SENATE—*Monday, July 10, 1995*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Almighty God, infinite, eternal, and unchangeable, full of love and compassion, abundant in grace and truth, we praise You for being the faithful initiator and inspiration of prayer. We need not search for You, because You have found us; we need not ask for Your presence, because You already are impinging on our minds and hearts; we need not convince You of our concerns, because You know what we need even before we ask. What we do need are humble and receptive minds. Awe and wonder grip us as we realize that You want our attention and want to use us to accomplish Your plans for our Nation. We openly confess the inadequacy of our limited understanding. Infuse us with Your wisdom.

The week ahead is filled with crucial and controversial issues to be debated and decided. Reveal Your will for what is best for our Nation. We yield our minds to think, and then communicate, Your thoughts. Invade our attitudes with Your patience so that we will be able to work effectively with those who differ with us. Help us to listen to others as attentively as we want them to listen to us. In the midst of controversy keep us unified in the bond of our greater commitment to be servant-leaders of our Nation.

And as we press on with our work that You have given us to do, we commit to You the care of our loved ones and friends who need Your physical healing and Your spiritual strength. In Your holy name, Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Thank you, Mr. President.

We have morning business until 1 o'clock, with Senators permitted to speak for up to 10 minutes each. At 1 o'clock, we resume consideration of S. 343, the regulatory reform bill. Under a previous order, Senator ABRAHAM will be recognized to offer an amendment on small business. At 3 o'clock, the Abraham amendment will be set aside so that Senator NUNN may offer an amendment with Senator COVERDELL regarding regulatory flexibility.

At 5:15, we begin two back-to-back votes—a vote on or in relation to the Abraham amendment, to be immediately followed by a vote on or in relation to the Nunn-Coverdell amendment. So there will be at least two rollcall votes today, and there could be further rollcall votes into the evening.

Let me indicate to my colleagues, this is Monday morning. This is a very important piece of legislation. It is controversial in some quarters. We hope to end up with a strong bipartisan bill. But I will alert my colleagues, we will have long days all this week, including Friday. So I do not want people expecting that on Friday there will be no votes or maybe be one vote at 11 o'clock in the morning. That can change if we complete action on this bill, but I doubt that will happen.

In addition, we were not able to complete action on the rescissions package before we left a week ago Friday. That bill will come up when there is an agreement without amendment to go to final passage.

I understand there may be some discussion of that later on today. It is a bill that saves about $9.2 billion. It was blocked by two of my colleagues before the recess. I hope that their concerns may be satisfied by the administration. I hope the administration can deal with our Democratic colleagues with reference to that bill.

It has many important items in the bill, including disaster relief for Oklahoma City, earthquake relief for California, and a number of other—in fact, there are some 30 States for which this bill includes some disaster money. So it is an important bill. It is one we should pass.

It also saves $9.2 billion overall. It is very important that we pass that bill at the earliest possible time. I commend the White House for at least notifying the agencies not to spend any money that is not authorized in that rescissions bill. So that is a step in the right direction.

Now, if they can convince a couple of our colