have to talk it over a little bit to see what we want to do on this.

But there is very, very good reason why I personally had concern about this. It is heartwrenching to sit in the committee and hear mothers and fathers come before the committee talking about how they lost their children to E. coli.

We see statistics. We know that there are estimates that about 4 percent of the meat is tainted. So you had better cook it well. I will tell you that. Four percent—that means that 1 out of every 25 times you buy a hamburger, it could be tainted. We want to protect the people of this country against that kind of meat contamination, if we can. Of course, we do. We brought this up in committee. We could not get that exemption through in the committee. It was not exempted from the moratorium. That is the reason we are concerned about this.

So this is not something fictitious. This is something that we have already voted on in committee. The Republicans voted solidly on the other side to not exempt E. coli from that regulatory moratorium that was proposed at that time. The regulatory moratorium still has not been completed, because we have not gone to conference with the House yet.

I still have some concern about the processes under this bill, S. 343, that would require that within 180 days a cost-benefit and risk assessment would have to be done for rules that have been issued under this exemption. I do not know whether that can be done. But if it is not done, what would happen then? It would still be subject to petitions to review the rule all over again, even though everybody can say E. coli is a danger to the health and safety of the people of this country. Yet, in committee Republicans voted against exempting that; voted to not give the protection that the people of this country deserve.

So I am glad that the majority leader has done what he has done this morning. We will have to discuss whether we think this goes far enough. But there is very good reason why we are concerned about this. Our concerns are not fictitious, not something we are making up, and it is not something where politics is involved. It is the health and safety of the people of this country. It is not because of politics, as the majority leader indicated a little while ago, that we are talking about E. coli. And an exemption is needed. The vote in committee showed that we needed legislation in this regard. So we will see whether we think it is adequate or not.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the problem with this bill is that the opponents are not willing to take yes for an answer. I do not know what happened in committee. I do not know whether the Republicans were opposed or were not opposed to some particular provision on E. coli bacteria. But I am telling you.

Mr. ROTH. Will the distinguished Senator yield a moment on that point?

Mr. JOHNSTON. Yes, for a question.

Mr. ROTH. I wanted to make a statement on what happened in the committee.

Mr. JOHNSTON. If the Senator will let me make a few comments, I will yield the floor.

Mr. ROTH. All right.

Mr. JOHNSTON. The point is not what has happened in past history. We are dealing with what this bill says now here. I and my staff worked with the majority leader on this very provision to take care of not only E. coli, not only cryptosporidium, not only Ebola virus, but all public safety threats so that we exempted from any cost-benefit analysis or any risk assessment if it is impractical due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources.

Mr. President, what could be more clear than that? If it is a threat to public health or safety or likely to result in any significant harm to the public or natural resources, you do not have to do a cost-benefit analysis. You do not have to do a risk assessment. That was not in the original Dole bill. They accepted this amendment. Now they do not want to take yes for an answer.

Mr. President, we need to get this bill to be really considered for what it says. I just received a statement of administration policy on this Comprehensive Regulatory Reform Act which I must tell you, Mr. President, I find offensive. I think it is disingenuous. I sat in the room with Sally Katzen who is head of the OIRA. She came up with some very good suggestions among which was a method—I call it the Katzen fix—whereby we could combine all of the scheduling of rules to be considered, of look backs of the petition process to have it all considered at the same time with that schedule controlled by the Administrator. We accepted this suggestion completely—Senator DOLE and his staff, and Senator HATCH and others. And now I find that this is unacceptable and agencies are overwhelmed with petitions and the lapsing of effective regulations. It is just disingenuous because they accepted the very proposals which were made.

Let us get serious about this bill, Mr. President. Look. This bill is not about E. coli bacteria or about cryptosporidium. Those are scare tactics. That has been taken care of in this bill. There may be a lot of things to oppose on real grounds. But I think we ought to get real about it. We ought to be ingenuous about our opposition, those who propose various provisions. And if there is a real problem with cryptosporidium or E. coli, why do not you offer the amendment? Let us see if we can work it out rather than come in on the floor with white-hot debate and mothers with children who die from various things. We are just as concerned about that, those of us who want regulatory reform, as anybody in this Chamber. And we have taken care of it. To suggest that it is not taken care of is just not ingenuous, Mr. President.

We need regulatory reform. We need bipartisan regulatory reform. If there are serious amendments, let us consider them on their merits and not on the basis of something that is not in this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. ROTH. Mr. President, what the distinguished Senator from Louisiana has just said is exactly on point. What we are seeking to do is to make this a cleaner environment for all people. What has happened too often by scare tactics is that we find actions being taken that are unnecessary and unwarranted. The Senator is absolutely right. There is language already in the proposed legislation that will take care of these emergencies where there is a threat to health and safety. And there is no way. It is totally impossible to eliminate where all of those threats are going to arise in the future. That is the reason for the general language that, where there is an emergency or a problem of health and safety, an exemption, an exception, is made to the requirements of the legislation. But the basic purpose of the legislation is to ensure that we do a better job of regulating, of eliminating the risks and problems faced by this Nation. It is already costing every American family something like $6,000 a year. We need to ensure that those dollars are well spent, that we get the biggest bang for the buck.

Just let me point out that what exists in this legislation also existed in the moratorium. The moratorium provided that the President had the right to exempt health and safety regulations from the moratorium. That would include various diseases, E. coli or whatever else might be of emergency nature. The important point was that when the Republicans voted the way they did they were relying on the general language. I do not care how many amendments we add. I support the amendment of the distinguished majority leader. But legally, it is not necessary.

Would not the Senator from Louisiana agree with that?

Mr. JOHNSTON. Mr. President, I will say in response that really the majority leader's amendment adds nothing to what is already in the bill except it says including E. coli. Health including E. coli. A health threat already included E. coli. It already includes cryptosporidium. It also includes the Ebola virus. It already includes everything that is encompassed in the world health.

So it is totally unnecessary. But if it reassures somebody that now we are taking care of E. coli, so much the better.

Mr. ROTH. I could not agree more. I personally intend to support the amendment of the distinguished majority leader. But the important point is that in this legislation we want to deal with not only the threats we face today but we face in the future. That is the reason for the general legislation. Who knows what horrible disease may develop sometime in the future. That is the purpose of the language in this legislation.

So I just want to say I agree with what the distinguished Senator from Louisiana said. It was exactly the same situation when we were dealing with regarding the moratorium. We had general language to cover health and safety. We gave the President the authority to exempt it. There was no need for it. That is the reason many of the Senators voted as they did.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I appreciate the fact that the majority leader has offered this amendment this morning, not just because it clarifies that the language of the bill was not intended to hold up this rule on bacteria in meat, which the Centers for Disease Control tells us is a serious health problem, but because the amendment reminds us why we have regulation. The amendment reminds us that regulation does not simply emanate out of a vacuum in which some bureaucrat falls to impose irrational rules. Regulation comes from laws that we adopt in Congress, that are signed by the President, that recognize some public problem that we as the elected representatives of the people have concluded the people themselves cannot protect themselves from; they cannot handle that problem on their own.

There are a lot of problems like that in our increasingly complicated, sophisticated, globalized world. It is not like the old days where you basically grew what you ate. We are eating a lot of stuff that comes from halfway around the world. We are breathing air that contains pollutants that come from thousands of miles away. We are affected, when we go out on a sunny day in the summer, by rays that are coming through the hole in the ozone layer that has been created by chemicals that are being sent up there from all around the globe, and so on and so forth.

So we have created a series of protections as part of what I would consider the police power of the State, which is why people form governments in the first place, which is to protect them, to create security for them from harms from which they cannot protect themselves. The inspection of meat, to protect people—and people have died from bacteria in meat—is part of that apparatus.

So it is after Congress recognizes a problem, creates a law, and the President signs it, that then, because the law cannot cover every contingency, the administrators come along and they adopt regulations to carry out the rule, to apply it to specific cases. And this, frankly, is where we have gotten into some of the problems that have generated the bill before us and the substitute that many of us on the Governmental Affairs Committee supported, S. 291, now adopted almost completely in the Glenn-Chafee bill.

You would have a hard time, Mr. President—at least I have not found in this Chamber of 100 Senators representing every State in this Union—one Member who will say that he or she is not for regulatory reform. We all have been home and talked to our constituents, small business people, large business people, individuals who can cite for us an example where there is just too much regulation, but even more regulation without common sense.

My friend and colleague from Utah, Senator HATCH, has been providing what I might call the daytime version of David Letterman's nighttime list of the 10 best. We have Senator HATCH in the morning, and we have heard these stories and they are real, and it is why we are all for regulatory reform. But the reason why some of us are concerned about the content of the bill before us and why we seriously want to go through this process and see hopefully if we cannot work together in the end to get to a position where all of us, or at least most of us, can support the bill is our fear that inadvertently in responding to some of the excesses and foolishness of regulation and bureaucracy, we may impede the accomplishment, the purpose of the underlying public health and safety laws that I believe the public wants.

Mr. JOHNSTON. Will the Senator yield at that point.

Mr. LIEBERMAN. I would be happy to yield to my friend from Louisiana.

Mr. JOHNSTON. The Senator, my friend from Connecticut, is one of the best lawyers in this body, and I consider him to be one of the best lawyers in the country. It is for that reason that I ask him, on page 25 of the bill, it contains language that says:

> A major rule may be adopted and may become effective without prior compliance with this subchapter if the agency, for good cause, finds that conducting a cost-benefit analysis is impractical due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources.

We have the same language over on page 49 that has to do with the risk assessment. So it covers both cost-benefit analysis and risk assessment, and the operative language is you do not have to comply with the chapter if there is a health or safety threat.

Now, would the Senator not agree with me that the phrase "health or safety threat" would encompass any of these problems such as E. coli, cryptosporidium, Ebola, flu, the common cold? It covers everything relating to a health or safety threat. Would not the Senator, my friend, agree with that?

Mr. LIEBERMAN. Mr. President, to respond through the Chair to the Senator from Louisiana, first, I thank him for his kind words and, second, it seems to me on the face of it the intention is

certainly to cover those health and safety threats. The question is whether it is effectively done or comprehensively done, and I would like to work with the Senator.

Let me just say that the other day we received the paper flying all over about the Food and Drug Administration comments of the overall bill, and they say as part of their comments:

The exemption for likely health or safety threats will not permit the agency to take expeditious action to avert harm. First, the finding of good cause would be imposed in addition to the statutory violation finding that the agency currently is required to make before taking any action, unless the intent is to override the statutory finding. This requirement is burdensome and inappropriate. Second—

And this is something that I have been concerned about—

neither "significant harm" nor "likely" is defined. As a result, it is unclear how many situations would fall under this standard. Is the threat of one spontaneous abortion—

The example they use—

or one death a significant harm? Under what circumstances would the threat be deemed likely? Would the adulterated product need to be in domestic commerce before the threat was likely?

The requirement that the harm render the completion of a detailed risk-benefit analysis impractical adds a further level of complexity to what should be a straightforward, expedited determination.

I am not embracing all of these questions as my own, but I think they are reasonable, and I would like to work with the Senator to make sure that we do put to rest any of the concerns that are raised in here about public health and safety, although I must say that I have an underlying concern about some of the other sections as they affect the regulatory process even in cases where they are not health and safety.

But let me finally, bottom line, respond. I understand that the intention here is to cover all of the concerns, the specific cases, of the bacteria and the rest, and I would like to review the language in the majority leader's amendment and work with the Senator from Louisiana to make sure that we do just that.

It seems to me, as I said a few moments ago, I think we all share two common goals. The Senator from Ohio has outlined these as his test for whether he will support a regulatory reform bill. And to paraphrase and state them simply, we are all for regulatory reform. We agree there are excesses. There is foolishness. But in achieving regulatory reform let us make sure that inadvertently we do not block the accomplishment of the purpose of the legislation that is underneath the regulations.

Mr. JOHNSTON. Mr. President, if the Senator will further yield, I appreciate his candor. Let me say that this amendment was put in at my behest to deal with the problem. It was our best judgment as to how to deal with what really was, we thought, a problem with the original language. This was printed up, as you know, and then we went into negotiations on our side of the aisle. I personally spent something like 24 hours in direct face-to-face negotiations with our caucus and our Members and our staff. I did not, up until today, hear any criticism of this language.

If there is a way better to make it absolutely clear that you can deal with these imminent threats without any delay, without having to do anything like cost-benefit or risk assessment, if that is not absolutely clear—and I believe it is as clear as the noonday Sun on a cloudless day, I think it just shines through—but if it is not, then I, for one, will certainly help clear it up. I will solicit the help of my good friend and good legal advisor from Connecticut in helping to sharpen that language.

Mr. LIEBERMAN. I thank my colleague from Louisiana. Obviously, I have respect for him, his judgment, his word, and his good faith. I accept the challenge to work with him to clarify the intention of the bill overall with regard to emergency health and safety problems.

I know that the Senator from Ohio has a statement he wishes to make. I am going to spend a few minutes more and then I will yield the floor.

I do want to say in overall terms, to put in a different context these two goals that we have, that there is no question that part of what motivates the bill before us is the broadly held feeling in America that Government has become too big and too intrusive. But reflecting only what I hear from my constituents in Connecticut, which is that, I also hear from them that there are certain things that they very much want Government to continue to do for them because they know they cannot do it alone and it cannot be privatized.

I remember somebody once said—it is not my thought—the law exists in society in relationship to the natural goodness and perfection of the species; in other words, in Heaven, if you will, there is no law because everyone does the right thing; in Hell, it is all law because no one does the right thing; and we on Earth are somewhere in between. The law expresses our aspirations, our values, our desire for a just society.

Do we overdo it sometimes? Sure, we do. I have to tell you, when I am home in Connecticut, I do not find anybody saying to me there is too much environmental protection. I do not find anybody saying to me there is too much consumer protection, there is too much food safety protection, too much protection of toys. Yes, I find some business people saying to me that some of the ways in which these goals you put into legislation are being enforced by some of the inspectors, the bureaucrats are ridiculous. The average business person I talk to says, "Look, I'm not just a business person, I'm a citizen, I'm a father, I'm a husband, I'm a grandfather. I have as much interest in clean air and clean water and safe drinking water and safe food and safe toys as anybody else."

I am saying as we go forward, let us remember both sides.

I have two more general points. No. 1 is, I am a member of the Environment and Public Works Committee. I have spent a lot of time on that committee. Let me say briefly that I find there is an extraordinary broad base of support in my State, and I believe throughout this country, for environmental protection. In fact, environmental protection is, as the writer Gregg Easterbrook pointed out in articles and a book recently, probably the single greatest success story of American Government in the postwar period. It is an interesting thing to talk about. Again, it is not to say everything has been done to protect the environment rationally and sensibly. Twenty-five years ago, the Connecticut River was described by somebody as the prettiest sewer in America. Today, the river is fishable and swimmable. That has happened all around America with rivers, lakes, and streams.

The same is true of the air, that was heading rapidly in the direction of not just smog that is hard to see through, but really affecting people's health. I am hesitant, after the discussion we had today about numbers here, but there are fairly credible scientists and doctors who say still in our country tens of thousands of people die prematurely—which is to say what it says, they would have lived somewhat longer were it not for forms of air pollution. This is particularly true of vulnerable populations.

There is an epidemic of asthma in our country. It has gone up 40 percent in the last 10 years, particularly among children. I have a child who has asthma. More and more of these kids are vulnerable to pollutants in the air. We have done a pretty good job of cutting the number of those pollutants, but still we have a greater amount of work to be done. I am saying, as we try to make the regulatory process more rational, more reasonable, let us not pull away from the underlying goals.

Finally, one of the things that has happened in the environmental area is a general acceptance of the environmental ethic, as I said a moment ago, and, I think, a growing partnership between the business community and individuals and the environmental community. I am fearful that if cooler heads do not prevail in this particular debate, and debates are going on about other laws, that that partnership is going to be broken. It will have a bad effect overall. It is going to lead, first, to the kind of conflict that does not

produce results, does not clean up the environment, but, second, I am afraid from the point of view of business, one of whose understandable goals is to seek consistency of regulation, of law, there is going to be inconsistency, we are going to swing from extreme to extreme, and that is not good.

Finally, if we do not get together and be reasonable with one another and adopt a good regulatory reform bill, it is going to face a Presidential veto. Then nothing is going to be accomplished. We would have spent a lot of time, filled the air with a lot of rhetoric, but ultimately, we are going to be left with a regulatory system that all of us find inadequate.

So I hope as we go forward that we will keep those thoughts in mind. I believe that the bill before us still, because of the petition process in it, which is an invitation to delay, because of some of the standards that are set, inadvertently puts at risk some of the accomplishments of the last two or three decades.

I personally prefer S. 291. I prefer it in part because I worked on it in the Governmental Affairs Committee under the leadership of the Senator from Delaware and the Senator from Ohio. It came out of our committee 15 to 0, a bipartisan vote. It is tough regulatory reform. It requires a determination of whether the benefits justify the costs. It requires regular review by the agencies of the regulations. It goes on to create sunshine in the process and to put some common sense into the regulatory process without jeopardizing the underlying laws.

So I prefer it to the alternative we have before us, but I hope we can bridge the ground and, most of all, get something done to change the status quo without jeopardizing the purposes that have engendered the status quo.

I thank the Chair. I thank my colleagues for their patience, and I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. KYL). The Senator from Ohio.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Jeneva Craig, of my staff, be granted the privilege of the floor during consideration of this legislation.

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

Mr. GLENN. Mr. President, we got off to a rather fast start yesterday and we did not get to give our opening statements on the general view of the legislation before us. I would like to do that at this time.

This is a most important matter that comes before us with this legislation. It may well prove to be, as far as impact on the American public, the most important legislation we pass this year. I am under no illusions it will get the most attention, but it may be the most important.

Before I launch into my statement, I ask unanimous consent to have three editorials from the Washington Post, the New York Times, and the Cleveland Plain Dealer, which discuss the issue of regulatory reform, printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. GLENN. Mr. President, regulatory reform is one of the most important issues before us. Make no mistake, I want regulatory reform. I think we need regulatory reform. Large businesses want regulatory relief, so do small businesses, so do individuals. And their general discontent with regulatory burdens is, in many ways, justified. I believe that. That is why I want regulatory reform to be the right balance.

Why do we have to have a lot of regulations? Are bureaucrats just deciding to write as many regulations as they can think of over in the agencies? No, that is not the answer. The process is that Congress passes laws and agencies carry out the intent of these laws through regulations, through the details that are necessary to make the laws applicable.

Unfortunately, Congress passes a lot of ill-thought-out laws in insufficient detail in the first instance, and then we complain bitterly when the regulation writers in the agencies overstep into unintended areas. In other words, if we want to look at some of the culprits in overregulation, let us look at ourselves, let us look in the mirror.

I repeat that sentence. Congress passes a lot of ill-thought-out laws in insufficient detail in the first instance, and then we complain bitterly when the regulation writers in the agencies overstep into unintended areas.

I believe Congress needs to write laws more clearly and give agencies more guidance. That way, agencies will not have to guess what our intent was when they write the regulations that implement the laws.

In other words, Congress should do the work and weigh our actions more carefully, including the costs and benefits of a law. We should be doing all of that right here before passing legislation that will be implemented through regulation.

As we debate how to reform the regulatory process, we need to ask ourselves two essential questions. First, does the bill before us provide for reasonable, logical, and appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and on individuals?

Second, at the same time, does the bill maintain our ability to protect the environment, health, and safety of all of our people? In other words, does the legislation strike an appropriate balance? That is the question.

Those are the two tests this legislation must meet. I believe that if it can meet those two tests, there will be broad support for this effort. Any bill that relieves regulatory burdens but threatens the protections for the American people in health, safety and the environment should be opposed.

Regulatory reform is very complicated. The idea sounds great, but the devil is in the details. Cost-benefit analysis, risk assessment, judicial review, the specific elements of regulatory reform, are complex—very complex. The parts do not make easy sound bites. But without making sense of the words, there can be no real reform, let alone a workable Government.

I am very concerned that in order to keep up with the schedule established by the other body, the Senate is being rushed to consider a complex and lengthy proposal whose consequences are not yet fully understood. Regulatory reform should be arrived at through a process of deliberation and bipartisan consultation. That is the process we used in the Governmental Affairs Committee. From our landmark regulatory reform study clear back in 1977, through legislation and more than a decade of oversight of OMB and OIRA paperwork and regulatory review, and now to the consideration of legislative proposals in this Congress, the Governmental Affairs Committee has approached this issue in an open and bipartisan manner. That was our mode of operation during my years as chairman. And this year, under the leadership of the new chairman, Senator ROTH, our committee held four hearings and developed a unanimous bipartisan regulatory reform bill, and S. 291 was the number as it came out of committee. Our committee report also reflects this bipartisan spirit and deliberative process.

Now, I make these points because the proposal, S. 343, that has been brought to the floor has been developed in a similar open and deliberative manner. The bill is based on the Judiciary Committee's reported bill that reflected a divisive committee, a proceeding that was cut short.

Until recently, negotiations on this bill went on behind closed doors. During the past several weeks, there have been many attempts to work together to improve this bill. A number of Members have worked diligently to explain our differences and what we think needs to be changed. Before these discussions were completed, S. 343—this bill—was brought to the floor. It is a bill that we believe continues to have a great number of problems. The result, from what I can see, is a bill tailored to special interests. It is a lawyer's dream. It does not meet the dual goals of protecting health and safety and, at the same time, having a more effective and more efficient Government.

Yes, we want agencies to have more thoughtful and less burdensome rules.

But we also want agencies to be effective. The American public does not want the Federal Government to be more inefficient or to have more public protections delayed or bogged down in redtape and delay and courtroom argument. That is why Senator CHAFEE, myself, and several others offered an alternative bill just before the recess. It is S. 1001, and it is based on that same Governmental Affairs Committee bill, S. 291, that was reported out with full bipartisan support. The vote was 15 to 0. There were eight Republicans and seven Democratic votes out of committee.

S. 1001 provides for tough, but fair, reform. It will require agencies to do cost-benefit analysis and risk assessments, but it will not tie up all their resources unnecessarily. It does not provide for special interest fixes. It does not create a lawyer's dream. It provides for reasonable, fair, and tough reform. It reflects the work of the Governmental Affairs Committee on S. 291 and only changes this bill in three ways.

First, the definition of a major rule is one that has an economic impact of $100 million. There are no narrative definitions, such as "significant impact on wages."

Second, the automatic sunset of rules that are not reviewed has been changed. If agencies do not review rules within the allotted timeframe, they must commence a notice of proposed rulemaking to repeal the rule. In other words, the rule could not just sit there and automatically become unenforceable. With this approach, there is opportunity for public comment, and rules will not sunset without adequate opportunity for review.

Third, we limited the risk assessment requirements to particular programs and agencies. We also made some technical changes in line with the National Academy of Sciences' approach to risk assessment. Those are the three changes to S. 291 that we incorporated when it became S. 1001.

Let us remember what is at stake here. Regulation is important because rules are needed to implement most laws. There is no way around it. Public health and safety, environmental protection, equal opportunity in education and in employment, stability in agriculture and other sectors of our economy, each area has shown that it needs the help of legislation and regulation that follows to make it workable.

I would like to talk for a few minutes about a different, but related, regulatory matter. I mentioned it earlier this morning. That was regulatory moratorium. We debated that at the end of March. I want to talk about here, because I believed many of the provisions of S. 343 could have a similar effect in undermining health and safety protections for the American people, their families and their children.

If there was ever a proposal to make one stop and think about what is at stake, the moratorium would do it. It would have stopped all regulations dead in their tracks, starting back at last year's election through the end of this year, no matter what State the regulations were in, no matter whether they were good or bad regulations. Now, proponents of the moratorium, like proponents of S. 343, are ready to subject the people of this country to the slashing of regulations without due examination of what could happen, without considering what health and safety protections may be at stake.

We had hearings in committee, and I met with Nancy Donley of Illinois and Rainer Meuller of California, who both lost children to E. coli-tainted hamburgers. Both came to Washington intent on looking in the eyes of politicians who were more willing to tolerate endangering children than facing up to a responsibility and making a regulatory process that works. According to USDA's Food Safety and Inspection Service, 3,000 to 7,000 Americans die of tainted food each year, and 3 to 7 million Americans are sickened by food-borne illness. This is costing lives and health and millions of dollars.

Can anyone honestly say that we do not need protections and an effective regulatory process? Further, I heard from airline pilots who were angry that Congress might sacrifice air safety standards in order to appear strong not by being proponents of enhancing safety regulations, but by going too far the other way and delaying and even slashing safety rules, all in the name of regulatory reform. In other words, we would reform ourselves into greater danger for every airline passenger.

I heard from public health experts who are alarmed at the threats to the safety of drinking water from dangers like cryptosporidium, which killed 100 people in Milwaukee in 1993, and made 400,000 sick. So the moratorium would have halted drinking water safety rules until the end of the year.

But the point of bringing up the moratorium here is not to confuse the issue, it is to point out that the bill we take up today could well delay some of these items well beyond the end of the year. It could delay them significantly beyond that.

Of course, rules, regulations, and regulators are not always right. There can be different approaches to protecting the public from disease or injury. That is why reform is important. Regulations do not come free. Their costs are weighing down the American people. Businesses, private citizens, universities, and State and local governments all complain that too many regulations go too far, that they just are not worth it.

So our job is to find a balance that recognizes both the essential role of regulations in our society and the social and economic price paid by an overreliance on regulation. Finding this balance means evaluating the benefits as well as the burdens of rules and using the best scientific and economic analyses to do so.

What is the economic impact of regulation? How do we measure that impact? How do we weigh economic costs and benefits? What are the societal costs and benefits? Agencies need to do better in each of these areas, and I believe true regulatory reform can improve agency analysis and make the Federal rulemaking process work better. But accomplishing these reforms is easier said than done.

There is wide disagreement in both the economic and scientific communities about the methodologies and underlying assumptions used in performing these analyses. In our committee, we heard from witnesses on every side of these issues. In developing S. 1001, we tried to craft a workable framework for regulatory decisionmaking. The product of our committee work was a unanimously supported, tough regulatory reform bill. With only a few changes—the ones mentioned—Senator CHAFEE, myself, and others have proposed this bill, S. 1001, as an alternative approach to regulatory reform. It would improve agency decisions, lessen burdens on the American public, improve the implementation of our laws, and make Government more efficient and more effective. I intend to offer S. 1001 as a substitute to S. 343 at the appropriate time. The debate on the regulatory reform before us will, I believe, reveal many of the failings of S. 343, and the more practical advantages of the Glenn-Chafee bill.

Regulatory reform should focus on the following central issues, which are reflected in S. 1001. I will expand on these principles in more detail later in my statement:

First, agencies should be required to perform risk assessments and cost-benefit analysis for all major rules.

Second, cost-benefit analysis should inform agency decision making, but it should not override other statutory rulemaking criteria.

Third, risk assessment requirements should apply only to major risks assessments, and these requirements must not be overly prescriptive.

Fourth, agencies should review existing rules, but their review should not be dictated by special interests.

Fifth, Government accountability requires sunshine in the regulatory review process.

Sixth, judicial review should be available to ensure that final agency rules are based on adequate analysis. It should not be a lawyer's dream, with unending ways for special interests to bog down agencies in litigation.

Seventh, regulatory reform should not be the fix for every special interest.

These principles would establish for the first time a Government-wide comprehensive regulatory reform process.

This process will produce better, less burdensome, and probably fewer regulations. It will also provide the protections for the public interest that the American people demand of their Government.

I do not believe S. 343 follows these principles; instead it does special favors for a special few—and in so doing creates a process that will delay important decisions, waste taxpayer dollars, enrich lawyers and lobbyists, undermine protections for health, safety, and the environment, and further erode public confidence in Government.

I mentioned the seven principles. Let me talk about each of the seven principles I raised in a little more detail.

Principle 1. Agencies should perform risk assessments and cost-benefit analysis for all major rules. Most of us would agree that before an agency puts out a major rule, it should do a cost-benefit analysis, and if it makes sense, a risk assessment.

Let us start with one of the most fundamental questions in this debate: What should be considered a major rule? In the Glenn-Chafee bill and the bill we reported out of the Governmental Affairs Committee on a bi-partisan, 15-to-0 vote, we decided that a major rule should be one that has an impact of $100 million. A $100 million threshold has been the standard under Presidential Executive orders for regulatory review since President Reagan in the early 1980's. If anything, given inflation, that threshold should go up, not down, if you think about it.

S. 343 has a threshold of $50 million; the House bill casts an even wider net of $25 million. These are just simply too low. Remember—this bill will cover all Federal agencies—not just the Environmental Protection Agency or the Food and Drug Administration. All Federal agencies—Treasury, Commerce, Agriculture, and so on—would have to do extensive analysis for every single rule that had a $50 million impact. Or, if the House wins on this, a $25 million impact.

What are we trying to accomplish here? If it is to make the agencies use these important tools for important, economically significant rules, I believe we should keep the threshold high. If we demand that rigorous cost-benefit analysis and risk assessment be required for just about every rule, we will guarantee that we will use up valuable agency resources with very little to gain.

One group that testified before the Governmental Affairs Committee estimated that the House bill would add 2 years to the rulemaking process and cost agencies a minimum of $700,000 per rule. I had some figures yesterday that computed how expensive that could be and it gets up into the hundreds of millions of dollars. Let us remember that we are cutting the Federal work force and consolidating agency functions. This bill should not create needless work that has little benefit. What is the cost-benefit analysis for using $50 million or $25 million? I believe it is going to cost the agencies a bundle of money and resources and the benefits are few. Talk about poor cost-benefit ratios. Let us stick to truly major rules and set that threshold at $100 million.

I say let us first see how this works at the $100 million level. If we see that it works well, I would be in favor of reducing the threshold at a later date to capture more rules, whether down to $50 million or $25 million. But I want to make sure that what we pass now works, is fair, and brings relief for the biggest problems. I do not want to flood the system with so many rules that nothing works, and we find ourselves back here in 3 or 4 years reforming the regulatory process once again.

I feel this even more strongly after yesterday's acceptance of an amendment to include significant rules under the Regulatory Flexibility Act in the definition of major rule. This will add well over 500 rules to those having to go through cost-benefit analysis under S. 343. This is just too much.

Principle 2. Cost-benefit analysis should not override existing statutes. Another question that we must decide is how cost-benefit analysis should be used. I believe, and many of my colleagues believe, that in no way should cost-benefit analysis override existing statutes. This is the so-called supermandate issue. We all agree that it is a good idea to make agencies figure out what the costs and benefits of a rule are before issuing it, and to see whether the benefits justify the costs.

But let us keep in mind that this tool is far from a hard and fast analytical science. There are lots of assumptions that go into figuring out the costs of a rule and the benefits of a rule, and many benefits and costs are unquantifiable. That is certainly no argument for not doing it. I believe it can be a very useful tool in the decisionmaking process, but it does show that caution is in order.

Agencies often have to get cost data from the industry it is intending to regulate. And some industries have been known to overstate how much it will cost to comply with a regulation. The benefit side also has lots of difficulties. How much value do we place on a human life? Does it matter if that human is an old man or a young girl? What is the value of preserving a plant species? What is the value of avoiding an injury to a worker? Clearly, agencies should not be forced to quantify everything. On this point, Senator DOLE, Senator JOHNSTON, Senator CHAFEE, and I—and in fact, probably all of us—agree. We should encourage agencies to estimate costs and benefits—both quantifiable and nonquantifiable—and make totally clear what assumptions they use to do the analysis. This can help inform their decisionmaking.

But this is where we differ: Should the result of a cost-benefit analysis trump all other criteria for deciding whether or not an agency should go forward with a rule? The way S. 343 is written right now, that is what would happen, and I do not think that makes sense.

First, in passing legislation, we, in Congress, have said to agencies, "Go issue a regulation, based on what we've said in the statute"—whether it be "an adequate margin of safety" or whatever. The agency should not have the power to say, "Well, we can't justify the costs given the benefits of this rule, and therefore, we are not going to issue this rule." This would basically be handing our congressional responsibility over to the agencies, based on a less-than-perfect tool of cost-benefit analysis.

I heartily believe that agencies should tell us if they really do not think a rule's benefits justify its costs. But then the rule should come back to us in Congress to figure out what to do. This will also help to inform us in Congress about a law that should be changed. For these reasons, I strongly support—and my colleague Senator LEVIN has been a strong leader on this issue—a congressional review or the right to veto rules through an expedited review process. This makes a lot more sense than having a supermandate," which would make cost-benefit analysis override an existing statute. Remember that the congressional review of rules passed the Senate 100 to 0. It makes sense to do business this way.

Let me give an example of how hard it is to figure out costs. Everyone acknowledges that it can be very difficult to quantify benefits, but most assume that cost numbers are easier to estimate accurately. But let us consider the example from the Occupational Safety and Health Administration [OSHA] of the cotton dust standard. Several hundred thousand textile industry workers developed brown lung—a crippling and sometimes deadly respiratory disease—from exposure to cotton dust before OSHA issued protective regulations in 1978. That year, there were an estimated 40,000 cases, amounting to 20 percent of the industry work force. By 1985, the rate had dropped to 1 percent.

The initial estimates in 1974 for industry to comply with a stricter standard was nearly $2 billion. By 1978, OSHA estimated the same costs to industry to be just under $1 billion. So the estimate fell by 50 percent by the time the standard was issued. When the actual costs of compliance were reported in 1982, they were four times lower than the $1 billion estimate. It is likely that if OSHA had to use a cost-benefit analysis to figure out whether

to put out this standard in 1978, not having the knowledge that they did in 1982, they would not have done it, even though it is clear to me that the great success of this rule certainly justifies its costs.

Let us be clear on this point: Cost-benefit analysis should not override existing statutory rulemaking criteria. Proponents of S. 343 say that this bill does not have a supermandate. It has been repeated over and over that this bill does not have the supermandate. Many of us disagree. Language to clarify this was offered during negotiations on this bill, but it was rejected. We still do not have clarifying language on this point. If there was no supermandate lurking here, why was the clarifying language rejected? So the more I hear that this is not a problem, but that the language cannot be clarified, the more I have to wonder.

Another problem that many of my colleagues have discussed at length with the supporters of this bill is the issue of least cost. Right now, this bill requires two major determinations before a rule can be issued: One, that the benefits justify the costs; and, two, that the rule adopts the least-cost alternative. Let us think hard about these words "least cost." Do we always want the agencies to do the cheapest alternative? What if an alternative that costs just $2 extra saves 200 more lives? Do we say pick the cheapest, and do not look at benefits of the alternatives before you?

That is what this bill does. We should give the agencies some leeway to use common sense. They should be able to choose the most cost-effective approach, looking not just at costs but also at the benefits. Here, we would be requiring them to pick the cheapest alternative, which may not always be the most cost effective.

In talking about this economic analysis, let me say a quick word about trying to reduce the costs of regulation on industry. In our efforts to reform the regulatory process, we should encourage agencies to take a hard look at market-based incentives to achieve regulatory goals. Many have shown that we can achieve our environmental goals, for example, at a lower cost than we do now by using market-based mechanisms. These alternatives allow industries more flexibility in how they meet a standard. For example, rather than telling every factory, new or old, that they must purchase the same equipment to fix a problem, we would give them flexibility, reducing their compliance costs while reducing the same amount of pollution overall.

I agree with the part of S. 343, Senator DOLE's bill, in which we are requiring agencies to consider market-based mechanisms. We have a similar provision in the Glenn-Chafee bill, S. 1001.

Principle 3. Risk assessment requirements must not be overly proscriptive and should apply only to major risk assessments. Risk assessment requirements are an important part of regulatory reform because many of the rules we want to address in this legislation relate to health, safety, or the environment.

Risk assessment can help us better understand what the risks are to the public or the environment, which in turn lets us figure out how best to lower those risks.

Scientists, agencies, and others have testified that it is essential that we do not make these requirements too prescriptive. Risk assessment is an evolving science. The last thing Congress should be doing under regulatory reform is freezing this science by laying out in excruciating detail how an agency must do a risk assessment.

I believe that both S. 1001, as well as this bill, do try to strike a good balance. I must commend Senator JOHNSTON for his leadership in the area of risk assessment. He has done a lot of work on that. S. 1001 outlines smart risk assessment principles that are in line with recommendations of the National Academy of Sciences.

There are still a few problems in S. 343, however, when it comes to the specific risk assessment requirements. For example, what is exempted from these requirements and what is not? This bill states that an agency does not have to do a risk assessment for a rule "that authorizes the introduction into commerce * * * of a product."

I ask my colleagues, what if an agency determines that a product is unsafe and should be removed from commerce? Under this bill, the agency would have to do a full-blown risk assessment, complete with extensive peer review, before it could take a product off the market. If you want to put something on the market, no sweat. If you want to take something off the market, it is not so easy. And it will take time, a lot of time.

I do not think this makes sense. Public health and safety can be harmed by dangerous products on the market. All we have to do is remember back to the thalidomide situation, for example, of a few years ago, when talking about taking products off the market. We do not want to make it more difficult.

Another problem is that the peer review requirements are exempted from the Federal Advisory Committee Act. Let me state first that peer review of major risk assessments I think is absolutely essential. Scientific experts should evaluate the information put together by the agencies, and a good peer review process will ensure high-quality assessments. But how is the peer review going to be run? The way S. 343 is written now, no peer review would have to comply with FACA. FACA was set up to ensure sunshine, accountability, public input, public access—in fact, fairness to all parties involved in such Advisory Committee processes.

FACA was put in to guarantee a balance of views on peer reviews, and yet FACA would not apply to the requirements for peer review under this act.

The Federal Government currently uses many peer review groups, most in the fields of health, science, and technology. These are all subject to FACA.

The proponents of S. 343, who now want to exempt these panels from FACA, were strong advocates of having FACA apply to the health care review panels just last August, less than a year ago. For example, the majority leader stated, quite properly in my view, that "There is no reason why these boards should be granted the power to meet in secrecy. Indeed, there is every reason why they must meet in public."

Senator GRASSLEY, on the same subject, stated, "I ask my colleagues to adopt the amendment to make FACA apply, because we ought to be doing everything in the sunshine. If we do, the mold will not grow there."

I agree completely with both of those statements. I do not see why the peer review panels under S. 343 should be any different.

Another issue about peer reviews: Do we really need to require peer review panels for every risk assessment for every environmental cleanup project? S. 343 applies risk assessment and cost-benefit requirements to all Superfund and Department of Energy cleanups that cost more than $10 million.

Aside from the fact that I do not believe we should deal with Superfund in a regulatory reform bill, I am very concerned about the resources that agencies would have to use to comply with this bill. There are hundreds of DOE sites and close to 1,000 Superfund sites that would be affected by these requirements. I do not think it makes sense to require such extensive peer review requirements for each one of these risk assessments. How will the agencies ever be able to find so many panels, for instance, that are truly balanced? How much will this cost the Government? What would we gain from it? Where is the cost-benefit analysis of this approach? I think we should delete the peer review requirement for environmental cleanups.

Finally, the position of those supporting the Glenn-Chafee bill is that the procedural requirements of these assessments should be, of course, open to peer review, but they should not be reviewed by the court. The courts are not the appropriate place to determine whether particular assumptions or toxicological data in a risk assessment are appropriate. The way the judicial review section is written, this is indeed a major concern. I will address that issue just a bit later.

Principle 4. Agencies should review existing rules, but that review should

not be dictated by special interests. Regulatory reform is not just about improving new rules and developing new techniques for addressing new problems. Regulatory reform must also address the great body of existing rules that currently govern so many activities in business, in State and local governments, and which affect so many of us as individuals.

For regulatory reform to be effective, it must look back and review existing regulations to eliminate outdated, duplicative, or unnecessary rules, and to reform and streamline others. This review is required most simply because over time, many decisions become outdated. Review is also needed because of the rising cumulative burden of existing rules on businesses and individuals. For this reason, agencies should take a hard look at major rules that they believe deserve review. Of course, this process should be open for public comment so that those who are interested in particular rules can make their concerns known to the agencies. But this review should not be dictated by special interests.

While I think a retrospective look at rules is essential, I do not believe in a process that would allow anyone subject to a rule to petition an agency to review a rule, which then requires stringent action by the agency to respond to that petition. That could just gridlock agencies and put special interests and the courts, not the agencies, the executive branch, or the Congress, in charge of the review.

The latest draft of S. 343 uses a petition process to put rules on a schedule for review. If the agency grants the petition, it has to review the rule in 3 years. That is a very short timeframe for such matters. If it fails to review the rule in that time, the rule automatically sunsets, it becomes unenforceable. This process, it seems to me, puts the petitioner in the driver's seat, not the agencies or the Congress who passed the law in the first place.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. GLENN. No, I want to complete my statement. Then I will yield the floor at that point.

It also creates a process that is more prone to killing regulations than creating a thoughtful review of regulations. In addition to the peer review petitions, S. 343 has many other petitions for any interested party to challenge an agency on any rule, not just the major rule. These are yet more examples of the lawyer's-dream approach taken under this bill. Under S. 343, someone could petition for issuance, amendment, or repeal of any rule; or, amendment or repeal of an interpretive rule or general statement of policy or guidance; and, interpretation of the meaning of a rule, interpretative rule, general statement of policy, or guidance.

And just to add to the confusion, S. 343 also has a separate section, section 629, for a petition for alternative compliance. Any person subject to a major rule could petition an agency to modify or waive the specific requirements of a major rule and to allow the person to demonstrate compliance through alternative means not permitted by the rule.

In addition, S. 343 adds another petition process in section 634 so that interested persons may petition an agency to conduct a scientific review of a risk assessment.

Each agency decision on every one of these petitions, except the petition for alternative compliance, is judicially reviewable. It could be challenged in the courts. What a dream for the lawyers. All of these petitions and reviews add up to one of the worst parts of this bill. I think it is a formula for true gridlock. Agencies will have to spend enormous resources responding to each and every petition, and then they can be dragged to court if they turn down a petition. This does not come close to being real regulatory reform. This is regulatory and judicial gridlock. This is a way to keep the agencies from doing their jobs and to keep lawyers happy and extremely prosperous. This bill would make all the rhetoric about tort reform a big joke except that in this case judicial gridlock means that the health and safety of the American people could be jeopardized.

Principle 5. Government accountability requires sunshine in the regulatory review process. Agencies must work to involve all interested parties in the regulatory process, from soliciting comments to disseminating drafts to ensuring broad participation in peer review. Accountability also requires public disclosure of regulatory review documents, including related communications from persons outside the Government. There can be no public confidence in Government when some can use back doors to decisionmakers. S. 1001 requires reasonable disclosure consistent with recommendations of the Administrative Conference of the United States.

Over the past 25 years, the most notable regulatory reform accomplishment has been development of centralized Executive oversight of agency rulemaking. This effort, while not truly reforming the regulatory process, has had a substantial impact on the Federal regulatory process. It led to the development of agency regulatory analysis capabilities and better coordination among agencies, though the record is quite uneven across agencies.

The development of centralized regulatory review has also led to more consistent policy direction and priority setting from the Office of the President, though the record here is uneven as well, due largely to partisan controversy about Presidential use of that power to affect agency decisions. Many times over the past 15 years many of us have been in the Chamber debating the use of OMB regulatory review.

Much of the controversy that has dogged centralized regulatory review since it was formalized in 1981 by President Reagan in Executive Order No. 12291 revolves around public confidence in the integrity of the regulatory process. The issue has come to be known as the regulatory sunshine issue. And while the Governmental Affairs Committee has in the past been divided about how much sunshine is needed and at what stages in the process, the committee has always agreed on the need for sunshine and public confidence in the regulatory process.

S. 343 has no sunshine provisions. It is not like the Glenn-Chafee bill, S. 1001. S. 343 has no sunshine provisions for regulatory review, and I believe that is a fundamental flaw that needs to be addressed.

Principle 6. Judicial review should be allowed for the final rulemaking, not for each step along the way. Regulatory reform should not become a lawyer's dream, with unending ways for special interests to bog down agencies in litigation. We firmly believe in a court's role in determining whether a rule is arbitrary and capricious. S. 1001 authorizes judicial review of the determinations of whether a rule is major and therefore subject to the requirements of the legislation. Also, it allows judicial review of the whole rulemaking record, which would include any cost-benefit and any risk assessment documents. We should not, however, provide unnecessary new avenues for technical or procedural challenges that can be used solely as impediments by affected parties to stop a rule. Courts should not, for example, be asked to review the sufficiency of an agency's preliminary cost-benefit analysis or the use of particular units of measurement for costs and benefits. While courts have a vital role, they should not become the arbiters of the adequacy of highly technical cost-benefit analyses or risk assessments independent of the rule itself.

I believe, the way the bill is currently drafted, that lawyers and the courts will get into the details of a risk assessment or cost-benefit analysis. I think that is a mistake. From what I understand, there has been a great deal of discussion about this issue, and I believe many of us want the same result. The question is how to get there from here. Leaving the language as ambiguous as it is now is not acceptable.

Principle 7. Regulatory reform should not be the fix for special interests in every program. Many parts of S. 343 are very different from the bill we reported out from the Governmental Affairs Committee on a bipartisan basis and the alternative bill we introduced before the recess. In the bill before us, S. 343, several provisions are

aimed at benefiting special interests or stalling particular programs. Frankly, they have no place in a regulatory reform bill that should attempt to set a fair process, fair and equal to all.

First, let me say that I sympathize with those who would like to fix particular problems. I know of examples where regulations go too far and where agencies go too far. As testimony before our committee showed, 80 percent of the rules are required by Congress. It is not just the regulatory process that needs fixing. We in Congress are also responsible for a lot of these problems. Let us focus on making the regulatory process better as a whole and not a fix for special interests.

Let me give some examples.

This bill tries to delay Superfund cleanups. It rewrites the Delaney clause, shuts down the EPA toxic release inventory, provides enforcement relief for companies, and so on.

Now, I agree that some of these are legitimate problems that deserve our attention, but this is not the place. The regulatory reform bill should address regulatory issues, not be a Christmas tree for lobbyists to hang solutions to whatever problems they may have. Let us look at some of these provisions a little more carefully.

First, delays and higher costs for environmental cleanups. Every Superfund and Department of Energy cleanup that costs more than $10 million would have to go through a risk assessment and cost-benefit analysis. This is not just for activities that will be starting up, not just for new projects. It covers cleanups that are already under way. EPA and DOE will have to stop any progress they are making to go back and do additional costly analyses. This is guaranteed to slow the pace of cleanup even further, something we have all been concerned about for a long time. EPA estimates that 600 to 1,000 Superfund cleanups spread across every State in the Union would be caught in this requirement. The Department of Energy estimates that about 300 cleanups would be affected. Does this make any sense? I would prefer to spend the taxpayers' money on cleanup rather than repetitious, redundant studies and more lawsuits.

To make matters even worse, these cleanups have to go through the hoops of the decisional criteria, yet another supermandate in this bill. For each $10 million cleanup, agencies would have to prove that the benefits of the activity justify the costs, the activity employs flexible alternatives, and the activity adopts the least cost alternative.

Now, I and many others here recognize the need for Superfund reform, and we worked hard on that last Congress. That is where this provision belongs, under Superfund reform, not regulatory reform. If we are going to fix the problem, let us fix it right. Adding new burdens and hurdles is certainly not the right approach.

Second, gutting of the toxics release inventory, the TRI. The TRI is intended to provide the public with information about chemicals being released into their local environment. This bill would fundamentally change the way the TRI works and would swamp the agency. In reforming the regulatory process, we are trying to encourage agencies to use flexible approaches to regulation and make the agencies more efficient. The TRI currently provides information to the public and encourages the voluntary reduction of toxic emissions through whatever means a company chooses to use. This program has not only provided maximum flexibility to companies, but it has also resulted in significant reductions in emissions. Since 1988, companies have reported a decrease in emissions of listed chemicals of more than 2 billion pounds a year. In this bill, we would change the standard for removing chemicals from the list. We would force EPA to perform thousands of site-specific risk assessments in a very short time. This sounds less like regulatory reform and more like make-work for the agency. If Congress wants to change the standard in TRI, we should do it in the context of Emergency Planning and Community Right-to-Know Act legislation. This provision has no place being in this bill.

Third, repeal of the Delaney clause. You will get no argument from me that it is time to change the Delaney clause. It should have been done a long time ago. But this regulatory reform bill does not fix it. I believe this is just one more case of a very important and substantive area that should be dealt with outside the context of regulatory reform.

In conclusion, I want regulatory reform, but S. 343 does not provide balanced regulatory reform. Its overall impact will be to swamp the agencies to the point of ineffectiveness, provide lots of jobs for lots of lawyers, and to make some companies very happy.

I would like to work hard with everyone here, all my colleagues, to make a good, fair and truly balanced regulatory reform bill.

So I hope we can address many of the issues I have raised today. I urge everyone to take a hard look at the regulatory reform approaches in the Dole-Johnston and the Glenn-Chafee bills and then ask yourselves: Are we relieving regulatory burden on industries and individuals? Are we protecting the environment and health and safety of the American people?

We must work together in a true bipartisan spirit to meet these two essential goals of regulatory reform. Together we can truly improve how our Government works.

Mr. President, I asked consent earlier for insertions into the RECORD. I will ask for one more. We have a letter that was addressed to both leaders, the majority and minority side, from the Department of Agriculture. I think it is worth including in the RECORD also. I ask unanimous consent that that letter be printed in the RECORD.

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

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, DC, July 11, 1995.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate, Washington, DC.

DEAR BOB: I am writing in regard to the effect that S. 343 would have on the efforts of the Department of Agriculture (USDA) to improve the meat and poultry inspection system and the safety of the nation's supply of food. The Food Safety and Inspection Service (FSIS) published a proposed rule to significantly reform the federal inspection system by requiring the adoption of science-based Hazard Analysis and Critical Control Point (HACCP) procedures. S. 343 would needlessly delay USDA's efforts to reform the meat and poultry inspection system.

Foodborne pathogens in meat and poultry products, such as E. coli, Salmonella and Listeria are believed to cost the nation billions of dollars from lost productivity, medical costs, and death. The virulent E. coli bacteria alone is estimated to cause 20,000 illnesses and 500 deaths annually. Young children and the elderly are particularly vulnerable to foodborne pathogens and therefore at greatest risk.

On February 3, 1995, USDA proposed reform of the federal meat and poultry inspection system to incorporate science into its inspection system. USDA's proposal would require the use of scientific testing and systematic measures to directly target and reduce harmful bacteria. The goal is simple: to improve food safety and to reduce the risk of foodborne illness from consumption of meat and poultry products.

Under the proposal, the Nation's 9,000 federally inspected slaughter and processing plants would be required to adopt science-based HACCP procedures. Targets would be set for reducing the incidence of contamination of raw meat and poultry with harmful bacteria. Meat and poultry plants would be required to test raw products for pathogens, and to take corrective action, if necessary, to meet food safety targets.

S. 343 would significantly delay this essential reform by requiring USDA to establish a peer review panel which satisfies the criteria in S. 343, submit a cost-benefit analysis and risk assessment (analyses) to the panel, and convene the panel to review the analyses. The panel would then be required to prepare and submit a report to FSIS detailing the scientific and technical merit of data and methods used for the risk assessment, including any minority views. FSIS would have to respond in writing to all significant comments made in the report. The report and the FSIS response would become part of the rulemaking record and would be subject to judicial review provisions of S. 343. These procedures would significantly delay the essential reform effort by a minimum of six months.

While peer review can be a useful tool to improve the rulemaking analyses, the potential benefits from a peer review of the HACCP reform proposal does not justify delaying reform of this system—a reform that is supported by all interests. Similar review has been already been occurring. The scientific foundation of the HACCP proposal, in

short, will have been the subject of extensive review and comment as part of the rulemaking process.

First, FSIS published the preliminary regulatory impact analysis (PRIA) in the Federal Register for comment with the proposed HACCP rule. The PRIA contained a preliminary cost-benefit analysis and risk assessment which explained the assumptions regarding the risks and costs of foodborne illness to the public, the costs of the proposed rule to the regulated community, and the range of benefits in terms of reduced foodborne illness that the proposed HACCP rule would achieve. Before publishing any final regulation, FSIS will revise and finalize this cost-benefit analysis based on the comments received. Second, peer review of the HACCP proposal is unnecessary since FSIS has held at least 11 public meetings to discuss and obtain comments on all aspects of the reform proposal. Three of those meetings were two-day conferences which addressed various scientific and technical issues raised by the rulemaking. Third, the National Advisory Committee for Microbiological Criteria in Foods, which provides impartial, scientific review of agency actions relative to food safety, also reviewed the HACCP proposal and submitted comments. All comments received in connection with these public meetings have been placed in the rulemaking record.

S. 343 simply adds another level of review which in this case would result in an unnecessary delay of essential food safety reform. For this and other reasons, I would recommend that the President veto S. 343 if enacted in its present form.

The Office of Management and Budget advises that there is no objection to the presentation of this report to the Congress.

Sincerely,

DAN GLICKMAN,
Secretary.

Mr. GLENN. Mr. President, I quote some from that RECORD, in closing, to show how some of these things can work. They address E. coli, salmonella, and some other things we addressed earlier on the floor today.

In this letter from the Secretary of Agriculture, he points out some of the difficulties. He says:

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S. 343 would significantly delay this essential reform by requiring USDA to establish a peer review panel which satisfies the criteria in S. 343, submit a cost-benefit analysis and risk assessment analyses to the panel, and convene the panel to review the analyses. The panel would then be required to prepare and submit a report to FSIS detailing the scientific and technical merit of data and methods used for the risk assessment, including any minority views. FSIS would have to respond in writing to all significant comments made in this report. The report and the FSIS response would become part of the rulemaking record and would be subject to judicial review provisions of S. 343. These procedures would significantly delay the essential reform effort by a minimum of 6 months.

While peer review can be a useful tool to improve the rulemaking analyses, the potential benefits from a peer review of the HACCP reform proposal does not justify delaying reform of this system—a reform that is supported by all interests. Similar review has already been occurring. The scientific foundation of the HACCP proposal, in short, would have been the subject of extensive review and comment as part of the rulemaking process.

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S. 343 simply adds another level of review which in this case would result in an unnecessary delay of essential food safety reform. For this and other reasons, I would recommend that the President veto S. 343 if enacted in its present form.

The Office of Management and Budget advises that there is no objection to the presentation of this report to the Congress.

Mr. President, I know that is a lengthy statement this morning. But I wanted to get my views in. We did not have opening statements yesterday. I think I have laid out today the major differences between S. 343, the bill before us now, and S. 1001. S. 1001 is based on the bill that came out of the Governmental Affairs Committee on a 15–0 unanimous vote, except for the three changes I mentioned, which are improvements to the bill.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. GLENN. I hope people will look very carefully at these differences and, at the appropriate time, we may want to recommend or may submit as a substitute S. 1001. I yield the floor.

EXHIBIT 1

[From the Washington Post, July 6, 1995]

REGULATING REGULATION

The Senate is about to embark on a major debate over regulatory reform. The fundamental issue is how much weight to give to costs in measuring the costs and benefits of regulation. The principal bill is sponsored by Majority Leader Bob Dole. Its backers say, we think with cause, that in the last 25 to 30 years particularly, too many federal regulations of too many kinds have been issued without sufficient regard to cost. That's partly because these costs don't show up in any budget. The politicians can impose them, and for all practical political purposes, they disappear.

The legislation seeks to impose greater discipline by requiring more use of both risk assessment and cost-benefit analysis, the first to lay out more clearly the risks that each rule is meant to abate, the second to compare the expected benefits and costs of compliance. It would then require a finding that the benefits are somehow commensurate with the costs.

All that's to the good; the only problem is that regulatory matters are rarely that tidy. Among much else, they often involve a great deal of scientific guesswork, and the benefits—of a cleaner lake, for example—often can't be quantified. The questions are further complicated when the winners and losers aren't the same people. Whether or not to issue a particular rule will always be in part a value judgment. The cost of compliance should be a larger factor in reaching such judgments than it has often been in the past; it should not be the only factor. That's the policy zone that this bill seeks to define.

It isn't easy. The bill now forbids an agency to issue a major rule without a finding that the benefits "justify" the costs. Some deregulatory advocates think that's too weak a word and want the bill to read "outweigh" instead. The bill says that, in requiring the weighing of benefits against costs, the intent is not to "supersede" but to "supplement" the "decisional critera" in other statutes. Environmentalists and the administration say that's a word game and that the bill would still override the other statutes—clean air, clean water and all the rest—because the supplementary standard would still have to be met. The bill suggests in one place that courts could toss out agency actions only if arbitrary or capricous—the current standard—but elsewhere says the agency actions would also have to be supported by "substantial evidence," a higher standard.

Our own sense is that regulating regulation may turn out to be as hard as regulating anything else, which suggests that there's a

limit to what can likely be constructively accomplished by this bill. To require as clear a statement as possible of the risks to which a rule is addressed (how serious are they? how sure can we be?) as well as the likely costs and benefits of compliance (and of rival approaches) is absolutely the right thing to do. To insist that an agency demonstrate that a rule is sensible policy—plainly, that's right as well.

The question is, demonstrate where and to whom? The bill is set up to be enforced through litigation. The courts would become the arbiters of whether benefits had been shown to "justify" costs—but the courts are the wrong place to make such judgments. There's a better idea in a rival bill; when a major rule is issued, sent it first to Congress, which would have, say, 45 days in which to veto it or let it take effect. It's Congress, after all, that passed the laws that gave rise to the regulations. Since these are essentially political judgments anyway, let Congress also be the one, on the strength of all the studies this bill would require, to bless or block the results. That's the right way to do it.

[From the New York Times, July 7, 1995]

OVERKILL IN REVISING REGULATION

Senator Bob Dole's bill to reform regulatory procedures would erect needless obstacles to adopting Federal health, safety and environmental rules. Its excessive provisions invite filibuster by angry Democrats and a Presidential veto. The majority leader could exercise better leadership by joining forces with John Glenn, Democrat of Ohio, whose alternative bill would bring common sense to Federal rules, not extinguish them.

Both Mr. Dole and Mr. Glenn start off right by requiring Federal agencies to weigh benefits against costs to weed out regulations that do more harm than good. The calculations are necessarily inexact, especially where non-quantifiable benefits, like the value of clean air over the Grand Canyon, are involved. But forcing agencies to explain the pros and cons of rules and justify their wisdom gives the public vital information.

The problem with the Dole bill, co-sponsored by Senator J. Bennett Johnston, Democrat of Louisiana, is that its complex language would not fulfill promises made by the sponsors. Mr. Dole says his bill would not override existing health and safety laws that explicitly forbid balancing benefits against costs nor invite judicial challenge of the minute procedures by which agencies conduct their analyses. But the actual words and likely impact of the bill provide no decisive protections.

The bill builds in elaborate petition rights by which regulated industries can force review of existing regulations. That will allow the affected industries to tie up regulations in court and bury agencies in costly administrative reviews. The bill also establishes seemingly contradictory standards. In some sections it tells agencies to pick rules that generate large benefits relative to their costs, but in other places it favors rules that simply minimize cost.

Mr. Glenn's bill fixes many of these missteps. It would allow industry to challenge only arbitrary or capricious rules, and not procedural miscues. It would cut administrative burdens by limiting cost-benefit analysis to major rules. Mr. Glenn would protect against overzealous rule-making by subjecting new rules to review by outside experts and giving Congress 45 days to review major rules before they go into effect. That puts Congress, rather than the courts, in charge.

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There is no problem with the existing regulatory system that warrants Mr. Dole's radical approach. Why not start with the Glenn bill, and do more later if necessary?

[From the Plain Dealer, July 9, 1995]

REASON AND REGULATION

Sen. John Glenn, a longtime aficionado of dry but important issues, is not about to change his image with his latest mission; a bid to temper legislation that would weaken the federal government's power to impose regulations.

But however unglamorous his latest crusade may be, there is no question that Glenn is making a critical contribution on an issue that is far more consequential than it sounds. At stake is the federal government's ability to protect Americans from all sorts of health, safety and environmental dangers.

Glenn, the ranking Democrat on the Governmental Affairs Committee, is leading the challenge to a sweeping regulatory-reform bill pending on the Senate floor.

The bill, offered by Majority Leader Bob Dole, would slow down the regulatory process by subjecting a broad range of regulations to cumbersome risk-assessment and cost-benefit studies. It also would make it easier for industries to fight regulations with lawsuits and petitions. The Dole bill, which already has been moderated a bit to draw some Democratic support, is generally similar to legislation already passed by the House.

Glenn, however, hopes to moderate the Senate bill further. Though he embraces Dole's overarching goal of reducing unnecessary government regulation, as well as some of Dole's prescriptions, he is wisely warning that the Dole bill poses a new bureaucratic risk: that the government will become entangled in even more paperwork from a flurry of new litigation, cost-benefit analyses, and risk-assessment studies.

Glenn is proposing a more reasonable alternative—a bipartisan regulatory-reform bill almost identical to one approved earlier this year by the Government Affairs Committee. Glenn's bill contains numerous provisions designed to streamline the federal regulatory process, but it takes a less drastic approach than Dole's. Glenn's bill, for example, would require risk-assessment and cost-benefit studies of regulations expected to have an economic impact exceeding $100 million; Dole's bill would apply to rules with an impact of $50 million.

When the Senate returns this week from its holiday recess, negotiations are likely to resume over a possible compromise between the Glenn and Dole versions. Glenn should hang tough as long as possible, knowing that any compromise he endorses is likely to win Senate approval and then be watered down further in negotiations with the House.

The rules of regulating may not be most politicians' idea of an exciting cause. But it is well worth Glenn's time and effort.

Mr. GRASSLEY addressed the Chair.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Iowa.

Mr. JOHNSTON. Will the Senator from Ohio yield for a question?

Mr. GLENN. I yield the floor.

Mr. JOHNSTON. He will not yield for a question?

Mr. GLENN. I yield the floor.

Mr. JOHNSTON. He yields the floor or yields for a question?

Mr. GLENN. Yield for a question.

Mr. JOHNSTON. I thank the Senator from Ohio. Mr. President, the Senator from Ohio just read a copy of a letter from Secretary of Agriculture Dan Glickman to Democratic leader TOM DASCHLE dated July 11 which he read in full which recommended veto because the Dole-Johnston bill added another level of procedure, which would be the peer review of these matters in food safety.

I am looking at the Glenn substitute, particularly pages 27, 35, 36, and 37, and I see a peer review situation of exactly the sort that Secretary Glickman describes. I ask the Senator from Ohio, am I not correct, does he not include the same kind of peer review and, indeed, that includes on page 27 review of the Food Safety and Inspection Service for peer review?

Mr. GLENN. I think what the Secretary is complaining about is the effective date on this. Ours would not have the same time of effectiveness as S. 343.

In addition, as the Senator from Louisiana will note, one of the major differences he had with S. 343 is making the record subject to judicial review provisions which could delay things in a major way, as he says at the top of the second page of his letter. I might add, the letter was not just to the minority leader, it was to both the majority and minority leaders.

Mr. JOHNSTON. Do I misread this when he says in the last paragraph on the first page that "S. 343 would significantly delay this essential reform by requiring USDA to establish a peer review panel which satisfies the criteria in S. 343, submit a cost-benefit analysis and risk assessment [analyses] to the panel, and convene the panel to review the analyses"? He is not talking about appeal or effective date, he is talking about peer review, is he not?

Mr. GLENN. He is talking about peer review and subjecting it to judicial review.

Mr. JOHNSTON. I invite my friend from Ohio to go back and read the letter. He may be also complaining about judicial review provisions. Did the Senator have any judicial review in his proposal?

Mr. GLENN. Of the final rule. Of the final rule only. In S. 1001, we do not permit judicial review at each step along the way, as is provided in S. 343. That is what I mentioned several times this morning. That is just a lawyer's dream, as I see it, because they can challenge at any point along the way virtually where we provide for a final rule. You can take the whole rulemaking process, and once it is ready to become finalized, to become a rule, then it can be challenged in court. Then you can have judicial review.

Mr. JOHNSTON. Is the Senator aware that S. 343 does not allow judicial review at every step along the

way? It simply allows an interlocutory review for three limited questions. First, whether it is a major rule; that is, whether its impact will be $50 million—and I hope we can change that to $100 million—but the size of the rule. Second, whether it is a matter affecting health, safety or the environment, which would require a risk assessment. Third, whether it would require the reg-flex for small business. And that limited appeal would have to be made in 60 days. That is not to give a lawyer's dream; that is to give certainty, so that you do not, at the end of the process, have to go back and do the peer review and the risk assessment if you were incorrect about the size of the impact of the rule. Now, that is not what he is complaining about here, that interlocutory appeal. That is a separate thing. Would the Senator not agree with me that I have correctly stated what S. 343 states, and if I have not stated it correctly, would he correct me on how I have misstated it?

Mr. GLENN. Well——

Mr. SIMON. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. SIMON. That was my question: Who has the floor?

The PRESIDING OFFICER. The Senator from Ohio yielded the floor. The chair recognized the Senator from Iowa, who yielded for this colloquy.

Mr. GLENN. Repeat your question.

Mr. JOHNSTON. The Senator says that the Secretary of Agriculture objects because there is an interlocutory appeal provided in S. 343. Having recognized that both bills, the Glenn substitute and S. 343, provide for an appeal from the final agency action. So what the Senator from Ohio says is that the Secretary of Agriculture is objecting because of an interlocutory appeal. My question to him is, would he not agree with me that that interlocutory appeal—that is, an appeal taken within the first 60 days after the publication in the Federal Register of the question of whether or not it is a major rule, whether or not it pertains to health, safety, or the environment, or whether or not it affects small business requiring the reg-flex—that must be published in the Federal Register and appeal taken on that limited question within the first 60 days. Does the Senator agree with me that that is not what——

Mr. GLENN. Well, what I will have to do, I answer my colleague, I would have to get a clarification from the Secretary as to exactly what he meant in some of this. There can be two interpretations of it, as there can be different interpretations as to whether judicial review is required each step along the way. That is not certain at this point. I think there are different interpretations of that. I believe that is one of the areas in which we had trouble getting language clarified, was it not?

Mr. JOHNSTON. I think the Glenn bill is ambiguous on that question. I do not believe S. 343 is in its present form. We will debate that at a separate time. I am simply saying that the Glenn bill is subject to the same thing on peer review that he says the Secretary of Agriculture says S. 343 has. Only ours is more flexible with respect to peer review than his because we allow for informal peer review, and the Glenn bill does not.

Mr. GLENN. S. 343 would take effect sooner and would affect these rules more, where our effective date is later.

Mr. JOHNSTON. Now, if I may ask the Senator this. The Senator said that under S. 343 rules automatically sunset. Now, two questions:

First, is he not aware that in S. 343 we now provide—this has been added since it originally started—that any interested party may petition the court of appeals for D.C. to get an extension of up to 2 years upon a showing that the rule is likely to terminate, that the agency needs additional time, that terminating the rule would be in the public interest, and that the agency has not expeditiously completed its review. You cannot only get an extension of 2 years, but you can get such court orders as are appropriate, such as to complete the rulemaking, or commence the rulemaking, or advance the schedule, whatever court orders are necessary; and is he aware of that, and in light of that, would he not say that a sunset is not automatic under S. 343 but is subject to that extension?

Mr. GLENN. What happens at the end of 2 years? Two years is not much in this rulemaking thing, as he is aware. Sometimes it takes 3 or 4 years to get a rule put into effect. Two years is not a long period of time.

Mr. JOHNSTON. After the 3 years, 5 years.

Mr. GLENN. At the end of that time it would sunset, is that correct?

Mr. JOHNSTON. At the end of the 5-year period, it would sunset. Keep in mind that it did not get on the schedule and that the person at the agency was in charge of the schedule, and so he or she could advance the rule as quickly as he could. Would the Senator say that 5 years is not a sufficient time?

Mr. GLENN. It took 5 years to get put into place.

Mr. SIMON. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator from Iowa has the floor. Does he yield for an inquiry?

Mr. JOHNSTON. Will the Senator from Iowa yield for another question?

Mr. GRASSLEY. I will yield. But is it going to come to a close soon?

Mr. JOHNSTON. Yes.

Mr. GRASSLEY. I ask unanimous consent to extend the time to recess until 12:45.

Mr. GLENN. Reserving the right to object.

Mr. GRASSLEY. Why do I not take the floor then. I thought this was a good exchange.

Mr. JOHNSTON. If I could ask one more question.

Mr. GLENN. I could not agree to doing that. That is done by the leadership.

Mr. JOHNSTON. One more question. Did the bill which the Senator has touted that came out of committee by, I think, a unanimous vote, not provide for a sunset of all bills with no extension at the end of 10 years on the sunset provisions. Did that bill not so provide?

Mr. GLENN. We have changed that in the Glenn-Chafee bill.

Mr. JOHNSTON. With a 5-year extension.

Mr. GLENN. We changed the sunset and review provision.

Mr. JOHNSTON. The bill you voted for in committee.

Mr. GLENN. We no longer have a sunset in this. The bill came out in committee and we changed that later on.

Mr. JOHNSTON. The bill out of committee did have the sunset and did not have any ability to get court orders to order the agency to take action.

Mr. GLENN. No, it came out with a 10-year limit, with a Presidential right to extension. If the agency did not review it, it would sunset. We now realize that was wrong because somebody could delay it over in an agency and sunset a bill by not doing anything. So we took that out. S. 1001 does not have that in there.

Mr. JOHNSTON. I thank the Senator from Iowa for yielding.

Mr. GRASSLEY. The Senator from Louisiana has been so involved in this legislation, so I thought it was very important that I give him time to have that communication with the Senator from Ohio, because I think there is a lot of misperception about this legislation. I think what the Senator from Louisiana just had to say in the way of asking questions helped clear up some of the misperceptions about this legislation.

Also, the Dole amendment is before us. I want to speak on the Dole amendment, because there are a lot of misperceptions about the legislation.

I support the Dole amendment on E. coli and other food borne pathogens. I would like to be able to argue that the amendment is necessary to protect the public health from threats to food safety.

But I think we have to be honest with each other. The regulatory reform act of 1995—that is the title of the bill before us—will not in any way jeopardize the safety of this country's food supply. So then why the Dole amendment?

The Dole amendment is necessary due to fear mongering and scare tactics

used by opponents of regulatory reform in this town. They are doing this in an attempt to kill this legislation, S. 343, which has been caught up in the politics and misinformation over the proposed meat inspection regulations.

We have all seen television commercials, and we have seen the political cartoons characterizing Republicans, in particular, as supporting "dirty meat." It makes it sound like we are rolling back meat inspection requirements. This is demagoguery, Mr. President, at its worst. There is not a Member of this Chamber that would put the health of this Nation's children at risk, or anybody of any age at risk.

Yet, the administration and the opponents of this bill would have you believe that the proposed meat inspection regulation would somehow be delayed or even eliminated altogether by this bill. That is simply not the case.

This bill already allows agencies to avoid conducting cost-benefit analyses and risk assessment when a regulation is necessary to avoid an "emergency or health safety threat." And the words "emergency or health safety threat" are from the legislation. Furthermore, even if this exemption were not in the bill, the proposed regulation on meat inspection has already passed cost-benefit scrutiny by both USDA and OMB.

So a regulation that they fear is in jeopardy has already gone through this process to satisfy this legislation. The administration and opponents of regulatory reform somehow seem to want it both ways. On the one hand, they argue that if this bill is passed, there will be a serious and imminent threat to the Nation's food supply.

If this argument is correct, the exemption in this bill allows for the implementation of the meat inspection regulation without conducting cost-benefit analysis and risk assessment. But, on the other hand, they argue that if the exemption does not apply, the meat inspection regulation will be held up because it would not pass muster under this bill.

That is not true. Because, apparently, the regulation has already passed the cost-benefit analysis that is required. So even though I do not believe this amendment is necessary, I think it does help clarify the meaning of the bill. Most important, it is going to stop opponents from demagoging on this issue and for this reason I fully support it.

But I think what is at issue here is this. The regulators and organizations in this town who support massive big Government regulation—and of course Members of this body who are supportive of that concept as well—see their power to stretch the meaning of legislation to an extreme, to do what is in their mind everything the law will allow, just stretch the intent of Congress as much as you can—they see this legislation as impeding their power. They do not like that. It is this power in this town versus, then, the power of the people at the grassroots who want to make sure that public health and safety is protected. We all want that to happen. But we want to make sure that it is done in a reasonable way—not from emotion but from reason.

The regulators' mindset is to look at scientific data differently than the way scientists look at scientific data. This legislation is going to make sure that risk assessment and regulation generally has a scientific basis. It is a way of taking emotion out of so much of the debate that comes with regulation.

There have been many instances in which regulatory agencies have issued regulations and then they would put together panels of scientists, most from academia, to come in and look at the science behind the regulations that are issued. There are instances in which the scientific panels would say that the science is not good; where the panels would not back the science of the regulatory agency that was behind the regulation writing. Panels of scientists would say to the agency, "Go back to the drawing board. Start over again." The politics of the agency or the politics of this town gets in the way of good regulation writing because of the regulators' mindset to not view scientific data the same way that scientists would.

The attitude in this town is to have just enough science as a rationale for your regulation. The attitude in this town is that we do not want science to disprove anything. Regulatory agencies do not want science to disprove anything. What they basically want is just enough data to support a regulatory decision already made, a political decision already made.

So what this legislation does is put in process a procedure by which scientific evidence is going to carry a greater weight. Most important, though, there is going to be judicial review and congressional review of the decisionmaking process so regulators, who are told to use sound science, will have to use sound science. Or, if they do not, there are going to be other people looking over their shoulders.

This legislation is going to make the regulatory process more intellectually honest. It is going to eliminate those instances in which the politics of this town or the politics of a regulatory agency say which regulations they are going to write, and then scientists come in and say sound science does not back up the regulation, so go back to the drawing board. There should not be any more need to go back to the drawing board unless a court would say that they should, or the Congress would say that they should, through the process of review.

It is very important that we have a sound scientific basis for regulation. But it is more important that the regulation writers are held accountable, by having somebody look over their shoulder. This legislation is very rational, a very rational approach to regulation writing. This legislation is badly needed to make sure that regulation is within the least costly approach to give us the most benefit.

This legislation is simply common sense, and that is what we do not have enough of in this town—maybe even in the laws we write, but most important in the regulations. That is why Senator DOLE's amendment is very important, to take some of the emotion out of this debate. It is very important that we get some of this legislation passed, this regulatory reform bill passed, so we take some of the emotion out of the whole process of regulation writing in this town.

Mr. President, I have a request from the leader to read a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the recess at 12:30 be delayed for up to 15 minutes in order to allow for a statement by Senator SIMON.

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

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I thank my colleague from Iowa for making the unanimous-consent request.

What we need in this field is some balance. There is no question we have overregulation. Anyone, in any field—I do not care whether it is education, medicine, what the field is—recognizes we have overregulation. But the bill that came out of the committee headed by Senator ROTH and Senator GLENN, being the ranking member, that came out 15 to nothing—that strikes me as having that balance. Let us just take a look at a few examples.

Iron poison—between 1990 and 1993, 28 children under the age of 6 died from iron poisoning after taking adult iron-containing products. Overdoses of iron tablets by children can result in intestinal bleeding, shock, coma, seizures, or possibly death. Iron is now a leading cause of poisoning deaths for children under the age of 6.

The FDA has proposed warning labels. This bill might well delay what could come, and would permit judicial review that clearly could cause delay.

Let me give another example.

When it was proposed that we have safety belts in our cars, the automobile industry was not enthusiastic about that, as many of us here will recall. Here is Henry Ford II, in response to this proposal, in 1966.

Many of the temporary standards are unreasonable, arbitrary and technically unreasonable. If we cannot meet them when they are published, we'll have to close down.

This was seatbelts. They were going to have to close down American automobile manufacturing because of seatbelts.

We voted for seatbelts and, lo and behold, it has not hurt American manufacturing. As a matter of fact, the Japanese were there ahead of us and we are saving thousands of lives every year.

Here is Lee Iacocca, and I am ordinarily a Lee Iacocca fan. He was then vice president of Ford Motor Co., in a meeting with President Richard Nixon, April 27, 1971:

. . . the shoulder harness, the head rests are complete wastes of money. You can see that safety has really killed all of our business. We're not only frustrated, but we've reached the despair point.

Now, all of a sudden it sells cars. Now they are bragging about the very things that they opposed: Airbags. I can remember, in 1990, the fall of 1990, right after the election I wanted to buy an American car. The only American car that had airbags on the passenger side was a Lincoln—meaning no disrespect, I am not the Lincoln type. I am a Ford, Chevrolet, or Plymouth. I could not buy an American car that had airbags on the passenger side. I finally bought a Chevrolet that had them on the driver's side, not on the passenger side. Now they are bragging about the very things they opposed.

If this law were not in effect, would we have moved ahead on seatbelts and airbags? I think the answer is clearly we would not have.

Let us take a look at a few other things. Lead solder out of food cans. These are examples from the FDA. Final rules published June 27, 1995; effective date to stop manufacturing cans with lead solder is December 27, 1995. What is going to happen if this law comes into effect? I do not know. Requiring quality standards for mammography tests, publication of proposed regulations are planned for October 1995. You have people who are not providing quality tests for women.

What happens if this goes into effect? Cables and lead wires in hospitals have caused the deaths of a number of people. FDA has proposed a regulation to require that cables which connect patients to a variety of monitoring and diagnostic devices be designed so that the cables could not be plugged directly into a power source or electric outlet. Proposed rules were published June 12, 1995. What happens?

Take another example, Mr. President. I had a press conference with two little boys with asthma. Asthma is the leading illness of all U.S. children. A young boy named Kyle Damitz spoke at this press conference. He and his brother both spoke. Here is what Kyle Damitz had to say.

Hi, my name is Kyle Damitz.

I am 6 years old.

I go to Farnsworth school.

I have asthma.

I love to play sports.

In the summer when the air is dirty, I can't go outside. I can't breathe in the dirty air.

And my mom makes me come inside.

This is not fair to me and my brothers and everyone with asthma.

We need to tell the president, to make new laws. So that all the kids with asthma can play outside all the time.

How do you do a cost-benefit analysis on kids playing outside who have asthma? I think you have to recognize the cost-benefit test simply is not a workable test.

Mr. JOHNSTON. Mr. President, will the Senator yield on that point?

Mr. SIMON. Let me finish, and then I will be happy to yield to my colleague from Louisiana.

The State of Illinois tried a cost-benefit criteria in terms of its water and air pollution and found it just was not workable.

Jacob Dumelle, the chairman of the Pollution Control Board from 1973 to 1988 commented about why the Illinois Pollution Control Board had banned the mandatory economic impact analysis. This is a quote from him:

Cost-benefit analyses are expensive, hard to do. In the end, you try to put a dollar value on human lives.

You just cannot do that effectively. The cost-benefit test just does not make sense.

Let me quote, and I ask unanimous consent, Mr. President, that an article of July 17 from Business Week be printed in the RECORD.

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

[From Business Week, July 17, 1995]

ARE REGS BLEEDING THE ECONOMY?

MAYBE NOT—IN FACT, THEY SOMETIMES BOOST COMPETITIVENESS

(By John Carey, with Mary Beth Regan)

To the Republican Congress, regulations are like a red cape waved in front of a raging bull. "Our regulatory process is out of control," says House Science Committee Chairman Robert S. Walker (R-Pa.). He and other GOP leaders charge that nonsensical federal rules cripple the economy, kill jobs, and sap innovation. That's often true: Companies must spend enormous sums making toxic-waste sites' soil clean enough to eat or extracting tiny pockets of asbestos from behind thick walls.

That's why GOP lawmakers on Capitol Hill want to impose a seemingly simple test. In a House bill passed earlier this year and a Senate measure scheduled for a floor vote in July, legislators demand that no major regulation be issued unless bureaucrats can show that the benefits justify the costs. "The regulatory state imposes $500 billion of burdensome costs on the economy each year, and it is simply common sense to call for some consideration of costs when regulations are issued," says Senate Majority Leader Bob Dole (R-Kan.).

That sounds eminently reasonable. But there's a serious flaw, according to most experts in cost-benefit calculations. "The lesson from doing this kind of analysis is that it's hard to get it right," explains economist Dale Hattis of Clark University. It's so hard, in fact, that estimates of costs and benefits may vary by factors of a hundred or even a thousand. That's enough to make the same regulation appear to be a tremendous bargain in one study and a grievous burden in the next. "If lawmakers think cost-benefit analysis will give the right answers, they are deluding themselves," says Dr. Philip J. Landrigan, chairman of the community medicine department at Mount Sinai Medical Center in New York.

There's a greater problem: The results from these analyses typically make regulations look far more menacing than they are in practice. Costs figured when a regulation is issued "almost without exception are a profound overestimate of the final costs," says Nicholas A. Ashford, a technology policy expert at Massachusetts Institute of Technology. For one thing, there's a tendency by the affected industry to exaggerate the regulatory hardship, thereby overstating the costs.

More important, Ashford and others say, flexibly written regulations can stimulate companies to find efficient solutions. Even critics of federal regulation, such as Murray L. Weidenbaum of Washington University, point to this effect. "If it really comes out of your profits, you will rack your brains to reduce the cost," he explains. That's why many experts say the $500 billion cost of regulation, bandied about by Dole and others, is way too high.

Take foundries that use resins as binders in mold-making. When the Occupational Safety & Health Administration issued a new standard for worker exposure to the toxic chemical formaldehyde in 1987, costs to the industry were pegged at $10 million per year. The assumption was that factories would have to install ventilation systems to waft away the offending fumes, says MIT economist Robert Stone, who studied the regulation's impact for a forthcoming report of the congressional Office of Technology Assessment (OTA).

BOTTOM LINES

Instead, foundry suppliers modified the resins, slashing the amount of formaldehyde. In the end, "the costs were negligible for most firms," says Stone. What's more, the changes boosted the global competitiveness boosted the global competitiveness of the U.S. foundry supply and equipment industry, making the regulations a large net plus, he argues.

While federal rules that improve bottom lines are rare, regulatory costs turn out to be far lower than estimated in case after case (table). In 1990, the price tag for reducing emissions of sulfur dioxide—the cause of acid rain—was pegged at $1,000 per ton by utilities, the Environmental Protection Agency, and Congress. Yet today the cost is $140 per ton, judging from the open-market price for the alternative, the right to emit a ton of the gas. Robert J. McWhorter, senior vice-president for generation and transmission at Ohio Edison Co., says the expense could rise to $250 when the next round of controls kicks in, "but no one expects to get to $1,000." The reason: Low-sulfur coal got cheaper, enabling utilities to avoid costly scrubbers for dirty coal.

Likewise, meeting 1975 worker-exposure standards for vinyl chloride, a major ingredient of plastics, "was nothing like the catastrophe the industry predicted," says Clark University's Hattis. He found in a study he

did while at MIT that companies developed technology that boosted productivity while lowering worker exposure.

Of course, it's possible to find examples of underestimated regulatory costs. And even critics of the GOP regulatory reform bills aren't suggesting that cost-benefit analysis is worthless. "We should use it as a tool" to get a general sense of a rule's range of possible effects, says Joan Claybrook, president of the Ralph Nader-founded group Public Citizen. But she and other critics strongly oppose the Republican scheme to kill all regs that can't be justified by a cost-benefit exercise. As a litmus test for regulation, "the uncertainties are too broad to make it terribly useful," says Harvard University environmental-health professor Joel Schwartz.

What is useful is moving away from a command-and-control approach to regulation. There's widespread agreement among companies and academic experts that bureaucrats should not specify what technology companies must install. It's far better simply to set a goal, then give industry enough time to come up with clever solutions. "We need the freedom to choose the most economic way to meet the standard," explains Alex Krauer, chairman of Ciba-Geigy Ltd. Krauer, for example, points to new, cleaner, processes for producing chemicals that end up being far cheaper than installing expensive control technology at the end of the effluent pipe.

DUMB THINGS

But when goals are being set for industry, the proposed cost-benefit analysis approach could have a perverse effect. That's because agencies are rarely able to foresee the low-pollution processes industries may concoct. Smokestack scrubbers are a good example. The bean-counters will use the known price of expensive scrubbers in their analyses. Their cost-benefit calculations will then argue for less stringent standards. And those won't help spark cheaper technology. The result can be the worst of both worlds: costlier regulation without significant pollution reductions. "It's a vicious circle," explains Stone. "If you predict that the costs are high, then you stimulate less of the innovation that can bring costs down."

There's no doubt reform is needed. "Frankly, we have a lot of dumb environmental regulations," says Harvard's Schwartz. But he puts much of the blame on Congress for ordering agencies to do dumb things. Now, Congress is tackling an enormously complex issue without fully understanding the ramifications. Schwartz and other critics worry. Overreliance on cost-benefit analysis could make things worse for business, workers, and the environment.

REGULATION ISN'T ALWAYS A COSTLY BURDEN

Many regulations cost much less than expected because industry finds cheap ways to comply with them.

COTTON DUST

1978 regulations aimed at reducing brown lung disease helped speed up modernization and automation and boost productivity in the textile industry, making the cost of meeting the standard far less than predicted.

VINYL CHLORIDE

Reducing worker exposure to this carcinogen was predicted to put a big chunk of the U.S. plastics industry out of business. But automated technology cut exposures and boosted productivity at a much lower cost.

ACID RAIN

Efficiencies in coal mining and shipping cut prices of low-sulfur coal, reducing the need to clean up dirty coal with costly scrubbers. So utilities spend just $140 per ton to remove sulfur dioxide, vs. the predicted $1,000.

Mr. SIMON. Mr. President, that article is about this legislation. Listen to the last sentence of this article. This is not from some wild-eyed radical liberal publication. This is from Business Week.

Overreliance on cost-benefit analysis could make things worse for business, workers, and the environment.

I think we ought to be going back to the bill by our colleague from Delaware, Senator ROTH. I think that has balance. I think this bill does not have balance. This bill is going to end up in endless litigation. I know my colleague from Louisiana is sincere, as is the majority leader. But I think it is moving in the wrong direction.

I am pleased to yield to my colleague from Louisiana for a question.

Mr. JOHNSTON. I ask my friend, would he not agree that benefits to health, safety, or the environment are by their nature nonquantifiable; human life, health, clean air?

Mr. SIMON. They are not. That is why I think we have to be very, very careful in this area.

If I may regain my time just for a minute, when you talk, for example, in an area that the Senator from Louisiana knows much about, and the Presiding Officer does, and I do, and that is flood control, then when you talk about cost-benefit, it is very easy. When you talk about something like asthma, then you are talking about something where it becomes very, very difficult.

Mr. JOHNSTON. Is the Senator aware that at my behest, we put in language in the bill contained on page 36 that says if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute, appropriately and in the public interest, that that more costly alternative may be accepted because of the nonquantifiable benefits to health, safety, and the environment, or because of the uncertainty of science and data?

Is the Senator aware that that amendment was added to this bill since that Business Week article was written?

Mr. SIMON. Let me just add, there is no question that the Senator from Louisiana has improved the bill before us.

Mr. JOHNSTON. Does that not cover the exact things the Senator from Illinois was talking about, the boy with the asthma, the kid with the lead?

Mr. SIMON. I think the answer is what is quantifiable and what is nonquantifiable is going to become a matter of jurisdiction of the courts under this legislation. I think we are going to have endless litigation.

Mr. JOHNSTON. Under the definition of benefits, we have already included the quantifiable benefits. That is put into your cost-benefit ratio. This says that this is a little extra that you are able to add. If you are not able to quantify the value of life, which by its nature is nonquantifiable, or the value of clean air, then you can add that on and have a more costly alternative.

That is exactly and precisely to deal with the problem that my friend from Illinois so eloquently described, which is the kid with asthma, the people with safety belts, and all that. It is nonquantifiable. It is human life. You do not put a dollar value on human life or on the value of clean air.

I urge my colleagues to go back and read on page 36 those words. I think it covers this like a hand in a glove.

Mr. LEVIN. Will the Senator from Illinois yield on that exact same point?

Mr. SIMON. I am pleased to yield to my colleague from Michigan.

Mr. LEVIN. I hope also all of us will read that language which was referred to by the Senator from Louisiana. But what it does not cover are areas where we cannot quantify the benefits, such as how many fewer asthma attacks will result? That is quantifiable, let us assume for a moment. The value of avoiding it may not be quantifiable. But the fact that we could avoid a certain number of asthma attacks, or deaths in many cases, is very quantifiable.

We sought from the Senator from Louisiana and others language which would say that where you can quantify a reduction in deaths or asthma attacks, we should then not be forced to use the least costly approach. We may want to reduce more asthma attacks and save more lives with a slightly more expensive approach. We were unable to get that language.

So, yes. It is very important that all of us understand the point that is made by the Senator from Louisiana. But it does not solve the problem which has been raised by the Senator from Illinois.

Mr. SIMON. Mr. President, I think the dialog we have just had suggests that my point is valid, that we are going to end up with the courts deciding what is quantifiable and what is not quantifiable. I think we should move slowly in this area. I have been in Government a few years now, Mr. President. I was first elected to the State legislature when I was 25. I am now 66. I have found generally that when we take solid, careful steps, we are much better off than when we do these sweeping things.

I think what we have before us now is well intentioned, but too sweeping, in answer. The pendulum will go from one cycle to the other.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:55

having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:46 p.m., recessed until the hour of 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to speak for a moment in support of the Dole amendment, and therefore in support of this legislation as we will amend it.

The question before us is whether or not benefits justify costs. That is really all we want to know. Given that the Judiciary Committee's report places the regulatory burden on our economy at over $881 billion, I think that is a reasonable question to ask. That averages just under $6,000 for every household in this country—$6,000 that families in this country cannot spend on other things because the money has to be given to the Government or has to be used in other ways to comply with the costs of regulation.

That is why these costs are cloaked in what amounts to a hidden tax. They are passed on through lower wages, through higher State and local taxes, through higher prices, through slower growth and fewer jobs. I said fewer jobs. According to William Laffer in a 1993 Heritage Foundation report, and I am quoting:

> There are at least three million fewer jobs in the American economy today than would have existed if the growth of regulation over the last 20 years had been slower and regulations more efficiently managed.

To put it in perspective further, the Americans for Tax Reform Foundation found that each year Americans work until May 5 to pay for all Government spending. If you add the cost of regulations, each American has to work until July 10—I believe that was yesterday—in order to pay for all of the taxes and regulations imposed upon us. That is over a half year of work to pay the total cost of Government, and 2 months of that hard work must pay for the costs of regulation. As I said, that is money families could spend making their own decisions on how to spend for their own health care, safety, and education.

According to a 1993 IPI policy report, regulations add as much as 95 percent to the price of a new vaccine. And Justice Breyer, who has recently been elevated to the Supreme Court, wrote a book called "Breaking the Vicious Circle," in which he poses the following question: "Does it matter if we spend too much overinsuring our safety?" And he answers his own question. "The money is not, nor will it be, there to spend, at least not if we want to address more serious environmental or social problems—the need for better prenatal care, vaccinations and cancer diagnosis, let alone daycare, housing, and education."

In other words, Mr. President, it is foregone opportunity in the sense that by spending this money on something where its benefits are marginal, we are precluded from spending it on things that could really be more important and helpful to us.

Cost-benefit analysis, some people say, is a new and a foreign concept. Well, businesses fail if they do not utilize cost-benefit analysis. At every turn, individuals are confronted with decisions that require weighing the pluses and minuses and the benefits and costs. These are decisions that we make every day. We call it common sense. When we decide to get in our automobile and drive somewhere, we know that the national highway fatality and accidents statistics weigh fairly heavily toward the possibility that sometime in our life we are going to be involved in an accident in which we are going to be harmed and yet we consciously make the decision that because the benefits to us of arriving at our destination using our automobile are worth more than the risks, we decide to take those risks.

In another more simple example, we cross the street every day, and most of us understand that there is some degree of risk in crossing the street; people are harmed every day by doing that, but the benefits of us getting to our destination exceed the costs, or the potential risk to us in making that particular trip.

So as human beings, as families, as individuals, we make decisions, many decisions every day that involve some theoretical and sometimes not so theoretical risks to ourselves. Yet we do that knowingly, and we do that understanding that sometimes benefits can outweigh those risks. It is the application of common sense. And what we are asking for with respect to the regulations that are imposed upon us, is that there be a little bit more common sense, a little bit more care to go into the development of these regulations.

Now, one of my colleagues this morning spoke, and I thought made an excellent point, that Government generally is supposed to do for us what we cannot do for ourselves. Most of us believe that. We appreciate the fact that in many cases we cannot as individuals understand the risks involved and we cannot police everything that could pose a particular risk to us. And so we ask the Government to do that for us. We empower Government agencies to do tests, to do analysis, and to actually establish standards. Then they frequently report those standards to us on a product or on a label or by some regulation precluding the manufacture or use of something that would be dangerous to us.

We do that certainly in our food industry in a way that is understood by all, in the approval of drugs and in many, many other ways. We ask the Government to do for us what we cannot do for ourselves, to understand the risks. That is called a risk assessment, to do a cost-benefit analysis. Indeed, most Presidents since President Ford have, in fact all Presidents I think have, in effect, imposed a cost-benefit analysis requirement on most Government agencies as a matter of Executive order. The problem is it is enforced more in the breach than in the compliance. And so many agencies do not follow that cost-benefit analysis in the establishment of regulations. And that, I will get back to, is basically what we are asking these Government agencies to do. When we give to them the obligation of protecting us in some way, we want them to do it in a way that represents common sense and at the least cost consistent with the protection which we want.

Now, there is an argument that has been made that the regulatory agencies ought to be expected to exercise the same sort of common sense that individuals do. I want to make a couple points about that.

First of all, Mr. President, whenever we hand power to the Government, it should be viewed with a special or through a special lens because the Government exercises power far beyond that which can be exercised by any of us as individuals or even as a business organization. Some call it the heavy hand of Government. But we all appreciate the fact that when we pass a law in the Congress, and when the executive branch agencies of Government administer that law pursuant to our direction, they are doing so under the color of, under the authority of, under the color of law—the power of the Government to enforce that law. And we as citizens are supposed to know what that law is.

We all learned in school that ignorance of the law is no excuse. And yet there are over 20 million words of regulation today, about 36,000 pages of regulations in the Federal Register. We cannot all be expected to know what those are. We do not need to know what they all are. But I daresay that there are a lot of regulations that could end up suggesting that we are in violation of some law that, in fact, we do not even know about. That is certainly the case with a lot of businesses.

The fact is there are a lot of regulations. They have behind them the power of the law to enforce them. So when we ask the Government to do something for us, we should be very careful about ceding too much authority, because the Government can, in

the enforcement of those regulations, impose fines and impose other kinds of penalties upon us. And, of course, the stories in the newspapers and so on are full of stories about examples of situations in which an innocent citizen has gotten himself or herself into hot water because he has run afoul of some Federal regulation, frequently of which he was not even aware.

So, when we say, well, a Federal bureaucrat can certainly be trusted to exercise the same degree of common sense that an ordinary citizen would, we appreciate the hard work that our so-called bureaucrats do for us, but we also have to appreciate the power that stands behind that bureaucrat in terms of being able to enforce those regulations.

That is why we need to be very, very careful about the kind of regulations that have been imposed; and, second, because we have certainly seen instances in which there has been an overregulation; and, third, because the cost of those regulations on our society cannot necessarily be fully appreciated by the individual who is promulgating the regulation.

That is why we want to make it very clear to the people to whom we entrust with that authority that we, the Congress, want them to examine both the risks and the costs against the benefits to be achieved by the regulations that they would impose.

Let me give you an example, Mr. President, that occurred in my home State not too long ago. It is an example I cite because it really had a happy ending, but no thanks to the law that we wrote and the regulations that were promulgated pursuant to that law.

In Graham County, AZ, a rural area primarily of cotton farming and other agriculture, there is a river called the Gila River, which does not overflow very often but when it does, unfortunately, it is a wild river. It flooded in 1993 in January. The flood was significant enough to wipe out a bridge about 5 miles east of Safford, the county seat of Graham County. Unfortunately, when that happened, the river changed its course and went several hundred yards to the south wiping out a lot of farmland and causing a great deal of havoc. The primary thing that happened was that there was no more opportunity to cross the river there for the people who lived on the other side without a 28-mile detour across a bridge that was very narrow, 20 feet wide, a bridge one could not build today under Federal regulations, and probably a good thing because it is not a very safe bridge. School kids got up an hour earlier in the morning and stayed an hour later in order to ride that extra distance to and from home. And the traffic was all routed on a small State road. Since it is a farming community, the farm implements were obviously traveling on the same road as the highway traffic. Of course, these can be very wide. They are 20 feet wide sometimes and travel at maybe 10 or 15 miles an hour. I saw many instances in which, because motorists were frustrated, they passed the double line. They should not do it. It is against the law. But clearly, health and safety were implicated in the fact that people could not cross the bridge that existed before.

The Federal Highway Program had funds available through disaster assistance to reconstruct the bridge, and the Army Corps of Engineers was willing to reconstruct the bridge. The problem was that it had to consult with the Fish and Wildlife Service because it is believed that there is an endangered species in the Gila River called the razorback sucker. Now, nobody can find that little sucker, but supposedly it is there. Let us assume that it exists. And if it does, we certainly want to preserve it and save it.

But what the local officials were asking the Army Corps of Engineers to do was to build up a little dirt berm, now that the river has gone back down again and does not flow very heavily, to redirect the river back to its original channel. Now, if the sucker exists, and if it lived all of these years in its original channel in the Gila River, then presumably it can do just fine living where it always lived, and it is no danger to that species that the river is being redirected back where it always was. And by doing that, the bridge can be constructed, the people can travel safely, and life returns normally to the people in Graham County. But, alas, the Army Corps of Engineers could not get the approval from the Department of the Interior to go forward with these plans.

Finally, the situation was dangerous enough, the people were fed up enough, the situation was frustrating enough, costing enough, that the people of Graham County said, "We've got to do something about this ourselves. We have to take matters into our own hands, apply a little common sense."

They notified the Army Corps of Engineers of their plans to build a little dirt berm, to redirect the channel back where it had been and build a little low-river crossing there. And, fortunately, the Army Corps of Engineers exercised what they call "enforcement discretion" and did not cite the county officials when that is precisely what occurred.

Now the river has been channeled back in its original place. A low-river crossing has been built. And plans are going forward to reconstruct the bridge. An application of common sense by common people, having their lives to live, who just could not afford to wait any longer to live in this bureaucratic morass that we have created.

Well, who is really at fault? It is probably ultimately the Congress' fault for writing a statute that permits this kind of regulatory authority. But it is also the fault of the agency in not exercising the common sense to authorize the project to go forward.

When one considers the quality between protecting this species, which is somewhat questionable, as I said—and I think the folks would agree with that—in any event, protecting it by letting it go back into the same channel it had always been in, when you weigh that against the risk of lives to people for having to cross this very narrow bridge 5 miles downstream and traveling behind slow-moving farm implements and all the rest of it, it seems to me that it is a good example of how sometimes we do not apply common sense in these regulations, and it was necessary for people to take matters into their own hands.

When it has gotten to this point, we have a problem, and that is the problem we are trying to correct here with the process changes that are embodied in the Dole-Johnston substitute. We are not changing the underlying substantive law. Endangered species, clean air, clean water, all of those laws that we have created for the protection and safety of our environment and our people still exist. They still will prevail. But in the establishment of regulations now, we are asking the people who implement those laws to take certain things into consideration, such as an assessment of risks and a cost-benefit analysis, when that is appropriate, and, in the case of certain regulations where it is appropriate, to do peer review. Those are all very reasonable concepts.

I am certain in a bipartisan way we can work out any differences that exist relative to the application of those principles to the administering of the laws that we write.

Let me just conclude with a couple of other thoughts, Mr. President.

John Graham, professor and founding director of the Center for Risk Analysis at the Harvard School of Public Health, wrote in the Wall Street Journal recently:

> Since zero risk is not a feasible goal, we need to rank risks in order of priority.

For example, he agrees that childhood lead poisoning is a serious public health problem and asserts, nevertheless, that fewer resources should be used to excavate soil at Superfund sites where the probability of childhood exposure to lead is low, whereas more resources should be directed toward cleaning up older homes in poor communities, where each day kids are ingesting house dust contaminated with deteriorating lead paint. In other words, an example of where we probably have our priorities wrong because of the rigidity with which we developed these laws, and they are being administered pursuant to that rigidity. We are trying to loosen that process up in the Congress by giving discretion to our

agencies to apply more common sense in the development of a regulation.

The Hillary Clinton task force, as a matter of fact, used the same type of prioritization and analysis. Her task force included a proposal for mammograms for 50 year olds at $100 million per life saved, while mammograms for 40 year olds at $158 million per life saved were rejected as too costly.

The conclusion is, in both cases, obviously there are lives at stake, but in one case it was simply deemed too costly for the Government to provide the source of revenue for the mammograms, considering the risks involved. One can argue with that particular analysis. One can say, "No, that's still too great a risk."

My point in citing the example is simply to note the fact that the President's wife in her task force and all of the work that she did on this, a professor from Harvard, Government agencies today, all of us in our individual lives all use common sense and prioritize the risks against the costs. So that is not a concept that we should be arguing against. We should be implementing it in the law.

I cited the Harvard School of Public Health study. It indicated:

> . . . reallocating resources to more cost-effective programs could save an additional 60,000 lives per year without increasing costs to the public or to the private sector.

In other words, Mr. President, cost-benefit analyses would not only prevent the squandering of our scarce resources, it would actually enable us to maximize their impact and end up saving more lives and preventing more harm to our citizenry than is the case today.

Mr. President, there are many, many examples. I will conclude by saying that it is my view that the substitute represents a good-faith effort to meet the concerns of those who thought that this legislation might either intentionally or accidentally go too far in undermining existing substantive law by assuring that it is strictly a process change which supplements the authority of the people we ask to administer these laws today to engage in the kind of risk assessment and cost benefit which all of us do every day of our lives; that that makes common sense; that it will end up saving more lives; that it will end up saving a lot of money and, in the end, will provide a safer climate for the people of our country than exists today.

So I certainly urge all of my colleagues at the appropriate time to support the Dole-Johnston substitute.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I say to my friend from Idaho, I will be brief.

I think the Senator from Arizona is correct. We should not be arguing about whether we should have cost-benefit analyses. The Glenn bill does not argue about that. The argument is about whether or not the Dole bill takes too much of a risk with the public safety or not a sufficient risk.

My friend from Arizona cited some things that I think could confuse folks. He indicated that the cost of regulation—and cited a study—was *X* billions of dollars per year, that that cost jobs, it cost every household $6,000 or $16,000, I do not know what his number was, per year; the implication being, if you vote for the Dole bill, those costs will evaporate, those costs will go away.

The truth is, the Dole bill could be implemented tomorrow and the cost to households will actually go up, not go down. But let me just make a point. We all hear, and I can cite and will cite as this debate goes on, horror stories of regulations that have occurred in my State of Delaware, absolutely foolish, stupid things that bureaucrats do. We are all about here trying to rationalize this and have an element of common sense.

Let us talk about common sense. What is common sense for a corporate executive is not necessarily common sense for the average citizen.

If you are a corporate executive and you are running a steel plant in the Midwest, common sense dictates that you build a great big, high smokestack, like we used to see in the forties and fifties and sixties, 350 feet high. Common sense dictates that because it is the cheapest thing for you to do. And then you emit out of that gigantic smokestack into the upper airstream damaging particles to people's health, and you blow them across the country into Delaware, and you blow them into the State of New York and you have acid rain and you kill our fish and you kill our wildlife and you kill some of us. Now, that is common sense.

You are the chief executive officer. Someone comes along and says, "Now, I'll tell you what I can do for you here. We can, by you having to spend an additional half a billion dollars, clean your plant up. We can see to it that with the Clean Air Act, we are going—it is going to cost you now, it is going to cost your stockholders, it may even cost jobs, what it is going to do is cost you $400, $500 million to clean the plant up."

If you are the corporate executive sitting at your desk, that is not common sense to you to go and spend all that money. So what do we have to do to make sure that the streams in Delaware are not polluted, that the Adirondacks do not have dead lakes where nothing lives because of acid rain? We have the Government come along and say, "We're going to make you do that, we're going to make you do it."

It is common sense to the person living in Delaware that it is not a good idea to have all those particles coming from the industrial Midwest into my State and choking us. That is common sense. It is a good idea to clean the air. But that is not common sense for the corporate executive. I am not suggesting they are bad or good guys, but listening to my friend from Arizona, it is like if we all just sat down and talked about this, common sense would prevail.

Why did the Federal Government get in the business of air pollution and water pollution? Because the State of Arizona did not do it, the State of Delaware did not do it, the State of Kansas did not do it.

I was raised in a place called Claymont, DE. It sits on the border of Pennsylvania and Delaware.

There are more oil refineries per square mile along the Delaware River in Marcus Hook and Chester, PA—which is less than a half mile from where I was raised—than any place in America. When I was a kid, I would come out of where we lived, Brookview Apartments, my uncle would drive me to school. If it was a misty fall morning, you would put on the windshield wipers and literally there would be an oil slick on your windshield—not figuratively, literally.

The State of Pennsylvania understood the prevailing wind went into Delaware. This was the southeast corner of Delaware, and it was a multibillion-dollar industry for the State of Pennsylvania. The idea that the folks in Pennsylvania were going to pass a law saying that all those oil refineries in southeast Pennsylvania, which blew into New Jersey and Delaware, had to clean up their refineries was nonexistent—zero. There would be a lot of political pain for those legislators in voting against those captains of industry in their States, maybe costing jobs at that refinery, maybe costing income to that county.

So the reason we got in the business in the first place is because industry did not do it. They did not do it. The States did not do it. How about clean water? I wonder how many people in this Chamber visiting Washington would like us to get out of the business of assuring that their water is clean. I do not know where they live, but I now live along a place called the Brandywine River. A factory was there, and when I was a kid, there used to be a pipe that came right out of the factory, a pipe that went right into the Brandywine, because common sense dictated that if you owned that factory, it made sense to spill that effluent into the river and wash it out into the Delaware River and into the Atlantic Ocean because it costs millions of dollars to put on devices to catch that dirty water.

Well, today, I literally—not figuratively—can raft down the Brandywine River, which is a tradition in our State, on inner tubes on a Sunday with my kids. It is clean. Does anyone in

this Chamber believe that had we not imposed costs on industry that that river would be clean today? Name me a place in America where that happened without regulation, because common sense dictated that it is better to give the stockholders more money in their dividends than less.

I am not making a moral judgment. I am not making a statement about greed or anything. It is just common sense. It made sense. It was all right if the Government let you put it in the river and that took it away. Instead of spending $12 million to treat it on-site, put it in the river.

My friend said we all take risks, that we get in our automobiles and we walk across streets. Guess why people get in their automobiles? They get in automobiles today because they know that the tires they buy meet certain standards that the Government imposes on manufacturers. So you do not have what you had in the 1940's and 1950's, tires shredding and people getting killed. We now have things called inspections. In every one of our States, in the beginning, you could drive a car when the motor car came along and you did not have to go to an inspection station, you did not have to show up there. You just took your risks. As more cars got on the road, even States figured, hey, wait a minute, a lot of folks are getting killed because they are putting in brakes that do not work, steering mechanisms that do not function. So we have all these regulations. Now, they are costly. They are costly.

The only broad point that I wish to make now is that I hope no one here—I do not think my friend from Arizona is doing so—is arguing that we should not have those kinds of regulations. We are talking about the margins here. What we are debating here on this floor is what kind of oversight, if you will, by the judiciary, and what kind of oversight by industry, if you will, should there be to prevent the aberrations that occur—and they do occur—and the unnecessary costs that occur—and they do occur—from occurring? But if the good Lord could come down and divine for us every bureaucratic glitch that occurs in implementing regulations —I will give you one by the way. Unintended consequences.

In my own State a friend of mine, a kid I grew up with, a very successful highway contractor in Delaware, shows up at a function with me. He walks up and says, "JOE, I am helping you again this year, but I could kill you."

I said, "Why?"

He said, "You voted for that Americans With Disabilities Act."

I said, "Yes, but you were for that."

He said, "Yes, but I did not know you were going to do what you did."

I said, "What did I do?"

He said, "I will tell you what that act did." He owns a highway contracting company, and he hires flag persons. You know, we have them in all our States while they are repairing the roads. One guy with a flag puts up a stop sign, and with a walkie-talkie he calls the person at the other end and says, "You let your folks go, I will put the stop sign up on this end."

He said, "I hired a guy that turned out to be hard of hearing, and so when he was given the walkie-talkie, he picked up the walkie-talkie and the guy down there would say, 'OK, stop them.' But he did not hear them. So what would happen is cars would be coming through and they banged into one another."

He said, "I moved him to another job. I put him behind a grader, and he sued me under the Americans With Disabilities Act."

He called over one of the most prominent lawyers in Delaware and said, "Francis, tell him what you told me I have to do."

Francis Biondi walks over and says, "JOE, I told him he had to settle this for"—I will not mention the amount—"a sizable amount of money." It was several times what the average American makes in a whole year.

I said, "How could that be?"

He said, "Well, they ruled that I had to take every possible action to accommodate this person's disability. So do you know what they told me I should do? I should have had an extension that ran up 30, 40 feet that had a red light and a green light on it at either end, and that guy would be able to look down, since his eyes were good, and he could see green so that he knows to press red, and he can see red and he will know to press green. His hearing would be taken out of it."

I will quote my friend—I guess I will not because there was profanity in it. But he basically said, "Why in the heck do I need him then, if I am going to do that?" That is a bizarre outcome, in my view, for a well-intended piece of legislation.

But assume we took out all of those nonsensical aberrations of regulations that we pass. I doubt whether anybody on this floor—and again, I beg the indulgence of my friend from Arizona. He gave a figure of several billion dollars and about $6,000 per household, I think. If we got rid of every one of those stupid things, we are still at about $5,000 a household. So I do not want anybody on the floor—we kind of mix things up on the floor here. Listening to my friend from Arizona, I think the average person would think that, well, if the Dole bill passes, a lot more people are going to be employed, and instead of my paying $5,000, $6,000 a year, I am not going to have to pay that anymore—not unless he is talking about doing away with the Clean Water Act and the Clean Air Act and all of these major environmental pieces of legislation.

The third point I want to make—and then I will yield the floor—is that he mentioned lead paint. When I first got here in 1973, I was on the Environment and Public Works Committee, which then was called the Public Works Committee. I was given by the then chairman, Senator Randolph of West Virginia, a subcommittee assignment that had no legislative authority. I had authority to hold hearings. It is called the Subcommittee on Technology. And I could not understand why he was being so gracious to me until I found out the first assignment I was given. I was given the assignment—being one of the Senators from Delaware, a State with a lot of small companies like DuPont and others residing in that State—I was given the assignment of writing a report, after holding hearings, on whether or not we should phase out lead in gasoline or have lead traps in gasoline.

The DuPont Co. had a patent for a lead trap. If I had written a report saying, "Do not phase out lead in gasoline, do not eliminate lead in gasoline, just have lead traps like we had for pollution control devices," I was under the impression that would be a multimillion dollar, probably billion dollar, decision for the company. I do not recall any corporation during those hearings coming and saying we should take lead out of gasoline. There was overwhelming scientific evidence along the lines of those my friend from Arizona cited. He stated that it makes more sense to clean up the lead paint, dust, and particles in existing older housing than it does to take the last traces of lead out of contaminated sites in the ground where folks do not live, that are now Superfund sites. I happen to agree with him.

But the broader point I wish to make is, were it not for a regulation by the Government in the first instance, there was no commonsense reason why corporate America thought it made sense to take lead out of gasoline. They all repeatedly made what we would call commonsense arguments. First, the reason lead is put in gasoline is that you can go further on a gallon of gasoline with lead in it than without lead in it. Second, it is not as costly to make the gasoline. Third, you will employ more people. Fourth, we have an oil embargo. It went on and on. There were commonsense, legitimate reasons—but against the public interest overall. Because, from the public's standpoint, common sense said, if you lived in a metropolitan area and you had a child, you would have to live with lead in gasoline coming out of tailpipes of automobiles or defective lead traps—which would be the case. And there would have been an incredible, enormous cost of maintaining those lead traps, additional costs. States would have to inspect the lead traps when you got your car inspected, and so forth. Common sense for the citizen said: My kid ingests that air just

like the dust particles the Senator from Arizona referred to.

So the common sense for the public—for us, as representatives of the public—was to say, "No lead in gasoline." The commonsense position for those who made gasoline, and lead, was, "Lead in gasoline."

Again, I am not making a moral judgment. What I am saying is that, "What is good for the goose ain't necessarily good for the gander." What seems to be common sense—there is an old expression. I believe it is an English expression. "What is one man's meat is another man's poison." And that is literally true, literally true in environmental law.

So, I hope, as we get into the detailed meat—no pun intended—of this debate, we do not confuse three things. One, regardless of which bill prevails, the total cost—I will argue later and hopefully will be able to prove to my colleagues—the total cost to the American public in terms of dollars, the difference will be de minimis.

No. 2, there will be, still, a significant cost to the American public for these regulations because the American public decided that their ultimate priority is the air they breathe, the water they drink, the food they ingest. And the American public has had over 200 years of experience, culminating at the turn of the century with Lincoln Steffens and others, about what happens when you do not regulate people who deal with our air, affect our water, and produce our food.

The third and final point I will make is that when we look at the cost, I ask my friends to count the increased cost in the number of bureaucrats that would have to be hired to meet the timetables imposed by the Dole legislation, and the cost in additional number of judges we would have to hire and the additional number of lawyers that will be paid, litigating every jot and tittle of the change in the Dole legislation. We should count those costs, compare them to the costs that come from the overstepping bureaucrat and the unreasonable regulation.

Senator GLENN and Senator CHAFEE have a bill that at one time was a totally bipartisan bill. It passed out of the Committee on Governmental Affairs unanimously—without a dissenting vote; every Democrat and every Republican. Then, Senator HATCH, my esteemed chairman at the Judiciary Committee, presented the Hatch-Dole bill. I do not know what was so wrong with the bill that passed out unanimously from the Government Affairs Committee, a major piece of legislation, significantly rewriting regulatory law, significantly lifting the burden on American business without, in my view, doing unjust harm to American consumers. But something happened on the way to the floor.

Now we have the Dole bill. Senator DOLE came here today and proposed an E. coli amendment. Now, we argued in committee that the Dole bill, unless it was changed, would increase the prospect that people would die from E. coli in meat in their hamburgers—feces in their food. We were assured that cannot possibly happen under this law. If it was not going to be able to happen, why did Senator DOLE have to come to the floor and propose an amendment on that?

Mr. KYL. Will my friend yield on that?

Mr. BIDEN. I will be delighted to yield.

Mr. KYL. Senator DOLE came to the floor to offer the amendment to take away the political argument, because a red herring, as it were, was being raised, an argument that somehow his bill was going to permit people to get sick when, in fact, the bill would not do that at all. But to get the issue off the table so people would not continue to talk about it, he said, "Fine, we will create a belt and suspenders. The bill already prohibits it, but we will make it crystal clear so that argument cannot be made anymore, so people cannot scare people."

May I make one other point?

Mr. BIDEN. Let me respond. I will yield in a moment. Let me respond to that. I am glad to hear that, and that is useful. Maybe the Senator from Arizona and Senator DOLE would consider, then, taking away a couple of more of what they think are red herrings.

For example, why are we trying to undo all the Superfund site plans that are soon to go into effect? Why do we not take Superfund out of this legislation? It has no part in this legislation. We are told, when we raise that, it is a red herring. I would like him to supply suspenders on that one, too, for me. We have a belt; let us have suspenders.

The next one I would like to consider, and then I will yield the floor completely, a second one is we are told the Dole-Johnston legislation does not in any way overrule existing environmental law. Why do we not just say that? Why not use that exact language, just say it, give us the suspenders along with the belt, because some of us, although maybe we "doth protest too loudly" maybe we are a little too cynical, maybe we read things in this legislation that are truly not intended to be there.

Mr. KYL. Will the Senator yield?

Mr. LEVIN. Will the Senator yield?

Mr. BIDEN. I yield to the Senator from Michigan.

Mr. LEVIN. There will be an amendment which will do precisely that, because of the concerns the Senator from Delaware and others raised. These are legitimate concerns which a whole host of people who are deeply involved in this issue have raised as to whether or not there is any—where there is a conflict, if there is one, between the provisions of this bill and an underlying law, what governs. We have been assured over and over again there is no supermandate, there is no intent to have any superimposition or any undoing of existing law.

But the language is not clear enough. So there will be an amendment to add the suspenders to the belt in that area, or the belt to the suspenders in that area, just as the Senator from Delaware has suggested. And I hope—I do not predict—but I hope there will be unanimous support for that amendment when it reaches the floor.

Mr. BIDEN. I thank my friend. Again, I hope that occurs because, look, most of us on this floor want serious regulatory reform. This is not a debate about whether or not we want regulatory reform. No one can argue, that the original bill out of the Governmental Affairs Committee was not significant regulatory reform. I am for it. I was for it then. I am for it now.

So this is not a debate about whether or not we have significant regulatory reform, whether or not we are going to satisfy purists, whether or not we want to be bird lovers of America, to be happy with what we do. That is not my objective. My objective is to make sure that we do not unintentionally or intentionally undo the one success story of America, the one thing I can turn to and tell my kids beyond the fact that black children can now go to school with white children in my State which was segregated by law. I can literally take them through the county where I live and say, "I could not swim there when I was your age. You can now." I can tell them and take them in the neighborhood I was raised in and say, "I can walk out in the morning anywhere in this development where you live and work and breathe the air." They do not now have to breathe in oil. They can turn on their windshield wipers and the windshield is clear.

I can point out to them that the Brandywine River, Christiana River, the Delaware River, and people sail on it now. When we were kids, there were big signs saying we could not do it. I can take them to the beaches, the pristine beaches of my State and say, "You can swim anywhere any time and you don't have to worry about medical waste rolling up here." I can point to them and tell them that you no longer take what they took up until 12 years ago—garbage less than 1 mile out from the shores of my area—and dump it so it washes in.

The environmental story in America has been a success story even with this aberration. I want to tell you, if my friends are as concerned, as I hope they are, about the environment as well as the aberration, I hope they will make clear these ambiguities. Maybe the Senator from Michigan and I are wrong about what the legislation says. But they can clear it up. They can clear it up very quickly for us and put to rest any of those steps.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, just very briefly, one of the biggest fights we have had about this bill—and make no mistake, it has been a fight—is about the question of supermandates; that is, whether this bill supersedes the underlying bill such as the Clean Air Act.

Mr. President, I laid down a marker in negotiation with Senator DOLE and his staff, and Senator HATCH and others, that we would simply not accept a supermandate. The way the bill was drawn as it came from the House was that it said this section shall supersede existing law—supersede. As it was reported out of the Senate Judiciary Committee, it said this bill shall supplement existing law. As we finally agreed, we came up with language that says this bill shall supplement and not supersede existing law.

Mr. BIDEN. If the Senator will yield just one second on that point, the point the Senator just made I hope illustrates why the Senator from Michigan and I are not suspect of the Senator from Louisiana but why we are cynical about this because we know that the Senator from Utah and the Senator from Kansas wanted to supersede it. They kept telling us they did not. But we know they wanted to supersede. That is the problem.

I think Senator JOHNSTON has gone a long way to correcting that. But I just want the record to reflect, do not let anybody kid anybody. These folks, my colleagues, wanted, intended, to supersede. That is the point. That is why folks like me said "bad idea."

Mr. LEVIN. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. Mr. President, if I may reclaim the time for just a minute, it is irrelevant what the House wanted or what they wanted on the initial bill. I wanted no supermandate. The point is, what does the language say?

Mr. President, I have been telling my colleagues, including my dear friend from Delaware, that we ought sometime to take yes for an answer. When language is clear, unambiguous, we need not put forth ambiguity into it.

The Senator came to one of our negotiating sessions. We talked about judicial review. I believe I am correctly judging the Senator's reaction that when he read what we had about judicial review, there was a light bulb. I think I see what he is doing now. I think you will see here that not only do we have that language which says it supplements and does not supersede, but we also have language that explicitly recognizes that there will be times when you cannot meet the test; that is, that the benefits justify the cost. There will be times when you cannot do that because the statute requires otherwise.

If you look on page 36, we say if applying the statutory requirements—this is line 22—if, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection B, it goes on to tell you what to do. But the point is that explicitly recognizes that there are circumstances in which because of the underlying statute, you cannot satisfy the fact that the benefits justify the costs because they told you in the Clean Air Act to use the maximum achievable control technology, for example. That is an explicit test in the Clean Air Act which may make meeting the test of subsection B here impossible.

Mr. BIDEN. Will the Senator yield for a question on that?

Mr. JOHNSTON. Yes.

Mr. BIDEN. The Senator from Arizona cited—I apologize. I do not have a copy of the statement. But I hope I state it correctly. He cited a section. He referred to it as the Hillary Clinton report on mammography, or something to that effect, where he said that report included that women under the age of 40 for mammographies—the average cost was, and I forget the number—it was $150,000, or $15 million, whatever it was. For women over the age of 50, it would cost less. And it was suggested that we should follow a cost-benefit analysis, and decide that mammographies maybe should be only for women over 50 years of age because of the cost.

The way this legislation is written, if in the wisdom or the lack of wisdom of the U.S. Congress and with the President signing the legislation, if we were to pass a piece of legislation which on its face made absolutely no economic sense, and we decided that even if it cost $10 million per life in order not to even have one life lost, you had to get to zero tolerance on some chemical, clearly it would not pass a cost-benefit analysis.

Let us assume the cost-benefit analysis was done and it is clear that they come back and say, "Look, this is going to cost $10 billion or $1 million or $500 million for every life you save." If the legislative bodies and the President wanted to do that, would they still be able to do that?

Mr. JOHNSTON. I thank the Senator for his question because it is a critical question. The answer is yes. It is explicit. It says we shall supplement and not supersede.

Mr. BIDEN. May I add a followup question? This is sort of a parlance that I can understand and everybody I think can understand.

Let us assume we pass such a bizarre law to protect the welfare of individuals and it only gathered up 10, 12 people in all America who are affected by it. If a company, if an individual, affected by that cost and the onerous burden they would have to go through to meet the law, if they thought it was a bad idea, tell the Senator from Delaware what they would be able to do under this law to get to the point where the section the Senator referred to takes control. What I mean by that is, could an individual or a company come along and say, "OK, I demand that the EPA do a cost-benefit analysis anywhere."

Mr. JOHNSTON. I will tell the Senator exactly what is required. He is talking about a rule already in operation.

Mr. BIDEN. Yes. We, the Congress, pass a law explicitly stating that this end must be met and we assign it to an agency in effect, and an agency writes a rule.

Mr. JOHNSTON. And DuPont wants to contest the rule, say.

Mr. BIDEN. All right.

Mr. JOHNSTON. Here is what would happen. Within 1 year after the passage of this act, the head of each of the agencies shall look at all the rules under their supervision, determine which ones need to be looked at, and therefore come up with a preliminary schedule. That schedule will be published a year afterward. If this rule is on that schedule, then DuPont, since they are from Delaware—that is the only reason I use them—would not have to take further action because it is going to be reexamined. If it is not on the schedule and they want it reexamined, then they would petition. Their burden is to show that there is a substantial likelihood that the rule would not be able to reach, to satisfy the requirements of section 624.

Mr. BIDEN. That is the key. Let me stop the Senator there, if I may, Mr. President. Section 624 is a different section than the section cited, making it clear that you do not—that cost-benefit analysis need not prevail if there are other factors. You cannot supersede the underlying law. The underlying law says on its face this is going to cost, say, an exorbitant amount.

Mr. JOHNSTON. If the underlying law says that, if applying the statutory requirements upon which the rule is based, the underlying law that requires the mammography, let us say, a rule cannot satisfy that criteria of subsection (b)—subsection (b) criteria are that the rule justify the cost, that you have the least-cost alternative unless there are scientific or data uncertainties or nonquantifiable benefits——

Mr. BIDEN. Let me make it easy for the Senator because I think it is important the public understand this arcane notion.

Let us say the Congress passes a law, and the President signs it, that says no matter what it costs—in the legislation——

Mr. JOHNSTON. I am giving the Senator an answer to that.

Mr. BIDEN. No matter what it costs.

Mr. JOHNSTON. Then it satisfies the requirements of section 624.

Mr. BIDEN. And it is ended right there?

Mr. JOHNSTON. And your petition would be rejected.

Mr. LEVIN. Will the Senator yield on that point? We have offered language to say it that clearly in this bill, and it has been rejected. And let me just get right to the heart of the matter. We have about 10 Cabinet officers that have issued a statement of administration policy.

Mr. JOHNSTON. Mr. President, I have the floor, and I would be glad to entertain the question.

Mr. LEVIN. The question is this. Let me just read who it is that signed this before I ask the question. Secretaries of Labor, Agriculture, Health and Human Services, Housing and Urban Development, Transportation, Treasury, Interior, EPA, OMB have said that this bill "could be construed to constitute a supermandate that would override existing statutory requirements."

Now, when you have that many folks, I would think, of average or better intelligence——

Mr. BIDEN. I hope so.

Mr. LEVIN. Who say it can be interpreted that way, and when you have a whole bunch of Senators here who say it can be interpreted that way, and when it is the intent now of the Senator from Louisiana and the Senator from Kansas and the Senator from Utah not to have it interpreted that way, because that is what you have said over and over again, why then not accept the language which we have offered during our discussion which says that in case of a conflict, in case of a conflict between the underlying law and this bill, the underlying law governs?

That is a very simple question. Why not just simply make it explicit that in the event that there is a conflict between the requirements of this bill and underlying law, the requirements of underlying law govern? That will just eliminate all of these doubts. That is the suspenders and the belt.

Mr. JOHNSTON. Mr. President, I will answer the question like this. I do not care how many Cabinet people say this thing is ambiguous. It is not. It is as clear as the English language can be. Now, whether they are ingenuous or disingenuous in their criticism, I do not know. I know that this letter of administrative policy, much of it is, to be charitable, disingenuous, because I sat in the room and negotiated part of it and accepted some of the things that came from the administration and then was met with the argument coming back out that that which we accepted was a fault in the bill.

Mr. LEVIN. But on this particular issue, on this particular issue——

Mr. JOHNSTON. On this particular issue, let me—the point is the fact that they have said it does not make it so. I believe it is clear.

Now, what I believe also is that this language would really put an ambiguity into it because in the event of a conflict the statute under which the rule is promulgated shall govern. Now, the statute under which the rule is promulgated did not require risk assessment, did not require cost-benefit analysis, did not require that you go through any of those procedural hoops. I could make the strong argument that this would say that that rule under which it was promulgated, if at the time it was promulgated satisfied those rules, then that governs and that this statute, the petition process, the lookback process, is taken out of the picture; it is no longer valid.

Does the Senator see what I am talking about?

Mr. LEVIN. No. I think the question I asked though is a simple one. Where there is a conflict, where there is a conflict between the underlying statute's criteria and the criteria in this statute, the question is what governs?

Now, we have been assured—I mean, we have heard many speeches on this floor that there is no intent to have a supermandate, that the underlying statute is going to govern. And yet when it comes right down to the very specific question, if there is a conflict between the criteria in this statute——

Mr. JOHNSTON. If the Senator will let me answer, the question is, what is a conflict? If one statute requires something, a cost-benefit analysis, which this does, or a risk assessment and the other statute does not, is that a conflict or is that supplementing?

Mr. LEVIN. The other question is, what does the word "supplement" mean? It has to have some meaning. For instance, if you could not issue a regulation to enforce the double hulled tanker law—for instance, we passed a double hulled tanker law. A lot of people thought it was actually a bad mistake in terms of cost-benefit, but we passed it.

Now, the agency comes along and the agency is supposed to implement that in terms of the time of implementation, and so forth. It goes through this bill. It cannot implement it. It cannot because it does not pass the cost-benefit test.

Now, there is an argument—there is an argument which has been raised that the Senator from Louisiana, I would hope, would want to address.

He recognized very forthrightly to the Senator from Delaware what happens when you go through all the cost-benefit analysis, the risk assessment. It does not make any sense to have a double hulled tanker rule, but that is the law. The Senator from Louisiana says the law governs. The double hulled tanker law governs, period. Then it seems to me that the concerns which have been raised by so many Members here and so many of the administration that we ought to say it clearly should be addressed. We ought to say it clearly.

Mr. JOHNSTON. If the Senator will yield, the problem is your suggested language does not say it clearly. I believe it says it clearly when you say it shall supplement and not overrule. And then, when you have this alternative requirements language which explicitly recognizes that there will be times when you cannot meet the criteria of the benefits justifying the cost because the statute requires it, if in applying the statutory requirement, you cannot meet the criteria, then it tells you what to do. You can go ahead and promulgate the rule. That is precisely what it means.

Now, if you come up with some other language that does not itself make an ambiguity where there is not now, I mean, I would be glad to clarify. If you supplement and not override—I believe when you say "supplement," that means you are supposed to read the two in harmony, but you are not overriding the substantive requirements of the underlying law. It is very tricky to start talking about what is the underlying law and what is procedure, what is substance; what is supplement, what is override. I believe we have hit the appropriate balance, particularly in light of the alternative requirements language of page 36.

Mr. LEVIN. If the Senator from Louisiana again would yield, the language which the Senator points to as being the clarifying language for the issue that we are discussing does not address a critical issue. In fact, I think it makes it more ambiguous. We have talked about this at some length off the floor, and perhaps to some extent we covered it this morning. But what the Senator says is, if, applying statutory requirements upon which the rule is based, a rule cannot satisfy criterion in subsection (b), then you go to (c).

Mr. JOHNSTON. Yes.

Mr. LEVIN. When you go to (c), which is what the Senator says we should do, what (c) says is that in certain circumstances underlying laws are going to govern. And here is what he says. Here is what the bill says. "If scientific, technical or economic uncertainties are nonquantifiable benefits to health, safety and the environment," then certain things follow from that. And so the question which many of us have asked is, what happens if the benefits are quantifiable?

Mr. JOHNSTON. First of all——

Mr. LEVIN. I am not talking about lives. I understand that the Senator from Louisiana believes that the value of a life is not quantifiable. That perhaps is common parlance here. I know it is used differently from the agencies. That is not the question I asked.

What happens, for instance, if a law says that you have to reduce the parts per trillion of a certain toxic substance to at least 10? That is what the law says. Beyond that, an agency will do a cost-benefit analysis. If the agency, after doing that cost-benefit analysis, reaches the conclusion that it makes good sense to go to, let us say, 6 parts per trillion, now, that is quantifiable. That is very quantifiable. They have gone from cost per parts per trillion in dollars. We are not now talking about lives or asthma or other kinds of problems. We are talking about parts per trillion. Under this language, since it is quantifiable, there is no escape from (b).

Mr. JOHNSTON. There is, if the Senator will follow this through with me. See, the agency has a lot of discretion. Now, the agency discretion in the first instance is to interpret the statute. What does the statute mean? There will be a level of discretion between a minimal list interpretation and a maximum interpretation where the agency can pick that interpretation and is not overruled unless their judgment is arbitrary and capricious or an abuse of discretion. So, in the first instance, they can pick that interpretation; that is to say, they can pick that level of cost. Now they must meet the test of the benefits justifying the cost. But when you meet the test of the benefits justifying the cost, you use the definition of benefits as found on page—I think it is 621, subsection (5)—which says that benefits include both quantifiable and nonquantifiable benefits to health, safety and the environment. So that, if it is quantifiable, then you pick it up in the first instance of benefits justifying the cost. But we wanted to be sure that sometimes there will be some lagniappe, some nonquantifiable benefits to health, safety and the environment. I believe that clean air is not quantifiable as a benefit. I believe that the benefits of health are nonquantifiable. Notwithstanding, my friend from Michigan thinks a life, you can put a dollar value on it.

Mr. LEVIN. No. I am saying that the agencies do—because a risk assessment—you have to make those kinds of assessments.

Mr. JOHNSTON. If they can pick it up as a quantifiable matter under the definition on 621(5)—no—621(2) and (3).

Mr. LEVIN. If the Senator from Louisiana will yield for 1 more minute. The question is, if you cannot meet the requirements of (b), if you cannot meet them, then you go to (c). Under (c) the Senator does not provide for quantifiable and nonquantifiable benefits, but only for nonquantifiable. You have not done in (c) what you did in your definition of benefits. And there is no reason not to do it, by the way. There is no reason.

Mr. JOHNSTON. Let me tell you why. When you go to (c), then you cannot satisfy your benefits justifying the cost. But the statute required you to do something. And so you are required to go ahead and do what the statute says, notwithstanding that the benefits did not justify the cost. Keep in mind that those benefits included all of your quantifiable as well as nonquantifiable benefits.

Mr. KERRY. Would my colleague yield for a question?

Mr. JOHNSTON. Not yet.

And you can go ahead and do what the statute tells you. Moreover, you can do more than the least cost of what the statute tells you. You can go beyond that if there are uncertainties of science, uncertainties of data or nonquantifiable benefits to health, safety or the environment. So this is over and above to that which the statute required. And the statute required you to do something that was not cost-benefit justified.

Mr. LEVIN. On that issue, to pursue it, can you move to a more costly program if the benefits are quantifiable?

Mr. JOHNSTON. Is it beyond what the statute required?

Mr. LEVIN. No. Using my example, the statute says you have got to get to at least 10 parts per trillion reduction. That is the toxic substance. We want as a minimum to get to 10 parts per trillion.

Mr. JOHNSTON. Yes.

Mr. LEVIN. Now, the agency does a cost-benefit analysis and it finds that for a few dollars extra it can get to 6. After 6 parts per trillion, it becomes so costly it probably is not worth it.

My question is, this is highly quantifiable. We know exactly how many dollars for each part per trillion. But under the language of this bill, you could not get to 6 parts per trillion because 10 parts is slightly cheaper than 6 and it meets the test of the statute that the agency get at least to 10.

Mr. JOHNSTON. Let me answer the Senator's question. I think the simple answer is, yes, you can, but there is a caveat. If it is within the discretion of the agency head and the interpretation of the statute to have some leeway as to the interpretation, then yes, you can.

Mr. LEVIN. How would that be least costly?

Mr. JOHNSTON. Wait a minute. The statute is clear under the Chevron case, the Supreme Court case. What it said is that if the Congress has spoken on an issue and congressional intent is clear, then that congressional intent must be enforced. So that if, for example, you required that you meet 40 miles per gallon as a cafe standard, then I do not believe that the administrator could come in and say, well, look, it would be nice to go to 50 or 55 because we like that more. If Congress has spoken and the intent is clear, then you must follow congressional intent. If——

Mr. LEVIN. If the Senator would use my hypothetical where you must get to at least 10 parts per trillion reduction.

Mr. JOHNSTON. If the phraseology of the statute is "at least," then that in turn would give discretion to the agency head.

Mr. LEVIN. Under the provision of this bill, you must use the least costly alternative to get to the goals set by Congress. The least costly alternative is to get to 10. Under my hypothetical, for a very slight additional cost, you can get to 6. After 6 the cost goes off the chart.

Mr. JOHNSTON. As I say, the simple answer is yes, unless congressional intent prohibits that by having spoken on it, and the Senator's hypothetical example would indicate by the use of the words "at least" that it is within a permissible interpretation.

Mr. LEVIN. Under this bill, it is not the least cost.

Mr. JOHNSTON. The answer is that they could, because those parts per million would relate to a benefit to health or the environment and, therefore, would be a nonquantifiable benefit to health or the environment.

Mr. LEVIN. If I could, again, ask the Senator to yield for a question. It is very quantifiable. There is no way under which my hypothetical can reasonably be described as setting forth a nonquantifiable.

Mr. JOHNSTON. What is quantifiable with the Senator is parts per million.

Mr. LEVIN. That is exactly what is in the statute. It does not talk about lives and it does not talk about breathing. What the statute says in my hypothetical is you must get to at least 10 parts per trillion of a toxic substance. Beyond that, the agency is allowed to use some discretion using cost-benefit analysis and risk analysis.

Under my hypothetical, you get to six in a very cost-effective way, but under the Senator's bill, because it says you must use the least-cost method to get to an alternative, which is in the statute, since 10 is an alternative permitted by statute, your least cost drives you to 10, whereas cost-benefit drives you to six.

There is a conflict between the cost-benefit and the least cost and I think—by the way, Senator ROTH is someone who is on the floor who knows a great deal about this subject and I think has some similar concerns with this.

Mr. JOHNSTON. The Senator has asked a question, and the answer to his question is, if it is parts per million of a toxic substance, therefore it relates to benefits to health or to the environment and, therefore, is specifically covered under the phrase that says where nonquantifiable benefits to health, safety or the environment makes a more expensive alternative appropriate or in the public interest, then you may pick the more costly alternative.

Mr. LEVIN. Since there is an ambiguity here at a minimum, I think a fair

reading would be since the word is "nonquantifiable" and my hypothetical is very quantifiable, at least reasonably interpreted, although the Senator from Louisiana does not agree with the interpretation, surely I gave a very quantifiable hypothetical.

My question is, why not eliminate that ambiguity by stating that if there is either a quantifiable or a nonquantifiable benefit which is cost-effective and permitted by statute that the administrator will be allowed to go to the most cost-effective rather than the least-cost conclusion? That is the question. Why not eliminate the ambiguity?

Mr. JOHNSTON. The answer is we took care of whatever ambiguity there was at the behest of the Senator from Michigan. You will recall our negotiation on this, and we added quantifiable and nonquantifiable to the definition of benefit in section 621.

Mr. LEVIN. That was not at my behest. That was before I raised this issue which I raised with you.

Mr. JOHNSTON. No, this was done between the time we filed the first Dole-Johnston amendment——

Mr. LEVIN. Not at the behest of the Senator from Michigan.

Mr. JOHNSTON. Well, the issue was at least talked about by the Senator from Michigan. I do not know that the Senator from Michigan suggested this exact fix. He was at least in the room. I thought it was he who raised this question of quantifiable and nonquantifiable.

Whoever raised it, we changed that definition so that benefit means identifiable significant favorable effects, quantifiable and nonquantifiable, so that you are able to use it, whether it is quantifiable or nonquantifiable, in meeting that test of cost-benefit. This is when you go beyond the quantifiable. You already quantified your benefits, but there will be other benefits nonquantifiable—the value of a life, the value of clean air, the smell of flowers in the springtime—all unquantifiable. That is what you can take into consideration, and we explicitly recognize that. You have already taken into consideration quantifiable, as well as nonquantifiable wants, but we are going beyond the statute at this point.

Does the Senator have a question?

Mr. KERRY. I appreciate the Senator being willing to take some time. I would like to follow up on the questioning of the Senator from Michigan, because I believe that he has targeted one of the most serious conflicts, ambiguities—whatever you want to label it at this point in time—and clearly in the legislative process, we ought to strive, where we identify that kind of ambiguity, to avoid it. I am sure the Senator would agree.

As I read the relevant sections, I confront the same quandary the Senator from Michigan does, and I find that in the answers of the Senator from Louisiana there is, in effect—not consciously necessarily, but because of the difference of interpretation or definition, there is an unavoidable sliding away from the meat or the center of the hypothetical posed.

The hypothetical that was posed by the Senator from Michigan is really more than a hypothetical. It is an everyday occurrence in the reality of agency rulemaking. I think the Senator from Louisiana knows that almost all the agencies quantify almost every benefit.

So let me ask a first threshold question. Does the Senator from Louisiana accept that some benefits are quantifiable?

Mr. JOHNSTON. Of course.

Mr. KERRY. If some benefits are quantifiable, does the Senator accept that a certain health benefit could be quantifiable?

Mr. JOHNSTON. It depends on what kind of health and certain aspects——

Mr. KERRY. Let me ask the Senator this. Does the Senator believe that it is possible to quantify the number of hospitalization cases for emphysema or lung complications that might follow from reducing air quality to a certain level of parts per million?

Mr. JOHNSTON. You can certainly quantify statistically those things. You cannot quantify the value and the value of the benefit.

Mr. KERRY. Well, I question that. That is an interesting distinction because——

Mr. JOHNSTON. If so, you can take into consideration for the purpose of your benefits justifying your costs.

Mr. KERRY. As the Senator knows, in the newspapers in the last months, we have seen repeated stories of the rise of asthma and allergy reactions in children in the United States. We have a quantifiable number of asthma prescriptions that are issued as a consequence of this rise of asthmatic condition. That is quantifiable in cost. We have a rising number of visits to doctors for diagnosis, and that is quantifiable in cost by the reporting levels that have allowed the newspapers to report a percentage of increase in America.

To follow up on the so-called hypothetical of the Senator from Michigan, those costs are quantifiable. We know, in many cases, how much it costs America in money spent on health care, in money spent on hospitalization, in lost time at work in a series of quantifiable effects. We know that, and that can be measured against the cost of reducing whatever is the instigator of those particular effects.

Mr. JOHNSTON. Right.

Mr. KERRY. The Senator agrees.

Mr. JOHNSTON. Yes, but you see, all of those costs, whether quantifiable or nonquantifiable in the first instance, to determine whether the benefits justify the cost, were taken into consideration. So I ask under your hypothetical, are you telling me that the quantifiable and nonquantifiable benefits would not justify the cost, whatever the statute said?

Mr. KERRY. I think to answer your question and to sort of continue the colloquy, if we can, the answer is that there is an uncertainty as to that, because what is contained in the definitional portion of the statute is never a sufficient clarification for what is contained in a particular section where the substance is interpreted by the court. The court may find that the definition intended one thing, but in the substance of the section, the court will find there is a conflict with the definition, and they are going to go with the substance.

So what the Senator from Michigan is saying and what I think a number of us are saying is, let us not allow for that ambiguity. In our legislative role, we have identified this ambiguity, we are troubled by the potential impact of this ambiguity, and we are suggesting a remedy that is precisely in keeping with the stated intent of the Senator from Louisiana.

So the question comes back that I know the Senator from Michigan has asked previously: Why would we not therefore legislate to a greater capacity of perfection the intent that the Senator says is contained in the language? It does no other change to the bill.

Mr. JOHNSTON. I do not know whether the Senator understands what I am saying. Did the benefits justify the cost of your—what was it—did they or did they not?

Mr. KERRY. No.

Mr. JOHNSTON. You see, his hypothetical was that if you add a little bit of extra cost, you get a big benefit.

Mr. KERRY. It is not a hypothetical.

Mr. JOHNSTON. If that is so, the benefit justified the cost.

Mr. KERRY. If we have a statute—the underlying statute suggests that, for reasons of the health of our citizens, we want to achieve a minimum reduction in emission standards to 10 parts per million—a minimum standard. But the legislation empowers the agency to go further. It is a minimum standard.

Now, under your language, a measurement would be made as to the benefit of the minimum standard, but it would also——

Mr. JOHNSTON. A measure would be made as to the rule, the rule as interpreted by the agency. That is what is subjected to the benefit-cost ratio.

Mr. KERRY. I agree. And the judgment made by the agency would be, does this rule or some—at the moment, we make the standard according to health-based and technology-based criteria. And we make an evaluation as to

what are the benefits of reducing the air quality. We make an analysis of what is the benefit of breaking it down to the 10 parts per million. Let us say that for 10 parts per million reduction, the cost-benefit analysis shows an expenditure of $100 and it saves 100 lives. But the same analysis has shown that for an expenditure of $105, you could save 150 lives.

Mr. JOHNSTON. Yes, well, did——

Mr. KERRY. Let me just finish. Under your language of least-cost alternative, and the distinction between quantifiable and nonquantifiable, the agency would be restricted to the $100 expenditure and 100 lives, even though $105 could save you 150 lives.

Mr. JOHNSTON. Not true, Mr. President, I tell my colleague, because there is nothing here—first of all, I do not know of any statute that says a minimum of so many parts per million with discretion to go higher.

Mr. KERRY. There is a statute. The Clean Air Act has minimal standards.

Mr. JOHNSTON. It is maximum achievable controlled technology, which is not stated in parts per million. There are other standards. For example, there are radiation standards that do specify so many rems or millirems per year, et cetera. The Clean Air Act is maximum achievable controlled technology. That gives to the administrator a broad discretion as to what is maximum and what is achievable; that is to say, what is on the shelf.

Mr. KERRY. But the underlying statute—if I can say to the Senator, I have the examples. I did not come to the floor with them at this moment because I came from another meeting. But this particular colloquy was taking place. I can assure the Senator that I will provide him with specific statutory examples where this so-called hypothetical clash exists. All I am suggesting——

Mr. JOHNSTON. I would like to see that because we have talked about these hypothetical clashes. You see, in your hypothetical, the benefits justified the cost, because in the first instance you saved lives——

Mr. KERRY. I agree that the benefits do, but——

Mr. JOHNSTON. And if it is within the realm of discretion of the administrator——

Mr. KERRY. But there is no discretion.

Mr. JOHNSTON. Under the law of the Supreme Court, in the Chevron case, the last and most definitive case I know of on the issue, they say specifically if the Congress has specifically spoken to an issue and the intent is clear, then the agency must follow the intent of Congress—"Must" follow.

Mr. KERRY. But the——

Mr. JOHNSTON. I do not think you disagree with that.

Mr. KERRY. The problem I think we are underscoring here—and I cannot for the life of me understand the restraint on a simple clarification which actually codifies the stated intent of the Senator in this colloquy. I mean, this is very simple language. It seeks to say if there is a conflict between the cost-benefit analysis in the underlying statute and the least-cost standards, the underlying statute prevails. That is supposedly the stated intent of the Senator.

Mr. JOHNSTON. That is absolutely the intent.

Mr. KERRY. Why can the simple language not say, in the event of a conflict, the underlying statute prevails?

Mr. JOHNSTON. I would have no problem with proper language to do that. The problem is that, first of all, I think we have very clear language right now. I think it is very clear. The offered language creates its own ambiguity.

Mr. KERRY. I agree. I think the offered language—I do not disagree, if he is referring to the language proffered earlier by the Senator from Ohio.

Mr. JOHNSTON. It says, "In the event of a conflict, the statute under which the rule is promulgated shall govern."

Mr. KERRY. I could walk the Senator through now literally section by section, and I think that when you do that, the ambiguity sort of leaps out at you. And when you have to go from one section to the other and then ultimately find in the remote definition section one word—"social"—that somehow embraces this concept that you will have this relevant benefit analysis, I think we are asking lawyers to start to tie up the regulatory process. The whole purpose of a lot of our efforts here in the Congress now is to reduce the need for anyone to have to litigate what we are trying to legislate.

Mr. JOHNSTON. I tell my friend that it is indeed a complicated statute. But I think it is clear, and the problem is that—you talk about will "social" embrace all these things. We say "benefit" means the reasonably identifiable—this is page 13, section 621(2), line 8: The term benefit means "reasonably identifiable, significant favorable effects."

Mr. KERRY. Are we reading from the——

Mr. JOHNSTON. We are reading actually from the substitute. In any event, it says, "reasonably identifiable, significant favorable effects, quantifiable and nonquantifiable, including social and environmental health and economic effects."

We did not want to go into a laundry list because my friend knows the old rule about specifying one thing excludes those matters not specified. You will remember the old rule from law school. That is the problem here. But it is, I think, really clear.

To get back to your question of the underlying statute governing, I insist that it is absolutely clear. Nevertheless, I would recommend to my colleagues a clarification, if the clarification does not inject its own ambiguity.

Mr. LEVIN. If the Senator will yield, I am delighted to hear that because in the eyes of many, and I think many who work with the Senator, who the Senator knows and are reasonable in their reading of laws, there is ambiguity in this language. There has been an important and intensive effort to remove the ambiguity to make it clear that there is no supermandate that underlying law governs. That is the issue here. That is stated to be the intent of the Senator from Louisiana, and the language which can make sure that intent is carried forward in this statute is, I believe, quite easily drawn. We will be offering that language later on this afternoon, and I hope the Senator from Louisiana can join in that clarification.

Mr. JOHNSTON. I certainly will. Does the Senator understand my problem with the phrase, "in the event of conflict, the statute under which the rule is promulgated shall govern"?

Mr. KERRY. The Senator is saying that he believes that it is opening up a whole rule interpretation, is that correct?

Mr. JOHNSTON. What I am saying is we do not define what—conflict. What we really mean is the substantive requirements of a health-based standard or a technology-based standard; that those health-based or technology-based standards shall govern. And we do not mean that the procedures under which the rule was adopted shall govern.

If you can get an appropriate way to phrase that concept, I certainly would recommend it. Even though I think it is clear, we want to reassure where we can.

Mr. KERRY. In furtherance of that reassurance, could I just ask the Senator, is it the clear intent of the Senator to invoke into the rulemaking process a practicable, efficient, cost analysis?

Mr. JOHNSTON. Of course. Of course.

Mr. KERRY. I would say to the Senator that I accept that. The Senator from Michigan accepts that. And that is what we want to achieve.

In the doing of that, I assume the Senator would want to also guarantee that cost analysis does not become a supermandate?

Mr. JOHNSTON. Oh, of course.

Mr. KERRY. Therefore we should, I think, be able to arrive at language—driven at by the Senator from Michigan—that achieves an avoidance of the ambiguity, but without creating a new potential for disruption of that cost analysis.

Mr. JOHNSTON. May I suggest here a way, perhaps, to get at this question of conflict? Part of my problem is to say that "in the event of conflict"—in my judgment there is no possibility of conflict. We have written conflict out. So,

therefore, you do not want to admit the possibility of that which you have written out, which injects its own ambiguity. So you ought to take that phrase out and simply say that nothing herein shall derogate or diminish or repeal or modify the health-based standards or the technology-based standards of environmental statutes—or words to that effect.

Mr. LEVIN. We are drafting language to address an ambiguity that we perceive to be in the bill. And we will try to write it in such a way—we will write it in such a way that it does not create any other ambiguity.

Mr. JOHNSTON. If you would just leave out that "in the event of conflict," because there is no conflict. That is why we say it shall supplement and not supersede, because we have written it in such a way that it does not conflict and we do not want courts to find conflict where none is there.

Mr. KERRY. Suppose we say in the event of unforeseen consequences, incapable of being described by the sagacity of the drafter of the bill, we nevertheless——

Mr. LEVIN. In the event somebody finds it.

Mr. JOHNSTON. We do not admit of that possibility.

Mr. President, I think this has been a very useful exchange. And I hope, maybe following up on this, we can make clear that those health-based standards and technology-based standards of the environmental statutes are not affected, repealed, or modified in other ways.

Mr. LEVIN. And other statutes also, which are important to health and safety; the underlying statutes.

Mr. JOHNSTON. What we are talking about is health-based or technology-based standards. Is there any other standard we are talking about?

Mr. LEVIN. Could be just a standard that the Congress sets.

Mr. JOHNSTON. Yes, I——

Mr. LEVIN. Could be the double-hulled tanker. I am not sure what that is based on. We made a decision on that and you do not intend that anything in this bill is intended to supersede it. The problem is, because of the ambiguity we pointed out, it could be interpreted that there is an ambiguity in that kind of situation.

Mr. JOHNSTON. The point is let us make it relate to standards and not to procedures.

Mr. LEVIN. Right.

Mr. JOHNSTON. Because the procedures surely do supplement and they do not conflict.

Mr. LEVIN. It is our intent that our language address the ambiguity that we and many others perceive in the bill without creating any other ambiguity. We will show it to the Senator before we offer it.

Mr. JOHNSTON. I thank the Senator. I think we made progress.

Mr. KERRY. I think the Senator is correct.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wonder if those Senators have completed their discussion? I would like to proceed for a few minutes.

Mr. JOHNSTON. Did the Senator wish to ask a question?

Mr. CHAFEE. No. I wanted to proceed. I did not want to intervene with something if they were just about concluding.

Mr. JOHNSTON. No, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the regulatory reform bill now pending before the Senate would, if enacted, bring sweeping changes to the regulations that protect the health and safety of the American people and of our natural environment.

What am I talking about? Let us take a look at this cost-benefit analysis business. Perhaps the most important feature of this bill is the new role for cost-benefit analysis in evaluating health, safety and environmental rules. Under S. 343, which is the bill before us, the Dole-Johnston bill, every major rule issued by a Federal agency must be accompanied by a study setting forth the costs that will be imposed by the rule and the benefits that will be experienced when the rule is fully implemented.

In other words, you figure the costs on one side and figure the benefits on the other.

This is not exactly a new development. That has been required by Executive order since the beginning of President Reagan's administration.

There are, however, two new twists to this, in this legislation. First, there is a prohibition on the issuance of any rule, unless the Federal agency can certify that the benefits of the rule justify the costs. And, second, the opportunity exists for extensive court review of the scientific and economic studies that form the basis for the agency's certification.

In other words, there are two new features in this bill. We have had cost-benefit analysis in the past. But this requires it. In other words, there can be no issuance of any rule unless the agency, the Federal agency, can certify that the benefits justify the costs. Second, we have in this legislation this extensive judicial review.

The cost-benefit analysis becomes a gate through which all of our health and environmental policies must pass. And the gate will be guarded by a host of litigants in Federal courts all across our land. They will spend millions of dollars on legal challenges to prevent new rules from becoming effective.

This is a big departure from the existing situation that we now have in our country. Although cost-benefit analysis is now a useful tool in writing regulations, it is important to remember that most health and environmental policies are not based on a strict cost-benefit calculus. Other values are also important in setting national goals. In some laws, the instruction to the agency is to protect public health and to set a standard that ensures that no adverse health effect will result from pollution. Some of our laws are based on the principle of conservation. Agencies are directed to take whatever action is necessary to save a species, an endangered species, for example, or to save a wild area from development or exploitation.

In many cases our laws require the use of best available pollution control technology. This is sometimes referred to as BAT, best available technology. Our science and engineering is too limited to know how to achieve an absolutely safe level, so we say to those engaged in activities that may cause pollution, "Do the best you can to limit the impact on others, or on nature."

But that is not the theory of this bill. The purpose of this bill brings an end to that philosophy of "do the best you can." The report of the Judiciary Committee says it very well. The Judiciary Committee says, "The proper philosophy for environmental law is summed up in this question: Is it worth it in dollars and cents?" That is on page 71 of the Judiciary Committee report. "Is this action worth it in dollars and cents."

That is a new philosophy. No longer is the question asked, "What is safe? What is the best we can do to preserve our natural heritage?" Those may have been the principles that formed our environmental policies over the last quarter of a century, ever since 1972, but now we are being told that policy is too expensive. We should pay only as much as we are going to get back. Is it worth it in dollars and cents?

That is the new philosophy that is in this bill. This, it seems to me, this cost-benefit approach—everything in dollars and cents—ought to appeal to the man described by Oscar Wilde in the last century. Oscar Wilde described somebody as being the following: He knows the price of everything and the value of nothing.

Is it worth it? It may seem like a commonsense test that should apply to all regulations. But it falls well short of the envision that has been the foundation of our environmental laws for the past quarter of a century. Much of our current environmental law is based on the common law concept of nuisance. Simply stated it is this: People have a right to be free from injury caused by the activities of another. Under common law, going back to the 16th century, each property owner has the private right of action to abate or to receive compensation for a nuisance

imposed by a neighbor. This is a property right. One type of nuisance frequently addressed in common law courts was the matter of foul odors created by some activity such as keeping livestock or operating a slaughterhouse. In fact, the first nuisance case involved odors caused by pigs kept in the alleys of London. The common law courts took action to prevent these nuisances such as noxious odors because one person has no right to act in ways that infringe on the property rights of another. Under the common law, public officials could also bring action to prevent a nuisance that affected the whole community.

As our society became more industrialized, more complex, the potential injuries caused by pollution became more far reaching and subtle. The ability of common law to abate and redress injuries effectively was undermined.

So it was not the old question of your neighbor suddenly bringing a whole lot of pigs on his property, and you are downwind causing your property to become of less value because of the noxious odors. That is the simple case. But it became much more complex as society became more complex.

General pollution control regulations, imposed first by the States and then by the Federal Government, have been established as the more efficient alternative, and have largely superseded the role of common law remedies in protecting our rights to be free from pollution. For example, the concern for air pollution that started under common law as a complaint against these noxious odors I just described have been transformed into a concern for the serious health affects that may be caused by air pollution. Today, we have the Clean Air Act that sets Federal standards for smog and carbon monoxide and lead. The foundation of these laws is, in part, the belief that we have a right to live free from threats to human health caused by the actions of others. The underlying principle has been retained. One person engaging in private activities does not have the right to impose injuries on another or the community at large. That principle is the source of many standards that instruct agencies to reduce pollution to levels that are safe or at which no adverse public health effects will occur.

The right to be free from pollution is compromised by this bill, S. 343. This bill imposes a cost-benefit test on regulations to control pollution. The theory behind the cost-benefit analysis is your neighbor has a right to pollute as long as the damage to you is less costly than the cost of pollution control devices are to the neighbor. In other words, if you are damaged less than the cost you can impose on him to stop this pollution, he does not have to install the pollution control. Yes. You suffer. But that is tough luck.

Let us suppose a large manufacturing firm locates a new plant in the community. The company's owner admits that the plant will release pollution into the air and water of the community. They also admit that, depending on the level of pollution control required, the pollution may cause illness or even death among the neighboring residents. How much pollution control should the plant be required to install? One way to answer that question is to set limits on the pollution so that there will be no adverse effects on the health or on the community as a whole. Another answer is that the plant should be required to use the best available technology to control the pollution. We may not know precisely what is safe or at what levels or by what routes people will be exposed to the solution. So we ask the owners of the plant. We do not ask them. We tell them. That is the way it works now—to make the investment in the best pollution control equipment they can afford, to do the best we can. That is how the law works now. But that is not how this new law works as proposed.

Under the cost-benefit approach there would be a limit on how much we could ask that plant to do to clean up its pollution. The limit would be determined by putting a price tag on the adverse effects of the pollution. How many people get sick? What is the cost for their medical care? How many days are they off from work or home from school because of illness? What is it worth to be able to fish in a stream that flows near the plant and to enjoy outdoor exercise in that town on a clear summer day free from smog and pollution? Under the cost-benefit approach, pollution control is only required if it costs less than the medical care for those stricken.

If the medical care is higher and you are doing more damage and causing more sickness than the cost of the equipment, then you have to put the equipment on. But if the equipment cost is higher than the cost of the sickness, you do not have to put it on.

A stream is not cleaned up unless the recreational business or commercial fisheries that use the stream are worth more than the investment in the pollution control equipment. Some people may get sick. Some people miss work or school. A fisherman may lose his job. A boat house may close down. But that is all OK under this bill because the alternative—asking the factory to do its best to reduce the pollution—would cost too much, would cost more than the losses suffered by the neighbors.

To me this is an outrage. I mean have you ever heard anything like this? It is all right to cause pollution. You do not have to stop it as long as the cost of the equipment to stop it would be greater than the cost of the sickness you are causing to your neighbors and those downwind and the others in the area. This is a very different ethic than that which guides our current policies. It abandons the principles of safety and conservation and doing the best we can. It abandons the notion of the right to be free from pollution that is the basis of our current laws.

All of this is coming from a Senate that is saying we protect private property. We want people to be paid when there are takings. Indeed, this is a bill that comes over from the House that says if the cost of endangered species and having that and protecting the endangered species is more than 30 percent of your land, you have to be compensated because that is a taking. But it is all right to take somebody's health. You do not bother with that. Somehow everything has gone crazy around this place.

This bill would allow your neighbor to take your property rights unless the Government can prove that the adverse effects you suffer are worth more than the cost that would be imposed for the pollution equipment.

I want to make it clear that it is not the information provided by the cost-benefit analysis that concerns me. I think that all regulatory options should be rigorously analyzed and the options selected should put a premium on efficiency and flexibility and good science. We want all of these things.

The cost benefit studies that have been done under the Executive orders as exist now under President Reagan and others have provided a useful tool, a tool to improve the quality of the regulations. I have sponsored, along with Senator GLENN, a bill that would require cost-benefit analyses and risk assessment for all major rules. The information generated by these studies is quite helpful to the agencies.

It is quite another matter to say that any polluter can go to court and challenge a rule because it imposes more costs on his activities than the benefits that are realized by the neighbors. Under this bill, S. 343, you say you cannot make me put that pollution control equipment on because, yes, I am causing bad health downstream to my neighbors, but that is all right because the cost of their missing school or missing work or the old people suffering from asthma, we put a price on that, and the price of that is less than the cost of my equipment that I have to put on so I do not have to put it on.

That is the new philosophy that is in this legislation.

Mr. President, here is the second general point. I am concerned about the explosion in litigation that will result if this bill is enacted. All of us are saying we do not like the proliferation of legal challenges that are coming up in different legislation. We want to stop that. This bill is a lawyer's employment act. This bill ought to be applauded by every member of the bar association, every student in law school because this represents potential work.

There is a case to be made for regulatory reform. I am for that. Senator GLENN is for that. All of us in this Chamber are for that. We have limited resources to spend on environmental protection. It is essential that we spend those resources wisely. More science, better risk assessment, peer review, all of these, if done right, will do a better job protecting health and natural resources. The regulatory reform bill now pending will not result in smarter or more cost-effective environmental laws and regulations. Rather, it will cause regulatory gridlock. It will entangle agencies in a web of procedures and paperwork and endless rounds of review and make the implementation of our environmental laws nearly impossible.

This bill would substantially increase the number and complexity of court challenges to environmental regulations. There are nearly a dozen new ways to get a regulation before court under this bill even before the final action has been taken. This bill would result in lawsuits. Is there a Senator who believes that more lawsuits will lead to better regulation? The Federal courts are not the place to decide questions of science and economics that will be assigned under this bill.

Congress, because we are upset about the cost of health and environmental regulations, is impatient, is too impatient to wait for a statute-by-statute review of its own enactments. It is us and the laws that we have passed which have resulted in all these rules. What we ought to do is look at these laws and examine the rules under them. But we should not turn everything into a judicial review that goes up to our courts.

Mr. President, no doubt we will hear many horror stories about environmental regulations while this bill is being debated. And many have been paraded already. But we ought not to lose sight of the big picture. These laws have worked. They have improved the quality of life for all Americans. Let me give you some examples.

In a period that has seen significant growth in population, significant growth in industrial activity and in automobile travel, we have more than held our own against the most difficult air pollution problems. Between 1975 and 1990—that is a 15-year period—the total vehicle miles traveled in the United States increased by 70 percent. It went from 1.3 trillion miles to 2.2 trillion miles driven in a year—a 70-percent increase in mileage driven in the United States in 15 years. In that same period, the vehicle emissions of hydrocarbons, which is one of the pollutants that cause smog, were cut nearly in half. Up went mileage by 70 percent, pollutants, emissions of hydrocarbons dropped by nearly 50 percent, from 10 million tons to 5.5 million tons a year.

Now, that just did not happen. That did not come about because industry wanted to do it. It came about because of Government regulation. We required the automobile industry to produce a car that would reduce emissions by 90 percent, and they did it. Just since 1990, in only 5 years, between now and 1990, the number of areas in violation of the carbon monoxide standard in this country have dropped from 40 areas to less than 10. Since the mid-1970's, lead in the air is down by 98 percent. The amount of lead in the air has decreased by 98 percent—98 percent. Why do we care about this? Because lead in the air affects the developmental capacity of children growing up in congested urban areas. These are the most vulnerable Americans. And who are they? They are low-income areas, they are poor children who live there, and we have cut the lead in those areas by 98 percent. If this bill had been in place during that time, EPA Administrator Carol Browner has said that we could not have achieved those reductions in lead in gasoline. That marvelous accomplishment that we are so proud of could not have been achieved with a strict cost-benefit analysis.

The Clean Water Act is probably our most successful environmental law. In the late 1960's, the Nation was stunned when the Cuyahoga River in Cleveland caught fire. A river caught fire. That shows you the condition of our rivers and lakes and streams in the latter part of the 1960's. Our waters were being used as open sewers—the Potomac, absolutely foul.

In responding to this problem, Congress passed the Clean Water Act in 1972 and set some very ambitious goals including the elimination of all discharges to surface waters by 1985.

Well, we did not meet that goal of 1985, but we have made a lot of progress since the Cuyahoga River caught fire in the 1960's. When we began this effort under the Clean Water Act, more than two-thirds of our lakes, rivers and streams in the United States of America failed to meet the clean water standards.

With these 20 years of effort behind us, some of our most polluted waters—Lake Erie, the Potomac River, Narragansett Bay in my own State—have made remarkable recoveries. Today, those streams and lakes and bays are fishable and swimmable.

On the international scene, the United States has led the way as the world has faced up to the threat of ozone depletion. Each new development in our scientific understanding of chlorofluorocarbons and their impact on the ozone layer has confirmed the wisdom of the Montreal Protocol, the global agreement to ban production of CFC's that was signed by a Republican President in 1987, President Reagan.

Since the Endangered Species Act was passed in 1973, populations of whooping cranes, brown pelicans, and peregrine falcons have come back from near extinction. The bald eagle is ready to be moved from the endangered to the threatened list. Both the California gray whale and the American alligator have recovered to the point they have been removed from the endangered list altogether.

Now, what does all this mean to us? The American people can be proud of the accomplishments that have been made under the Clean Air Act, the Clean Water Act, the Endangered Species Act, and our other environmental laws over the past quarter of a century, and the American people are proud of this. And when asked, most often they say that we have not been tough enough on water pollution and air pollution. They want us to do more. They want Government to work better. But they want it to continue working for the health and environmental goals that have been achieved and are being achieved in our country today. The American people cherish their right to their property and the right to pass it on to their children free from pollution.

So I think, Mr. President, we have a lot to be proud of that we have achieved under the existing laws. I certainly hope we do not get involved with this cost-benefit business and this plethora of lawsuits that would result from this legislation.

I wish to thank the Chair.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Iowa.

Mr. GRASSLEY. The legislation that is before us is not about whether or not the Government should write regulations or whether or not we should have regulators. That is an accepted fact. It has been a part of the process of Government a long time before we had the Administrative Procedure Act in 1946. All that did was basically conform all regulation writing to the same process.

This legislation is about bringing common sense to the whole process of writing regulations. And all of the horror stories that can be told about bad regulations and the bad enforcement of maybe even good regulations is related to the fact that people affected feel that there is not a commonsense approach to the regulation writing. The bottom line is, that we need legislation to bring common sense to regulation and the enforcement of regulation.

This legislation before us does that. And yet there are people that are coming to present possible horrors that will result if this legislation is passed. This is just not so as far as I am concerned. This legislation is not going to change any existing laws on the books that deal with public health, and safety, environmental laws. Not one.

There are many false accusations about this legislation that it would override existing law. There are a half-

dozen places in the legislation that makes it clear that this legislation is not a supermandate imposing the language of this legislation in place of any specific public health and safety laws on the books. But this legislation is about process to make sure that regulation writers cannot go hog wild in trying to accomplish their goals.

This legislation has in it judicial review of regulation writing, and judicial review of regulatory activity, and judicial review of the actions of regulators. We ought to have judicial review to make sure that the process conforms to the statute and to the intent of Congress. Regulation writing and the process of analyzing information that goes into regulation writing and particularly scientific analysis should not be above the law. And the only way I know to assure that regulators do not go beyond congressional intent is to make sure that there is judicial review. Well, there are an awful lot of accusations from opponents of this bill that somehow if this bill becomes law it is going to compromise public health and safety. On the other hand, those of us who are proponents of this legislation can give example after example of where the existing process, without the proper safeguards in the existing legislation, have become a real horror for certain individuals who are affected.

Yesterday I had the opportunity to present an instance in which an informant who was a former disgruntled employee, brought to the attention of EPA the possibility of the burying of some toxic waste on the business of the Higman Gravel Co. of Akron, IA. And, of course, there was not any such toxic waste buried there. But they acted on information of an informant and one morning at 9 o'clock came to the place of business. It was a usual morning at the business. Mr. Higman was gassing up his truck to start the process of work for that day. His accountant was behind the desk in the office doing what you would expect accountants to do. And all of a sudden that quiet morning, 40 local and Federal law enforcement agents come with cocked guns to this place of business telling Mr. Higman to shut up while the gun was pointed at him. They had, by the way, bulletproof vests on. They went into the office and stuck the gun in the face of the accountant. All of that in a little place of business, acting because a disgruntled employee had given some misinformation.

It cost Mr. Higman $200,000 in legal fees and lost business and probably still injured his reputation to some extent. But he had to fight it in the courts to get out of criminal charges that were unjustified. Now, just a little bit of common sense in the process of regulation writing in the process of enforcement could have saved a lot of trouble, damaged reputation for a good businessperson, damaged reputation for the legitimate work of the EPA.

I have another example that I would like to refer to because some people are making the argument that environmental legislation should not be subject to cost-benefit analysis or to risk assessment because a price tag cannot be placed on an individual's health.

There is not a price tag placed upon individual health. But when it comes to cost-benefit analysis, if there is a $5 cost to saving a life, or a $50 cost to saving a life, what is wrong with taking the $5 cost to saving a life as opposed to the $50 cost of saving a life? Common sense would dictate that you ought to use the less costly approach. But people are arguing that requiring the EPA to assess and scrutinize the cost of regulations will somehow lead to a rollback of environmental protection.

Now, I agree that a price tag cannot be placed on the health of citizens. And we do not intend to roll back the gains made in environmental protection in this country over the last 25 years. Senator CHAFEE, who we have just heard, the distinguished chairman of our Environment Committee, is correct. Many gains have been made in environment in the last 25 years. And we should not turn our backs on these significant achievements.

But once again, if the question is a $50 cost to saving a life versus a $5 cost to saving a life, we would chose the $5 approach. The life is going to be saved either way. And we want that life saved.

So I want to take the opportunity to discuss at least one example where conducting a cost-benefit analysis would have avoided the enactment of an absurd regulation that has cost small businesses in my State and many other States hundreds of thousands of dollars and has resulted in absolutely no benefit to the environment, absolutely no benefit to the environment. The 1990 Clean Air Act amendments regulate what are called major sources of emissions and it defines "major sources" as those that have the potential to admit 100 tons per year of a criteria pollutant, such as dust. The EPA in further defining "potential" to emit assumes that facilities operate 24 hours a day, 365 days a year.

Now that is quite an assumption—sitting in a marble palace someplace in Washington, DC, to assume when you are writing a regulation that every business is going to operate 365 days a year, 24 hours a day.

When you apply that faulty logic to a seasonal business, such as grain elevators in my State—and if some of you are confused about the term "grain elevator," just let me simply say, that is a big cement silo where you store grain, where the farmers deliver grain, where grain can be processed from or grain can, in turn, be loaded onto hopper cars to be shipped to another location, even overseas when it gets to the terminal. But when you apply this faulty logic, assuming that a business is going to operate 365 days a year, 24 hours a day, for grain elevators, it becomes evident how absurd this regulation is in practice and how a simple cost-benefit analysis would have illustrated this fact.

In my State of Iowa, we have approximately 700 grain elevators. I think I know what I am talking about when I talk about a grain elevator. My son and I have a family farming operation. My son operates it almost totally by himself. I try to help when I am home and we are not in session.

In the fall of the year, my son runs what we call a combine, a grain-harvesting machine. This combine harvests our corn and our soybeans. One of the things I can do to help my son in the fall is to haul the grain, the corn, or the soybeans from the combine from the field 3 or 4 miles into town to weigh and to unload at our local New Hartford Cooperative elevator close to our farm.

We deliver grain to these local country elevators. We have 700 of these in the State of Iowa, and there are about 96,000 farming units in my State that use these 700 elevators to sell their corn to and to process their grains.

Although less than 1 percent of these elevators actually emit more than 100 tons, which is what EPA has defined as the level to be classified as a "major source," if you use EPA calculations, all 700 grain elevators in Iowa are considered major sources of emission. Only 1 percent actually emit more than 100 tons, but all 700 grain elevators are affected by this regulation.

How this could be the case ought to defy all logic and does. During a subcommittee hearing that I conducted on the bill before us, we heard testimony from an operator of a grain elevator in Mallard, IA, in northwest Iowa. This particular elevator takes in grain for only 30 to 40 days per year and has a capacity of 3 million bushels. But according to the EPA, this little country elevator in Mallard, IA, has the capacity to process over 11 billion bushels of grain per year. Let us put this 11 billion bushels of grain per year EPA figures this grain elevator can handle in the context of our crop for 1 year in the entire United States.

Last year, the U.S. corn harvest set a record at 10.3 billion bushels. This year, because of the early rain in some parts of the Midwest, the USDA is projecting a 7 to 8 billion bushel harvest. Yet, the Environmental Protection Agency assumes that 11 billion bushels of corn, more corn than has ever been produced in this country in a year, will go through that one country elevator in Mallard, IA.

This calculation, of course, would be laughable but for the fact this elevator will expend a lot of money and a lot of time as a result of this EPA regulation.

Last fall, at the height of harvest, the Mallard elevator received a 280-page permit application based upon the regulation I am talking about. The application is so complex that the elevator's managers were required to obtain an outside consultant to help complete the application. The cost of this assistance is estimated to be in the neighborhood of $25,000 to $40,000. Remember that my State has about 700 of these elevators, all required to pay up to $40,000 to comply with an absurd regulation.

So there is a very identifiable cost associated with this regulation from EPA in terms of money, in terms of time and in terms of jobs. The benefit to the environment and to the public health is less clear, however. In other words, I am about to say that there is no need for this regulation because there is not any impact on the public health, what the EPA assumes is a health problem.

First of all, all emissions from grain elevators are in the form of dust, and that is not considered toxic. Second, these dust particles—if you want to know where the dust comes from, I told you how you take the grain from the field off the combine, on the wagon behind the tractor or in your truck to the local grain elevator. You weigh it before you unload it. Then you pull into a pit with a grate over it. You drive your tractor over the grate, you open up the door and the grain unloads. While this grain is falling about 2 or 3 feet into the pit, there is some dust associated with that grain. Farmers live with that every day on the farm. EPA does not try to interfere on the farm, but they do try to interfere when you haul your grain to town and unload it.

Those dust particles are fairly large in size. They are just specks, in a sense, but fairly larger in size than most of the types EPA is trying to regulate. They fall to the ground, after the winds have caught them, and they may blow away from where you are unloading. They fall to the ground. They never enter the atmosphere.

Thus, if there is even a remote chance the particles can be harmful, the group most at risk are the employees of the facility. Are we concerned about the employees of the facility? Yes, we are concerned about the employees' health. But this concern has already been addressed by OSHA regulations; not EPA regulations, but OSHA regulations. In fact, the elevator that I talked about, the Mallard elevator, spent $12,000 in 1994 for training and equipment to ensure the safety of its employees who work around grain dust.

The primary reason that the regulation results in little public health benefit, however, is that these elevators have actual emissions of well under 100 tons, and, in most cases, well under 20 tons.

Under the Clean Air Act, they are not required to reduce emissions, but they are still covered by the regulations. So after spending hours completing a 280-page application and paying maybe up to $40,000 to a consultant to help fill out this 280-page application, the result is that emissions are not reduced at all. They are not reduced at all.

This type of regulation—one that seems to impose large costs on small businesses and individuals without any public benefit—is exactly the reason we need a cost-benefit analysis, and exactly the type of regulation that is now saddling the public, and we will avoid saddling businesses in the future if we pass S. 343. But, you see, we have regulators that do not know when to quit regulating. They do not stop to think, Well, should we really be regulating this or that? They get some sort of a pseudo-science to justify some regulation, and some of these agencies even ask scientists from academia to come in and review their scientific analysis which is the basis for their regulation writing. We can show you examples of when those scientific panels have come in and said, "You have to go back and start over again. There is no scientific basis for the regulation you are writing."

But they are not looking for a scientific basis for regulation. They are only looking for a small part of a scientific justification for what they want to do anyway. They want to do what they want to do, regardless of the cost. And this legislation will impose some common sense on the regulation writers, which common sense, if it were used, would not have resulted in a regulation that affects 700 grain elevators in my State when, in fact, only 1 percent are over the EPA limit. And if the rule were only applicable to the time that the business was creating dust in the first place—how stupid to assume that a business is going to be emitting dust into the air 365 days out of the year, 24 hours a day, when it only probably operates about 10 hours a day, and the activity they want to control only takes place maybe 30 to 40 days out of a year.

We are entitled to some commonsense regulation, and we are never going to get it until we have legislation that dictates that we use a commonsense approach. This legislation does it.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. DOLE. I will be happy to yield.

Mr. JOHNSTON. Madam President, we have been debating the Dole amendment here all today. I have heard really no criticism at all on the Dole amendments. If our side is willing to accept those on a voice vote, and I do not know that they are, is the majority leader willing to let those go on a voice vote? Or does he want——

Mr. DOLE. I think we want a rollcall. I read so much about this from Joan Claybrook and Ralph Nader, I want them to be assured by a unanimous vote that we heeded the great contribution, not only that they made, but the New York Times and other extremely——

Mr. JOHNSTON. Does the Senator wish a rollcall on all the amendments or just the first one?

Mr. DOLE. I think if we had a rollcall on the first one, then I assume the others could be disposed of by voice vote. We would be glad to ask consent that vote occur at 5:30.

Mr. JOHNSTON. At 5:30.

Mr. DOLE. Could I get consent? I make the request there occur a vote at 5:30 on amendment No. 1493 and, if the amendment is agreed to, amendment No. 1942, as amended, be agreed to, and amendments numbered 1494 and 1495 be automatically withdrawn, and that the time between now and 5:30 be equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I do not object.

The PRESIDING OFFICER. The Senator withdraws his objection.

Hearing no objection, it is so ordered.

ONE LAST POINT ON E. COLI AMENDMENT

Mr. HATCH. Madam President, this morning, my friend Senator GLENN, criticized S. 343 for not containing an explicit and separate provision exempting regulations dealing with food safety and E. coli bacteria.

To be fair, Senator GLENN recognized that S. 343 contains emergency provisions that would allow agencies to quickly deal with bad meat and E. coli emergencies.

He recognized that this was a good thing, but he also stated that this may not be enough because such emergency provisions leave too much to agency discretion. Perhaps a separate provision just dealing with E. coli bacteria is needed, he concluded.

Now I want to point out that Senator GLENN'S own substitute does not contain a separate provision dealing with E. coli bacteria and bad meat.

Instead, the Glenn bill also contains an emergency provision that exempts rules from risk assessment requirements when there exists a threat to public safety.

This is exactly the approach the Dole bill takes. You simply cannot specifically exempt all emergencies that may arise that requires a speedy promulgation of a rule.

If you did that you would have to enumerate every disease and natural catastrophe that ever existed. The bill would become too long and would wind

up looking like one of those 100 page insurance policies.

I support the Dole amendment not because it is necessary—rules that need be quickly promulgated because of an emergency and agency safety inspection and enforcement actions are already exempt from S. 343's requirements—but because adding the words "food safety" in the emergency provision may somehow quell the unnecessary hype over food safety and the myth that S. 343 does not protect the public.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield 10 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Madam President, it appears we are about to vote on the Dole amendment to S. 343. I must say, I am extremely pleased the Republican leader came to the floor this morning and propounded this amendment to stop what I have watched over the last week—at best, journalistic silliness and a tremendous effort to distort what are, in fact, facts and realities as it relates to certain processes that have gone on and are still going on at the Department of Agriculture.

When I read headlines in the New York Times that suggest—and they did—"Let Them Eat Poison, Republicans Block a Plan That Would Save Lives," I say that is in fact a knowledgeable and outright distortion of the facts as we know them and certainly as this Senator knows them.

So, for the next few moments I would like to relate to you some unique experiences I have had serving on the Senate Agriculture Committee that have dealt directly with the issue of the E. coli bacteria and what this Congress and this administration has attempted to do and, in some instances, has failed to do.

First, I want to talk about how they are playing fast and loose with the facts with, in my opinion, a direct effort to generate public attitude, and, in this instance, the attitude would be one of fear. Second, I want to talk about this administration, what it can do, if it is sincere in helping improve food safety, with or without S. 343. And I want to show it is flatout wrong to claim that this bill, S. 343, and all of the proceedings to it, along with this amendment, are going to do one single thing to damage food safety in this country.

Madam President, we take for granted, in the United States, that we have the safest food supply in the world—and we should take it for granted because we do. We are indisputably a nation that places before its consuming public the safest of all food supplies.

Let me suggest that, when I make that statement, I do not suggest that all food is, on all occasions, absolutely, every day, totally safe. New regulations do not save lives; safe food processes save lives. And it is phenomenally important for us to remember that the responsibility of safe food lies with everyone involved, in production—that is the one side we are talking about, because that is where the rules and regulations are—and on the consumption side, and that is where you and I and all other consumers, Madam President, have a responsibility.

Here is an interesting statistic that has been ignored by the press even though they know it. From 1973 to 1987 the Centers for Disease Control, which I think has credibility, reported that 97 percent of foodborne illnesses were attributable to errors that occurred after meat and poultry leave the plant; in other words, leave the processing plant, the slaughterhouse, the preparation plant, the packing area, if you will, however you wish to describe it; 97 percent of all foodborne illnesses are attributed after that. Yet, the debate today, and the foolish rhetoric in the press, has been on the other side of that issue.

Why have they missed the point? How could they come to be or appear to be so ignorant to the fact? Is it because they want it to be? Is it possibly because they want to distort the basis of the debate and the arguments behind why this Congress is moving S. 343?

Most foodborne illnesses can be prevented with proper food handling or preparation practices in restaurants and in home kitchens. Observers this afternoon might say this Senator has a bias. He comes from a life in the cattle industry. Madam President, my bias does not exist there because when the debate on E. coli began 2½ years ago—I come from a beef-producing State. But we had young people in our State growing ill, and in one instance a near death, because of a contaminated hamburger eaten at a fast food restaurant in my home State of Idaho. So I was clearly caught in the middle of this debate.

I, working along with the then Secretary Espy, began to move rapidly to try to solve this problem because it was an issue whose time had come and it was important that the Congress of the United States face and deal with food inspection in this country when they had in fact failed for years and years to do so.

So let me suggest to you that one of the arguments that has to be placed before the American consumer is simply this: True methods that transcend generations of Americans, whether we inspect the way we inspect or whether we regulate the way we regulate, or whether we change the rules of the cause and effect, the bottom line is you cook your meat and your poultry thoroughly. And if there is an example—and there is argumentatively statistics today—that suggest there is an increase in E. coli poisoning and bacterial poisoning, I believe it is because the consuming public no longer has the knowledge or has not gained the knowledge that you have to prepare your food properly. They just expect the Government to put on the plate every day and at all times safe food.

Let me suggest to the person who is the preparer of food—and that is all of us—that you just do not pop it in the microwave. You had better learn that food that is improperly prepared can in fact be life-threatening on occasion, if you mishandle it. And in 97 percent of the cases between 1973 and 1989 that was in fact the fact. I do not think that any of us today should be confused by the playing or the gamesmanship that has gone on with this issue.

To the critics that claim that Government should bear all the responsibility of food safety, I think you can tell by my expression this afternoon that I just flatly disagree. However, I do want to make one point. The administration has had the authority to address any food safety issues and in my opinion has not delivered. They have worked at it for 2½ years. What happened? When an industry pleads with them to bring on new regulation because the appearance of food that is not safe damages the reputation of the industry, it obviously causes great concern to the consumer. Yet, this administration has stumbled repeatedly inside USDA to bring about a new set of standards and regulations that the industry placed before them and said, Please do it. Please bring about processing that results in a regulatory effort that will cause in all appearances and hopefully in reality safe food.

Why has it not happened? Why are we still generally operating under a standard that was put in place in 1906? Is it because of the political interests? Is it because of the tug and pull of a labor interest that simply said, "We will not give up our featherbedding and our employees for a safer, more scientific process?" Oh, yes. Madam President, that is part of the debate that somehow we wanted to quietly skirt around when in fact it is fact, and that is why the food safety and inspection service in our country has been locked in a static environment since 1906, unwilling to move with the times and unwilling to move with the science of today.

But today's challenges are microbiological in nature. It is not a matter of sight. It is not a matter of inspecting because of an animal disease whether meat appears to be safe or it is not safe. It is really now a question of science. It is a question of bringing on line a technique that we all know exists out there. It is called HACCP. It is called hazardous analysis and critical control point.

These are the issues at hand, Madam President. That is why we are here debating today. Is there blame to cast around? Oh, yes, there is. But blame should not rest with this legislation. Blame should rest with past Congresses and past administrations that were unwilling to bring on line the kind of scientific food inspections that our country and our consumers deserve today.

I hope the Dole amendment will take away from this debate the kind of gamesmanship that was clearly going on in the press of this country because I think it ought to be stopped. My guess is the vote today will do so.

Opponents of regulatory reform claim it endangers health and safety—especially in the area of food safety. I am here to set the record straight.

First, I want to talk about how they are playing fast and loose with the facts, to generate public fear.

Second, I want to talk about what the Clinton administration can do if it is sincere about helping to improve food safety.

Third, I will show that it is flatout wrong to claim this bill will do anything to endanger food safety.

SAFE FOOD SUPPLY

We take for granted that in the United States of America we have the safest food supply in the world.

New regulations do not save lives. Safe food processes save lives. The responsibility for safe food lies on everyone involved in the production and consumption.

For the time period from 1973–87, the Centers for Disease Control reported that 97 percent of foodborne illnesses were attributable to errors that occur after meat and poultry leaves the plant. Most foodborne illness can be prevented with proper practices in restaurants and home kitchens.

The best way to ensure that food is safe is a tried and true method that transcends the generations: Cook your meat and poultry thoroughly. The basic rule of thumb is that meats should be cooked until the fluids run clear and the internal temperature has reached 160 degrees Fahrenheit.

Unfortunately, that lesson has not always been heeded. In my grandmother's scrapbook there is an article detailing the death of a family of six near Cambridge, ID, due to improper food preparation. This unfortunate occurrence took place in 1929. As you can see, the issue of food safety is not a new one.

The food preparer and consumer always have and still must accept ultimate responsibility for food safety. Unfortunately, that responsibility, along with all others in this life, occasionally bears a consequence.

To the critics that claim the Government should bear all responsibility for food safety—I must disagree. However, I want to point out that this administration has had the authority to address any food safety issue and has not delivered.

A number of petitions from industry to utilize existing technology and improve food safety have been stalled at the U.S. Department of Agriculture. One example is a steam vacuum that can be used to remove contamination from carcasses. Only after multiple requests did the Food Safety and Inspection Service even allow a testing period to begin. It is not right for fingers to recently be pointed at the Republican Party, when this administration has consistently delayed food safety improvement and reform.

The administration's response to this issue and others in meat inspection was released in February 1995, and has since been nicknamed the "mega reg."

Mega reg, as introduced by the Food Safety and Inspection Service [FSIS]: The current meat inspection system is outdated and outmoded. Established in 1906, the system has remained largely unchanged and relies on visual inspections of every carcass to ensure safety. That made sense at the turn of the century when animal diseases were a major concern.

But today's challenges are microbiological in nature. Because it is so difficult to detect microbiological problems, and because it is impossible to see bacteria, the best approach is one of prevention. Such an approach is called hazard analysis and critical control points or HACCP.

Unfortunately, the administration chose to combine both of these choices rather than make clear and sweeping reform.

Most troubling is the fact that the administration's proposal would not replace the old outdated system, as has been recommended by scientific groups including the National Academy of Sciences and the General Accounting Office. Instead, mega reg would layer a host of new, costly requirements on top of the weak foundation that is the current inspection system.

Almost everyone involved, including consumers and the meat and poultry industry, agrees that change is imperative. But the current proposal does not embody these critical improvements. In fact, the current proposal cannot deliver on its promises and will largely be a hollow promise to consumers who are seeking safer meat and poultry.

When, not if, but when the system is overhauled, change must be envisioned and implemented correctly. Not on the second or third try, but the first time. Neither consumers, nor industry, can afford to pay for the undue burden of unnecessary regulations.

THE MEGA REG BUILDS ON A WEAK FOUNDATION—THE CURRENT INSPECTION SYSTEM

Unfortunately, the HACCP provisions in the mega reg would be layered on top of the old system. These two systems do not blend. In fact, they actually work against one another. The current system tries to detect problems, not prevent them. The HACCP portions of the mega reg try to prevent problems. This contradiction is not in the best interests of food safety and the American consumer.

Additionally, the regulatory requirements of the two systems, when taken together, are literally overwhelming to companies, especially small businesses, who fear that the new requirements would force them to close their doors. To make real progress, the current system must be discontinued so that a newer and stronger foundation can be laid.

FINISHED PRODUCT MICROBIOLOGICAL TESTING SOUNDS GOOD, COSTS A LOT AND ACHIEVES LITTLE

The mega reg contains requirements for finished product microbiological testing, meaning that products would be tested at the end of the production process. To the lay person, this sounds like a good idea. But in practical terms it doesn't work and it has been rejected by groups like the National Academy of Sciences and the General Accounting Office.

Take the example of a test on a hamburger patty. Conceivably, one side might be negative for a particular bacteria while the other side potentially could be positive. So how does a plant know where it should test? And how can it feel confident that test results ensure safety? The best assurance is a process control system like HACCP. The only way to guarantee that a product is bacteria-free is to cook it properly.

So where does microbiological testing fit into meat processing? The best approach is to use microbiological testing during the production process to ensure that processes are working as they should be, not at the end of the process to try and find a needle in a haystack.

THE MEGA REG WOULD INCREASE REGULATORY REQUIREMENTS, BUT DOES NOT PROVIDE THE NECESSARY EMPLOYEE TRAINING

The meat and poultry industry is the second most regulated industry in the country, just behind the nuclear industry. On-site inspectors keep track of reams of detailed requirements. The mega reg would add to those requirements dramatically, but the nature of the new requirements would be entirely different than earlier regulations.

If implemented, such a change calls for comprehensive training of those who would enforce the regulations. But the proposal does not address this issue. This omission has the potential to create chaos in practice.

MEGA REG INCREASES RISK

For example, the FSIS proposal would require that plants be kept far colder than they ever had before. These cold temperatures can help keep bacteria from developing, but can be harmful to workers. Cold temperatures

increase the risk of repetitive motion disorders.

MEGA REG MOTIVES

The nature of change and seriousness of food safety underscores the need to involve all parties equally. Although, the current administration has spent over 2 years discussing meat inspection reform, their proposal does not satisfy anyone involved. For instance, the industry is concerned that USDA has paid more attention to the concerns of labor than it has to other groups, including packers and processors.

The union that represents meat and poultry inspectors is concerned about new approaches to meat and poultry inspection because they fear their jobs may be at stake.

USDA's Acting Under Secretary for Food Safety Michael Taylor is an April 7 memo told all FSIS employees that "as we implement HACCP, we will be expanding, not shrinking the range of regulatory roles and inspectional tasks required of our employees".

But changes to the inspection system must be made based on what is scientifically sound, not based on the needs of any one special interest group.

If food safety was really a priority to this administration they would balance the needs of all affected interests. The administration would enter into a process that could expedite meat inspection reform. The administration has the authority, although it has not been used, to enter into negotiated rulemaking and devise an acceptable and effective solution.

As written, the mega reg is not a solution to the needs of meat inspection and food safety. Utilizing the advances of modern science and technology would be a solution.

MEGA REG IS UNRELATED TO THE DOLE-JOHNSTON SUBSTITUTE

Regardless of your position relating to the mega reg, it cannot be cited as a reason to oppose regulatory reform. The language in section 622 of the substitute provides a "health, safety or emergency" exemption from the cost-benefit analysis and risk assessment requirements if they are not practical due to an emergency or health or safety threat.

In addition, section 624 of the substitute allows for an agency to select a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" make that choice "appropriate and in the public interest".

This regulatory reform bill focuses on the process of rulemaking and results of regulation. It no way hinders the legislative process. Congress will still have full and complete authority to pass laws addressing health safety situations. Past laws that are already on the books will not be superseded by bill.

Critics have targeted food safety. If the critics want food safety change, they should address those in the administration with the power and authority to make meaningful and immediate change.

Whether it is food safety or any other area of our lives as U.S. citizens, we must answer a fundamental question: What level of risk are we willing to accept in our daily lives?

For example, one mode of transportation may be safer than another, we oftentimes accept a small level of risk and choose the mode that takes us from point A to point B in the least amount of time.

Even though technology is constantly improving, it is unrealistic to think we will ever live in a risk-free world. Instead of setting policy based on a minuscule chance, we must set policy that is fair and responsible.

The American public wants change in our process of setting public policy. Supporting the Dole-Johnston substitute will reduce the overall regulatory burden, without harming public health or food safety.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. HATCH. How much time do we have on this side?

The PRESIDING OFFICER. Six minutes.

Mr. HATCH. I yield 5 of those 6 minutes to the distinguished Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank the manager of the bill. We are getting short on time.

Mr. President, I rise today in support of the Comprehensive Regulatory Reform Act. It has been a long time coming.

I am very impressed with the compromise that has been worked out and I think Senator DOLE and Senator JOHNSTON need to be congratulated.

To begin with, this bill brings some common sense back to Government and starts to give some much-needed relief to businesses all across our Nation. But in Montana, where 98 percent of our businesses are small businesses, the onslaught of regulations in the past years have been a stranglehold. Regulations have a number of effects, two of which are to inhibit growth of a business and to discourage folks from even opening a new business.

There is no doubt that some regulations are necessary. This bill will not do away with all rules and regulations. What it will do is require the regulating authority to justify the regulation. By requiring the agencies to do certain things, such as a cost-benefit analysis, we will eliminate those ridiculous rules that seem to only add to the paperwork or cost of doing business.

Let me give you some examples. Earlier this year I held a field hearing in Kalispell, MT, to look at new regulations for logging operations. They range from silly to impractical to downright dangerous.

SAFE WORKPLACE

One of the regulations requires a health care provider to inspect and approve first aid kits on logging sites once a year. It makes me wonder just how that health care provider would be reimbursed for that visit—is it a house call? Making certain that first aid kits contain the needed supplies is certainly something the employer can do on his or her own. Requiring a health care provider to inspect each kit is ludicrous.

Another regulation required loggers to wear foot protection that is not even available. Specifically, they must have on waterproof, chain-saw resistant, sturdy, ankle-supporting boots. If Kevlar boots were available and affordable, they would not be flexible enough to wear in the logging field. On top of this, the regulations charge the employer with the responsibility of assuring that every employee has the proper boots, wears them and the employer must inspect them at the beginning of each shift to make sure they are in good condition.

Add to this the new requirement that the employer is now responsible for inspecting any vehicle used off public roads at logging work sites to guarantee that the vehicle is in serviceable condition—and the employer may as well spend all his time as a watch dog. Since when is an employer held responsible for the employee's property? Why should they limit this to just loggers? Perhaps OSHA would like to require the U.S. Senate to ensure all our employees are commuting to and from the Hill in cars that are serviceable.

But the regulations are not just burdensome, one regulation may even prove hazardous to the logger. They require the lower portion of the operator's cab to be enclosed with solid material to prevent objects from entering the cab. Unfortunately, when logging, you need to see below your cab. One gentleman who testified at my hearing said, "Any rule that would require loggers to enclose areas of machines that operators need to see out of, in order to safely operate the machine, is poor logging practice."

It became very clear during our proceedings that the OSHA paper pushers who wrote these regulations had never felled a tree. They probably had never even been at a logging site. And yet, the regulations written were to be enforced last February. It is only because of an outcry by the industry that these are now being reviewed.

But, Mr. President, this is just one example in just one industry. Regulations have been published that deal with fall protection on construction sites. They almost make me laugh. Requiring employers to have their employees harnessed if they are higher than six feet, would cover anyone on

top of a standard ladder. But they do give the employer options. In the case of roofers, the employer can hire a roof monitor who tells roofers when they get too close to the edge. Now that is ridiculous.

By now, we have probably all heard the statistics before—the cost of regulations to our economy is staggering. Federal regulation costs have been estimated between $450 billion and $850 billion every year. That works out to about $6,000 per household every year. That might be acceptable if we knew we were getting our money's worth. And that is what this is all about.

S. 343 will allow us to decide whether the benefits of the regulation justify the costs. That may not always be easy, but it's necessary. It is responsible. It will give us a tool to decide whether the regulation is truly needed and whether it is practical.

But one of the sections of this bill that I am most pleased with is the congressional review. I have been calling for this since I arrived in the Senate. We pass laws here—that is our job. And then we leave it up to the agencies to write the rules and regulations. But we never get to review the final product. So, the law we pass and the rules enforced may be completely different. They may not be what we intended at all.

S. 343 requires the regulating authority to submit a report to the Congress, spelling out the rule, making available the cost—benefit analysis, and allowing the committees with jurisdiction to review the new rules. And we have 60 days to decide whether the rule follows the intent of the law.

Now I know some folks are worried that we will be stifling rules that are meant to protect the safety and health of children. That will not happen. Show me one person who would willingly put his family's or his constituent's health at risk. Rules will still be promulgated, regulations will still go into effect, to protect the safety and health of all of us. What we will cut down on is the unnecessary red tape.

In 1991, the Federal Government issued 70,000 pages worth of regulations and in 1992 the Federal Government employed over 122,000 regulators. These are the people responsible for such regulations as the prohibition of making obscene gestures in a National Forest. These people are responsible for the regulation requiring outdoorsmen to carry with them a bear box, to store perishables in while camping—a box the size of which would require a horse to carry. And these regulations are responsible for the destruction of private property when land owners are prohibited from preventing erosion on their land in order to not disturb local beetles.

We need to restore common sense to Government. That may be a foreign notion, but its time we try. This bill does that.

We passed unfunded mandates. We passed paperwork reduction. Now let us pass the Comprehensive Regulatory Reform Act and give our businesses the relief they so desperately need.

Mr. President, let me reiterate that I rise today in support of the Dole-Johnston substitute. I will tell you why, because I think for the first time maybe we bring back some common sense in this business of rulemaking.

I am very supportive of that part of this legislation that requires Congress to look at the final rule before it is published in the Register and goes into effect. I have said ever since I came to this body that this is what we have to do. For so many times after legislation is passed by this Congress, and it is signed into law by the President, it is turned over to some faceless people to write the administrative rules. Sometimes those rules look nothing like the intent of the legislation.

But I want to talk about something today that probably in the rulemaking I think becomes very important.

Let me repeat that 98 percent of the businesses in my State of Montana are classified as small business. So we have a small business part in this piece of legislation to look into those things. There is no doubt in my mind that some regulations are necessary. Nobody in business today, and especially those who have a very close relationship with working men and women and their families, wants to have an unsafe workplace. It just does not make good sense. For sure it is not good business to have an unsafe workplace.

This bill will not do away with all of those rules and regulations. But the regulating authorities have to justify the regulation by requiring the agencies to do certain things, such as cost-benefit analysis. It will eliminate some of those ridiculous rules that seem to only add to paperwork and the cost of doing business. And they do very little to improve a safe workplace.

Earlier this year, I held a field hearing in Kalispell, MT, with regard to new regulations written for logging operations in our part of the country. They range from the silly to the impractical and sometimes downright outrageous.

Let me give you an example. One of the regulations required a health care provider to inspect and approve first aid kits on logging sites once a year. That is a health care provider. That is not somebody within the company going by every now and again and looking at the first aid kit to make sure all of the items are in there. That is just common sense. We do not need rules for that. I tell you what the rule was created for. If your health care provider did not go and look at it, then that is the place for a fine. Back in 1990, I think we set up the reauthorization of OSHA a little bit differently; in the tax bill we handled it a little differently. That is probably not meeting with great open arms in the public now.

Another regulation required loggers to wear a certain footwear protection that was not even available and is not available today. They are Kevlar boots. Now, if they were here, the majority of the people could not afford to wear them. On top of this, the regulations charge the employer with the responsibility in assuring that all of the employees have proper boots, primarily these boots, and inspect them every day at the beginning of the shift to make sure they are in good condition.

Now, add this to the new requirement that the employer is now responsible for inspecting any privately owned vehicle that you and I drive back and forth to work for safe condition and serviceable condition. So what it meant was that the employer was the watchdog. He had to even look at all the pickups and cars that you drove to work every day. Of course, being in a mountain area, that is probably not a bad idea, but, my goodness, can you imagine the cost for the employer just to comply?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BURNS. I rise in support of this amendment. And I appreciate what is trying to be done here. We realize that some rules and regulations are necessary.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Chair advises the Senator from Utah he has 37 seconds remaining.

Mr. HATCH. Could I ask my colleague for a few more minutes?

Mr. GLENN. I yield 5 minutes.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague doing that because I strongly support, as I think most every Senator will, the Dole amendment. I agree with Senator DOLE; it is time to put these myths to bed and these conjured-up illustrations that some of the far left have been trying to pass on to the media and to an unsuspecting media, I have to say, because I personally do not believe these media writers are literally going to just distort this the way they have without being fed the wrong material. So hopefully this will end some of these outrageous articles that literally are not based on fact and in fact are downright untruthful.

I cannot wait until tomorrow to bring up my next top 10 silly regulations. Let me start with 10.

No. 10. Trespassing on private land and seizing a man's truck on the claim that he poisoned eagles even though the Federal Government had no evidence that he did so.

I just love these illustrations. We go to No. 9 in our list of top 10 right now.

No. 9. Fining a person $5,000 for filling an acre-large glacial pothole and expanding another acre-large glacial pothole to 2 acres. In addition to fining him, they made him dig out the original pothole.

No. 8. Prohibiting a couple from preventing erosion on their property, which, of course, threatened their house, because the Government told them that it might destroy tiger beetles. So the tiger beetles were more important than the individual property owners' house.

No. 7. Requiring elderly residents of a neighborhood to have to walk to a cluster mailbox to save time for the letter carrier while admitting in a Postal Service self-audit that the average letter carrier wastes 1.5 hours per day.

No. 6. Here is one example which I know my friend, Senator MURKOWSKI, is familiar with. The use of a bear repellent was prohibited because it had not been proven effective in spite of the fact that Alaskan residents have successfully fended off bear attacks with it many times.

No. 5. Admonishing the Turner Broadcasting System for showing 15 seconds too many commercials during a January 14, 1992 broadcast of Tom and Jerry's Funhouse. I will hurry since I see that the minority leader is here.

No. 4. Prohibiting the construction of levees for rice production in spite of the fact that it would have increased the amount of wetlands.

No. 3. Prosecuting a company for "conspiring to knowingly transport hazardous waste" because the waste water the company discharged contained .0003 percent of methylene chloride. I might add that decaffeinated coffee has a higher percentage.

No. 2. Attempting to fine a company over $46,000 because they underpaid their multimillion dollars tax bill by 10 cents.

Let us just take a second and think about this No. 1, the silliest of all.

No. 1. Fining a poor electrician $600 because someone else left an extension cord on the job.

Well, this is my third list of top 10 silly regulations. I suspect it is a never-ending list, but I will endeavor to try to bring a few to our attention every day just to show why this bill is so important in what we are fighting for.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, the debate that has been taking place all day today on the impact of this bill on food safety and specifically its impact on the Department of Agriculture's proposed rule to require science-based hazard analysis and critical control point or HACCP systems in meat and poultry plants is really very important.

Secretary Glickman sent a letter this morning to the majority leader and to me expressing his strong opposition to S. 343 because it would unnecessarily delay USDA's food safety reform, among other things. I believe Senator GLENN has submitted the letter for the record.

The letter explains that the peer review requirement in S. 343 will delay USDA's food safety reform by at least 6 months. As I read this bill and Secretary Glickman's letter, the bill requires that risk assessments underlying both proposed and final regulations be peer reviewed prior to becoming final. And there has been a good discussion about the applications of peer review this afternoon. In other words, before USDA can issue a final regulation reforming our meat and poultry inspection systems—a regulation that has been in the works for more than 2 years and is based on more than 10 years' of reform efforts—S. 343 would require that the final rule be peer reviewed. According to Secretary Glickman, this peer review requirement would result in a 6-month delay in this essential food safety reform. The Dole amendment does not address this unnecessary delay. As an initial matter, the amendment applies only to the cost-benefit subchapter of S. 343. As I explained earlier, the delay that S. 343 would impose is the result of the peer review requirements. So the amendment really does nothing in this regard.

Even if the amendment were changed to apply to the risk assessment and peer review requirements, the amendment still would not address the unnecessary delay that S. 343 would impose. Consumers and agricultural producers should not be asked to delay these essential reforms—reforms the entire agriculture and consumer communities have been calling for now for several years.

First, the Dole amendment simply adds food safety to the list of reasons an agency could declare an emergency and bypass the cost-benefit requirements of the bill. But the bill already contains an emergency exemption to protect health. I believe a food safety emergency is by definition a health emergency. People get sick from unsafe food. So an agency acting to prevent or address a food safety threat would be acting to protect health.

Even if the amendment does expand the scope of emergency by including food safety, I do not believe that it will alleviate the unnecessary delay that the bill would impose on USDA food safety reform.

USDA published the proposed rule in February of this year with a 120-day comment period. The USDA also extended the comment period at the request of a large number of commenters. Given this excessive comment period, if the USDA suddenly declared an exemption to avoid the peer review delay, it would be opening itself to litigation and, unfortunately, greater delay.

I would also note that USDA attempted to publish food safety regulations a couple of years ago. To provide consumers with information on how to avoid foodborne illness from pathogens like E. coli and salmonella, the USDA issued emergency recommendations providing safe handling labels on meat and poultry products. These safe handling regulations were issued without notice and comment. The USDA was sued and lost and had to go through the rulemaking process before labels could be required. The result, then, of that emergency provision was delay.

In addition to the opportunities that this bill would create for litigation—and which are not addressed by the Dole amendment—the bill also affords opportunities for those opposed to these rules to challenge them through the petition process. So even if we managed to get the rule released from USDA without delay—something that again would not be guaranteed by the Dole amendment—the rule could be challenged on the basis that it does not meet the decisional criteria in the bill and should therefore be weakened or could be subject to petitions calling for a repeal of the rule under the so-called lookback authority.

In short, there are numerous hurdles that are created by this bill which effectively can be used to delay or prevent the issuance of these important rules or lead to their repeal. That is unacceptable.

Food safety reform is essential not only to provide American consumers with safer food, but also to ensure that American agricultural producers have a strong market for their products. I understand the concerns that many in the agriculture community have with USDA's proposed reform.

However, I was the chairman of the subcommittee that first conducted the hearings on the tragic outbreak in 1993 and have held numerous followup hearings in which the industry, producers, and consumers have all repeatedly called for reforming and modernizing the meat and poultry inspection system. We can ill afford to delay these long-needed reforms. Yet that is precisely the outcome that will result under this bill even if this body adopts the current language in the Dole amendment.

So, as my colleagues consider this amendment, I want there to be no mistake about its effect. It is a harmless

provision, one I support, but it will not fix the problem. It will do nothing to avoid the delay that the bill will require in the USDA's food safety proposal.

Later in this debate, I will offer an amendment to fix the problem. My amendment—in no uncertain terms—will ensure that this bill cannot be used by those who would oppose efforts to improve food safety to prevent, delay the issuance of, or repeal the Department of Agriculture meat inspection regulations regarding the E. coli. That seems to me to be the right objective and one which I hope every Member of this body will support.

Mr. JOHNSTON. Will the Senator yield?

Mr. DASCHLE. Yes.

Mr. JOHNSTON. I had three comments with respect to the Secretary's letter. First of all, his comments about peer review.

Mr. DASCHLE: I would be happy the yield for a question.

Mr. JOHNSTON. Yes. First of all, are you aware that the Glenn substitute has peer review in it of an even stronger variety than is contained in S. 343?

Mr. DASCHLE. Well, I think that is subject to some dispute. I understand that we have attempted to clarify the language and have found a way to address the concerns raised by the Secretary.

Mr. JOHNSTON. I would submit to my dear friend——

Mr. DASCHLE. I think the Secretary would find the language in the Glenn substitute much more to his liking than the Dole amendment.

Mr. JOHNSTON. With all due respect, I would ask my friend to look at the provisions. The only difference in the peer review in the Glenn substitute and in our peer review is that we do permit informal peer review panels whereas the Glenn substitute does not. In other words, it is more stringent.

Mr. DASCHLE. If I could just respond to the Senator. If the Secretary would find that the Glenn amendment is not as acceptable as he would like it to be, I am sure we could accommodate the Secretary's concerns here, just as we are doing with the pending bill.

Mr. JOHNSTON. All right.

Mr. DASCHLE. The pending bill obviously is the bill before us. We have to clarify that prior to the time we even have an opportunity to get to other amendments and the substitute. So, clearly that is what I think most of us would like to do. And to address the Secretary's concerns, let us address them. We may not have to address the language in the Glenn amendment or anything else. I think that is the issue. Can we clarify the Dole amendment adequately enough to ensure that his concerns are addressed and that we do not further encumber those efforts by the Department of Agriculture to promulgate these regulations in a timely manner?

Mr. JOHNSTON. Is my friend aware of, on page 49 of the Dole-Johnston amendment, where it explicitly says, "This subchapter shall not apply to risk assessment performed with respect to—" you go down to "(C), a human health, safety or environmental inspection, an action enforcing a statutory provision, rule, or permit or an individual facility or site permitting action, except to the extent provided"?

In other words, it exempts the human health, safety or environment inspection from the risk assessment.

Moreover, was my friend aware that under subsection (f) on page 25:

> A major rule may be adopted and may become effective without prior compliance with the subchapter if—(A) the agency for good cause finds that conducting cost-benefit analysis is impractical due to an emergency or health safety threat that is likely to result in significant harm to the public or natural resources . . .?

So, in other words, my question is, is my friend—indeed, is the Secretary—aware that, first of all, inspections are exempt and, second, that you can go ahead and do a rule without either cost-benefit analysis or a risk assessment if there is a threat to health or safety?

Mr. DASCHLE. Let me respond to the distinguished Senator, my friend from Louisiana, in this manner. The Secretary has examined the language to which you refer. And it is the Secretary's view that it falls far short of his standards and the expectations that he would apply to his own ability to address food safety. It is his view that this provision and many of the other provisions that the Senator has addressed in the language of the legislation is deficient. What the Secretary is simply saying is that unless we correct these deficiencies, his efforts to assure adequate standards and adequate confidence in our food safety system will be severely undermined. They are not my words. Those are the words of the Secretary himself. But the Secretary is saying that if we——

Mr. JOHNSTON. They are the Secretary's words.

Mr. DASCHLE. If I could again reconfirm that unless we address a number of these issues, the Secretary himself has indicated that it presents some serious problems for him, and he would advise we either amend the legislation or support an alternative.

So I am hopeful that whether it is through an amendment, as I will be proposing later on, or through an alternative draft, as the Senator from Ohio is proposing, we will be able to address it in a meaningful way.

Again, I would like to address it through amendments that we will be offering, but whether it is through amendments or in some manner, I think the deficiencies outlined by the Secretary ought to be of concern to everybody. It is in our interest and I think in the country's interest to try to do a better job of addressing the concerns than we have right now.

Mr. JOHNSTON. One final short question. I ask my friend to read the Secretary's letter. It pertains only to risk assessment, which, as I say, is contained in the Glenn-Daschle bill. That is all he talks about. He does not talk about the exception. I invite you and the principal author of the alternative to read your own bill, and I invite the Secretary to read the exceptions, because they except from the operation of risk assessment these inspections.

At an appropriate time, I will be offering an amendment to exempt all regulations where notice of proposed regulation was commenced prior to July 1, 1995, because I think there is a problem going back and looking at that, and maybe that will give us a basis on which to satisfy the Secretary and everybody else.

Mr. DASCHLE. I think the Senator would be wise to do so. I think, again, it confirms that there is a lack of clarification, there is uncertainty, enough so that the Secretary has seen fit to send a letter to express his concerns. I hope that we can clarify this issue and alter the provisions of the bill in whatever ways may be necessary. I do not think we ought to minimize those concerns or the problems of the Secretary with regard to the issue before us right now. Food safety is one of our greatest concerns, and we have to ensure that we do not undermine the confidence of the American people in our food supply as we address the need for regulatory reform. That is all we are trying to do—ensure that we accomplish regulatory reform in a meaningful way, a comprehensive way, but do it in a way that does not encumber the Secretary's efforts to provide a better system of ensuring food safety than we have right now.

I yield the floor.

Mr. HATCH. Mr. President, I think the Secretary should read the bill and the comments of Senator JOHNSTON, because they are completely different from what he said in his letter.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1493

The PRESIDING OFFICER. All time for debate has expired, and the Senate will proceed to vote on agreeing to amendment No. 1493 offered by the majority leader. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—99

Abraham	Feinstein	Lugar
Akaka	Ford	Mack
Ashcroft	Frist	McCain
Baucus	Glenn	McConnell
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Helms	Pryor
Campbell	Hollings	Reid
Chafee	Hutchison	Robb
Coats	Inhofe	Rockefeller
Cochran	Inouye	Roth
Cohen	Jeffords	Santorum
Conrad	Johnston	Sarbanes
Coverdell	Kassebaum	Shelby
Craig	Kempthorne	Simon
D'Amato	Kennedy	Simpson
Daschle	Kerrey	Smith
DeWine	Kerry	Snowe
Dodd	Kohl	Specter
Dole	Kyl	Stevens
Domenici	Lautenberg	Thomas
Dorgan	Leahy	Thompson
Exon	Levin	Thurmond
Faircloth	Lieberman	Warner
Feingold	Lott	Wellstone

NOT VOTING—1

Bond

So the amendment (No. 1493) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Is leader time reserved?

The PRESIDING OFFICER. The leader time was reserved.

Mr. DOLE. I ask that I might use my leader time.

The PRESIDING OFFICER. The majority leader is recognized.

THOUSANDS OF BOSNIANS FLEE

Mr. DOLE. Mr. President, just a short while ago, CNN reported that the so-called U.N. safe area of Srebrenica had fallen—Bosnian Serb tanks have reached the town center and thousands of the 40,000 Bosnians in the enclave have begun to flee.

The main argument made by the administration in opposition to withdrawing the U.N. forces and lifting the arms embargo on Bosnia was that such action would result in the enclaves falling and would lead to a humanitarian disaster. Well, that disaster has occurred today—on the U.N.'s watch, with NATO planes overhead.

If it was not before, it should now be perfectly clear that the U.N. operation in Bosnia is a failure. Once again, because of U.N. hesitation and weakness we see too little NATO action, too late. Two Serb tanks were hit by NATO planes today—hardly enough to stop an all-out assault that began days ago. As a result, in addition to thousands of refugees, the lives of brave Dutch peacekeepers are in serious danger.

Mr. President, there can be no doubt, the U.N.-designated safe areas are safe only for Serb aggression. What will it take for the administration and others to declare this U.N. mission a failure? Will all six safe areas have to be overrun first?

It is time to end this farce. It is time to let the Bosnians do what the United Nations is unwilling to do for them. The Bosnians are willing to defend themselves—it is up to us to make them able by lifting the arms embargo.

Mr. President, I have just been on the telephone with the Prime Minister of Bosnia, along with Senator LIEBERMAN, Prime Minister Silajdzic in Sarajevo. He was giving us the latest conditions in Srebrenica, one of the safe havens, where 40,000 men, women, and children are now fleeing Serb aggression. He also indicates that other safe havens are under attack, or threatened attack.

It seems to me that if there was ever a moment when we ought to have a unanimous vote in this Chamber, it ought to be when we take up the resolution to lift the arms embargo. I do not know how many times it has been on the floor, how many votes we have had. We have had strong bipartisan support. And, in my view, I think it is growing.

I am not asking about committing American troops. We are talking about giving these poor people who are being killed by the dozens every day a chance to defend themselves by lifting the arms embargo, which they have a right to do as a member of the United Nations, an independent nation under article 51 of the U.N. Charter.

The right of self-defense is an inherent right, in my view. We deny them that right by not lifting the arms embargo.

I said before, the U.N. mission is a failure. I commend the courage of the U.N. protection forces there. But it seems to me that the policy is not going to change. They have had little pin pricks and they called them air strikes. They knocked out two tanks. That was the effort by NATO. According to the Prime Minister, the U.N. representative, Mr. Akashi, waited until it was too late for the air strikes to have any impact.

So we hope to work in a very bipartisan way—or a nonpartisan way, better yet—on this issue in the next week.

I ask unanimous consent that a fax just received in the last hour from the Republic of Bosnia and Herzegovina, from the Government's prime minister, Mr. Silajdzic, be printed in the RECORD.

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

THE REPUBLIC OF BOSNIA AND HERZEGOVINA,

July 11, 1995.

Hon. ROBERT DOLE,

Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Today, the United Nations allowed the Serb terrorists to overrun the demilitarized "safe area" of Srebrenica. Helpless civilians in this area are exposed to massacre and genocide. Once and for all, these events demonstrate conclusively that the United Nations and the international community are participating in genocide against the people of Bosnia and Herzegovina.

The strongest argument of the opponents of the lifting of the arms embargo toppled today in Srebrenica. They claimed that the lifting the arms embargo would endanger the safety of the safe areas. The people in Srebrenica are exposed to massacre precisely because they did not have weapons to defend themselves, and because the United Nations did not want to protect them. Attacks are also under way against the other safe areas in Bosnia and Herzegovina.

That is why we think it is extremely important that the American Senate votes to lift the arms embargo on the legitimate Government of Bosnia and Herzegovina.

If the Government of the United States of America claims that it has no vital interests in Bosnia, why then does it support the arms embargo and risk being associated with genocide in Bosnia and Herzegovina?

It is essential that the elected representatives of the American people immediately pass the bill to life the arms embargo. This will provide a clear message that the American people do not want to deprive the people of Bosnia and Herzegovina of the right to defend themselves against aggression and genocide.

Sincerely,

DR. HARRIS SILAJDZIC,
Prime Minister.

Mr. DOLE. I will conclude by saying we have always had the argument that if we lifted the arms embargo, it would result in the fall of these enclaves, these safe havens, and that would lead to humanitarian disaster. That argument is gone today because it has been overrun by the Serbs. Forty-thousand people are fleeing, and other safe havens are being attacked. So that argument is gone.

It ought to be perfectly clear that the U.N. operation is a failure. Once again, because of U.N. hesitation and weakness, we see too little NATO action too late. Two Serb tanks were hit by NATO planes, hardly enough to stop the all-out assault that began days ago. As a result, the lives of thousands of refugees and of the brave Dutch peacekeepers are in serious danger. The safe areas are safe only for Serb aggression. They are not safe for anybody else—not for the poor Moslems who are there, not for the peacekeepers, or the U.N. Protection Forces. They are being taken hostage again.

So what will it take for our Government and other governments to declare this U.N. mission a failure? Will all six areas have to be overrun? Maybe it will take that much.

So it is the view of many of us—and this is not partisan —that it is time to end this farce and let the Bosnians do what the United Nations is unwilling to do for them. The Bosnians are willing to defend themselves. In fact, this letter says that it is up to us to make them able by lifting the arms embargo.

This letter says it is essential that the elected representatives of the American people immediately pass a bill to lift the arms embargo. This will provide a clear message that the American people do not want to deprive the people of Bosnia and Herzegovina of the right to defend themselves against aggression and genocide and possible massacre of thousands of civilians.

NORMALIZATION WITH VIETNAM

Mr. DOLE. Mr. President, as anticipated today, President Clinton, in a ceremony at the White House, announced that he was taking steps to normalize U.S. diplomatic relations with the Socialist Republic of Vietnam.

In his statement, President Clinton cited progress in POW/MIA cooperation. But, unfortunately the President did not address the central issue, and that is, does Vietnam continue to withhold information and remains which could easily be provided?

The President ignored this question in announcing his decision, for the very good reason that all signs point to Vietnam willfully withholding information which could resolve the fate of many Americans lost in the war.

On Veterans Day in 1992, President-elect Clinton stated, "There will be no normalization of relations with any nation that is at all suspected of withholding any information." That was President-elect Clinton's standard. The standard was not simply cooperation.

The standard was not simply allowing field operations. The 1992 standard was at all suspected of withholding any information. No normalization if there is any suspicion of any withholding of any information. By 1994, the standard has clearly changed from suspected of withholding information to selective cooperation. As I said yesterday on the Senate floor at about this same time, if President Clinton was unable to state unequivocally that Vietnam had done all it could do, it would be a strategic, diplomatic, and moral mistake to begin business as usual with Vietnam.

President Clinton has made his decision today. Congress has no say in this decision. In the coming weeks and months, Congress will monitor the progress of relations with Vietnam. Our role will not be passive. Congress must approve any additional funds for United States diplomatic operations in Vietnam. The Senate must confirm any U.S. Ambassador to Vietnam. Any further improvement in relations will require action by Congress—granting of most-favored-nation status or beginning any operations by the Export-Import Bank, the Overseas Private Investment Corporation, or the Trade and Development Agency.

President Clinton said today that we should look to the future. I agree that we should look to the future, and examine future Vietnamese cooperation on POW/MIA issues, as well their record on human rights in the aftermath of today's announcement. But as we look to the future we should not and will not forget the past—especially the importance of doing all we can to resolve the fate of those Americans who made the ultimate sacrifice in Vietnam.

Mr. President, I yield the remainder of my leader time to the distinguished Senator from North Carolina.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 3 minutes.

Mr. HELMS. Three minutes. Well, I will make haste, then.

I thank the distinguished majority leader.

DIPLOMATIC RELATIONS WITH COMMUNIST VIETNAM

Mr. HELMS. Mr. President, President Clinton's announcement today that the United States will establish full diplomatic relations with Communist Vietnam, is a mistake, in my judgment, of the highest order. It is not timely yet. Vietnam has not earned recognition.

While the U.S. Constitution stipulates that the President is solely responsible for sending and receiving Ambassadors, Congress has the power of the purse. I fully support the able majority leader, Mr. DOLE, and the distinguished Senator from New Hampshire, Mr. SMITH, in their efforts to exercise that power by withholding funding for this normalization until all American POW's are fully accounted for.

Mr. President, Congress has the inescapable responsibility to weigh in on this decision if we believe President Clinton is wrong. And I believe him to be terribly wrong.

The President has not yet fulfilled his commitments to resolve the POW/MIA issue. The Vietnamese know much more than they are telling us about the fate of our missing American POW/MIA's. Yet, despite the $100 million we paid the Vietnamese Government each year to assist our Government in investigating those POW and MIA cases, the Vietnamese still renege on giving us a full accounting. Until the Vietnamese give us the full accounting of all missing American servicemen, it makes no sense whatsoever to confer upon them the honor of U.S. recognition.

The President insists that normalization of relations will result in the United States gaining more access to the Vietnamese Government—the more dialog, he argues, the faster they will move toward democracy. The trouble with this spurious argument is that it has been used in Washington to justify United States accommodation of Red China—and just take a look at where that policy has gotten us.

The Chinese have certainly moved toward a greater opening of their economy—foreigners can not invest fast enough, and China is taking in dollars hand over fist. But what has China sacrificed for all that Western hard currency? Has our policy of engagement persuaded the Chinese Communists to adopt any democratic reforms whatsoever?

No, to the contrary, the Chinese leadership is today more hard line and authoritarian than it has been since Mao's Cultural Revolution. Today, China is once again rounding up dissidents; they are using prison slave labor to create products for export abroad; they are executing prisoners on demand to sell their organs to wealthy foreigners; and they are enforcing a brutal forced abortion policy that has resulted in the mass execution of millions of Chinese children. Clearly United States recognition and engagement of Red China hasn't bought us any influence with the Communist thugs in Beijing. If anyone doubts this, just ask Harry Wu how much the Communist regime there values our opinion.

I think it is a disgrace that, at the same time this administration refuses to support the efforts of Taiwan—a friendly, free market democracy—to even gain admission to the United Nations, and practically had to be forced by Congress to issue a visa to Taiwan's democratically elected President for a private United States visit, they are enthusiastically conferring full diplomatic recognition on Vietnam's recalcitrant Communist dictatorship. What kind of message does that send about our Nation's priorities?

If the President insists on going through with the normalization of relations, I can only say this: as chairman of the committee that confirms ambassadorial nominations, it's going to be a tough road to confirmation for any ambassadorial nominee to Vietnam before the Vietnamese have accounted for the unresolved POW-MIA cases.

As long as Vietnam remains an unrepentant Communist dictatorship, as long as they refuse to provide all information they have about missing American servicemen, the United States should not reward their leaders by welcoming them into the community of friendly nations.

The President's announcement today is just the first step of many. The administration will have to approach Congress to discuss the conferral of benefits such as MFN, GSP, or OPIC insurance. Those will be a matter of great debate here in Congress and there is no reason for us to move on those until the Vietnamese have earned it. We should take the Vietnamese Government for what it is: a Communist one. It should continue to be treated as

such until it makes true political reform by establishing a legal code and respect for the general human rights of all Vietnamese citizens as individuals, rather than merely supporters of the State.

Vietnam has a long way to go if it wants to reestablish its position in the international community. We should not put the cart before the horse and extend them U.S. recognition before they have earned it.

I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. GLENN. Mr. President, I ask unanimous consent that Carolyn Clark, a fellow on Senator PAUL WELLSTONE's staff, be granted the privilege of the floor during the debate and vote on S. 334, regulatory reform bill.

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

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator withhold? I think there is still some unfinished business with reference to the last amendment there, under the consent agreement.

AMENDMENT NO. 1492

The PRESIDING OFFICER. Under the previous order, amendment No. 1492 is agreed to.

The amendment (No. 1492) was agreed to.

AMENDMENTS NOS. 1494 AND 1495 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, amendments 1494 and 1495 are withdrawn.

The amendments (Nos. 1494 and 1495) were withdrawn.

AMENDMENT NO. 1496 TO AMENDMENT NO. 1487

(Purpose: To clarify that the bill does not contain a supermandate)

Mr. DOLE. Mr. President, on behalf of myself, Senator LEVIN, Senator HATCH, Senator ROTH, and Senator JOHNSTON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for himself, Mr. LEVIN, Mr. JOHNSTON, Mr. ROTH, and Mr. HATCH, proposes an amendment numbered 1496 to amendment No. 1487.

On page 35, line 10, delete lines 10–13 and insert in lieu thereof: "(A) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law. Nothing in this section shall be construed to override any statutory requirement, including health, safety, and environmental requirements."

Mr. DOLE. Mr. President, let me indicate to my colleagues, because I know a lot of people are wondering about the balance of the evening, we are trying to find an additional amendment or two we can bring up tonight and have votes on.

Again, let me indicate it is not very long to when the August recess is supposed to start. We would like to get some of this work done. So I think it is incumbent on all of us, if we can maybe have the Johnston amendment on thresholds offered and voted on tonight? The $50 to $100 million?

Mr. JOHNSTON. Yes. We have that ready. We can put that in.

Mr. DOLE. You will do that this evening?

Mr. JOHNSTON. We can do that.

Mr. DOLE. Mr. President, I think this amendment will be accepted. Let me just say for the record here, there is an effort to try to work these things out on a bipartisan basis. We have had some success in this area. I thank the Senator from Michigan for his cooperation. I think it does answer some of the questions that some have raised, legitimate questions. We have tried to address legitimate questions as we did in the last amendment, though I do not think the amendment was necessary—nor, for that matter, that this one is necessary. But if it helps to move the bill along, obviously we are prepared to do that.

Mr. President, opponents of S. 343, the regulatory reform bill, have repeatedly expressed concern that it would override existing laws providing for protection of health, safety, and the environment. They have made this argument despite the fact that the bill clearly states that its requirements "supplement and do not supersede" requirements in existing law.

They have made this argument despite the fact that every sponsor of S. 343 has insisted that its provisions do not override requirements of existing law.

It is ironic that this language is similar to language in other statutes, and no one seems to have had difficulty understanding the plain meaning of the phrase before. As I stated yesterday, I do not for 1 minute really believe that Ralph Nader or President Clinton's staff are unaware of the language in our bill. But it apparently is inconvenient to focus on the facts—that tends to get in the way of demonizing the bill and its supporters.

Mr. President, I, and the Senator from Louisiana, Senator JOHNSTON, and every other supporter who has spoken has made crystal clear that what we seek to achieve with this legislation is that cost-benefit criteria are put on an equal footing with requirements of existing law, where that is permitted by existing law. We do not seek to trump health, safety, and environmental criteria.

Many opponents, in the guise of criticizing what they call a supermandate, really want a supermandate in the opposite direction. That is, they want any perceived conflict between an existing statute and considerations of cost resolved in a way that would effectively deprive a cost-benefit analysis of any real meaning. There are times, as I have said—and the bill says—that such a result is appropriate. But it cannot be appropriate in all instances. Otherwise, what the opponents are really saying is that the tremendous costs to the American family—about $6,000 a year—are an irrelevant consideration.

Well, I do not think it is an irrelevant consideration to the American family. I do not think it is irrelevant to the American small or medium-sized business struggling to survive.

And it should not be irrelevant to us.

So, I reject such an extreme approach. Other opponents however, insist that they want the same thing as we do—that is, a level playing field where considerations of cost are just one part of the agency decisionmaking process, no less and no more important than the requirements of existing law. Where Congress has already spoken and stated a policy judgment that considerations of cost are not appropriate, that policy judgment would stand. Our regulatory reform legislation does not seek to change that result.

For those who have suggested that we seek the same objective, it appears that the problem is one of interpreting the current language—they have suggested that it would be more clear to state clearly that S. 343 does not override existing laws.

In my view, there is no reason not to reemphasize as clearly as possible what the bill does not do. Therefore, Mr. President, I offer an amendment making clear that the requirements of S. 343 are not intended to "override any express statutory requirements, including health, safety or environmental requirements."

This is an effort to remove any perceived confusion or murkiness in the former language, and I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the majority leader was correct. We have checked on our side of the aisle. We will be glad to accept this amendment. I do not know whether there will be other amendments to perfect this same idea here a little bit further on or not, but I think this is acceptable. I would

be glad to accept it on behalf of our side.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I think this is just another illustration of how we have been trying to work together to try to resolve any conflicts on this bill. There have been over a hundred changes in the bill that we have done through our negotiations with colleagues on both sides of the aisle. We just appreciate the cooperation of Senators on both sides in doing this.

We are prepared to accept the amendment as well.

The PRESIDING OFFICER. Is there further debate on the Dole amendment? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would simply like to thank Senator LEVIN, Senator BIDEN, Senator GLENN, and others who have taken part in debate on this. They have identified the problem in very specific terms. This amendment deals fully and completely, in my view, with the question of the supermandate which is now laid to rest.

There is no—N-O, none—supermandate in this bill. It is made absolutely crystal clear and repeated again in this amendment.

I congratulate all concerned for getting it worked out and making it clear.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, many observers and many of us have viewed this bill as having a serious problem, which is raising the possibility that there is an inconsistency between what this bill requires and what other laws require.

This amendment addresses one part of that issue and it does it, I believe, in a useful way. That is the reason why the amendment does make a contribution to further progress on the bill.

This amendment makes it clear that if, with respect to any action to be taken by a Federal agency, including actions to protect human health, safety, and the environment, it is not possible for the agency to comply with the decisional criteria of this section and the decisional criteria provisions of other law—as interpreted by court decisions—the provisions of this section shall not apply to the action.

I have expressed my concern about this issue to the sponsors for several weeks now. I am concerned that there may be situations where the statute which is the basis for the issuance of a regulation may conflict or be inconsistent with the requirements of the decisional criteria in section 624. The sponsors say they believe that is not possible because of the way section 624 is drafted. I have not shared their confidence in that belief, but this amendment makes that now clear. Where there is an inconsistency or a conflict between the lawful requirements of the statute that is the basis for the regulatory action and the requirements of this section, the requirements of the statute that is the basis for the regulatory action govern or control.

This amendment ensures that the requirements of the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and other important environmental and health and safety laws are not altered by the decisional criteria contained in section 624. When push comes to shove, the underlying regulatory statutes are primary.

I welcome this amendment and think it does improve the bill, but I want to be clear that this is but one problem I have with the decisional criteria provisions of section 624. Other amendments are necessary in order to make this particular section acceptable, and we will be proposing those as the debate on this bill progresses.

Mr. President, let me also add on that note that I hope that the sponsors of the Dole-Johnston amendment would address the document which has now been submitted to them as of about 10 days ago, which specifies approximately 9 major issues and 23 smaller issues that a number of us have with particular language in the Dole-Johnston alternative. The Senator from Utah had requested that document when we were involved in discussions on the bill. It has been submitted as of about 10 days ago. I hope there could be a response, because, even though this amendment does address part of one of those issues, there are many other issues which I think a bipartisan effort could address and make some progress on.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, if I could respond, we are, as far as I am concerned, going to continue ongoing negotiations and keep the door open to do what we can to resolve these problems.

On many of the points that were raised, I thought the Senator from Michigan was well aware that there are objections to a number of the provisions, on both sides. So we will just keep working together and see what we can do to continue to make headway like we have on this amendment.

If we can continue to do that, we will. And we will certainly mention—where we disagree, where we disagree. But we will keep working with the distinguished Senator from Michigan, the Senator from Massachusetts, and others who were very concerned about this matter.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1496) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I think if we could now have a time agreement on the Johnston amendment, then that would let our Members know how much time they might have between now and the time of the vote.

Mr. DASCHLE. Mr. President, I have been consulting with the distinguished Senator from Louisiana. He is prepared—I will let him speak for himself—but on our side we would be satisfied with a very short timeframe, perhaps a half-hour, 45 minutes.

Mr. DOLE. An hour equally divided?

Mr. JOHNSTON. Mr. President, I would say 30 minutes, really, ought to do it. It is very straightforward. It is just a question of setting the threshold at $100 million.

I hope it is not controversial; 30 minutes would suit us fine, equally divided.

Mr. DOLE. Could we make that 40 minutes equally divided?

Mr. DASCHLE. Mr. President, 40 minutes.

Mr. DOLE. If there is no objection, when the Senator lays down his amendment, I ask unanimous consent there be 40 minutes equally divided on the amendment.

The PRESIDING OFFICER. Is there objection to the time agreement? Without objection, it is so ordered.

The Senator from Louisiana.

AMENDMENT NO. 1497 TO AMENDMENT NO. 1487

(Purpose: To revise the threshold for a definition of a "major rule" to $100 million, to be adjusted periodically for inflation)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 1497 to amendment No. 1487.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 14, line 4, strike out subsection (5)(A) and insert in lieu thereof the following new subsection:

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at his sole discretion, to account for inflation); or".

Mr. JOHNSTON. Mr. President, this amendment is very simple.

The PRESIDING OFFICER. Will Senators withhold? The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, this amendment is very simple. It sets the definition of a major rule at $100 million and gives to the director, at his sole discretion, the ability to adjust that $100 million for inflation.

Mr. President, $100 million has been the threshold for triggering the review of proposed major rules since the Ford administration. The effect over the years has been that $100 million now is much less.

Mr. GLENN. Could we have order?

The PRESIDING OFFICER. The Senator from Ohio is correct. Could conversations on the floor be removed elsewhere?

Would the Senate be in order, in order that debate can be heard?

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the trigger for a major rule reevaluation was begun in the Ford administration at $100 million. If we use that same amount today in value, $100 million in the Ford administration would now be worth $252 million, and in the Carter administration it would be $231 million, or in the Reagan administration it would be $154 million. In other words, this is only a fraction of the definition we have used since the Ford administration for triggering major rules.

The problem here, Mr. President, is simply one of agency overload. We are requiring these agencies any time they put out a new rule—and we think there will be probably over 135 major new rules that are in process right now at the $100 million threshold—they will have to do cost-benefit analysis, they will have to do risk assessment with peer review, and judicial review, all of those things for rules which the administration now has in process.

In addition to that, they are going to have to go back and review all rules which they select for review, all rules that cannot meet the present cost-benefit ratio, the cost-benefit test, and the risk assessment test. And the question again is what is a major rule? Is it $50 million or is it $100 million? In addition to that, you have a petition process so that any person who feels themselves aggrieved by a present rule will be able to petition to have that put on the schedule for review. It is an enormous amount of work.

So what we want to do is set this limit at $100 million for a major rule rather than at $50 million hopefully to make the amount of work to be done manageable. We do not want to kill these agencies with so much kindness or so much work that they are not able to do anything. What industry wants is to be able to get some of these rules that are burdensome and adopted without science and adopted without proper procedures. They want to get them reviewed. If you allow for a review of any rule at $50 million as opposed to $100 million, it may so overburden the agencies that they cannot do anything, that you will have gridlock, that you will not be able to do whatever one wants to do and which is to have good risk assessment, good cost-benefit analysis, good science brought into rulemaking. It is a very straightforward amendment. It simply ups it to $100 million.

I hope my colleagues are willing to accept this amendment.

I yield the floor.

Mr. ROTH. Mr. President I support the current amendment to raise the dollar threshold for major rules from $50 to $100 million. I support this amendment because it would help ensure that this bill will work for us, not against us.

The purpose of S. 343 is to ensure better, more rational regulations and to reduce the regulatory burden while still ensuring that important benefits are provided. S. 343 aims to restrain regulators from issuing ill-conceived regulations. It requires better analysis of costs, benefits, and risks, so that regulators will issue smarter, more cost-effective regulations. This is common sense reform, not rollback. We want agencies to work for the public's best interests, not against them.

But we cannot so overburden the agencies with analytical requirements that they cannot properly carry out their mission to serve the public. That is why we need a dollar threshold before requiring regulators to subject rules to detailed analysis—cost-benefit analysis and risk assessment. Costly rules, of course, merit detailed analysis. But less costly rules do not. The reason is simple. Cost-benefit analysis and risk assessment are themselves costly and time-consuming.

This is why, since cost-benefit analysis was first required by President Ford over 20 years ago, it only applied to major rules costing over $100 million. Every President since then, including Presidents Carter, Reagan, Bush, and Clinton, have used the $100 million threshold for required cost-benefit analysis. This same threshold had strong precedent in the Senate. S. 1080, supported by a vote of 94 to 0 in 1982, had a $100 million threshold. In addition, S. 291, the Regulatory Reform Act of 1995, which I introduced in January and which received the unanimous support of the Governmental Affairs Committee, had a $100 million threshold. We also should keep in mind that the current value of this $100 million threshold, set in 1974, is actually far less than $50 million in 1974 dollars.

A $100 million threshold makes sense because those costly rules account for about 85 percent of all regulatory costs. Yet, there are a limited number of such rules—about 130 rules per year for nonindependent agencies.

This means that the vast bulk of the regulatory burden can be put under control with a roughly predictable, and more importantly, manageable analytical burden. There is no good reason to have a lower dollar threshold for major rules. A $50 million threshold would sweep in many more rules but make it all the more difficult for the agencies to handle the analytical burden. We just do not really know how many new rules a $50 million threshold would capture.

Even more troubling to me have been recent attempts to further burden the agencies—which would already be pressed hard by the requirements of S. 343—with more analytical requirements beyond those of the $50 million threshold. The recent Nunn-Coverdell amendment, for example, will dramatically increase the burdens imposed by S. 343. It would sweep into the definition of major rule all rules that have a significant impact on a substantial number of small businesses, as defined by the Regulatory Flexibility Act. This could add many hundreds of additional rules, including some very small rules, to the cost-benefit and petition process of S. 343. I am deeply concerned about the burdens imposed on small business. But the Nunn-Coverdell amendment threatens to sink an already heavily loaded ship.

Raising the major rule threshold to $100 million is not enough to cure the overload problem confronting S. 343, but it will help to lighten the load. It will help make this bill a more workable and more effective bill for the American public. It is good government. I urge my colleagues on both sides of the aisle to support this important amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I would like to yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Utah controls the time.

Mr. HATCH. I am obviously happy to yield 3 minutes to the distinguished Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise in opposition to the amendment. I spent the better part of yesterday arguing the unique problems that small businesses have in our country. The vast majority of businesses in America are small. Ninety-four percent of the 5 million-plus businesses in America have 50 employees or less.

By elevating the threshold, I recognize that we still have the amendment that we adopted yesterday that would take rules that get swept under regflex, but nevertheless the broader application of the bill's threshold is being elevated by moving from $50 to $100

million and reducing the size of the sweep, and I think it is moving in the wrong direction.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. COVERDELL. I yield.

Mr. JOHNSTON. Actually, rules that affect small businesses—how many did we say there were, how many million in this country?

Mr. COVERDELL. About 5 million.

Mr. JOHNSTON. About 5 million. When they affect small business, they are likely to be a major rule. But we have that provided for in the Coverdell amendment of yesterday with the reg-flex, and I believe that solves that problem. What we do not want to do is get agency overload here so that those rules which are burdensome to small businesses would not then be able to get—you would not have time to get your petition done because the agency would be so overloaded with other rules. I suggest to my friend that going to $100 million is not going to be difficult for small business because you have already protected them under the Coverdell amendment, and they are likely to be $100 million rules if they have broad application to small business, in any event.

Mr. COVERDELL. In the time I have remaining, I would like to respond. I understand the point my good colleague from Louisiana is trying to make, and I do appreciate the work that the Senator has expended for many years, including this particular debate. It has been a major contribution to the country, and I commend the Senator for it.

I only assert that it is a move in the wrong direction. I agree that the amendment we adopted yesterday is a step in the right direction because it will sweep those rules that are affected by reg-flex into our system. But there can be no argument that by moving from a $50 million threshold to a $100 million threshold, we are removing protection from a class of businesses, and they will generally be smaller businesses that are affected by the full ramifications of the bill and not just reg-flex. And let me say, as I said yesterday, Mr. President, that if I am confronted with the issue of who suffers the overload or the burden, and the argument is between small businesses or medium-sized businesses or huge, mega agencies, Mr. President, I side on the equation of helping businesses that have been suffering and the ramifications that come from that suffering and not on the side of these huge agencies with millions and billions of dollars and attorneys, so many that you cannot even name them. We should be moving in the direction of protecting the people on Main Street America and not on being overly concerned about the burdens these big agencies face.

Mr. President, I yield back whatever time is left.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Texas?

Mr. HATCH. I yield to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to just address a question to the Senator from Georgia on my time, and that is I wonder if we have even talked about the impact on other governments of Federal regulations, such as our small towns across America. Our small towns are reeling from regulations that require them to go into their water supply and test for items that do not even relate to their part of the country. I just wanted to ask the Senator from Georgia if he does not think that the lower threshold is also going to be a boon to the smaller towns that might not have the ability to have legal staffs that can come up and talk to Federal agencies?

Mr. COVERDELL. The Senator from Texas is exactly right. In fact, she admonishes me in a way, because yesterday in talking about the reg-flex, or the small businesses, I did not talk enough about small cities and towns, small government jurisdictions and nonprofits. And as I said in my earlier remarks, this is just moving in the wrong direction. This is removing these smaller jurisdictions, smaller businesses from the sweep of the intent of this bill. I do not think it devastates the bill, but it is moving in the wrong direction.

Mrs. HUTCHISON. Mr. President, I, like my colleague from Georgia, appreciate what the Senator from Louisiana has done in this bill. He has worked to try to make it a good bill. But I am concerned if we raise the threshold that there might be people in that $50 to $100 million category—cities, towns, maybe counties, maybe school districts or water districts, some of our smaller entities—that really might not have the protection of the good science, of the peer review, the ability to have cost-benefit analysis and risk analysis.

I think what this bill does is so important to provide the basis upon which people will know out in the open what the effects of these regulations are, and it will have the effect, of course, of making the regulators think very carefully before they do these regulations.

Passing this bill in itself is going to have an effect on regulators in making sure that they know exactly what they are doing as they affect the small businesses of our country or, indeed, the local taxpayers of our country.

So I join with my colleagues in saying that I think it is very important that we not leave that $50 to $100 million range. In fact, I have to say if it were my choice, I would not have a range at all that was a floor. I would have from zero because I think no matter what the regulation is, if it affects your business or your small town or your water district, this is going to make a difference in the way you are able to provide jobs or serve your taxpayers.

So I do not think we should have any range that is excluded, but certainly I think the higher range is going to provide hardship for people who probably do not have the legal staffs to really have their viewpoints known as well as the people in the larger categories.

So I respectfully argue against this amendment as well, and hope that our colleagues will not have that group in the $50 to $100 million category that might not be covered by sound science, science in the sunshine, cost-benefit analysis, or risk analysis. And if it is a burden on the large agencies, then perhaps we will have the effect of fewer, more important, good regulations rather than so many regulations that do cause a hardship on our smaller entities.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I very much appreciate the contribution that the Senator from Texas has made to this effort, and I share with her completely her concern about small businesses and small towns and counties. I have been in towns in Louisiana which have been subjected to some of these incredible regulations that would fine them for doing things which just went contrary to common sense. I would sit there with the mayors of these various towns and wring my hands with them because it was so outrageous sometimes what these regulations provided. However, going from $50 to $100 million does not hurt the small towns or small businesses. It is not that by going down you exempt the smaller people. Rather, you make it possible or feasible for small counties, small towns, small businesses to have their regulations considered at all. In other words, the problem here is agency overload.

I have met at some length with Sally Katzen, the head of OIRA. She said

> You know, one of our problems here is peers. We have peer review, but how can we find enough peers to review hundreds and hundreds of regulations and have cost-benefit ratios and risk assessments, scientific determinations for these hundreds of rules which are going to be simultaneously reviewed?

And to do so by the way, in light of a budget which is now being cut in the appropriations process as we speak. It is going to be a formidable process.

So, I think that the best way to get this done is to go in the direction of where we started in the Ford administration that major rules defined in the Ford administration is $100 million. And, you know, that amounts to $300

million something—$252 million. So we have been coming down in that through the years.

I hope my colleagues will recognize this problem of overload. Look, if we are not overloaded on this process in a year or two the Senator can propose and I think the Senate would enact a lower threshold. I suspect what we are going to find is that we may be considering an upping of the threshold rather than a lowering of it simply because of the question of legislative overload. Really, if we can get this $100 million, I think it makes a better and more workable bill, one that will protect our small towns and counties and our small businesses. And I hope my colleagues will allow it to be done.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. HATCH. I will yield to the Senator.

Mrs. HUTCHISON. Mr. President, I would just like to respond briefly and say that I think it is a matter of where you err. And while the amendment of the Senator from Louisiana would err perhaps by saying that we could always lower the threshold if we found that we needed to because so many people were exempt, I would err the other way. I would say, let us set it at $50 million and make sure that every regulation that we can possibly make well thought out and well documented is, in fact, well thought out and well documented. And if we have to raise the threshold later I would rather have to do that than to have to come in and try to lower it because so many people are harassed with regulations that did not have the scientific basis and the risk analysis and the cost-benefit analysis.

So I think it is a matter of do we err on the side of doing too much or do we err on the side of doing too little? I would rather protect the people, the small business people of this country, the small towns of this country, the small water districts of this country, and then if it becomes an onerous burden on the Federal agencies I am sure we will hear about that and we can always up the threshold. But I want to make sure that every regulation that we can possibly make be well thought out, well documented in science, have a cost-benefit analysis, and in fact does have those criteria.

So, I do appreciate the position of the Senator from Louisiana. But I just think it is more important for us to err on the side of caution and protection of our small business people and our small towns than the opposite, so that people are in a threshold of $50 million than the $100 million and they do not have those well-thought-out regulations.

Mr. JOHNSTON. Mr. President, just very briefly. The reg-flex amendment which we adopted yesterday which was designed to take care of small business includes in its definition of small entity, small governmental jurisdiction, which goes on to mean government, cities, towns, townships, villages, school districts, special districts, with a population of less than 50,000, unless an agency establishes another amount. So we took care really in the reg-flex amendment of yesterday, I believe, of the concerns about small towns and cities. And frankly I had not realized that that definition was in reg-flex. But I believe that covers the Senator's concern for small towns and jurisdictions.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains?

The PRESIDING OFFICER. The Senator from Utah has 9 minutes and 20 seconds remaining.

Mr. HATCH. How much on the other side?

The PRESIDING OFFICER. Six minutes and 32 seconds on the other side.

Mr. HATCH. Mr. President, I am not sure from the discussion of the distinguished Senator from Louisiana that is so, because as I recall the Coverdell amendment just mentioned entities of small businesses. But we will check on it. Be that as it may, the House has listed a threshold of $25 million. The threshold in this bill is $50 million. I ask the Senator, am I not wrong on that?

Mr. JOHNSTON. This bill is $50 million.

Mr. HATCH. This particular bill's threshold is $50 million. And I have to say that all of small business throughout this country is watching this particular vote. It is going to be the vote on small business, as was the Nunn-Coverdell amendment. I understand the arguments on both sides. But frankly, with the House at $25 million, us at $50 million, there seems little or no real justification for the $100 million. So I support the $50 million threshold in Dole-Johnston-Hatch.

This is a small business measure. The whole purpose of fighting this out on the floor is to try and do it for small business people. The issue here is whether or not small businesses are going to be treated the same as larger businesses. The reg-flex act may not cover all rules that affect small businesses. As you know, the standards in that act were adopted by the Coverdell amendment. And that amendment may not cover all situations affecting small business, or at least I have been led to believe that is the case. And I still have some concerns whether small towns are covered by that amendment, individuals, small nonbusiness associations, charities. Those are all not covered by the Coverdell amendment. And should they not be protected by S. 343? And by this regulatory reform bill? I think that is what we come down to.

I would prefer to keep the threshold at $50 million. I am not going to go and weep in the corner if this amendment goes down in defeat. But I have to say—I mean, if the amendment is adopted which the distinguished Senator from Louisiana is advocating, and I understand his reasons for doing so. But I believe that small business and individuals, small towns and cities, nonprofit corporations, I might add, nonbusiness associations, do deserve the protection and the care that a $50 million threshold would give. With that, I am really prepared to yield back any time we have, or I yield the floor. And I reserve the balance of my time.

Mr. JOHNSTON. Mr. President, I would be prepared to yield back the balance of my time. Can we have a vote at this time?

Mr. HATCH. I suggest the absence of a quorum.

Mr. JOHNSTON. Will the Senator withhold? As long as we have got to wait for this, let me say that, Mr. President, this amendment is viewed very, very seriously by an awful lot of people on our side and by the administration based on this question of agency overload. I really believe, as someone who has been involved in this risk assessment now from the very start, that this is a very legitimate concern of the administration. The American Bar Association gives this question of the definition of "major rule"—it is the very first and most important criticism they have of S. 343. It is the most important criticism, or one of the most important, of the administration, one of the most important concerns over here.

Now, Mr. President, we very much need to pass this legislation. I hope my colleagues on the other side of the aisle will give us enough votes to let us pass it. This is one of those important amendments that does not in any way derogate from the importance and the central value of risk assessment, cost-benefit analysis. But it may have a lot to do with making it workable. I mean, the American Bar Association is not out to do in small businesses or small communities in our country. They are simply aware, as they say, it will sweep too broadly and, therefore, dilute the ultimate impact of the bill.

Quoting from the American Bar Association:

> This change is crucial for Association support.

That is, American Bar Association support.

We can pass a bill without the American Bar Association support, I understand that. But they are enthusiastic supporters of the concept, as I am the person who first proposed risk assessment here on the floor, but we have to make it workable. To go up to $100 million simply makes this more workable, Mr. President. Nothing could be worse

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than to have this vast plethora of regulations all of a sudden dumped on agencies unable to contend with them, unable to find the peer review, unable to have budgets that will cover the cost of cost-benefit, unable to hire the scientists to do the studies to do the risk assessment, and otherwise unable to meet deadlines. That is a formula for chaos. That is why the American Bar Association thinks we ought to go to $100 million. That is why the administration thinks so, and that is why I think so.

So, Mr. President, this amendment will help pass—not only help pass and get signed into law—this legislation; it will make it workable. Everybody wants this legislation to work when and if we pass it, and I believe we are going to be able to pass it, because I think the spirit of the floor, and of the proponents, certainly the majority leader, Senator HATCH and others, has been to accommodate reasonable criticisms in the present draft of S. 343. I really believe that is true. I think the acceptance of that last amendment showed that kind of spirit, and I hope we can get that kind of spirit on this $100 million amendment. This is really a crucial amendment, as the American Bar Association has said, as the administration has said.

I have not gone along with all of the administration's criticisms of this bill. As a matter of fact, I have not gone along with most of the administration's criticisms of this bill. I think some of it may be previous versions that they are criticizing. I think some of it may be a fictitious bill that has never been offered and is not now on the floor that they are criticizing. But, Mr. President, this $100 million criticism—that is, the criticism of the $50 million being too low and the desire to go to $100 million—is right on target. It is what it takes to make this bill workable.

I beseech and implore my colleagues to let us get this limit to $100 million where the bill can be allowed to work.

Mr. President, if none of my colleagues has further debate, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. I yield such time as the distinguished Senator may need.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Utah.

I wanted to answer one point of the Senator from Louisiana on his amendment, and that is the point that the small entities would be covered under the reg-flex amendment that we adopted yesterday. In fact, the reg-flex amendment covers cost-benefit analysis, but there are many small entities that would not get the risk analysis that is covered by this bill, and these are the entities that would be lost between the $50 million and $100 million threshold.

So it is very important to the small towns and the water districts and the small businesses that they have the availability of risk analysis for sound, good regulatory bases, just as the larger entities would, and perhaps they need it even more because they do not have the legal staffs that are available in the upper echelons.

I did want to make that one point so that it was clear that we need risk analysis and the sound basis that risk analysis would provide for the $50 to $100 million category that would be left out if we adopt this amendment.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HATCH. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—53

Akaka	Cohen	Harkin
Baucus	Conrad	Hatfield
Biden	Daschle	Heflin
Bingaman	Dodd	Hollings
Boxer	Dorgan	Inouye
Bradley	Exon	Jeffords
Breaux	Feingold	Johnston
Bryan	Feinstein	Kennedy
Bumpers	Ford	Kerrey
Byrd	Glenn	Kerry
Chafee	Graham	Kohl
Lautenberg	Murray	Roth
Leahy	Nunn	Sarbanes
Levin	Pell	Simon
Lieberman	Pryor	Snowe
Mikulski	Reid	Specter
Moseley-Braun	Robb	Wellstone
Moynihan	Rockefeller	

NAYS—45

Abraham	Frist	Mack
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Brown	Grams	Nickles
Burns	Grassley	Packwood
Campbell	Gregg	Pressler
Coats	Hatch	Santorum
Cochran	Helms	Shelby
Coverdell	Hutchison	Simpson
Craig	Inhofe	Smith
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner

NOT VOTING—2

Bond	McCain

So the amendment (No. 1497) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I want to make an inquiry now if there are any amendments on either side that can be offered so we can have another vote or two this evening?

As I understand, the Senator from Ohio indicates there are no amendments on that side.

Mr. GLENN. No amendments.

Mr. DOLE. We are looking at one from the distinguished minority leader. We have not had a chance to review that yet.

Mr. GLENN. That is correct. We thought there would be one, but you are looking at it. We will have another one ready in the morning.

Mr. DOLE. Does that mean you are about to run out?

Mr. GLENN. I would not say that exactly at this point.

Mr. DOLE. Are there any at this point?

Mr. JOHNSTON. Mr. President, if the majority leader will yield, I wonder if the majority leader would entertain an amendment at this point to make the bill not applicable to any notice of proposed rulemaking which would commence on July 1, 1995, or earlier? In other words, those on-going regulations which would still be subject to the petition process, so you would not have to go back and redo and replow all that same ground.

Do you want time to think about that?

Mr. HATCH. I think we need some time to think about that because we need to know what all the rules are that will be affected by it. But we will certainly look at that.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. If there are no——

Mr. GLENN. Will the majority leader yield? One point I would like to make, on June 28 we gave a list of 9 major concerns we had and 23 minor ones. We were told at that time that your side would get back to us as fast as possible.

We have been working through one or two—or a few of these things here today, but we have not had any answer to this. We were told that would be addressed. This is our blueprint for what we thought would make the thing acceptable. Until we can get back an answer to some of these things, I think it is going to be difficult to move ahead too fast.

Mr. HATCH. Mr. President, may I respond to the distinguished Senator? We have looked at that and we understand there are people on his side that do not like some of those suggestions. There are certainly a lot of people on our side. So what we have been trying to do is work out individual items as we can. But the vast bulk of those, we have had objections on one side or the other or both.

So, we will just keep working together with those who have submitted those to us, and see what we can do. We have made some headway almost each and every day that we have been debating this matter.

So, all I can do is pledge to keep working at it and see what can be done. But there are an awful lot of those suggestions that are not going to be acceptable.

Mr. DOLE. As I understand it, one of the nine dealt with an amendment we just disposed of.

Mr. GLENN. That is what I just said.

Mr. DOLE. There is some progress being made there, but I think it is fair to say there will be no more votes tonight.

Mr. GLENN. I would like to address this again. What we thought we were going to have is an answer to this whole package. That was the way it was originally presented. I know we dealt with a couple of these items here, but we would much prefer to see how many of these things we could get through as a package. If we could get an answer on some of these things, that will certainly help.

Mr. DOLE. Let me yield to the Senator from Utah to respond.

Mr. HATCH. I would have to say again, I thought the other side was aware of the matters that we felt we could work on and the matters we felt we could not, that there could be no agreement on. But we will endeavor to try to outline each and every item on that. But we are working with the other side. We are trying to accommodate. Today I think is good evidence of that.

We will work on it and try to get back on each and every item.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, as I understand it, there will be no further amendments offered but there will be debate on the bill. I think there are a number of colleagues on either side who wish to make statements on the bill. Hopefully, we can find some amendment that can be offered, laid down early in the morning, so we can get an early start.

Maybe in the meantime we can address some of the questions raised by the Senator from Ohio and get some response so we can move on. We would like to finish this bill tomorrow night if we could. Which we cannot.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I rise to comment on the regulatory reform bill, S. 343, that has occupied the attention of the Senate throughout the day. I watched a good portion of the debate from my office, on television, and occasionally here on the floor. I have been interested in my senior colleague from Utah and his list of the top 10 horror stories of regulatory excess. I have been unable to gather as many as 10. My resources are perhaps not as good as my colleague's, but I want to add another to the horror stories of regulatory excess from the State of Utah, and perhaps spend a little more time on this one than the list that my senior colleague went through earlier.

I am talking about a business called Rocky Mountain Fabrication, which is located in Salt Lake City, UT. It has been operating at a site in industrial north Salt Lake since the early 1980's. It needs to expand its operations to meet the demands of an improving economy. Rocky Mountain employs about 150 people.

Its business is steel fabrication which requires the use of an outdoor yard. They have to lay out large pieces of steel that are then moved by heavy equipment. Negotiations between Rocky Mountain and EPA have been going on since 1990, nearly 5 years. They have cost the company $100,000 in legal fees and other fees connected with this fight. At the moment, a conclusion is no closer than it was when it started. There is no resolution in sight.

Here are the facts. Rocky Mountain Fabrication acquired its 5-acre site in 1981 and developed approximately 3 acres of the site. At the time, all the land was dry. If you have been to Utah, you know that is the normal pattern of land in Utah. It is part of the great American desert. In 1983, we had unusual flooding in Utah. There was a combination of a bigger than normal snow pack, a late spring. It stayed in the mountains in snow, and then suddenly a very rapid drop; a rise in temperature, and immediate thawing of all the snow, and we had runoff.

You may recall, Mr. President, and some others may recall, that we had literally a river running down the principal street of downtown Salt Lake with sandbags on either side to keep damage out of the business stores. That happened in 1983.

If you are following the EPA, you know what is going to happen next. All of a sudden, this dry land on which Rocky Mountain Fabrication had been carrying on their business became a wetland because of the unusual nature of this spring runoff. It kept happening. In 1985–86, EPA began investigating the site. In 1990, they got serious with their investigation.

Approximately 1.3 acres of Rocky Mountain's property was filled. Oh, you cannot do that. You cannot take steps to change the nature of your own property under Federal regulations. Rocky Mountain provided numerous proposals, technical studies, and other information to EPA to resolve this matter so that it can expand its business. These proposals included removing over half of the 1.3 acres filled together with mitigation in the form of a monetary donation to significant off-site projects around the Great Salt Lake, or enhancement of 30 to 50 acres of wetlands along the Great Salt Lake.

All of these proposals have been rejected by the EPA. Instead, the agency has demanded that Rocky Mountain remove 2.9 acres from its 5-acre site, which would far exceed the amount filled in 1985–86, effectively rendering the property unusable and putting the company out of business at its present location.

In response to Rocky Mountain's proposal to provide compensatory mitigation through a financial contribution to the $3.5 million offset wetland enhancement project contemplated by the Audubon Society around the Great Salt Lake, EPA officials verbally responded that any such proposal would require Rocky Mountain to contribute the entire $3.5 million cost of the project. Only that would be acceptable.

Well, $3.5 million for 1.3 acres in industrial north Salt Lake? Boy, I would love to be the landlord that got that kind of a price for selling that sort of land. It is unbelievable. But this is the best EPA can do after costs of over $100,000 to the citizen who did nothing beyond working on his own land for 5 years.

Mr. President, this is an example—we have had many of them here on this floor—of this kind of regulatory overkill.

I believe in this bill. I intend to vote for this bill, and I urge all of my colleagues to vote for this bill.

This bill will not get at the core of the problem. I hope it is a good first step toward the core of the problem, but it will not get at the core of the problem. The core of the problem, Mr. President, is this, as more and more regulators themselves are discovering: It has to do with the cultural attitude of a regulatory agency.

I ran a business. I know how important culture is to a business. The most important culture you can establish in a business is this one: The customer comes first. We exist to serve the customer. Whatever the customer asks for, whatever the customer needs, we will do everything we can to provide it. If you can get that culture in the minds of your employees and maintain it by the way you run your business, you are almost certain to have a successful business. In a regulatory agency, the culture is: The customer is lying; or, The customer is cheating; or, The customer must have done something wrong or I would not be here in this agency.

I have never dealt with a regulatory agency who came in with the notion: "I am going to conduct an investigation, and I accept as one of the possibilities the possibility that you have not done anything wrong." No, that is not in the regulatory culture.

If we could get that notion in the culture of regulatory agencies, that alone would take care of most of these horror stories, if the person doing the regulating were to say, "OK, somebody is complaining. Someone has suggested there is something wrong here. But I am here to find out the facts. That is the culture of my regulatory agency, and I come in with the understanding that you may not have done anything wrong. I am here to find out the facts."

I do not know how we pass legislation to change culture in an agency. I do not know how we accomplish this goal. But I do know that we do not get the goal accomplished if we do not start talking about it.

So that is why I have decided to add to this horror story that particular conversation. I intend, Mr. President, whenever a regulatory agency comes before any subcommittee on the Appropriations Committee on which I sit to raise this issue with them. What is the culture in your agency? Is it a culture of let us go find the facts, or is it a culture of if I am here, there must be something wrong?

Indeed, some agencies are afraid to come back from an investigation and say, "There was nothing wrong," for fear the culture in the management of the agency will say, "Well, if you could not find anything wrong with that circumstance, there must be something wrong with you as an investigator. Now go back and find something that you can fine them for. Find something you can attack them for."

In that kind of a culture, of course, you get the sense of us versus them that seems to dominate the regulatory field in this country.

So, Mr. President, as I say, I intend to vote for this bill. I urge all of my colleagues to vote for this bill. I raise horror stories like the one that I have recited, but I think the long-term solution with which all of us must be concerned must be geared at changing the corporate culture, if you will, in regulatory agencies and getting people who are working for the Government to begin to understand that taxpayers must be treated like customers. There must be a presumption that the taxpayer, that the individual citizen, that the person being investigated may just be completely innocent of any wrongdoing. That possibility must be clearly in the minds of regulators when they go out. They must not be punished if they find that that is, indeed, the case. If they come back and say, "We have conducted this investigation, and this company, this individual, we discovered has done nothing wrong," there must be no cultural opprobrium attached to that result on the part of the management of the regulatory agency. That is the most ephemeral kind of change, the most subtle kind of change, the one most difficult to accomplish but ultimately the one that must take place.

Mr. President, S. 343 will not accomplish that. We need a lot more conversation and a lot more change of attitudes throughout the entire Federal establishment to accomplish that. But S. 343 will at least send a message throughout the Federal establishment that we here in the Congress are aware of the need for those kinds of changes and we are willing to pass legislation that will move in that direction. It is for that reason I support the legislation and urge its passage.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. INHOFE. I have two announcements. First, I announce that, if I had been present and voting yesterday on rollcall vote No. 297 to this bill, I would have voted "yea." Second, if present and voting on vote No. 298, I would have voted "yea."

The PRESIDING OFFICER. The RECORD will so reflect.

Mr. INHOFE. Mr. President, what we have been talking about today is a very significant thing. It is something that we are concerned about to the extent that those of us who ran for reelection last time can tell you that this is on the minds of the American people, not just large and small businesses but individuals as well. This issue is probably the most critical issue to come before the Congress in the minds of the American public. It will redesign the regulatory process of the Federal Government.

One of the distinctions, for those of us who have served in both bodies, that is most noticeable is that over here on this side you only run every 6 years. The drawback to that is you sometimes lose contact with what people are thinking. For those of us who went through an election, Mr. President, this last time, I can assure you there are two mandates that went with that election which have to be ranked No. 1 and No. 2, and I am not sure in which order they would be.

One, of course, is doing something about the deficit, and the other is doing something about the abusive bureaucracy and the overregulation that we find in our lives. I have had this fortified since the election in that I have had 77 townhall meetings since January, and it always comes up.

The Senator from Utah was talking about the horror stories. Let me assure you there are a lot of horror stories. We have heard a lot today, and we will have heard a lot more. But I have categorized about six things that have come out of these townhall meetings which were prominent in the minds of Americans during the last elections.

They are: First, the American public wants a smaller Federal Government. Second, the public demands fewer Government regulations. Third, people want regulations that are cost effective. Fourth, they want Federal bureaucracies to quit invading their lives. Fifth, small businesses need regulatory relief to survive and create jobs. Sixth, people want the Government to use common sense in developing new regulations.

When debating and discussing this issue, most people focus on the direct cost of regulations on businesses and on the general public, which is enormous. Over $6,000 is the cost each year for each American family because of the cost of regulation. For each senseless and burdensome regulation, we have Government bureaucracies and agencies proposing, writing, enacting, and enforcing these needless regulations, and this actually drives up the national debt.

This is something that has not been discussed, and I wish to give credit to a professor from Clemson University, Prof. Bruce Yandle, who made quite a discovery. He discovered that there is a direct relationship between the deficit each year and the number of regulations.

Our Federal Register is the document in which we find the listing of the regulations. The discovery that Professor Yandle made is portrayed on this chart. This is kind of interesting because the red line designates the number of pages in the Federal Register. In other words, we are talking about the red line which goes up like this. And this out here is the peak of the Carter administration when we were trying to get as many regulations on the books before they changed guard after Ronald Reagan was the designee for President of the United States.

Now, the yellow columns here designate in billions of dollars the Federal deficit for that given year. Now, look at this; it is really remarkable. You have this line that is trailing this line going across almost exactly at the

same rate. In other words, in those years when we have a higher Federal deficit, we also have more pages of regulations.

And so I would contend to you that the best way we can address the deficit problem is to do something about the overregulation, do something to cut down the number of regulations in our society.

The bill under consideration today, the Comprehensive Regulatory Reform Act of 1995, will go a long way to meeting the concerns of the American public on needless and burdensome Federal regulations. And, as the Senator from Utah said, I would like to have this bill stronger. I think it should be stronger. But this is a compromise bill. This is one that many people on the other side of the aisle who really do not feel we are overburdened with regulation think is probably a good compromise. I would prefer to have it stronger, but it is a compromise, and it is the best we could hope for now.

I would like to outline a few of the key components of the bill, because I think we have kind of lost track of what it actually does, and then give some examples of the types of regulations that we are exposed to. As the Senator from Utah, I spent 35 years of my life in the private sector so I have been on the receiving end of these regulations. I know the costs of these regulations.

An economist the other day said, with all this talk about Japan, if you want to be competitive with Japan, export our regulations to Japan and we will be competitive.

One section of the bill is cost-benefit analysis. The bill will require the use of cost-benefit analysis for major rules, those which have gross annual effects on the economy of $50 million or more, requiring that the benefits of the rule justify the costs of the rule.

This is not the more stringent language we talked about at one time back in January of the benefits outweighing the costs, which I would prefer, but a much more neutral compromise. This is a commonsense approach to costs and benefits. If you are going to buy something for yourself at the store, you do not want to pay more than the benefits you receive from it. It is like buying a 32 cent stamp for 50 cents. You just do not do it. It is like throwing away your laptop computer at the end of each day. Smart shoppers want their money's worth, and I think the American public is entitled to get their money's worth by having some way to measure the value of these regulations.

The second area that is addressed is risk assessment. The bill would require a standardized risk assessment process for all rules which protect human health, safety, or the environment. It will require "rational and informed risk management decisions and informed public input into the process of making agency decisions." I do not see how anyone can be against making informed decisions.

This section will require the "best reasonably available scientific data" to be used and the risk involved to be characterized in a descriptive manner, and the final risk assessment will be reviewed by a panel of peers.

These are not outrageous requirements but basic justifications which should be met by the Government before it imposes costly regulations on businesses costing them millions of dollars and on American families costing them thousands of dollars.

The third area is that of the regulatory review and petition process. The bill will require each agency to review its regulations every 5 years to determine if the rule is still necessary. You know, there are a lot of agencies that are not necessary.

I can remember a very famous speech that was made one time by a man back in 1965 who later on became President of the United States. He observed in that speech, which I think should be in the textbooks of Americans today—it was called A Rendezvous With Destiny—he said there is nothing closer to immortality on the face of the Earth than a government agency. That is the way it is with regulations. They impose the regulations. Maybe the problem goes away or someone takes away that problem, but the regulations stay in. So this would require that every 5 years they look and review to see if they are still needed. If the agency decides not to rewrite a particular regulation, then members of the regulated community—those are the people that are paying taxes for all this fun we are having up here—can petition the agency to have the rule reconsidered.

Now, this will allow the public to draw attention to the needless regulations that help put Government back in the hands of the American people. Nothing unreasonable about that at all.

Then the fourth area is that of judicial review. The bill will also allow for judicial review of these new regulatory requirements. This is important because the regulated community must have some redress for poorly designed or arbitrary regulations. It is no good to require regulatory agencies to change their process if there is no one watching over to make sure that they comply with this.

I realize President Clinton and his regulatory agency heads are dead set against the provision. They did not mind that they look over everybody else's shoulders enforcing the regulatory nightmares on private citizens and the companies that are paying for all these taxes, but they do not want the judicial process to oversee them. So overall the bill will go a long way toward preventing needless and overly burdensome regulations from taking effect.

Unfortunately, there are many examples of existing regulations which have not followed this new process to help stop stupid regulation from being enacted. I would like to just highlight a couple of these, one having to do with the wetlands regulations.

The EPA and the Army Corps of Engineers have promulgated regulations which broadly define the definition of what constitutes a wetland. Under the 1989 definition, land could be dry for 350 days a year and still be classified as wetlands. And to add to some of the examples that have been made here on the floor today:

Mr. Wayne Hage, a Nevada rancher, hired someone to clear scrub brush from irrigation ditches along his property and faces up to a 5-year sentence under the Clean Water Act because it redirected streams.

Another example: Mr. John Pozsgai, a 60-year-old truck mechanic in Philadelphia, filled in an old dump on his property that contained abandoned tires, rusty cars, and had to serve nearly 2 years in jail because he did not get a wetlands permit.

James and Mary Mills of Broad Channel, NY, were fined $30,000 for building a deck on their house which cast a shadow on a wetland.

Endangered species. The Endangered Species Act has infringed upon the property rights of property owners all over the country. When 14-year-old Eagle Scout Robert Graham was lost for 2 days in the New Mexico Santa Fe National Forest, the Forest Service denied a rescue helicopter to land and pick up the Scout where he was spotted from the air because it was a wilderness area.

Mr. Michael Rowe of California wanted to use his land to build on, but it was located in a known habitat of the Kangaroo rat. In order to build, he was told—keep in mind this is his land that he owns—he was told to hire a biologist for $5,000 to survey the land. If no rats were found, he could then build only if he paid the Government $1,950 an acre in development mitigation fees. If even one rat was found, he could not build at all. This is his property, property he bought long before this thing was in effect.

Here we have the Constitution with the 5th amendment and the 14th amendment that are supposed to protect property rights without due process.

Here is Marj and Roger Krueger who spent $53,000 on a lot for their dreamhouse in the Texas hill country. But they could not build on the land because the golden-cheeked warbler had been found in the canyon adjacent to their lands.

And OSHA regulations. I remember when OSHA regulations first came out. At that time I was in business. Of

course, I was a part-time legislator in the State of Oklahoma. I was in the State Senate. I used to make speeches and take the manual that is about that thick, the OSHA Manual of Regulations to which all manufacturers had to comply, and I would speak to manufacturers' organizations. And I said, "I can close anybody in the room down." I would be challenged. "No. We run a good clean shop. You cannot close us." I would find regulations that if you were the type of inspector that would walk in, if you wanted to, you could close someone down.

You know, Mr. President, this is one of the problems we have. Years ago I was mayor of the city of Tulsa. We had about 5,000 uniformed police officers. Most of them were great. Now, you have someone who cannot handle the authority that is vested in them by law. The same is true when you get out in the field. It can happen in any bureaucracy, whether it is the EPA, the OSHA regulators, inspectors, or FAA, anyone else, certainly IRS and FDA, and the rest of them.

Anyway, the Occupational Safety and Health Administration is supposed to protect safety and health for workers. But too often the regulators at OSHA have gone overboard, costing jobs and imposing fines.

For example, OSHA regulations have put the tooth fairy out of business, requiring dentists to dispose of teeth in the same manner as human tissue in a closed container for disposal.

In Florida, the owner of a three-person silk-screening company was fined by OSHA for not having a hazardous communications program for his two employees.

Two employees of DeBest, Inc., a plumbing company in Idaho, jumped into the trench to save the life of a coworker who had been buried alive. The company was fined $7,875 because the two workers were not wearing the proper head gear when they jumped into the trench.

Mr. President, I could just go on and on as they have today with example after example of abuses that have taken place. And they are abusing the very people who are paying the taxes.

Last, let me reemphasize, this chart speaks for itself because there is a direct relationship between the deficits that we have experienced every year and the number of pages in the Federal Register which indicates the number of regulations that are in effect.

I thank the President for his time.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise in support of S. 343, and appreciate the comments of my friend from Oklahoma who talked a lot about the details that are very important here, the reason for this bill. We have talked about it now for a good long time, as almost is always the case here. Nearly everything has been said, I suppose, in terms of the detail, in terms of the bill. But I would like to talk just a little bit about the fact that it is so important for us to deal with this question of regulation, overregulation.

Clearly, at least in my constituency in Wyoming, the notion of regulation and the overregulation, and the cost of regulation and the interference of regulation, is the item most often mentioned by constituents that I talk to. There is no question, of course, that we need regulation. There will continue to be regulation. And, indeed, there should be regulation. Obviously that is one of the functions of Government.

The question is not whether we have regulation or not. And I wish to comment a little, one of our associates this afternoon rose and indicated that in his view the idea of having some kind of cost-benefit analysis meant that we would no longer have clean water, that we would no longer have clean air. I disagree with that thoroughly.

I do not even think that is the issue. The issue of regulation, the issue of laws, the issue of having a clean environment, a safe workplace is not the issue. Too often we get off on that notion that somehow this bill will do away with regulation. Not so at all. We had an amendment today that said it would be a supplement to the laws and the statutes that exist and the regulations that exist.

It is designed to work in process. It deals with the process of the things that are taken into account as the regulations are developed and as the regulations are applied. So the notion that somehow the good things that have come about as a result of regulation—and, indeed, there have been and our friend cited the idea that we have a cleaner environment in many areas, that we have better water than we have had in years. That is true. That is not the issue. We are not talking about doing away with those regulations.

So I think, Mr. President, we really ought to examine what we are doing here, and the fact is we are looking for a way to apply regulations with more common sense. We are looking for a way to apply regulations with less cost. We are looking for a way to accomplish what regulations are designed to accomplish more efficiently. That is what it is all about.

I understand that there are different views. I understand that there are those who do not choose to take issues like cost-benefit ratios into account. There are those, of course, as has been the case in almost all the issues we have undertaken this year, who prefer the status quo.

But I suggest to you, if there was anything that was loudly spoken in November of 1994 it was that the Federal Government is too big, it costs too much, and there is too much regulation in our lives, intrusive in our lives, that it has to do with economy, it has to do with cost.

We already mentioned cost. Some say it ranges from $400 billion a year, more than all of the personal income tax combined, and I believe that is the case.

But we need to concentrate on what we are seeking to do, and we are seeking to make regulation a more efficient, a more useful tool.

There is a notion from time-to-time that those who seek the status quo are more compassionate, are more caring than those who want change. I suggest that is not the slightest bit in keeping with the flavor of this bill; that, indeed, we are seeking to find a way to do it better.

So, Mr. President, the 1994 elections were about change. The American people, I think, are demanding a change, demanding a regulatory system that works for us as citizens and not against us. I think there is a message that the status quo is not good enough.

For the first time in many years, frankly, the first time in years I observed Congress, certainly in the 6 years I was in the House, we have not really taken a look at the programs that are there. If programs seemed not to be effective, if they were not accomplishing much, what did we do? We put more money into it or increased the bureaucracy. We did not really take a look at ways to improve the outcome, to improve the effect to see if, indeed, there is a better way to do it. So we need meaningful and enforceable regulatory reform.

There has been a great deal of misinformation about this bill, some of it on purpose, some of it just as a matter of not fully understanding. Most of it you see on TV and talk shows, that it does not have the regulatory protection. Not true, not true. Clean water, clean air, and safe food are not negotiable. That is not the issue. This bill specifically exempts potential emergency situations from cost-benefit, and it will strengthen sound regulations by allocating the resources more wisely.

I cannot imagine anything that makes more sense, that makes more common sense than as a regulation is developed that you take a look at what you are seeking to do, how you do it, what it will cost, and what the benefits will be and seek the alternatives that are there. That is what it is all about.

It also provides an opportunity for this body, for the Congress to take a look at regulations as they are prepared by the agencies. We did this in our Wyoming Legislature. It was a routine: The statutes were passed, the agencies developed regulations to carry them out, and there was an oversight function before those regulations were put into place to see if, indeed, they carried out the spirit of the statute, to see if, indeed, they were doing what

they were designed to do. Unfortunately, there, too, we did not have a real analysis of the cost-benefit ratio, and I think that is terribly important.

So we talk about compassion, and sometimes those who want to leave things as they are accuse those who want change of not caring. It seems to me that when overregulation puts someone out of work, that is not very compassionate. When we put a lid on the growth of the economy, that is not very compassionate. When we take people's property without proper remuneration, that is not very compassionate.

So we are designed here to do some of those things. It seems to me we have particular interest in the West where 50 percent of our State, for example, is managed and owned by the Federal Government. So we find ourselves in nearly everything we do, whether it be recreation, whether it be grazing, whether it be mining and oil, with a great deal of regulation that comes with Federal ownership.

Much of it is not simply oriented in business. We talked a lot about business because I suppose, on balance, they are the largest recipients of overregulation. Let me tell you, the small towns are also very much affected. We had several instances recently in the town of Buffalo, WY, where they are seeking to develop a water system, in one instance, on forest lands. So they have to deal with the Forest Service to begin with, and then they have to deal with the EPA, and then they have to deal with the Corps of Engineers and finally are turned down entirely and have to start over—millions of dollars of costs to a small town.

It has nothing to do with whether they are going to have a clean water supply. It has to do with whether or not there can be a cost-benefit ratio of what is going on, whether there is a risk assessment, and that is what this is designed to do.

So, Mr. President, our effort here, I think, is a laudable one. I am excited about it. I think we can finally do some things that have needed to be done for a very long time and, I think, do them in a sensible way and preserve the reason for regulation, preserve the environment, preserve the water quality, and do it in a way that is more effective, more cost-effective, more user friendly than in the past.

I rise in strong support of this bill and, frankly, hope we can move to a speedy, successful conclusion.

Mrs. BOXER. Mr. President, one of the primary functions of Government is to protect the public's health and safety. The purpose of the Federal regulatory process is to improve and protect the high quality of life that we enjoy in our country. Every day, the people of our Nation enjoy the benefits of almost a century of progress in Federal laws and regulations that reduce the threat of illness, injury, and death from consumer products, workplace hazards, and environmental toxins.

As the year 2000 approaches, Americans can look back with immense pride in the progress we have achieved in protections of our health and safety.

The economic benefits derived from Federal safeguards such as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA], the Food, Drug and Cosmetic Act, and the National Highway and Traffic Safety Act, are incalculable.

The National Highway and Traffic Safety Administration and the Federal Highway Administration estimate that Federal safety rules have resulted in a net gain to the economy of $412 billion between 1966 and 1990. According to the Department of Labor, workerplace safety regulations have saved at least 140,000 lives since 1970. The Consumer Product Safety Commission estimates that standards in four product categories alone save at least $2.5 billion a year in emergency room visits.

While I recognize the tremendous benefits and value of our health and safety laws, I also recognize many instances where Federal agencies have ignored the costs of regulation on businesses, State and local governments, and individuals, who as a result feel that they are being put upon—and rightly so.

This is why we need regulatory reform.

WE NEED REGULATORY REFORM

Mr. President, I firmly believe we need regulatory reform. I believe that all Senators on both sides of the aisle feel very strongly about the need for regulatory reform. Not one of us in the Senate wants the status quo. Regulatory reform is not a partisan issue. At issue this week will be what kind of reform we achieve. We need regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. We need regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, State and local governments, and individuals. We need regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

Mr. President, I am committed to the goal of purging regulations that have outlined their usefulness, that are unnecessarily burdensome, or that create needless redtape and bureaucracy.

I believe that Federal agencies should issue only those rules that will protect or improve the well-being of the American people and I am committed to regulatory reform that will ensure this.

For these reasons I am an original cosponsor of the Glenn-Chaffee bill S. 1001, the Regulatory Procedures Reform Act of 1995.

EXAMPLES OF THE KIND OF REGULATORY REFORM WE NEED

Last year, I pushed a bill through the Senate to allow the city of San Diego to apply for a waiver from certain Clean Water Act regulations.

Scientists at the National Academy of Sciences and the Scripps Institute of Oceanography informed us that the regulations mandating that the city treat its sewage to full secondary level were unnecessary to protect the city's coastal waters.

Compliance with those regulations, put in place to protect inland lakes, rivers, and streams, would do little to protect the marine environment but would cost San Diego over $1 billion.

My bill allowed the city to seek a waiver which is not available under current law, giving San Diego the flexibility it needs to protect the marine environment and to focus its resources on other environmental priorities.

The Environment and Public Works Committee, of which I am a member, is currently working on the reauthorization of the Safe Drinking Water Act, the Clean Water Act, other environmental statutes and we are very aware that we need to be mindful of situations like San Diego's—situations where a regulation that makes sense in one place makes little or no sense in another.

For example, under the current Safe Drinking Water Act, EPA may have to issue a rule on radon in drinking water. Radon is a known carcinogen and should be regulated. But in the case of a city like Fresno, CA, the costs of compliance with such a regulation could be staggering. Unlike many cities which have a single drinking water treatment plant, Fresno relies on water from over 200 wells, each of which would require its own Radon treatment facility.

Meeting the EPA's proposed Radon rule could cost the city of Fresno several times what it would cost other cities—over $300 million, an amount the city tells me is simply not available. We will, therefore, work to come up with a solution that protects public health, but doesn't drive cities like Fresno to bankruptcy.

Mr. President, it is our job to fix these problems, to make changes to eliminate the unintended consequences of good laws. The best way to avoid unnecessary, costly, and burdensome regulations is to ensure that the agency analysis of the proposed regulation is based on sound science and reasonable policy assumptions. An agency must consider the costs and the benefits of a regulation, and the possibility for alternative regulatory solutions or no regulation at all.

With this in mind, President Clinton issued Executive Order 12866 in September 1993. The Executive order emphasizes that while regulation plays an

important role in protecting the health safety and environment of the American people, the Federal Government has a basic responsibility to govern wisely and carefully, regulating only when necessary and only in the most cost-effective manner.

Can risk assessment and cost-benefit analysis be useful tools to make our regulations more efficient and less burdensome? Yes; and under President Clinton's September 1993 Executive order on regulatory planning and review, the Federal Government is using these tools appropriately and responsibly. Unlike the Dole bill, the President's Executive order does not mistake a sometimes useful tool for the whole tool-box.

As former Senator Robert Stafford—the chairman of the Environment and Public Works Committee when Republicans controlled the Senate in the 1980's—put it:

> We did not abolish slavery after a cost-benefit analysis, nor prohibit child labor after a risk assessment. We did those things because money was only one way of expressing value—and sometimes it is the least important.

When money becomes the only measure of value—as it would under the Dole bill—we are in danger of losing the things in life that really matter. You can't put a price on saving lives, preventing birth defects, avoiding learning disabilities, preserving national parks, or saving the ozone layer. Under the Dole-Johnston bill, the ability of our laws to protect public health and safety would depend upon a bureaucrat's estimate of the dollar value of a child's learning disability, the pain of cancer, or the loss of a life in an aircraft accident.

Mr. President, ultimately our responsibility as legislators is to improve the lives of all the American people, not just the bottom line of the corporations.

THE DOLE BILL IS NOT A RESPONSIBLE REGULATORY REFORM BILL

Republicans know they can't risk the potential political consequences of an open attack on our environmental health and safety laws. One of their own pollsters, Luntz Research and Strategic Services, recently completed a poll on regulatory reform that asked: Which should be Congress' higher priority: cut regulations or do more to protect the environment? Twenty-nine percent said cut regulations. Sixty-two percent said protect the environment. The pollster goes on to comment:

> This question is here as a warning . . . The public may not like or admire regulations, may not think more are necessary, but puts environmental protection as a higher priority than cutting regulations.

They have come up with an ideal back-door solution: This week we will spend many hours debating the proposal forwarded to the Senate by the majority leader, Senator DOLE, that will, in the name of regulatory reform, seriously undermine existing health, safety, and environmental laws and seriously weaken our ability to respond to current and future health, safety, and environmental problems. Supporters of the Dole-Johnston bill are clearly not listening to the American people.

Unfortunately, Mr. President, the Republican proposal before us today is unashamedly aimed at our public health and safety and environmental laws in the name of special interests.

It is a direct attack by the Republican majority on the laws and regulations that protect America's natural resources, including those we take most for granted—laws that protect our clean air and water and safe drinking water. It is a direct attack on the laws and regulations that protect the health and safety of the food and the medicines we buy every day, the toys we give to our children, the cars we drive, the places where we work.

Supporters of Dole-Johnston will claim again and again over the course of this week, that it is only aimed at stopping regulatory excesses and at making the Federal Government justify the costs of the regulations it imposes. They will say that the Dole-Johnston bill is aimed at restoring common sense to the regulatory process. All this bill does, they will say, is make the Government responsible by making agencies consider the costs as well as the benefits of regulations. To be opposed to this bill they will say is to defend inefficient, irrational agency decisions.

Mr. President, the Dole-Johnston bill is not regulatory reform in the name of efficiency and good government, it is regulatory gridlock in the name of special interests and corporate polluters.

Republicans insist this bill is revolutionary regulatory reform. The title of the Dole/Johnston bill is the Regulatory Reform Act of 1995. I think we should rename it for what it is—the Lets Put Special Interest Profits Before Health and Safety Act, or The Regulatory Gridlock Act, or The Polluters Protection Act, or The Special Interest Litigation Act.

I support regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. I support regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, state and local governments, and individuals. I support regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

Unfortunately, the Dole/Johnston bill does not achieve these goals.

The Dole/Johnston bill's definition of major rule to mean a rule—or a group of closely related rules—that is likely to have a gross annual effect on the economy of $50 million or more in reasonably qualitifiable direct or indirect costs will greatly increase the burden of our agencies. Just about any rule can be made out to have a $50 million gross effect on the economy in reasonably qualitifiable—direct and indirect—increased costs. I seriously question whether the enormous number of regulations that could be swept in under this standard will benefit, and whether resources spent on the cost-benefit analysis will be well spent. Perhaps we should subject the provisions of the Dole bill to a cost-benefit analysis.

With its petition process and look back provisions, the Dole bill will allow any well financed bad actor to paralyze an agency by flooding it with petitions. This would prevent the agency from spending resources on developing new rules, and from reviewing old rules—forcing a stay on enforcement and the eventual sunset of rules.

Its provisions on so called supplemental decision criteria create a supermandate. Supporters of Dole/Johnston deny this claim. They insist that the intent is not to supersede but to supplement the decisional criteria in other statutes. However, the bill clearly overrides other statutes including our health, safety, and environmental laws because the supplementary standards would still have to be met. The Dole bill goes well beyond sensible reform by establishing a goal that is absolutely at odds with our responsibility to improve the well-being of all the American people. It says that we should protect only those values that can be measured in dollars and cents—it is a corporate bean-counter's dream. Forget about saving lives, forget about getting poison out of our air and water, forget about preventing birth defects, infertility, and cancer—if it you can't put a pricetag on it, it doesn't count.

Its provisions on the toxic release inventory will significantly undermine a community's right to know who is polluting and what kind of toxics are being released into the air. TRI is an effective cost-saving tool: Public scrutiny as a result of the information released under the 1986 Emergency Planning and Community Right to Know Act has often prompted industry to lower pollution levels without the need for new Government regulations.

All in all, Mr. President, the Dole/Johnston bill is a prescription for no Government protection. It does exactly the opposite of what's advertised.

Another key aspect of the Dole/Johnston bill is how it will affect our ability to respond quickly to public health, safety, and the environment.

The Dole bill will further delay the rulemaking procedures of the agencies of the Department of Transportation, particularly their ability to respond

promptly with new safety requirements.

Many of the safety rules, particularly at FAA, already take too long. As the FAA clearly knows, I have been concerned about air cabin safety since a 1991 crash at Los Angeles airport when 21 passengers died in a fire while trying to exit the aircraft. We urged the FAA to require that the seat rows at the overwing exist be widened. The agency had known since a 1985 crash in England that this was a problem, but it was not until 1992, 7 years after the crash in England and nearly 1 ½ years following the Los Angeles tragedy did the agency issue a final rule.

If these bills had been in law then, I would not be surprised to still be waiting for the completion of the risk assessment and cost-benefit analysis for this rulemaking. And the families of 21 passengers who died in the Los Angeles crash would still be waiting to know if any good had come out of their tragedy.

Mr. President, we currently have critically important regulations on e-coli, cryptosporidium, and mammograms that will grant the American people much needed health and safety protection. The Dole/Johnston bill would delay and possibly prevent the issuance of these regulations.

As the bill now stands, only those rules which represent an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources would be exempt from the new requirements.

There is no definition of the terms "significant" or "likely" in the bill, making it unclear whether existing environmental and health regulations qualify for an exemption.

The Dole/Johnston bill has an exemption for health and safety regulations that protect the public from significant harm, but it does not define the term "significant."

If one child dies as a result of eating contaminated meat, does that pose a significant harm to the public? It's certainly significant to the child's parents and to others who ate at the same restaurant or bought meat at the same grocery store.

If a person with a weakened immune system—for example, a cancer patient, an organ transplant recipient, an individual born with genetic immune deficiencies, or a person infected with HIV becomes ill and dies from drinking water infected with cryptosporidium. Will the Dole bill let our agencies determine that cryptosporidium poses a significant harm, to the public? What if 104 die as they did in 1993 in Milwaukee?

If a woman has her mammogram read by someone who is poorly trained in mammography, is it of significant harm to the public? It's certainly significant to the woman if that person fails to detect a cancerous lump and to other women who have mammograms at that facility.

E-COLI

According to the Centers for Disease Control, E-coli in food makes 20,000 people severely ill every year and causes 500 deaths; that's more than one death every day. Young children and the elderly are particularly vulnerable. There is clearly an urgent need for additional protection.

In January 1995, the U.S. Department of Agriculture proposed a new rule that will modernize our food safety inspection system for the first time since 1906 by requiring the use of scientific testing to directly target and reduce harmful bacteria.

Currently, meat inspectors do just as they did in 1906 to check for bad meat—they poke and sniff. No scientific sampling is required. Handling meat safely once we purchase it is not enough.

The proposed regulation would require keeping meat refrigerated at more steps during its processing, better procedures to prevent fecal contamination, and testing to be sure that pathogens like e-coli are controlled.

What are the estimated benefits of this legislation? The preliminary impact analysis by the USDA concluded that health benefits to the public would total $1 billion to $3.7 billion. The estimated cost of implementation of the regulation would be $250 million per year for the first 3 years. I am aware of the concerns of small business about the potential impact of this regulation and I would urge the USDA to do everything possible to mitigate the potential impact as effectively as possible rather than delay the rule.

The USDA held 11 public meetings, two 3-day conferences, and received detailed comments from the National Advisory Group for Microbiological Criteria in Food.

The Dole/Johnston bill would, among other things, require a new peer review process which would cause a 6-month delay. Add to this that fact that the Dole/Johnston peer review panel would not exclude individuals who have a conflict of interest.

CRYPTOSPORIDIUM—SAFE DRINKING WATER

We have to ensure that one of the most fundamental needs of any society—safe drinking water—is available to all Americans.

Public health continues to be threatened by contaminated drinking water. Under the current law that is being criticized as overly costly and burdensome—a law approved by a Republican controlled EPW Committee, passed by a vote of 94–0 on the Senate floor and signed into law by President Ronald Reagan—people all across America have been getting sick and even dying from drinking tap water.

In 1987, 13,000 people became ill in Carrollton, GA as a result of bacterial contamination in their drinking water. In 1990, 243 people became ill and 4 died as a result of E-coli bacteria in the drinking water in Cabool, MO. In 1992, 15,000 people were sickened by contaminated drinking water in Jackson County, OR. And 1 year ago, 400,000 people in Milwaukee became ill and 104 died as a result of drinking the water from their taps which was infected with cryptosporidium.

A recent study completed by the Natural Resources Defense Council "You Are What You Drink" found that from a sampling of fewer than 100 utilities that responded to their inquiries, over 45 million Americans drank water supplied by systems that found the unregulated contaminant Cryptosporidium in their raw or treated water.

The solution? According to a Wall Street Journal article by Tim Ferguson on June 27 titled "Drinking-Water Option Comes in a Bottle", the solution is for the American people to drink bottled water. He says:

> Sellers (of bottled water) * * * have taken water quality to a new level in a far more efficient manner than a Washington bureaucracy is likely to do. Let us unscrew our bottle caps and drink to the refreshment of choice.

On June 15, 1995, two Federal agencies, the Environmental Protection Agency and the Centers for Disease Control and Prevention [CDC] warned that drinking tap water could be fatal to Americans with weakened immune systems and suggested that they take the precaution of boiling water before consuming it.

Dennis Juranek, associate director of the division of parasitic diseases at the Centers for Disease Control and Prevention said: "We don't know if the level of (cryptosporidium) in the water poses a public health threat, but we cannot rule out that there will be low level transmission of the bacteria" to people who consume the water directly from the tap.

The CDC estimates that up to 6 million Americans could be affected because they have weakened immune systems: 3 to 5 million cancer patients, organ transplant recipients and individuals born with genetic immune deficiencies, and 1 million persons infected with HIV.

EPA is working on new regulations called the Enhanced Surface Water Treatment Rule to better protect the public's drinking water against cryptosporidium.

The Dole/Johnston bill would delay and possibly prevent the issuance of the Enhanced Surface Water Treatment rule—it would restrict risk assessment to consideration of a best estimate of risk, defined as the average impacts on the population. It would ignore the potential health effects of drinking water contaminants upon children, infants, pregnant women, the elderly, chronically ill people, and other persons who have particularly

high susceptibility to drinking water contaminants.

According to the EPA, the Dole bill could preclude the timely data-gathering necessary to support the new proposed regulation. It could force EPA into a catch-22, in which data gathering cannot proceed without a cost-benefit analysis that in the Dole bill requires up-front, the very data the EPA would need to collect. Even if the EPA was allowed to proceed with data collection, the Dole bill's elaborate, inflexible, time consuming risk assessment and cost-benefit analysis procedures would further hamper the EPA from taking effective and timely action with which the regulated community concurs, through negotiated rulemaking, to address the emergent threats of newly recognized waterborne diseases.

MAMMOGRAPHY REGULATIONS

The Mammography Quality Standards Act [MQSA] is an example of a good and necessary regulation which would be seriously delayed and undermined by the Dole bill.

MQSA establishes national quality standards for mammography facilities, including the quality of films produced, training for clinic personnel, record-keeping and equipment.

The law was passed to address a wide range of problems at mammography facilities: poor quality equipment, poorly trained technicians and physicians, false representation of accreditation, and the lack of inspections or governmental oversight.

One in nine women are at risk of being diagnosed with breast cancer in her lifetime. Breast cancer is the most common form of cancer in American women and the leading killer of women between the ages of 35 and 52. In 1995, an estimated 182,000 new cases of breast cancer will be diagnosed, and 46,000 women will die of the disease. Breast self-examination and mammography are the only tools women have to detect breast cancer early, when it can be treated with the least disfigurement and when chances for survival are highest.

The quality of a mammogram can mean the difference between life or death. If the procedure is done incorrectly, and a bad picture is taken, then a radiologist reading the x-ray may miss seeing potentially cancerous lumps. Conversely, a bad picture can show lumps where none exist and a women will have to undergo the trauma of being told she may have cancer—a situation known as a false positive.

To get a good quality mammogram you need the right film and the proper equipment. To protect women undergoing the procedure, you also need the correct radiation dose.

In 1992, Congress passed the Mammography Quality Standards Act in order to establish national quality standards for mammography facilities. At the time, both the GAO and the American College of Radiology testified before Congress that the former patchwork of Federal, State, and private standards were inadequate to protect women.

There were a number of problems at mammography facilities: poor quality equipment, poorly trained technicians and physicians, a lack of regular inspections, and facilities which told women they were accredited when in fact they were not.

The Mammography Quality Standards Act was passed to address these serious problems. Women's health and lives are at stake with this procedure. Quality standards are needed to ensure that they are getting the best care possible. Final regulations for the Mammography Quality Standards Act are expected in October. If the Dole bill passes, such regulations could be delayed for years. Women would see their health care diminished. Ten years ago a survey by the Food and Drug Administration found that over one-third of the x-ray machines used for mammography produced substandard results. We cannot go back. It is time for national quality standards.

CONCLUSION

Mr. President, I would like to conclude my remarks by saying again that supporters of the Dole/Johnston bill are clearly not listening to the American people. The Dole/Johnston bill is a back door attack on our existing health, safety and environmental laws and will seriously weaken our ability to respond to current and future health, safety and environmental problems.

The American people want regulatory reform that will create a regulatory process that is less burdensome, more effective, and more flexible. The American people want regulatory reform that provides reasonable, logical, and appropriate changes in the regulatory process that will eliminate unnecessary burdens on businesses, State, and local governments and individuals. The American people want regulatory reform that maintains our Federal Government's ability to protect the health and safety of the American people.

In summary Mr. President, the American people want the passage of the Glenn/Chafee regulatory reform bill.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask there now be a period for routine morning business with Members permitted to speak for not more than 10 minutes each.

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

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be allowed 12 minutes in morning business.

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

THE FALL OF SREBRENICA

Mr. BIDEN. Mr. President, I rise tonight to deplore the fall of the Bosnian town of Srebrenica.

Almost 2 years ago, when Srebrenica was under siege in the despicable policy of ethnic cleansing, instigated by President Milosevic of Serbia and executed by General Mladic and the leader of the Bosnian Serbs, Mr. Karadzic, I met with Mr. Milosevic to attempt to get into Srebrenica. I was unable to do that and went on up to Tuzla where hundreds, eventually thousands, of Bosnian Muslims and Croats were fleeing for their lives with all of their possessions on their back and their families in tow.

I met in Tuzla with a man and a woman in their early forties who told me they had to make a very difficult decision as they fled over the mountains into Tuzla from Srebrenica, because they could not get back in. And I was wondering what that terrible decision was they were about to tell me. They pointed out they had left to die on the mountain top in the snow the man's elderly mother who was 81. They had to choose between taking their kids, or their mother-in-law, or no one making it.

The Bosnian Serb aggression and Serbian aggression—I know I sound like a broken record, I have been speaking about this for 2 years—seem to cause very little concern in this country and the world.

Mr. President, I think it is time for an immediate and fundamental change in our policy in the former Yugoslavia. Mr. President, the news this morning that the Bosnian Serbs have overrun, finally, Srebrenica, one of the United Nations' so-called safe areas, puts the final nail in the coffin of a bankrupt policy in the former Yugoslavia, begun by the Bush administration and continued with only minor adjustments by the Clinton administration.

Given the feckless performance of the United Nations in Bosnia, it is no surprise that the Bosnian Serbs continue to violate several United Nations resolutions, and do it with impunity, and then thumb their nose at the entire world and the peacekeeping force there.

In Srebrenica, the United Nations first disarmed the Bosnian Government military. I want to remind everybody of that. The Bosnian Government military was in Srebrenica, as in other safe areas, fighting the onslaught of Serbs who were employing heavy artillery. The solution put forward by the United Nations, after having imposed an embargo on the Bosnian Government, was

to go in and take the weapons from the Bosnian Serbs, the Bosnian military in Srebrenica, in return for a guarantee of protection for six safe areas. That was the deal.

It was supposed to be putting the city and the surrounding areas under the protection of the United Nations. Then the United Nations, of course, did not live up to its half of the bargain. Its blue-helmeted peacekeepers were kept lightly armed and, as a consequence, unable to withstand a Bosnian Serb onslaught. NATO air strikes were called for by the Dutch blue helmets. The United Nations concluded that this was not a good time to do that. NATO air strikes were eventually called in too late to have any effect. The safe area of Srebrenica proved to be safe only for Serbian aggressors.

Srebrenica was filled with thousands of Muslim refugees from elsewhere in eastern Bosnia, the victims of the vile Serbian practice that they refer to as ethnic cleansing, the very people the United Nations pledged to protect in return for them giving up what few weapons they had. The United Nations defaulted on its honor. It has disgraced itself. And these pathetic souls, already once driven from their ancestral homes, are now reportedly fleeing Srebrenica to an uncertain fate in undetermined locations, and I expect many will meet the fate of that family I visited in Tuzla a year and a half ago.

Could the United Nations have saved Srebrenica? Of course it could have, if it only allowed NATO to do its job promptly and fully. Perhaps the most frustrating and maddening aspect of the entire catastrophe is the fact that the Bosnian Serbs were able to defy NATO, which has been hobbled by being tied to the timorous U.N. civilian command, led by Mr. Akashi.

Mr. President, we must immediately change the course of our policy in the former Yugoslavia. First of all, as I and others have been saying in this Chamber for more than 2 years, we must lift the illegal and immoral arms embargo on the Government of Bosnia and Herzegovina. A resolution to that effect, which I am cosponsoring, will be introduced next week. I am confident that it will pass with a comfortable majority.

Mr. President, the fall of Srebrenica has given the lie to pundits in the United States—but especially in Western Europe—who have ceaselessly issued dire warnings that if the United States would unilaterally lift the arms embargo, the Bosnian Serbs would then overrun the eastern enclaves.

Well, Mr. President, apparently, someone forgot to explain this causal relationship to the Serbs. I suppose the apostles of appeasement will now say that if we lift the embargo, the Bosnian Serbs will overrun the remaining two enclaves, or maybe Sarajevo, or maybe Western Europe. After all, Mr. President, we have been led to believe that we are facing a juggernaut. That is nonsense. We are talking about a third-rate, poorly motivated, middle-aged force that has to dragoon its reserves from the cafes of Belgrade to fight.

In reality, of course, this tiresome rhetoric has been a smokescreen for doing nothing, for sitting back and watching this vile ethnic cleansing, mass rapes, cowardly sniping at children, and other military tactics at which the Bosnian Serbs excel. "How regrettable," the appeasers say publicly. "But as long as these quarrelsome south Slavs contain their feuding to Bosnia," they add, "then it is nothing to get too exercised about."

Well, Mr. President, it is something to get exercised about. The geostrategic reality of the 21st century is that the primary danger to peace will most likely come from regional ethnic crises. We must not allow cold-blooded aggressors like Karadzic and Milosevic to get away with their terrorism. Europe, unfortunately, has other potential Karadzics and Milosevics.

After we lift the arms embargo on Bosnia and Herzegovina, we should immediately put into place a program to train Bosnian Government troops, probably in Croatia.

We should make clear that we are not neutral parties in this conflict, we are on the side of the aggrieved party, the Bosnian Government.

This does not require a single American soldier to set foot in Bosnia and Herzegovina. I have been told time and again that these folks cannot defend themselves. Well, of course they cannot defend themselves, they have no weapons.

We should make it clear, Mr. President, that we are no longer signing on to this incredible policy that has been promoted in Europe.

We should call an emergency session of the North Atlantic Council and tell our allies that NATO must immediately remove itself from the U.N. chain of command in the former Yugoslavia. The conflict there already constitutes a clear and present danger to the European members of the alliance. NATO does not need the blessing of the United Nations to protect its members' vital interests.

Furthermore, we should restate to our NATO allies who have peacekeeping troops in Bosnia and Croatia that we will stand by President Clinton's commitment to extricate them, but only if the entire operation is under the command of the Supreme Allied Commander in Europe, a United States general, and only if the operation is fully conducted under NATO rules of engagement.

We should give immediate public warning to the Bosnian Serbs and their patrons in Belgrade that any further locking-on of radar to American planes flying over Bosnia will be cause for total destruction of the Bosnian Serb radar facilities, which is fully, totally within our capacity to do. Serbia should be given fair warning that if it tries to intervene, it, too, will receive immediate and disproportionate attacks on Serbia proper.

There is no reason why our British, French, Dutch, and other NATO allies should object to this policy. If, however, Mr. President, they do not wish to follow our lead, then we should remind them that four years ago they wanted to handle this southern European problem themselves. And we should say, "Well, good luck, it is now your problem, handle it."

I do not think for a minute, Mr. President, they will take on that responsibility. It is about time this President and this administration understands that we either should do it our way or get out.

Mr. President, nothing good can come out of this latest fiasco in Bosnia. The United Nations has been definitively discredited. NATO has been defied. As usual, defenseless and blameless Bosnian Muslims have been brutalized.

This madness must stop, Mr. President. We must change our policy immediately. Tomorrow is not soon enough.

I yield the floor.

Mr. THOMPSON. Mr. President, I want to join in the comments of my distinguished colleague from Delaware. I could not agree with him more concerning the events of recent hours, and as far as our policies are concerned concerning those events in that part of the country.

What concerns me most about all of this is the credibility of the United States of America. I am beginning to wonder if we have any credibility in any part of the world anymore.

Following the disastrous U.N. lead, and to a certain extent the NATO lead there, not getting them to go along with sound policies and lifting the arms embargo with their cooperation, one sad tale after another, we have gone down a road of totally participating in the discrediting of the United Nations, of NATO, and our own country.

I think that the first step toward rectifying that certainly is not putting our own troops in there, but letting the people defend themselves, which is all they say they want to do, lifting that arms embargo, stepping back and saying, "It is your problem. You solve it. You take care of it."

That is what they deserve to do. We cannot afford to stand by, through our policies, and let this murderous activity go on, and say to the world that we, the strongest power in the world, supposedly are going to countenance that sort of thing and not use the many resources, short of troops on the ground,

that we have, to do something about such terrible activities.

COMPREHENSIVE REGULATORY REFORM ACT

Mr. THOMPSON. Mr. President, I rise tonight in support of S. 343, the Comprehensive Regulatory Reform Act of 1995. This bill is an essential part of our effort to make the Federal Government run more efficiently and effectively, and curtail its ability to impose unnecessary burdens on the American people.

We have already enacted laws that will reduce unfunded mandates and the burdens of paperwork on State and local governments, as well as the average citizen. We are moving decisionmaking back to the States in many important areas, because the States are closer to the people and to the problems that need to be solved. We are making real progress toward eliminating Federal departments and agencies that no longer serve a useful purpose. Most importantly, we are well on our way to requiring that the Federal Government live within its means in the form of a balanced budget.

This bill is the next logical step in this process of rethinking the role of the Federal Government in everyday life. This bill's message is very simple. It says: let Members make sure that the Federal Government adequately protects the health and safety of every American. But, also make sure that, when agencies develop regulations to provide that protection, those regulations are founded in good, common sense. Get out of the mindset that the Federal Government needs to regulate everything in this country. And, set priorities, so that the Federal Government addresses the most important problems citizens face.

How does this bill accomplish these goals? Well, the bill requires agencies to make accurate determinations about the good a potential regulation can bring about. In other words, how much disease or premature death can be avoided? Or, how much less dangerous can a situation be made? In answering these questions, the Federal agency must be as precise as possible, using the most carefully prepared and up-to-date scientific information.

Then, the agency needs to look at the negative impact that very same regulation may have on Americans. For example, how much more will the average American have to pay for a particular product? Will some Americans lose their jobs? Will some products no longer be available to American people at all? Will citizens have to spend a greater amount of their leisure time complying with Government mandates? Will preventing one disease cause an increase in some other equally dangerous disease?

Once all of these important questions have been asked and answered, S. 343 requires the Federal agency to put all of this information together and ask the central question: Do the benefits of this rule outweigh the costs? Or, in more simple terms: Does this rule produce enough good things for our citizens to make the negative impacts tolerable?

Mr. President, what I have just laid out is S. 343's approach to developing and issuing Federal rules. I think the American people would say that this approach is based in ordinary common sense. This is how they make decisions on countless questions that come up in their own lives every single day. Do I spend money for a newer, safer car, or keep my old one? Do I put money aside for retirement or do I spend it now? Americans make calculations about the costs and benefits of their behavior all the time.

And now, Americans are asking that the Federal Government approach problems in this way too. They are asking regulators to make decisions as if they were sitting around the kitchen table. They understand that the Federal Government deals with complicated problems. What they don't understand is why the answers to these problems cannot be developed from the same process that they use at home.

Mr. President, so far, I have described the method S. 343 lays out for determining the costs and benefits of Federal regulations. Some of our colleagues believe that S. 343 would be a pretty good bill if it just stopped right there. In my view, if we could trust the agencies to do the right thing, we could stop there. Unfortunately, recent history tells us that the agencies sometime need more encouragement to actually do what is right.

Since the early 1970's, Presidents have asked Federal agencies to analyze the costs and benefits of a regulation before issuing it. On September 30, 1993, President Clinton continued that longstanding tradition by putting in place an Executive order. The philosophy and principles contained in S. 343 largely mirror those in the Executive order of President Clinton. That is where the similarity stops. As with all Executive orders, President Clinton's specifically precludes judicial review as a way of forcing agencies to consider costs and benefits before issuing rules.

If Federal agencies were complying with the Executive order, we would not be here on the Senate floor tonight. The fact is that they are not. When the whim suits them, Federal agencies comply with the Executive order. When it does not, they do not. In most cases, agencies are not making careful assessments of the positive and negative impacts of their regulations.

That is why, in my view, the judicial review provisions of S. 343 are so important—in fact, vital—to this legislation. We must provide judicial review if the legal protections we enact in this bill are to have any significance. Only the availability of judicial review will ensure that agencies will analyze the costs and benefits of major rules, as this bill requires.

Mr. President, S. 343's judicial review provisions provide an essential tool for citizens to hold their Government—and in particular unelected regulators—accountable. But, the bill does not—as its opponents charge—create new causes of action that will clog the courts. This bill merely directs courts, reviewing otherwise reviewable agency action, to consider the compliance of the agency with the requirements of this legislation.

Mr. President, I will have more to say on the important subject of judicial review as this debate goes forward.

S. 343 contains two other provisions that will force Federal regulators to produce sensible regulations also. The first of these provisions, in my view is most important, that is chapter 8 of S. 343, which authorizes congressional review of regulations. My colleagues will recall that this language is virtually identical to the congressional review bill that the Senate passed earlier this year in the place of a 1-year moratorium on regulations.

Section 801 gives the Congress 60 days to review a final rule before that rule actually becomes effective. During that time, Congress can determine whether the rule is consistent with the law Congress passed in the first place. Perhaps more importantly, Congress can look at the rule to see if it makes good sense. I think that this process will not only hold the regulators' feet to the fire, but it will also keep Congress from passing laws that do not work or are too costly.

S. 343 also makes Federal agencies accountable by requiring them to review periodically the rules that they put on the books. Some rules that addressed important needs a long time ago are no longer necessary. Some may just need rethinking. In my view, this is a healthy process for agencies to be engaged in on a regular basis.

Mr. President, if all of this common sense is still not enough to get some of my colleagues to support this legislation, perhaps a few statistics on the cost of Federal regulation will illustrate the need to reign them in. After all, Federal regulations operate as a hidden tax on every American.

It has been estimated that the total cost of Federal regulations is about equal to the Federal tax burden on the American people—a cost of more than $10,000 per household. One estimate of the direct cost imposed by Federal regulations on the private sector and on State and local governments in 1992 was $564 billion; another estimate put the cost at $857 billion.

When the total Federal regulatory burden is broken down into parts, we find several staggering statistics. Economic regulations—imposed largely on

the communications, trucking, and banking industries—cost over $200 billion a year. Paperwork costs—the cost to merely collect, report, and maintain information for Federal regulators—add another $200 billion a year and consume over 64 billion person hours per year in the private sector. This figure does not include the massive number of hours Federal employees spend on processing and evaluating information.

Environmental regulation is estimated to cost $122 billion, which represents approximately 2 percent of the gross domestic product. And finally, in 1992, safety and other social regulations imposed costs ranging from $29 billion to $42 billion in 1992.

The numbers reflect the high costs of regulation to the private sector—and I should remind my colleagues that those costs must be borne by small businesses as well as the larger ones. As we all know, a good portion of those costs are passed through to all of us in the form of higher prices. But we also pay for the Government's costs to administer these regulations, and those costs are soaring too.

Measured in constant 1987 dollars, Federal regulatory spending grew from $8.8 billion in 1980 to $11.3 billion by 1992. In addition, by 1992, the Federal Government employed 124,994 employees to issue and enforce regulations—an all-time high.

Higher prices and taxes are not the only result of government regulation. A recent study done for the U.S. Census Bureau found a strong correlation between regulation and reduced productivity. The study found that plants with a significant regulatory burden have substantially lower productivity rates than less regulated plants. And that is one of the factors that I think is missing in our balanced budget debate so often, Mr. President.

We talk about spending. We talk about taxes, as we must and as is proper. But we do not talk enough about the need for growth and the need for productivity. Unless we have productivity in this country, unless we continue to grow in this country, we will never balance the budget. We will never balance the budget. And in order to have that growth in productivity we must have investment. In order to have investment we must have savings. In order to have savings we must get a handle on a ridiculous tax structure that we have in this country. We must get a handle on the national debt. And we must do something about this regulatory burden. It all goes in together and it all finds itself in the bottom line of productivity. So we are really talking about a budgetary matter here, in my estimation, as much as anything else.

Given all of these statistics, you might assume that President Clinton would cut back on Federal regulations. This is what the American people have been asking for. And, indeed, it is what President Clinton promised in his National Performance Review. In that review, the President promised to "end the proliferation of unnecessary and unproductive rules."

Instead of keeping that promise, President Clinton and his administration have gone in the opposite direction. For each of the first 2 years of the Clinton administration, the number of pages of actual regulations and notices published in the Federal Register exceeded any year since the Carter administration. Despite his rhetoric, President Clinton has increased, not decreased, the number of regulations.

The statistics I have just reviewed make a sufficiently compelling case for regulatory reform. But there is still more evidence to support the case for S. 343. Some of my colleagues have already described many examples of the existing regulations that defy common sense. There are many more stories that could be told. I would only like to add a couple to the growing list.

One example of regulation gone wild can be found in the Environmental Protection Agency's implementation of the Federal Superfund Program. As the Members of this body well know, the Superfund law requires the cleanup of some 1,200 toxic waste sites around the Nation. Under this program, the EPA and private parties have spent billions of dollars with very little to show in the way of results. Few sites have actually been cleaned up. Of the ones that have been cleaned up, many have been restored to a level of cleanliness that far exceeds any real health risks to humans.

A March 21, 1993, article from the New York Times, describes the unrealistic level of cleanup EPA required at one site.

> EPA officials said they wanted to make the site safe enough to be used for any purpose—including houses—though no one was propose to build anything there. With that as the agency goal, the agency wanted to make sure children could play in the dirt, even eat it, without risk. And since a chemical in the dirt had been shown to cause cancer in rats, the agency set a limit low enough that a child could eat half a teaspoon of dirt every month for 70 years and not get cancer. Last month, the EPA officials acknowledged that at least half of the $14 billion the nation has spent on Superfund clean-ups was used to comply with similar "dirt-eating rules," as they call them.

Mr. President, in conclusion, burdensome Federal regulations are also imposed on small businesses. Dry cleaners, in particular, must clear a large number of hurdles just to begin operating. According to the National Federation of Independent Businesses, as of 1991, the Federal Government required a new dry cleaner to fill out and comply with nearly 100 forms and manuals before it could open for business.

Yesterday, the Senate approved two important amendments to address the special problems that all small businesses, including dry cleaners, face. As amended, S. 343 now requires regulatory agencies to review regulations imposed on small entities for cost effectiveness.

Mr. President, I think the evidence is clear that our Federal regulatory system has become unreasonable and misguided. S. 343 will put it back on the right track and, therefore, I urge its passage by my colleagues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The distinguished Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am very glad to follow the Senator from Tennessee. I think he made some very good points, and I think it is important that the people of America see some of the things that are happening in this country that we have to fix. The buck stops right here, and only we can do it because we have passed these laws, and the regulators have gone far beyond what Congress ever intended.

I am the cochair of the Republican Task Force on Regulatory Reform. Because of that, I have heard from literally hundreds of employers, from Texas as well as small business people all over our country. I have heard dozens of absurd, even silly, examples of the impact of the Federal regulatory excess in our daily lives.

Senator HATCH from Utah, who has been managing the bill, has started talking about the 10 most absurd regulations of the day. He is now up to 20, and I am sure he is going to have 10 more tomorrow, that will just make people wonder what in the world is in the water up in Washington, DC.

It is going to be a good question, and I have a few myself that I want to share, to show the importance of passing this bill, to try to take the harassment off the small business people of our country.

The many egregious stories about the enforcement of some of these regulations have become legendary, and the people are asking us to say, "timeout." We are not the All Star baseball game tonight, but we know what timeout is, at least for baseball, and this timeout is to get the regulatory train back on the track.

Common law has relied on a reasonable person approach. The standard behind our laws should be: What would a reasonable person do under these circumstances? But many of our Federal regulations seem to be designed to dictate the way in which a person, reasonable or otherwise, must act in every single situation. You know that is impossible. You cannot anticipate every single situation that might come up and write a regulation to cover that. What happens is you have too many regulations and people do not know what is really important. What are the regulators going to really enforce? And what is just trying to get to some bit

of minutia? We have really taken the reasonableness out of the equation, and we have failed to allow for the application of good, old-fashioned common sense. For that reason, this debate is dominated by examples of Government out of control.

Let me give you a few. They may not rival Senator HATCH's, but these are stories that have been related to me. Take the case of a plumbing company in Dayton, TX, cited for not posting emergency phone numbers at a construction site. The construction site was three acres of empty field being developed for low-income housing. OSHA shuts the site down for 3 days until the company constructs a freestanding wall in order to meet the OSHA requirement to post emergency phone numbers on a wall.

There is a roofing company in San Antonio, TX, cited for not providing disposable drinking cups to their workers despite the fact that the company went to the additional expense of providing sports drinks free to their employees in glass containers which the employees in turn used for drinking water. In this case you have a company that went the extra mile, went beyond just paper cups and water. They gave them the sports drink because that gets into the bloodstream faster. They did not meet the lesser standard and, therefore, were cited by OSHA.

Then there is the case of Mrs. Clay Espy, a rancher from Fort Davis, TX. She allowed a student from Texas A&M to do research on the plants on her ranch. He discovered a plant which he thought to be endangered and reported his finding. The Department of the Interior subsequently told Mrs. Espy that she could no longer graze the cattle on her family land. They had been grazing cattle there for over 100 years. But they were afraid that her cattle might eat this weed. Yes; eat the weed. It took a lawsuit and an expenditure of over $10,000 by Mrs. Espy before the Department reversed its ruling and declared that the weed was not, in fact, endangered.

Even more absurd, if you can believe it, is the Texas small businessman who happened to have painted his office the day before an OSHA inspection, and he was cited for not having a material safety data sheet on his half-empty can of Sherwin-Williams paint.

Then there is the employer cited at a job site, in which a hot roofing kettle was in use, because the job foreman was not wearing a long-sleeved shirt. The foreman was wearing a long-sleeved shirt but he rolled up his sleeves between his wrists and his elbows because of the weather.

Recently OSHA contacted a parent company of a chain of convenience stores in Texas threatening to conduct compliance inspection after OSHA learned two employees had gotten into an argument and someone had thrown a punch and struck the other. Well, in Texas, that is not a big, unusual event, I have to say. But it was unusual to the OSHA representative who demanded a complete report of the incident and threatened to follow up with a compliance inspection if the report was not completely satisfactory and timely.

Mr. President, these numerous horror stories which have come forward since we began our efforts for regulatory reform provide convincing, I hope, evidence of a Government regulatory process that is out of control. It demonstrates the need to introduce common sense and reasonableness into a system where these qualities seem to be sorely lacking.

These cases also highlight the way the regulatory excess has been allowed to drift into absurdity. When was it decided and by whom that the Federal Government should become the national nanny? Indeed, the absurd is becoming the norm as millions of Americans who operate small businesses and work for a living know and understand. It is Congress that has refused to acknowledge how long overdue are the fundamental reforms that we need to bring common sense into the equation. We must recognize that the Federal Government cannot issue a rule that will fix every problem which involves human behavior.

That is why one of the messages sent by the American people in 1992, and again in 1994, was, "We have had enough, and you had better fix it."

Mr. President, that is what we are trying to do with this bill. It is one of the most important pieces of legislation that we will take up this year in the reform that the people asked us to make last year. Have we heard the message? That is really the question. I am not sure that everyone in Washington really understands. I am a small business person and I know what it is like to live with the regulations and the taxes that we have put on the small business people of our country.

We must reverse this trend. Our Government must be put to the test. We must put our financial house in order, and we must decrease the size of the Federal Government and return many of these programs to the States.

The 10th amendment says that the Federal Government will have certain specific powers, and everything not specifically reserved to the Federal Government will be left to the States and to the people. Somehow we have lost track of the 10th amendment, and we aim to get it back. And this bill, the Comprehensive Regulatory Reform Act of 1995, is one way that we are going to get this country back on track and put the Government that is closest to the people down there in charge and to get the Washington bureaucrats—who have never been in small business, who really do not understand what it is like to meet a payroll, to worry about your employees, to not be sure if you are going to be able to feed the families that work for you—we are going to make sure that the Federal bureaucrats that do not understand that are no longer in control.

If we are going to be able to compete in the global marketplace, we have to change the regulatory environment. We passed this year GATT and NAFTA last year. We did that to open markets. We wanted to open free trade in the world so that we would be able to export more. We will import more, too, but we will export more. But we have told American business, yes, we are going to give you free trade, but we are going to make you compete with one arm tied behind your back. We are going to put so many regulatory excesses on you that we are going to drive up the prices and the costs, and you are not going to be able to compete in this global economy that we have created for you.

Let us put in perspective just how much this costs the businesses of our country. The businesses are the working people. The cost of complying with current Federal regulations is estimated at between $600 and $800 billion a year.

That is about the cost of the income tax. Corporate and individual taxes totaled almost $700 billion in 1994. So if you put the stealth tax of regulation, $600 to $800 billion a year on top of the income taxes that you pay, you can just double the checks that you wrote on April 15. You can double it because that is the stealth tax, the cost of Federal regulatory compliance.

We need fundamental change to the current regulatory process. The Regulatory Reform Act of 1995 is what will make this happen.

Businesses, especially small businesses, are finding it increasingly difficult to exist in this current regulatory environment—the same small business sector that is the engine of the economic growth of America. Government is not the economic engine of America. It is the small business people of this country that are the economic engine, and sometimes they think the Federal Government is trying to keep them from growing and prospering and creating the new jobs that keep this economy vital, so that we can absorb the new people into the system, the young people graduating from college, the immigrants that are coming to our shores for new opportunities. We have to make sure that those opportunities are there for our future generations.

We have the responsibility to make sure that the regulators are doing what Congress intends for them to do. The Regulatory Reform Act of 1995 is the way to restore congressional intent and hopefully, Mr. President, common sense. That is the mission that we must have this year, so that the people

of America know we heard their voices last year and we are going to make the changes, however hard it may be, they asked us to make.

So, Mr. President, regulatory reform is a very important step that we must take. We must balance the budget. We must have regulatory reform. We must have a fair taxation system. We must not raise taxes, but, in fact, we will lower taxes and give the people back the money they rightfully earn and should be able to spend for themselves.

Mr. President, I thank you for helping us lead this country and do the right thing for the working people who are trying so hard to raise their families and do a little better for their families than maybe they were able to get as they were growing up.

I thank the Chair, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO DAVID H. SAWYER—1936–1995

Mr. MOYNIHAN. Mr. President, I rise today to pay tribute to David H. Sawyer, a pioneer in the field of political consulting, a brilliant analyst, and a dear friend. David died on July 2, 1995, in New York City. His presence will be sorely missed by all those who knew him.

"A pioneer in the ways to cope with the weaker party machines of the 1970s," according to the New York Times. In an interview he once defined his work this way, "I don't manipulate voters, because I can't—they're too sophisticated. I'm much more interested in the nature of communication itself. How do you create a dialogue with the electorate? How do you control the dynamic of the campaign? Set the agenda for discussion? Answer an opponent's charges? Those are my issues. You have to get way inside a campaign before you can resolve them, too."

His firm, D.H. Sawyer and Associates, later renamed the Sawyer-Miller Group, took some of the mystery out of how to succeed in today's complicated electoral process. David brought a dynamic and insightful approach to political campaigns. He was able to understand and connect with voters, and to deliver his candidate's message in a simple but absorbing manner. I came to know David during my 1982 re-election campaign, and he has been a loyal and trusted advisor on every campaign since.

David helped to open up the governments of Eastern Europe and Latin America by introducing mass communication into their electoral processes. In an interview with the Los Angeles Times he described this concept as "electronic democracy," and went on to say: "Because of mass communications and the legacy of the '60s, people now speak out, people can and will be heard. Eastern Europe in 1989 and 1990 happened because information had gotten through. What people think about their institutions is crucial to the institutions' ability to govern."

David leaves his wife, Nell; a son, Luke; two stepsons, Andrew and Gavin; his mother Mrs. Edward Brewer; his brother Edward; and a sister Penny. He will be greatly missed by those who love him.

I ask unaminous consent that the full text of the article from the New York Times be printed in the RECORD.

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

[From the New York Times, July 4, 1995]

DAVID H. SAWYER DIES AT 59; INNOVATOR IN POLITICAL STRATEGY

(By David Binder)

WASHINGTON, July 3.—David H. Sawyer, a pioneer in the field of political consulting that burgeoned in the 1970's and 1980's as party machines lost their clout in choosing electoral candidates, died on Sunday in New York Hospital. He was 59 and lived in Manhattan.

He had been under treatment for several weeks for a brain tumor, his family said.

By 1988, Mr. Sawyer's clients included four Senators, Daniel Patrick Moynihan, John D. Rockefeller 4th, Edward M. Kennedy and John Glenn, six Governors as well as leading politicians in the Philippines and Israel.

One notable turnaround engineered by his firm, D. H. Sawyer & Associates (later the Sawyer-Miller Group) was in the 1987 gubernatorial primary in Kentucky, where his client, Wallace Wilkinson, started out with about 5 percent in the polls and went on to win against two strong contenders.

Mr. Sawyer based his strategy then and later on polling studies of the electorate. In the case of Kentucky voters, both major opponents of Mr. Wilkinson had advocated tax increases and attacked each other bitterly. In place of higher taxes, the Sawyer-Wilkinson strategy advocated a state lottery.

In a 1984 interview for the Inc. Publishing Company, Mr. Sawyer defined his work this way: "I don't manipulate voters, because I can't—they're too sophisticated. I'm much more interested in the nature of communication itself. How do you create a dialogue with the electorate? How do you control the dynamic of the campaign? Set the agenda for discussion? Answer an opponent's charges? Those are my issues. You have to get way inside a campaign before you can resolve them, too."

A Democrat, Mr. Sawyer worked only for Democratic candidates, but he had no problem dispensing advice to big corporate clients, including Coca-Cola, Apple Computer, Goldman Sachs, Time Warner and Resorts International.

Colleagues, headed by Scott Miller, bought out Mr. Sawyer's ownership interest in his firm, which had a staff of 40, in 1993. In that same year he opened a political-economic consulting firm called the G.7 Group. By this time there were more than 200 political consulting firms across the country and more than 3,000 people working in the field.

David Haskell Sawyer was born June 13, 1936, in Boston. After earning a bachelor of arts degree at Princeton University in 1959, he made documentary films, working in the cinema verité genre with Frederick Wiseman and Richard Leacock. One film dealt with rural poverty in Maine. Another feature, "Other Voices," about mental health patients, was nominated in 1970 for an Academy Award for best documentary. He was drawn into political consulting in the early 1970's in Illinois, where he did some film work for an elected official.

He is survived by his wife, the former Nell Michel; a son, Luke, and two stepsons, Andrew and Gavin McFarland, all of New York; his mother, Mrs. Edward Brewer of Hartford; a brother, Edward of Cleveland, and a sister, Penny Sawyer, of New York.

REPORT ON THE EMIGRATION LAWS AND POLICIES OF ROMANIA—MESSAGE FROM THE PRESIDENT—PM 63

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

On May 19, 1995, I determined and reported to the Congress that Romania is in full compliance with the freedom of emigration criteria of sections 402 and 409 of the Trade Act of 1974. This action allowed for the continuation of most-favored-nation (MFN) status for Romania and certain other activities without the requirement of a waiver.

As required by law, I am submitting an updated Report to Congress concerning emigration laws and policies of Romania. You will find that the report indicates continued Romanian compliance with U.S. and international standards in the area of emigration policy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 11, 1995.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1140. A communication from the Director of the Standards Conduct Office, Department of Defense, transmitting, pursuant to law, a report relative to DD Form 1787; to the Committee on Armed Services.

EC–1141. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to provide for alternative means of acquiring and improving housing and supporting facilities for unaccompanied members of the Armed Forces; to the Committee on Armed Services.

EC–1142. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the financial statement of the

Resolution Trust Corporation for 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–1143. A communication from the First Vice President and Vice Chairman of the Export-Import Bank, transmitting, pursuant to law, a statement regarding a transaction involving U.S. exports to Colombia; to the Committee on Banking, Housing and Urban Affairs.

EC–1144. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report relative to direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–1145. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Food Stamp Act of 1977, as amended; to the Committee on Agriculture, Nutrition and Forestry.

EC–1146. A communication from the Under Secretary of Defense, Acquisition and Technology and the Director of Operational Test and Evaluation, transmitting, pursuant to law, a report relative to fire testing of the New Attack Submarine; to the Committee on Armed Services.

EC–1147. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend section 404 of title 37, United States Code, to eliminate the requirement that travel mileage tables be prepared under the direction of the Secretary of Defense; to the Committee on Armed Services.

EC–1148. A communication from the President and Chairman of the Export-Import Bank, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to India; to the Commitee on Banking, Housing and Urban Affairs.

EC–1149. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the Oversight Board for calendar year 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–1150. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board, transmitting, pursuant to law, the annual report of the Resolution Funding Corporation for calendar year 1994; to the Committee on Banking, Housing and Urban Affairs.

EC–1151. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report relative to the status of the nonprofit housing sector; to the Committee on Banking, Housing and Urban Affairs.

EC–1152. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "International Energy Outlook 1995"; to the Committee on Energy and Natural Resources.

EC–1153. A communication from the Chairman of the United States Enrichment Corporation, transmitting, a draft of proposed legislation to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation; to the Committee on Energy and Natural Resources.

EC–1154. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to foreign direct investment in U.S. energy; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 92. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System (Rept. No. 104–102).

S. 283. A bill to extend the deadlines under the Federal Power Act applicable to two hydroelectric projects in Pennsylvania, and for other purposes (Rept. No. 104–103).

S. 468. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio, and for other purposes (Rept. No. 104–104).

S. 543. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Oregon, and for other purposes (Rept. No. 104–105).

S. 547. A bill to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes (Rept. No. 104–106).

S. 552. A bill to allow the refurbishment and continued operation of a small hydroelectric facility in central Montana by adjusting the amount of charges to be paid to the United States under the Federal Power Act, and for other purposes (Rept. No. 104–107).

S. 595. A bill to provide for the extension of a hydroelectric project located in the State of West Virginia (Rept. No. 104–108).

S. 611. A bill to authorize extension of time limitation for a FERC-issued hydroelectric license (Rept. No. 104–109).

S. 801. A bill to extend the deadline under the Federal Power Act applicable to the construction of two hydroelectric projects in North Carolina, and for other purposes (Rept. No. 104–110).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

David C. Litt, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nomineee: David C. Litt.

Post: United Arab Emirates.

Contributions, Amount, Date, and Donee:

1. Self: David C. Litt, none.

2. Spouse: Beatrice Litt, none.

3. Children and Spouses: Barbara Litt, and Giorgio Litt, none.

4. Parents: Girard Litt (deceased) and Shirley Litt, none.

5. Grandparents: Louis Litt (deceased), Anna Litt (deceased), Henry Suloway (deceased), and Fanny Suloway (deceased).

6. Brothers and Spouses: none.

7. Sisters and Spouses: Leslie Klein (divorced), none; Bonnie Litt, none; and James Paddack, none.

Patrick Nickolas Theros, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Patrick Nickolas Theros.

Post: Ambassador to Qatar.

Contributions, Amount, Date, and Donee:

1. Self, $250, September 26, 1994, Senator Sarbanes and $75, October 6, 1994, Senator Snowe.

2. Spouse: Aspasia (none).

3. Children and age: Nickolas, 17 (none); Marika, 15 (none); and Helene, 13 (none).

4. Parents: Father: Nickolas (deceased 1976) and Mother: Marika (deceased 1956).

5. Grandparents: Paternal grandfather: Patrikios (deceased, 1910); paternal grandmother: Chrysse (deceased, 1949); maternal grandfather: Michael Condoleon (deceased, 1942); and maternal grandmother: Paraskevi Condoleon (deceased, 1929).

6. Brothers and spouses: (None—I am an only child).

7. Sisters and spouses: (None—I am an only child).

David L. Hobbs, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Co-operative Republic of Guyana.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: David L. Hobbs.

Post: Guyana.

Contributions, Amount, Date, and Donee:

1. Self, none.

2. Spouse, none.

3. Children and Spouses: Thomas and Priscilla Hobbs, none.

4. Parents: Albert and Frances Hobbs, none.

5. Grandparents: Deceased.

6. Brothers and Spouses: James Hobbs, none.

7. Sisters and Spouses: Jean McKeever, none; Linda and Steven McLure, none; Anna and Michael Citrino, none; and Sandra and Brad Bach, none.

William J. Hughes, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: William J. Hughes.

Post: Ambassador to Panama.

Nominated: February 2, 1995.

Contributions, Amount, Date, and Donee.
1. Self: William J. Hughes, $500 November 8, 1994, Magazzu for Congress.
2. Spouse: Nancy L. Hughes, none.
3. Children and spouses: Nancy L. Hughes and Douglas Walker, none. Barbara A. Sullivan and Barry K. Sullivan: $25.00, 9/22/94, Ben Jones; $25.00, 10/26/94, Richard Gephardt; $25.00, 8/04/93, Richard Gephardt; $25.00, 6/24/92, Richard Gephardt; $25.00, 9/8/92, DNC Fed'l Acc't. Tama B. Hughes, Dante A. Ceniccola, Jr., and William J. Hughes, Jr., none.
4. Parents: William W. Hughes (deceased) and Pauline Hughes Menaffey (deceased).
5. Grandparents: John Hughes (deceased), Belinda Hughes (deceased), Joseph Neicen (deceased), and Mary Neicen (deceased).
6. Brothers and spouses: Daniel V. and Sue D. Hughes, none.
7. Sisters and spouses: Charlotte and Bernie Keiffer, none; Paula and Arnold Green, none.

Michael William Cotter, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Michael William Cotter.
Post: Ambassador to Turkmenistan.
Contributions, Amount, Date, and Donee:
1. Self: Michael W. Cotter, none.
2. Spouse: Joanne M. Cotter, none.
3. Children and spouses: none.
4. Parents: Patrick W. Cotter: $35, 2/15/90, RNC; $25, 5/7/90, Sensenbrenner for Congress Committee; $35, 7/27/90, RNC; $35, 12/26/90, RNC; $35, 1/30/91, RNC of Wisconsin; $35, 1/30/91, RNC; $35, 12/28/91, RNC; $35, 2/2/92, RNC; $25, 5/28/92, RNC; $50, 6/9/90, Moody for Congress Cmte.; $25, 7/16/92, Kasten for Senate Cmte.; $50, 8/12/92, Marotta for Congress Cmte.; $50, 9/17/92, RNC; $25, 9/30/92, Sensenbrenner for Congress Cmte.; $35, 1/28/93, RNC; $50, 2/11/93, Republican Majority Campaign; $35, 4/22/93, RNC of Wisconsin; $40, 1/27/94, RNC; $25, 7/28/94, RNC; $25, 7/28/94, Newman for Congress Cmte.; $25, 9/29/94, Newman for Congress Cmte. Lois K. Cotter, none.
5. Grandparents: William and Clara Cotter (deceased); George and Eleanora Schaus (deceased).
6. Brothers and spouses: Timothy and Laura Cotter, none; Patrick S. Cotter, none.
7. Sisters and spouses: none.

Victor Jackovich, of Iowa, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Slovenia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Victor Jackovich.
Post: Ambassador of Slovenia.
Contributions, Amount, Date, and Donee:
1. Self: None.
2. Spouse: Radmila Jackovich, None.
3. Children and spouses: Jacob Jackovich, None.
4. Parents: Victor Jackovich and Mary Jackovich, None.
5. Grandparents (deceased).
6. Brothers and spouses: no brothers.
7. Sisters and spouses: Janet and Sam Clark, $10, monthly (1992), employees' PAC; $50, 1992, Ron Staskiewicz (R) for U.S. House of Representatives; $750, 1994, Jean Stence (R) for Governor of Nebraska.

A. Elizabeth Jones, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kazakhstan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: A. Elizabeth Jones.
Post: Almaty, Kazakhstan.
Contributions, Amount, Date, and Donee:
1. Self: A. Elizabeth Jones, none.
2. Spouse: Thomas A. Homan, none.
3. Children and Spouses: Todd W. Homan-Jones and Courtney A. Homan-Jones, none.
4. Parents: William C. Jones III, none; Sara F. Jones: $30, 1993, Ntl. Democratic Cmt.; $50, 1994, Sen. Robb Campaign; $50, 1994, Dem. Senator Campaign Committee.
5. Grandparents: Richard B. and Mabel C. Ferris, deceased; Clyde C. and Eunice E. Jones, deceased.
6. Brothers and spouses: none.
7. Sisters and Spouses: Kathleen F. Jones, none; Don Perovich, none; Sara M. Jones, none; Robert Rooy, none; Diana J. Thomas, none; and Brett Thomas, none.

John K. Menzies, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Bosnia and Herzegovina.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: John Karl Menzies.
Post: Ambassador to Bosnia.
Contributions, amount, date, and donee:
1. Self: John K. Menzies, None.
2. Spouse: Elizabeth A. McNamara, None.
3. Children: Lauren, Alexandra, and Morgan Menzies: None.
4. Parents: James S. and Iridell A Menzies, None.
5. Grandparents: William and Florence H. Menzies, deceased; Frederick and Mabel W. Fisher, deceased.
6. Brothers and spouses: James F. and Bente N. Menzies, None.
7. Sisters and spouses: None.

John Todd Stewart, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:
1. Self and 2. Spouse: My wife Georgia E. Stewart and I jointly contributed $50 on April 16, 1992, to the campaign of Dixon Arnett, a candidate in the Republican primary in the 14th Congressional District of California.
3. Children and spouses: Names: John Andrew Stewart and wife, Kristin, none; Frederick R. Stewart, none; and Elizabeth W. Stribling (stepdaughter), none.
4. Parents: John Harvey Stewart and Eleanor R. Stewart, both deceased.
5. Grandparents: John Harvey Stewart, Sr. and Anne M. Stewart, both deceased; Morris W. Robinson and Ada T. Robinson, both deceased.
6. Brothers and spouses: None.
7. Sisters and spouses: None.

Peggy Blackford, of New Jersey, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea-Bissau.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of the knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: Not applicable.
3. Children and spouses: Not applicable.
4. Parents: Deceased.
5. Grandparents: Deceased.
6. Brother and Spouse: Names: Barry and Francis Lefkowitz, $250, August 25, 1991, Nader for Presidential; $50, January 28, 1992, Feinstein for Senate; $250, August 26, 1992, Friends of Congressman Chris Smith; $250, October 13, 1992, Friends of Congressman James Saxton; $35, October 13, 1992, Roma for Congress; $50, October 28, 1992, Kyrillos for Congress; $35, October 30, 1992, LoBiondo for Congress; $500, October 6, 1993, Marks for Senate; $500, December 20, 1993, Haytaian for Senate; $13, January 8, 1994, Congressman Andrews Breakfast Club; $100, February 11, 1994, Cape May Country Dem. Organization; $80, February 23, 1994, Friends of Cardinale; $100, April 15, 1994, LoBiondo for Congress; $150, May 10, 1994, Andrews for Congress; $200, May 21, 1994, Gallo for Congress; $250, May 21, 1994, Lowe for Congress; $224, August 15, 1994, Lowe for Congress; and $200, August 21, 1994, Haytaian—US Senate.
7. Sisters and Spouses: Not applicable.

Edward Brynn, of Vermont, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ghana.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:
1. Self: None.
2. Spouse: Jane E.C. Brynn, none.
3. Children and spouses: Names: Sarah, Edward, Kiernan, Anne, and Justin, none.
4. Parents: Names: Walter Brynn and Mary C. Brynn (deceased).
5. Grandparents: Names: Soeren and Agnes Brynn (deceased); Names: Laurence and Ellen Callahan (deceased).

6. Brothers and Spouses: Names: Thomas and Claudia Brynn, none; David and Louise Brynn, none; and Lawrence and Heather Brynn, none.

7. Sisters and Spouses: Names: Katherine and Charles Walther, none; and Mary Anne and Terence O'Brien, none.

John L. Hirsch, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sierra Leone.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse; Rita V., none.

3. Children and spouses: Names: None.

4. Parents: Names: William P. Hirsch, deceased; Elizabeth I. Hirsch, deceased.

5. Grandparents: Names: Joseph Hirsch, deceased; Clementine Hirsch, deceased; and Ella Rosenschein, deceased.

6. Brothers and spouses: Names: Max Rosenschein, deceased.

7. Sisters and spouses: Names: Susan E. Hirsch, not married, none.

Vicky J. Huddleston, of Arizona, a Career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Madagascar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Vicky Huddleston.

Post: Antananarivo.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Robert W. Huddleston, none.

3. Children and spouses: Names: Robert S. Huddleston, none, and Alexandra D. Huddleston, none.

4. Parents: Howard S. Latham, $10, April 1992, Republican National Senate Campaign Committee, and Duane L. Latham, none.

5. Grandparents: Names: Marion and Pauline Latham, deceased, and Edward and Mary Dickinson, deceased.

6. Brothers and spouses: Names: Gary and Louise Latham, none; Jeff Latham, none; and Steve and Dana Latham, none.

7. Sisters and spouses: none.

Elizabeth Raspolic, of Virginia, a Career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Elizabeth Raspolic.

Post: Gabon.

Contributions, amount, date, and donee:

1. Self: $500, (estimate), 1992-94, Emily's List (PAC) and suggested candidates.

2. Spouse: Not applicable.

3. Children and spouses: Not applicable.

4. Parents: Names: Anton Raspolic, deceased and Mildred Raspolic, deceased.

5. Grandparents: Names: Joseph Raynovic, deceased and Edward and Lillian Raynovic, deceased.

6. Brothers Name: Anthony Raspolic, declines to provide information for reason of privacy.

7. Sisters and spouses: Not applicable.

John M. Yates, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Benin.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: John M. Yates.

Post: Ambassador to Benin.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses: Names; Catherine, none; John S. none; Maureen, none; Paul, none; and Leon Greg, none.

4. Parents: Names: Leon G. Yates (deceased 1992) and Violet M. Yates, $25.00, 1990 and 1991, Republican Party; $10.00, 1994, Republican Party.

5. Grandparents: All deceased more than 25 years.

6. Brothers and spouses: Names: Leon James and Delphine Yates, none; David Arthur and Dolly Yates, none; Robert Loren Yates, none; Wilbur Allen and Karen Yates, (1) one percent of salary (approximately $400/$500 annually) to Carpenters Legislative Improvement Committee; (2) $50, 1990, 1992, and 1994, Representative Tom Foley; (3) $25, 1992, Representative Maria Cantwell; Dale Morris and Sandy Yates, none; and Larry Bruce and Linda Yates, none.

7. Sisters and spouses: Names: Pearl and Paul Wiechmann, none; Ruth and Earl Enos, $10, 1992 and 1994, Democratic Party; and Marilee and George Martin, none.

Daniel Howard Simpson, of Ohio, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Daniel H. Simpson.

Post: Ambassador to Zaire.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: Elizabeth D. Simpson, none.

3. Children and spouses names: Andrew D. Simpson, none—no spouse; Mark H. Simpson, none—no spouse; Michael J. Simpson, none—no spouse; and Holly A. Simpson, none—no spouse.

4. Parents names: Howard A. Simpson, deceased; and Gladys E. Simpson, none.

5. Grandparents names: Maternal: Clarence and Emma Potts, both deceased; paternal: William and Wilhelmina Simpson, both deceased.

6. Brothers and spouses: No brothers.

7. Sisters and spouses: No sisters.

James E. Goodby, of the District of Columbia, for the rank of Ambassador during his tenure of service as Principal Negotiator and Special Representative of the President for Nuclear Safety and Dismantlement.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in full in the CONGRESSIONAL RECORD of June 26, 1995, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that this nomination lie at the Secretary's desk for the information of Senators.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 26, 1995 at the end of the Senate proceedings.)

The following-named Career Member of the Foreign Service for promotion into the Senior Foreign Service to the class stated, and for the appointment as Consular Officer and Secretary as indicated:

Career Member of the Senior Foreign Service of the United States of America, Class of Counselor; and Consular Officer and Secretary in the Diplomatic Service of the United States of America:

DEPARTMENT OF AGRICULTURE

John H. Wyss, of Texas.

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

David J. Murphy, of Massachusetts.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Janice A. Corbett, of Ohio.

Michael P. Keaveny, of California.

Gregory D. Loose, of California.

Rebecca L. Mann, of Florida.

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

DEPARTMENT OF COMMERCE

Donald G. Nay, of Colorado.

DEPARTMENT OF STATE

Anne Marie Kremidas Aguilera, of New Hampshire.

Jake Cosmos Aller, of Washington.

Melissa Buchanan Arkley, of Texas.

Barbara L. Armstrong, of Georgia.

Brian David Bachman, of Virginia.
Carolyn R. Bargeron, of Maryland.
Mary Monica Barnicle, of Illinois.
Erica J. Barks, of Virginia.
Russell Alton Baum, Jr., of California.
Keith Dermont Bennett, of Washington.
Donald Scott Boy, of Massachusetts.
Jeremy Beckley Brenner, of Connecticut.
David Kerry Brown, of Washington.
Ravi S. Candadai, of Washington.
Lisa G. Conner, of California.
David Francis Cowhig, Jr., of Virginia.
Theodore J. Craig, of Virginia.
Jeffrey R. Dafler, of Ohio.
Jason Davis, of Alaska.
Grant Christian Deyoe, of Maryland.
Benjamin Beardsley Dille, of Minnesota.
James Edward Donegan, of New York.
Elizabeth Ann Fritschle Duffy, of Missouri.
Thomas M. Duffy, of California.
Liisa Ecola, of Illinois.
Andrew S.E. Erickson, of California.
Sarah J. Eskandar, of Tennessee.
Oscar R. Estrada, of Florida.
Katherine E. Farrell, of Indiana.
Tamara K. Fitzgerald, of Colorado.
Recebba L. Gaghen, of Montana.
Kira Maria Glover, of California.
Ruth W. Godfrey, of Florida.
Steven Arthur Goodwin, of Arizona.
Elizabeth Perry Gourlay, of South Carolina.
Peter D. Haas, of Illinois.
Matthew T. Harrington, of Georgia.
Andrew B. Haviland, of Iowa.
Margaret Deirdre Hawthorne, of Illinois.
James William Herman, of Washington.
Lawrence Lee Hess, of Washington.
Debra Lendiewicz Hevia, of New York.
Jack Hinden, of California.
Richard Holtzapple, of California.
Natalie Ann Johnson, of Arizona.
Marion Louise Johnston, of California.
Keith C. Jordan, of Ohio.
Richard M. Kaminski, of Nevada.
Anne Katsas, of Massachusetts.
Jonathan Stuart Kessler, of Texas.
Pamela Francis Kiehl, Pennsylvania.
Karin Margaret King, of Ohio.
John C. Kmetz, of Kansas.
Michael B. Koplovsky, of Massachusetts.
Samuel David Kotis, of New York.
Marnix Robert Andrew Koumans, of New Hampshire.
Steven Herbert Kraft, of Virginia.
Kamala Shirin Lakhdhir, of Connecticut.
John M. Lipinski, of Pennsylvania.
Gayle Waggoner Lopes, of Nebraska.
Donald Lu, of California.
Pamela J. Mansfield, of Illinois.
Dubravka Ana Maric, of Connecticut.
William John Martin, of California.
Williams Swift Martin, IV, of the District of Columbia.
John J. Meakem, III, of New York.
Carlos Medina, of New York.
Alexander Jacob Meerovich, of Pennsylvania.
Mario Ernesto Merida, of Colorado.
James P. Merz, of Maryland.
Andrew Thomas Miller, of Michigan.
Keith W. Mines, of Colorado.
Gregg Morrow, of New Hampshire.
Edward R. Munson, of Utah.
Joyce Winchel Namde, of California.
Robert S. Needham, of Florida.
Stacy R. Nichols, of Tennessee.
Joseph L. Novak, of Pennsylvania.
Stephen Patrick O'Dowd, of Virginia.
Sandra Springer Oudkirk, of Florida.
Nedra A. Overall, of California.
Susan Page, of Washington.
Mark A. Patrick, of New Mexico.
Mary Catherine Phee, of the District of Columbia.
Brian Hawthorne Phipps, of Florida.
Theodore Stuart Pierce, of New York.
Jeffrey D. Rathke, of Pennsylvania.
Whitney A. Reitz, of Florida.
Timothy P. Roche, of Virginia.
Daniel A. Rochman, of Nebraska.
Daniel Edmund Ross, of Texas.
Nicole D. Rothstein, of California.
Kristina Luise Scott, of Iowa.
Brian K. Self, of California.
Dorothy Camille Shea, of Oregon.
Apar Singh Sidhu, of California.
John Christopher Stevens, of California.
Leilani Straw, of New York.
Mona K. Sutphen, of Texas.
Landon R. Taylor, of Virginia.
Alaina B. Teplitz, of Missouri.
James Paul Theis, of South Dakota.
Michael David Thomas, of Virginia.
Gregory Dean Thome, of Wisconsin.
Susan Ashton Thornton, of Tennessee.
Leslie Meredith Tsou, of Virginia.
Thomas L. Vajda, of Tennessee.
Chever Xena Voltmer, of Texas.
Eva Weigold-Hanson, of Minnesota.
Matthew Alan Weiller, of New York.
Colwell Cullum Whitney, of the District of Columbia.
David C. Wolfe, of Texas.
Anthony C. Woods, of Texas.
Thomas K. Yadgerdi, of Florida.
Joseph M. Young, of Pennsylvania.
Marta Costanzo Youth, of New Jersey.

The following-named Members of the Foreign Service of the Departments of State and Commerce and the United States Information Agency to be Consular Officers and/or Secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular Officers and Secretaries in the Diplomatic Service of the United States of America:
Vicki Adair, of Washington.
Stephen E. Alley, of the District of Columbia.
Victoria Alvarado, of California.
Travis E. Anderson, of Virginia.
Patricia Olivares Attkisson, of Virginia.
Courtney E. Austrian, of the District of Columbia.
Barbara S. Aycock, of the District of Columbia.
Douglas Michael Bell, of California.
Robert Gerald Bentley, of California.
Jerald S. Bosse, of Virginia.
Bradley D. Bourland, of Virginia.
Steven Frank Brault, of Washington.
Eric Scott Cohan, of Virginia.
Luisa M. Colon, of Virginia.
Patricia Ann Comella, of Maryland.
Clayton F. Creamer, of Maryland.
Thomas Edward Daley, of Illinois.
Mark Kristen Draper, of Washington.
Jeanne M. Eble, of Maryland.
Eric Alan Flohr, of Maryland.
David William Franz, of Illinois.
Justin Paul Freidman, of Virginia.
Stacey L. Fulton, of Virginia.
Susan Herthum Garrison, of Florida.
William Robert Gill, Jr., of Virginia.
Carolyn B. Glassman, of Illinois.
David L. Gossack, of Washington.
Theresa Ann Grencik, of Pennsylvania.
Richard Spencer Daddow Hawkins, of New Hampshire.
Catherine B. Jazynka, of the Mariana Islands.
Richard M. Johannsen, of Alaska.
Arturo M. Johnson, of Florida.
Joanne Joria-Hooper, of South Carolina.
Natalie Joshi, of Virginia.
Erica Jennifer Judge, of New York.
Jacquelyn Janet Kalhammer, of Virginia.
Kimberly Christine Kelly, of Texas.
Robert C. Kerr, of New York.
Farnaz Khadem, of California.
Helen D. Lee, of Virginia.
Nancy D. LeRoy, of the District of Columbia.
Gregory Paul Macris, of Florida.
Arthur H. Marquardt, of Michigan.
Charles M. Martin, of Virginia.
Joel Forest Maybury, of California.
Sean Ian McCormack, of Maine.
Heather D. McCullough, of Arkansas.
Julie A. Nickles, of Florida.
Patricia D. Norland, of the District of Columbia.
Elizabeth Anne Noseworthy, of Delaware.
Barry Clifton Nutter, of Virginia.
Wayne M. Ondiak, of Virginia.
Patrick Raymond O'Reilly, of Connecticut.
Dale K. Parmer, Jr., of Virginia.
Kay Elizabeth Payne, of Virginia.
Terence J. Quinn, of Virginia.
Timothy Meade Richardson, of Virginia.
Edwina Sagitto, of Missouri.
Mark Andrew Shaheen, of Maryland.
Ann G. Soraghan, of Virginia.
Ronald L. Soriano, of Connecticut.
Karen K. Squires, of Illinois.
Cynthia A. Stockman, of Maryland.
James F. Sullivan, of Florida.
Wilfredo A. Torres, of Virginia.
Horacio Antonio Ureta, of Florida.
Miguel Valls, Jr., of Virginia.
Javier C. Villarreal, of Virginia.
Lesley Moore Vossen, of Maryland.
Philip G. Wasielewski, of Virginia.
Joel D. Wilkinson, of Idaho.

Secretary in the Diplomatic Service of the United States of America:
Sean D. Murphy, of Maryland.

The following-named individual for promotion in the Senior Foreign Service to the class indicated, effective October 6, 1991:

Career Member of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:
James J. Blystone, of Virginia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 1021. A bill to amend the Clean Air Act to extend the primary standard attainment date for moderate ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FEINGOLD (for himself, Mr. BRADLEY, and Mr. WELLSTONE):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 1021. A bill to amend the Clean Air Act to extend the primary standard attainment date for moderate ozone nonattainment areas, and for other purposes; to the Committee on Environment and Public Works.

THE CLEAN AIR ACT MODERATE NONATTAINMENT EXTENSION ACT

Mrs. HUTCHISON. Mr. President, I am committed to improving our air

quality, but we can't expect cities to meet arbitrary deadlines for air quality attainment if the EPA is going to hamper rather than help their efforts.

The EPA required, as part of its enhanced monitoring program, an emissions testing system that was expensive, burdensome, and ineffective. Even though the Clean Air Act itself does not mandate centralized testing, the EPA decided that, to prevent fraud, all cars would have to be tested at a State facility. It cost Texas over $100 million, but has been found to cause little or no additional reduction in emissions.

Tests have found auto emissions virtually unchanged when similar centralized programs were initiated in other metropolitan areas. Decentralized testing is far less burdensome on drivers; instead of centralized testing at State-supervised facilities, private repair stations and remote sensing could be used at far less cost without loss of effectiveness.

The fewer than 10 percent of the vehicles that account for more than half of all emissions do not emit the same amount of pollutants from day to day. They often escape penalties by failing tests on one day, and then passing on the next. Testing should focus on identifying and repairing these vehicles first, and reducing the burden on everyone else.

Cities with a high portion of their emissions from cars and trucks—such as Dallas/Fort Worth in Texas—have been unable to reduce their emissions because of the EPA's mishandling of the Clean Air Act's automobile emissions testing requirements. They deserve adequate notice of what will be expected; an effective, low-cost, and efficient plan; and sufficient time to comply.

The choice by the 1990 Clean Air Act Amendments of a 1996 attainment date for moderate areas requires attainment before implementation plans can be put in place, and air quality improvements shown. Today I am introducing a bill to give moderate nonattainment 2 additional years to meet the attainment date for air quality.

An extension of the deadline gives Dallas/Fort Worth, and other moderate nonattainment areas throughout the United States, a chance to prove themselves without being reclassified as serious non-attainment areas. It will give cities time to implement plans next year and still have 2 more years to meet the 3-consecutive-year requirement for air quality attainment. The 2-year extension also will give the EPA time to overhaul its Clean Air Act automobile inspection and maintenance program and administer it fairly across the country.

Dallas/Fort Worth has worked hard to improve its air quality, as I am sure other moderate nonattainment cities have, too. With the exception of enhanced monitoring, Dallas/Fort Worth has improved air quality; almost half of the 145 tons per day emission reduction requirement to achieve attainment under the computer model are in place today. Many of the largest employers have implemented voluntary employee trip reduction programs. In order to provide moderate areas with the flexibility necessary for the proper implementation of the Clean Air Act, and to take into account Federal mistakes in administering this program, I urge the Senate to enact this change as soon as possible.

By Mr. FEINGOLD (for himself, Mr. BRADLEY, and Mr. WELLSTONE):

S. 1022. A bill to amend the Internal Revenue Code of 1986 to eliminate the percentage depletion allowance for certain minerals, and for other purposes; to the Committee on Finance.

ELIMINATION OF THE PERCENTAGE DEPLETION ALLOWANCE

Mr. FEINGOLD. Mr. President, I am pleased to introduce S. 1022, legislation to eliminate percentage depletion allowances for four mined substances—asbestos, lead, mercury, and uranium—from the Federal Tax Code. This measure is based on language passed as part of the Energy Policy Act of 1992 by the other body during the 102d Congress. I am joined in introducing this legislation by my colleague from New Jersey, Mr. BRADLEY, and my colleague from Minnesota, Mr. WELLSTONE.

Analysis by the Joint Committee on Taxation on the similar legislation that passed the House estimated that, under that bill, income to the Federal Treasury from the elimination of percentage depletion allowances in just these four mined commodities would total $83 million over 5 years, $20 million in this year alone. These savings are calculated as the excess amount of Federal revenues above what would be collected if depletion allowances were limited to sunk costs in capital investments. These four allowances are only a few of the percentage depletion allowances contained in the Tax Code for extracted fuel, minerals, metal, and other mined commodities—with a combined value, according to 1994 estimates by the Joint Committee on Taxation, of $4.8 billion.

Mr. President, these percentage depletion allowances were initiated by the Corporation Excise Act of 1909. Provisions for a depletion allowance based on the value of the mine were made under a 1912 Treasury Department regulation, but difficulty in applying this accounting principle to mineral production led to the initial codification of the mineral depletion allowance in the Tariff Act of 1913. The Revenue Act of 1926 established percentage depletion much in its present form for oil and gas. The percentage depletion allowance was then extended to metal mines, coal, and other hardrock minerals by the Revenue Act of 1932, and has been adjusted several times since.

Percentage depletion allowances were historically placed in the Tax Code to reduce the effective tax rates in the mineral and extraction industries far below tax rates on other industries, providing incentives to increase investment, exploration, and output. However, percentage depletion also makes it possible to recover many times the amount of the original investment.

There are two methods of calculating a deduction to allow a firm to recover the costs of their capital investment: cost depletion, and percentage depletion. Cost depletion allows for the recovery of the actual capital investment—the costs of discovering, purchasing, and developing a mineral reserve—over the period which the reserve produces income. Using cost depletion, a company would deduct a portion of their original capital investment minus any previous deductions, in an amount that is equal to the fraction of the remaining recoverable reserves. Under this method, the total deductions cannot exceed the original capital investment.

However, under percentage depletion, the deduction for recovery of a company's investment is a fixed percentage of gross income—namely, sales revenue—from the sale of the mineral. Under this method, total deductions typically exceed, let me be clear on that point, Mr. President, exceed the capital that the company invested.

The rates for percentage depletion are quite significant. Section 613 of the United States Code contains depletion allowances for more than 70 metals and minerals, at rates ranging from 10 to 22 percent—which is the rate used for all uranium and domestic deposits of asbestos, lead, and mercury. Lead and mercury produced outside of the United States are eligible for a percentage depletion at a rate of 14 percent. Asbestos produced in other countries by U.S. companies is eligible for a 10-percent allowance.

Mr. President, in today's budget climate we are faced with the question of who should bear the costs of exploration, development, and production of natural resources: all taxpayers, or the users and producers of the resource? Given that we face significant budget deficits, these subsidies are simply a tax expenditure that raise the deficit for all citizens or shift a greater tax burden to other taxpayers to compensate for the special tax breaks provided to some industries.

Mr. President, the measure I am introducing, despite the fact that taxes seem complicated, is fairly straightforward. It eliminates the percentage depletion allowance for asbestos, lead, mercury, and uranium while continuing to allow companies to recover reasonable cost depletion.

Though at one time there may have been an appropriate role for a Government-driven incentives for enhanced mineral production, there is now a sufficiently large budget deficit which justifies a more reasonable depletion allowance that is consistent with those given to other businesses.

Moreover, Mr. President, these four commodities covered by my bill are among some of the most environmentally adverse. The percentage depletion allowance makes a mockery of conservation efforts. The subsidy effectively encourages mining regardless of the true economic value of the resource. The effects of such mines on U.S. lands, both public and private, has been significant—with tailings piles, scarred earth, toxic byproducts, and disturbed habitats to prove it.

Ironically, as my earlier description highlights, the more toxic the commodity, the greater the percentage depletion received by the producer. Mercury, lead, uranium, and asbestos receive the highest percentage depletion allowance, while less toxic substances receive lower rates.

Particularly in the case of the four commodities covered by my bill, these tax breaks create absurd contradictions in Government policy. The bulk of the tax break shared by these four commodities goes to support lead production. Federal public health and environmental agencies are struggling to come to grips with a vast children's health crisis caused by lead poisoning. Nearly 9 percent of U.S. preschoolers, 1.7 million children, have levels of lead in their blood higher than the generally accepted safety standard. Federal agencies spend millions each year to prevent lead poisoning, test young children, and research solutions. At the same time, the percentage depletion allowance subsidizes the mining of lead with a 22-percent depletion allowance. Lest we think that our nearly 15-year-old ban on lead in paint, or the end of the widespread use of lead in gasoline has solved our lead problems, exposure problems still exist. In 1993, 390 million tons of lead were produced in this country, with a value of $275 million, according to the U.S. Bureau of Mines. Some 82 percent of the production came from 29 plants with annual capacities of more than 6,000 tons. There continue to be major uses of lead in the production of storage batteries, gasoline additives and other chemicals, ammunition, and solder. Even more ironic, Mr. President, though the recovery and recycling of lead from scrap batteries was approximately 780 tons—twice the newly mined production—the recycling industry received no such tax subsidy.

To cite another example, hardly any individual in this body has not been acutely aware of the public health problem posed by asbestos. These compounds were extensively used in building trades and have resulted in tens of thousands of cases of lung cancer and fibrous disease in asbestos workers. As many as 15 million school children and 3 million school workers have the potential to be exposed because of the installation of asbestos containing materials in public buildings between 1945 and 1978. The EPA has already banned the use of asbestos in many building and flame retardant products, and will phase out all other uses over the next 5 years. Asbestos fibers are released at all stages of mining, use, and disposal of asbestos products. The EPA estimates that approximately 700 tons per year are released into the air during mining and milling operations. It certainly seems quite peculiar to this Senator, that a commodity, the use of which the Federal Government will effectively ban before the year 2000, continues to receive a hearty tax subsidy.

Mr. President, the time has come for the Federal Government to get out of the business of subsidizing business in ways it can no longer afford—both financially and for the health of its citizens. This legislation is one step in that direction.

Mr. President, in our efforts to reduce the Federal deficit and achieve a balanced budget, it is critical that we look at tax expenditures that provide special subsidies to particular groups, such as those proposed to be eliminated in this legislation. Tax expenditures are among the fastest growing parts of the Federal budget. According to the General Accounting Office, these tax expenditures already account for some $400 billion each year. GAO has recommended that Congress begin scrutinizing these areas of the budget as closely as we do direct spending programs. Earlier this year, the Senator from Minnesota [Mr. WELLSTONE] and I introduced a sense-of-the-Senate resolution calling for imposing the same kind of fiscal discipline in the area of tax expenditures that we do for other areas of the Federal budget, an issue that the Senator from New Jersey [Mr. BRADLEY] has championed for some time as well. I am particularly pleased to have the Senator from New Jersey and the Senator from Minnesota join me in this effort today. As GAO noted in its report last year, "Tax Policy: Tax Expenditures Deserve More Scrutiny", many of these special tax provisions are never subjected to reauthorization or any type of systematic review. Once enacted, they become enshrined in the Tax Codes and are difficult to dislodge.

Of the 124 tax expenditures identified by the Joint Tax Committee in 1993, about half were enacted before 1950—nearly half a century ago. Clearly, in this case, the economic conditions which may have once justified a special tax subsidy have dramatically changed. Eliminating these kinds of special tax preferences is long overdue.

Mr. President, in 1992 I developed an 82+point plan to eliminate the Federal deficit and have continued to work on implementation of the elements of that plan since that time. Elimination of special tax preferences for mining companies was part of that 82-plus-point plan. Achievement of a balanced budget will require that these kinds of special taxpayer subsidies to particular industries must be curtailed, just as many direct spending programs are being cut back.

Finally, Mr. President, in conclusion I want to pay tribute to several elected officials from Milwaukee, Mayor John Norquist, State Representative Spencer Coggs, and Milwaukee Alderman Michael Murphy, who have brought to my attention the incongruity of the Federal Government continuing to provide taxpayer subsidies for the production of toxic substances like lead while our inner cities are struggling to remove lead-based paint from older homes and buildings where children may be exposed to this hazardous material. I deeply appreciate their support and encouragement for my efforts in this area.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

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

S. 1022

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

SECTION 1. CERTAIN MINERALS NOT ELIGIBLE FOR PERCENTAGE DEPLETION.

(A) GENERAL RULE.—

(1) Paragraph (1) of section 613(b) of the Internal Revenue Code of 1986 (relating to percentage depletion rates) is amended—

(A) by striking "and uranium" in subparagraph (A), and

(B) by striking "asbestos,", "lead,", and "mercury," in subparagraph (B).

(2) Subparagraph (A) of section 613(b)(3) of such Code is amended by inserting "other than lead, mercury, or uranium" after "metal mines".

(3) Paragraph (4) of section 613(b) of such Code is amended by striking "asbestos (if paragraph (1)(B) does not apply),".

(4) Paragraph (7) of section 613(b) of such Code is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ", or", and by inserting after subparagraph (C) the following new subparagraph:

"(D) mercury, uranium, lead, and asbestos."

(b) CONFORMING AMENDMENTS.—Subparagraph (D) of section 613(c)(4) of such Code is amended by striking "lead," and "uranium,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. WELLSTONE. Mr. President, I am very pleased to be able today to speak on behalf of the bill that the distinguished Senator from Wisconsin has introduced and that I am co-sponsoring; a bill that I believe takes a crucial

step toward returning some standard of fairness to our Nation's Tax Code.

Mr. President, I believe I can speak for a large majority of middle-income families in this country when I say that there are major problems with our tax system. When the American people send their checks to Washington every April 15, they want to know that their money is being used wisely and that everyone in the country is carrying his or her share of the load. They want to know that just because they don't have their own personal lobbyist up on the Hill and that there is a standard of basic economic fairness that is applied in our tax system—that the superwealthy can and should pay more than those who are struggling.

But the American people are angry—they are angry at Washington because they feel in their hearts that there is no standard of fairness being applied in our tax system anymore. And do you know what Mr. President? They are right. Over the years our national Tax Code has become riddled with corporate tax breaks, loopholes, and outright giveaways, costing the Federal Government over $400 billion each year; Mr. President—talk about the gift that keeps on giving. These are tax dollars that we forego—money that has to be made up somewhere, and all too often ends up costing American families of modest means even more.

These tax loopholes and corporate giveaways are like trying to fill up a bucket with water, but the bucket has hundreds of holes that let the water dribble out from every corner. You can turn on the spigot and put more and more and more water into the bucket, but until the holes are plugged you'll never keep the water where it belongs.

That's what this bill does; it begins to plug some of the tax holes. This bill removes a special tax break that only a very few businesses have in this country—companies that mine lead, mercury, uranium, and asbestos. It's called the special percentage depletion allowance, and it allows mining companies to deduct 22 percent of their profits from their income each and every year for each and every mine they operate. Twenty-two percent, Mr. President. Now I know of lots of small business operators in Minnesota who would love to have that kind of special allowance for their business—but they don't have it. Those who mine these minerals have it.

A twenty-two percent tax break—and for what? So miners can dig hazardous heavy metals like lead and mercury out of the ground? Do we give tax breaks to companies that take these dangerous metals out of our environment and recycle them? Why are we giving a tax break to companies that mine asbestos to encourage them to dig more out of the ground when in just a few years the use of asbestos will be banned altogether? Why give a 22-percent tax credit to a company that mines uranium and not to a company that produces ethanol, or solar panels, or geothermal power?

Mr. President, this 22-percent tax deduction is not free—it costs the American public. The Joint Committee on Taxation said that eliminating this deduction for these minerals would save the Government $83 million over the next 5 years. If corporations do not pay their fair share of taxes, middle-class people have to pay more; the American public is in effect underwriting this tax dodge for these companies. That is not right, it is not fair, and it should be stopped.

This bill takes a bold step, and I applaud its author, my good friend the distinguished Senator from Wisconsin for bringing it to the floor. And, I would say to the people of this country, and to my colleagues, that I see this bill as a beginning. I hope it will be the beginning of an all-out effort to reform what I and others have called corporate entitlements; an effort to cut back on what are spending programs by fiat, programs that, unlike regular spending programs, never come up for review in Congress or by the public at large. It is an effort to return some standard of fairness to our tax system, and rebalance the tax scales to ensure that corporations will pay more of their fair share—and the American public will no longer be forced to underwrite multinational corporations.

ADDITIONAL COSPONSORS

S. 254

At the request of Mr. LOTT, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the U.S. merchant marine during World War II.

S. 354

At the request of Mr. BREAUX, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 354, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage the preservation of low-income housing.

S. 426

At the request of Mr. WARNER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 426, a bill to authorize the alpha phi alpha fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 491

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 491, a bill to amend title XVIII of the Social Security Act to provide coverage of outpatient self-management training services under part B of the Medicare program for individuals with diabetes.

S. 628

At the request of Mr. KYL, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 743

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 743, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 885

At the request of Mr. MOYNIHAN, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. BROWN], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 885, a bill to establish U.S. commemorative coin programs, and for other purposes.

S. 896

At the request of Mr. CHAFEE, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

S. 905

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 905, a bill to provide for the management of the airplane over units of the National Park System, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 957

At the request of Mr. BURNS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 957, a bill to terminate the Office of the Surgeon General of the Public Health Service.

S. 969

At the request of Mr. BRADLEY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

SENATE JOINT RESOLUTION 34

At the request of Mr. SMITH, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of

Senate Joint Resolution 34, a joint resolution prohibiting funds for diplomatic relations and most favored nation trading status with the Socialist Republic of Vietnam unless the President certifies to Congress that Vietnamese officials are being fully cooperative and forthcoming with efforts to account for the 2,205 Americans still missing and otherwise unaccounted for from the Vietnam War, as determined on the basis of all information available to the U.S. Government, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 133

At the request of Mr. HELMS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Wyoming [Mr. THOMAS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Resolution 133, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that, because the United Nations Convention on the Rights of the Child could undermine the rights of the family, the President should not sign and transmit it to the Senate.

AMENDMENTS SUBMITTED

COMPREHENSIVE REGULATORY REFORM ACT OF 1995

DOLE AMENDMENT NO. 1492

Mr. DOLE proposed an amendment to amendment No. 1487, proposed by Mr. DOLE to the bill (S. 343) to reform the regulatory process, and for other purposes, as follows:

On page 25, delete lines 7–15, and insert the following in lieu thereof:

"(f) HEALTH, SAFETY, OR FOODSAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an energency, or health or safety threat or a foodsafety threat, (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

DOLE AMENDMENT NO 1493

Mr. DOLE proposed an amendment to amendment No. 1493, proposed by Mr. DOLE to amendment No. 1492 to the bill, S. 343, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

"(f) HEALTH, SAFETY, OR FOODSAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat, or a foodsafety threat (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources; and".

DOLE AMENDMENT NO. 1494

Mr. DOLE proposed an amendment to the bill, S. 343, supra; as follows:

Strike the word "analysis" in the bill and insert the following: "Analysis.

"( ) HEALTH, SAFETY, OR FOODSAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat or a foodsafety threat, (including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources."

DOLE AMENDMENT NO. 1495

Mr. DOLE proposed an amendment to amendment No. 1494, proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

In lieu of the language proposed to be inserted, insert the following analysis.

"( ) HEALTH, SAFETY, OR FOOD SAFETY OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) Effective on the day after the date of enactment, a major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency, or health or safety threat (or a food safety threat including an imminent threat from E. coli bacteria) that is likely to result in significant harm to the public or natural resources;".

DOLE (AND OTHERS) AMENDMENT NO. 1496

Mr. DOLE (for himself, Mr. LEVIN, Mr. JOHNSTON, Mr. ROTH, and Mr. HATCH) proposed an amendment to amendment No. 1487, proposed by Mr. DOLE to the bill, S. 343, supra; as follows;

On page 35, line 10, Delete lines 10–13 and insert in lieu thereof:

"(A) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law. Nothing in this section shall be construed to override any statutory requirement, including health, safety, and environmental requirements."

JOHNSTON AMENDMENT NO. 1497

Mr. JOHNSTON proposed an amendment to amendment No. 1487 proposed by Mr. DOLE to the bill, S. 343, supra; as follows:

On page 14, line 4, strike out subsection (5)(A) and insert in lieu thereof the following new subsection:

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable increased costs (and this limit may be adjusted periodically by the Director, at his sole discretion, to account for inflation); or".

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold hearings regarding abuses in Federal student grant programs proprietary school abuses.

This hearing will take place on Wednesday, July 12, 1995, in room 342 of the Dirksen Senate Office Building. For further information, please contact Harold Damelin of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, July 11, 1995, session of the Senate for the purpose of conducting a hearing on international aviation and beyond rights.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 11, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to review the Secretary of Energy's strategic realignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet Tuesday, July 11, 1995, at 10 a.m., to consider an original bill regarding uniform discharge standards for U.S.

Armed Forces vessels under the Clean Water Act and an original bill waiving the local matching funds requirement for the fiscal years 1995 and 1996 District of Columbia highway program.

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

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet Tuesday, July 11, 1995, beginning at 2:30 p.m. in room SD–225, to conduct a hearing on the taxation of U.S. citizens who expatriate.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 11, 1995, at 10 a.m.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs hold a hearing to consider options for compliance with budget resolution instructions and administration budget proposals relating to veterans' programs. The hearing will be held on July 11, 1995, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON THE CONSTITUTION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on Tuesday, July 11, 1995, at 10 a.m. to consider State sovereignty and the role of the Federal Government.

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

SUBCOMMITTEE ON DISABILITY POLICY

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Disability Policy of the Committee on Labor and Human Resources be authorized to meet for a hearing on the student discipline in IDEA, during the session of the Senate on Tuesday, July 11, 1995, at 2 p.m.

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

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 30, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.0 billion, $3.1 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated June 20, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 10, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through June 30, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 16, 1995, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JUNE 16, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/ under resolution
ON-BUDGET			
Budget Authority	1,238.7	1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,415.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt Subject to Limit	4,965.1	4,843.4	−121.7
OFF-BUDGET			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	(3)
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS JUNE 30, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	−250,027	−250,027	
Total previously enacted	1,238,376	1,213,992	978,466
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (P.L. 104–6)	−3,386	−1,008	
Self-Employed Health Insurance Act (P.L. 104–7)			−248
Total enacted this session	−3,386	−1,008	−248
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−1,887	3,189	
Total current level[1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	
Over budget resolution			518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.•

CONTINUE FUNDING FOR THE OFFICE OF TECHNOLOGY ASSESSMENT

• Mr. INOUYE. Mr. President, I rise today in support of continuing the funding for the Office of Technology Assessment [OTA] of the U.S. Congress. I believe that if more of my distinguished colleagues, as well as the public, knew what the elimination of the OTA would mean to our deliberative processes, they, too, would support this invaluable congressional resource.

Mr. President, there is considerable dedication among my colleagues to reduce the Federal budget deficit and to streamline Federal agencies. This Congress deserves to be commended for bringing the budget deficit, and its burden on future generations, to the attention of the American people more dramatically than ever before. I, too, support the reduction of Federal spending, but only where it makes good sense to do so.

However, I ask, what positive affect will the elimination of the OTA—a 143-person, $20-million-a-year agency that

performs a great service to the Congress and that potentially saves billions of dollars—have on reducing the budget deficit?

Mr. President, many of my colleagues know that the OTA does valuable work and that it is well-managed. However, some argue that the OTA is a luxury that the Congress and the country can no longer afford. Mr. President, I submit that the OTA is not an indulgence, but rather a necessity for the Congress and the Nation.

I have frequently turned to the OTA for analysis and information. For example, in 1986, the OTA provided an invaluable service to the Congress and the American Indian community by taking an unprecedented in-depth look at native American health and health care. We learned an enormous amount about both the inadequacies of information technology and the health care delivery systems in the Federal agencies that are charged with implementing our nation-to-nation treaty agreements. As a result of the OTA's study, the Congress will now enjoy a much higher degree of accuracy in reports on the status of Indian health.

Let me give you another example of how the OTA has responded to my requests to deliver impartial information. I was one of the first primary requesters of Adolescent Health—OTA, 1991—the first extensive national examination of the scientific evidence on the efficacy of prevention and treatment interventions directed toward improving the health of our Nation's adolescent population. The OTA clearly gave the authorizing and appropriating committees the message that we should not trick ourselves into thinking that by simply labeling Federal initiatives as "prevention" of adolescent substance abuse, delinquency, AIDS, or pregnancy, the programs were effective. In fact, many of us on both sides of the aisle were disturbed when the OTA concluded that there was very little evidence of success from the prevention efforts that we had promoted. However, the requesters soon came to realize how valuable it was to receive an open-minded and impartial review from the OTA. And, as the OTA was charged to do, its report went well beyond just giving us the bad news. Because its role is to provide useful information to the Congress, the OTA provided sufficient analysis for us to see where our federally funded prevention efforts were going wrong, and provided guidance to the executive branch on how to better target Federal dollars for adolescent health.

I can give you numerous other examples of the OTA's rigorous approach in winnowing through cloudy data in order to provide us with information that is both accurate and useful. For example, since the late 1970's, the OTA has been an often lonely voice in the health care wilderness, carefully assessing whether the country is investing sufficiently in evidence-gathering on health care treatments. Valid information about what works and what doesn't work is critical to the public and private sectors of the health care industry, which represents one-seventh of the Nation's gross domestic product. Senators and staffers need this information as they consider budget requests from the U.S. Department of Health and Human Services, including the upcoming reauthorization for the National Institutes of Health, and proposed reforms to Medicaid, Medicare, and the private insurance market. For example, policymakers need to know the extent to which consumers have sufficient information to choose insurance plans, health facilities, and individual treatments. Just recently, the OTA, reexamined how we know what works by looking at new health assessment technologies—OTA, Identifying Health Technologies That Work: Searching for Evidence, September 1994. I recommend that report to all of my colleagues and to their constituents in the health care business.

As another example, a health technology study by the OTA in December 1988, Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: A Policy Analysis, concluded that nonphysician providers were "especially valuable in improving access to primary and supplemental care in rural areas and * * * for the poor, minorities and people without insurance." This information was very helpful in developing health care systems enhanced by the utilization of nonphysician care providers for our underserved populations.

Similar, hard-hitting, tell-it-like-it-is analyses have been done by the OTA on subjects ranging from ground water to space. These include classic assessments of polygraph testing, DNA analysis, police body armor, seismic verification of nuclear test ban treaties and other work on weapons of mass destruction, and on risk assessment methods, all of which were greeted with accolades from Members. Right now, the OTA has work under way in areas as important and diverse as earthquake damage prevention, advanced automotive technologies, renewable energy, wireless communications, and Arctic impacts of Soviet nuclear contamination.

Some of my colleagues have suggested that we don't need an OTA—that is, our own group of experts in the legislative branch capable of providing us with these highly technical analyses needed for developing legislation. How many of us are able to fully grasp and synthesize highly scientific information and identify the relevant questions that need to be addressed?

The OTA was created to provide the Congress with its own source of information on highly technical matters. Who else but a scientifically oriented agency, composed of technical experts, governed by a bipartisan board of congressional overseers, and seeking information directly under congressional auspices, and given the Congress and the country accurate and essential information on new technologies?

Can other congressional support agencies and staff provide the information we need? I am second to none in my high regard for these agencies, but each has its own distinct role. The U.S. General Accounting Office is an effective organization of auditors and accountants, not scientists. The Congressional Research Service is busy responding to the requests of members for information and research. The Congressional Budget Office provides the Congress with budget data and with analyses of alternative fiscal and budgetary impacts of legislation. Furthermore, each of these agencies is likely to have its budget reduced, or to be asked to take on more responsibilities, or both, and would find it extremely difficult to take on the kinds of specialized work that OTA has contributed.

I hope that the Congress does not become a body that ignores common sense. If it is to remain the world's greatest deliberative body—possible only because of access to the best and most accurate and impartial information and analysis—the Congress must retain the OTA.●

ERRATA IN CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67

● Mr. DOMENICI. Mr. President, due to a printing error, the table in the conference report on House Concurrent Resolution 67 setting forth the budget authority and outlay allocations for Senate committees incorrectly shows a budget authority allocation of $1,400 million to the Senate Veterans' Affairs Committee for 1996.

The 1996 budget authority allocation to the Senate Veterans' Affairs Committee is actually $1,440 million. Therefore, the Veterans' Affairs allocation for fiscal year 1996 is as follows:

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Veterans' Affairs	1,440	1,423	19,235	17,686

●

RECOGNIZING RECIPIENT OF THE GIRL SCOUT GOLD AWARD FROM THE STATE OF MARYLAND

● Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and

confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.

It is with great pleasure that I recognize and applaud Kerri Marsteller of Monkton, MD, who is one of this year's recipients of this most prestigious and time honored award.

Kerri is to be commended on her extraordinary commitment and dedication to her family, friends, community, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled her to reach this goal will also help her to meet the challenges of the future. She is our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating Kerri Marsteller. She is one of the best and the brightest and serves as an example of character and moral strength for us all to imitate and follow.

Finally, I wish to salute the families and Scout leaders who have provided Kerri and other young women with continued support and encouragement.

It is with great pride that I congratulate Kerri Marsteller on this achievement.●

RESTORATION OF DIPLOMATIC RELATIONS WITH VIETNAM

● Mr. McCAIN. Mr. President, I support the President's decision today to restore full diplomatic relations with Vietnam. This would not be an easy decision for any President to make. President Clinton has shown courage and honor in his resolve to do so.

President Clinton, like Presidents Bush and Reagan before him, took very seriously his pledge to the American people that the first priority in our relationship with Vietnam would be the accounting for Americans missing in action in Vietnam.

Given the importance of that commitment, President Clinton insisted that Vietnam cooperate with our accounting efforts to such an extent that normalization was clearly justified and that tangible progress toward the fullest possible accounting be clear enough to assure us that the prospects for continued cooperation were excellent.

Vietnam has shown that level of cooperation. The President has kept his commitment. Normalizing relations with our former enemy is the right thing to do.

In 1991, President Bush proposed a roadmap for improving our relations with Vietnam. Under its provisions, Vietnam was required to take unilateral, bilateral, and multilateral steps to help us account for our missing. Vietnam's cooperation has been excellent for some time now, and has increased since the President lifted our trade embargo against Vietnam in 1994.

That view is shared by virtually every American official, military and civilian, involved in the accounting process, from the commander in chief of U.S. Forces in the Pacific to the enlisted man excavating crash sites in remote Vietnamese jungles. It is also shared by Gen. John Vessey who served three Presidents as Special Emissary to Vietnam for POW/MIA Affairs, as capable and honorable a man as has ever worn the uniform of the United States.

It is mostly my faith in the service of these good men and women that has convinced me that Vietnam's cooperation warrants the normalization of our relations under the terms of the roadmap. It would be injurious to the credibility of the United States and beneath the dignity of a great nation to evade commitments which we freely undertook.

I should also note that Adm. Jeremiah Denton, my acting senior ranking officer at the Hanoi Hilton and a courageous resister, as well as my dear friend, Ev Alvarez, the longest held POW in Vietnam, join me and many other former POW's in supporting the restoration of diplomatic relations.

Other factors make the case for full diplomatic relations even stronger. Increasingly, the United States and Vietnam have a shared strategic concern that can be better addressed by an improvement in our relations.

I am not advocating the containment of China. Nor do I think such an ambitious and complex strategic goal could be achieved simply by normalizing relations with Vietnam. But Vietnam, which will become a full member of ASEAN later this month, is an increasingly responsible player in Southeast Asian affairs. An economically viable Vietnam, acting in concert with its neighbors, will help the region resist dominance by any one power. That is a development which is clearly in the best interests of the United States.

Human rights progress in Vietnam should also be better served by restoring relations with that country. The Vietnamese have already developed complex relations with the rest of the free world. Instead of vainly trying to isolate Vietnam, the United States should test the proposition that greater exposure to Americans will render Vietnam more susceptible to the influence of our values.

Vietnam's human rights record needs substantial improvement. We should make good use of better relations with the Vietnamese to help advance in that country a decent respect for the rights of man.

Finally, the people of Arizona expect me to act in the best interests of the Nation. We have looked back in anger at Vietnam for too long. I cannot allow whatever resentments I incurred during my time in Vietnam to hold me from doing what is so clearly my duty. I believe it is my duty to encourage this country to build from the losses and the hopes of our tragic war in Vietnam a better peace for both the American and the Vietnamese people. By his action today, the President has helped bring us closer to that worthy goal. I strongly commend him for having done so.●

THE HIGHWAY BILL

● Mr. ABRAHAM. Mr. President, I want to take a few months to explain several of my votes concerning S. 440, the highway bill. I voted in favor of final passage of the bill because it would meet Federal transportation responsibilities while returning to the States much of their rightful authority to manage their own roadways.

Many of the amendments offered to the bill concerned the question of whether the States should be required to enact various highway safety laws. Although the debate on these amendments focused to a large extent on the wisdom of the safety laws at issue, my votes on the amendments turned more on the threshold question of whether the States should retain the power to decide for themselves whether to enact those laws. As a general matter, I think the Federal Government should decide only those issues that, by their very nature, demand a uniform resolution throughout the Nation. On issues like these, a resolution of the issue at the State level would itself be harmful, no matter how wisely the State legislatures exercise their power. National defense is one such example; the need for central direction and economies of scale preclude a satisfactory resolution of the issue at the State level. But our laws in other areas should in the main be left to the discretion of the States, so that they can be tailored to the respective circumstances and values prevalent in each State.

These principles led me to oppose the Reid amendment to set a national speed limit for trucks, the Lautenberg amendment to set a national speed limit for all motor vehicles, and the Dorgan amendment to prohibit open containers of alcohol in motor vehicles. They likewise explain my support for the Smith amendment to repeal Federal seatbelt and motorcycle helmet law mandates, and the Snowe amendment to repeal the Federal motorcycle-helmet law mandate. None of these issues demands a single resolution across the Nation. I further note that my home State of Michigan already has a seatbelt law, which only underscores the fact that my votes on these amendments turned not on my views as to whether States should have seatbelt and helmet laws, but rather on my belief that States ought to be able to decide these issues for themselves.

Similarly, I opposed the Hutchinson amendment to retain the Federal motorcycle-helmet law mandate with respect to States that do not assume the

cost of treating injuries attributable to a person's failure to wear a helmet while riding a motorcycle. This amendment was presented as an attempt to marry States' responsibility with States' rights. And it is true that the Federal Government assumes certain medical costs through its Medicaid and Medicare programs. But that does not mean the Federal Government should be able to mandate motorcycle-helmet laws. For if it did, the Federal Government could likewise mandate laws prohibiting other activities—say, smoking or mountain climbing—that involve an appreciable risk of physical harm. The Hutchison amendment in fact would have been a Trojan Horse for increasing the power of the Federal Government at the expense of not only the prerogatives of the States, but also of the liberties of the people.

My support of the Byrd amendment to encourage a national blood-alcohol standard for minor drivers was bottomed on these same principles. No one argues that kids should be able to drink and drive. To the contrary, everyone agrees that teenage drinking and driving is a danger that must be addressed. When there is this kind of overwhelming national consensus with respect to an issue, the question of whether the issue should be decided at the State level in fact becomes merely theoretical. Under these circumstances, the existence of a Federal rule is not likely to frustrate the desire of a State to enact a contrary rule. Such is the case with teenage drinking and driving. In cases like these, the practical, administrative benefits of a uniform Federal rule outweigh theoretical concerns related to federalism.●

THE 125th ANNIVERSARY OF LIBRARY OF CONGRESS COPYRIGHT SERVICE

● Mr. HATFIELD. Mr. President, as Chairman of the Joint Committee on the Library of Congress, it is my pleasure to acknowledge the 125th anniversary of the statute which centralized our Nation's copyright registration and deposit system in the Library. This law, signed by President Ulysses S. Grant on July 8, 1870, was the single most important factor in ensuring that Congress' library would eventually become the Nation's library and, in fact, the greatest repository of knowledge in the world.

Today, Dr. James Billington, our Librarian of Congress, will recognize the role of the copyright in building the Library's unsurpassed collection over the past 125 years in a program being held in the Jefferson Building's Great Hall. I join with Dr. Billington in celebrating the anniversary of this important statute.

The act required both that all works be registered in the Library and that the Library be the repository of these copies. The Library could hold the copy of the work as a record of the copyright registration, but it also had the opportunity to make the work available as a resource for others. The joining of copyright and the Library was, and continues to be, a mutually beneficial arrangement. Then-Librarian of Congress Ainsworth Spofford believed that bringing copyright to the Library could help it become a great library, and he strongly urged passage of the 1870 legislation. However, I think even he could not have foreseen that the Library of Congress would become the great institution it is today.

It is hard to overemphasize the importance of copyright deposits to the collections of the Library and the resulting growth of the institution. Within a decade after the 1870 statute, the Library's collections tripled. When foreign works were granted U.S. copyright protection in 1891, many works from other countries were brought into the Library through copyright deposit.

Among the works the Library has received through copyright deposit are: the first edition of a Dvorak opera; an unpublished composition by the 14 year-old Aaron Copland; all the network news programs since the 1960's; rare performances by artists such as Martha Graham captured on videotape; and important Civil War and Spanish-American War photographs.

The importance of the copyright deposits to the Library continues today. Some of the Library's most heavily used collections, such as the local history and genealogy collection, would hardly exist were it not for copyright deposit. In fiscal year 1994, the value of works received through copyright deposit was estimated at more than $15 million. The acquisition of these works could not have been accomplished through purchasing and gifts.

Mr. President, the Library of Congress provides valuable and unique services to the Congress and the Nation. Copyright continues to play an important role in the Library's work and I once again join in commemorating the 125th anniversary of the act which brought our national copyright system to the Library of Congress.●

RESTORING DIPLOMATIC RELATIONS WITH VIETNAM

● Mr. BINGAMAN. Mr. President, I feel that it is important that the Members of this Chamber move history forward and support the President's decision to normalize diplomatic relations with Vietnam.

Over the last 17 months, the Vietnamese Government has helped to resolve many cases of Americans who were missing in action or held as prisoners of war. I strongly feel that our responsibility to the families of courageous, patriotic Americans who fought in the Vietnam conflict, and who are still missing, will never end until the status of their fate is resolved.

But important progress is being made. As President Clinton stated this afternoon, 29 families have received the remains of their loved ones with the assistance of the Vietnamese Government. Important documents have been passed on to our Government to help shed light on the fate of other missing Americans. And the number of discrepancy cases of Americans thought to be alive after they were lost has been reduced to 55.

Mr. President, we must continue serious efforts to secure information about our lost soldiers, and this effort can be greatly enhanced by coordinating and working with the Vietnamese Government and its people. Normalizing relations will help our cause and further our national interest.

Mr. President, those who have argued against normalization seem more comfortable with the past and have little vision of the future. We were engaged in serious conflict in Vietnam, and much of our military presence in Asia derived from the needs and requirements of that conflict. But who has benefited from American sacrifice? Not many in this country.

Japan has just emerged as the largest foreign investor in Vietnam. During the first half of this year, Japan won 30 major infrastructure projects worth $755 million. Of Vietnam's intake of $3.58 billion for these first 6 months, Taiwan, South Korea, and Singapore followed behind Japan in investment. The United States ranked sixth in this major new growth market in the Asia Pacific region.

Although the United States dropped its trade embargo with Vietnam last year, America's failure to restore diplomatic relations has meant that the Ex-Im Bank could not finance trade, that the Overseas Private Investment Corporation could not insure American firms' commerce with Vietnam, and that our Nation could not develop trade treaties with what many consider to be the most important, new, big-emerging market. Without the ability to establish a treaty and grant MFN status with Vietnam, it is unlikely that the Vietnamese will earn money to purchase American products.

Mr. President, last year in the Washington Post, Alan Tonelson of the Economic Strategy Institute wrote about a 104-page Mitsubishi Corp. report entitled: "Master Plan for the Automobile Industry in Vietnam." He noted that this Japanese trading firm had already organized its efforts and meticulously established a framework to build a Vietnamese automotive industry, dependent on Japanese support. For once, America needs to get ahead of the curve, to support U.S. firms entering new markets, instead of having to elbow in after others have wrapped up the market.

Mr. President, America—more than any other nation in the Asian region—should be the beneficiary of Vietnam's economic development. We have an important duty to determine the fate of our lost and missing. But this effort will best be served by restoring diplomatic relations and recognizing Vietnam's Government. We must understand that our national economic interests are eroding each day that we allow other countries to push forward into this emerging economy and leave U.S. firms and American workers behind.

The time has come, Mr. President, for us to engage Vietnam and to build a future with this Government and its people that helps us deal with our wounds and helps our citizens into a new era.●

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104–14

Mrs. HUTCHISON. Mr. President, as in executive session, I ask unanimous consent that the Injunction of Secrecy be removed from the Investment Treaty with Trinidad and Tobago (Treaty Document No. 104–14), transmitted to the Senate by the President on July 11, 1995; that the treaty be considered as having been read for the first time, referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the Government of the United States of America and the Government of the Republic of Trinidad and Tobago Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on September 26, 1994. I transmit also for the information of the Senate, the report of the Department of State with respect to this Treaty.

The bilateral investment Treaty (BIT) with Trinidad and Tobago is the third such treaty between the United States and a member of the Caribbean Community (CARICOM). The Treaty will protect U.S. investment and assist the Republic of Trinidad and Tobago in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthen the development of its private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropriation; free transfer of funds related to investments; freedom of investments from performance requirements; fair, equitable, and most-favored-nation treatment; and the investor or investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex and Protocol, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 11, 1995.*

ORDERS FOR WEDNESDAY, JULY 12, 1995

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Wednesday, July 12, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there be a period for the transaction of morning business until the hour of 9:45 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator SANTORUM, 10 minutes; Senator MURKOWSKI, 10 minutes; Senator SIMPSON, 15 minutes; Senator DORGAN, 10 minutes. Further, that at the hour of 9:45 a.m., the Senate resume consideration of S. 343, the regulatory reform bill.

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

PROGRAM

Mrs. HUTCHISON. For the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow at 9:45 a.m. Further amendments are expected to the bill. Therefore, Senators should expect rollcall votes throughout the day tomorrow and into the evening in order to make progress on the bill.

RECESS UNTIL 9 A.M. TOMORROW

Mrs. HUTCHISON. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:46 p.m., recessed until Wednesday, July 12, 1995, at 9 a.m.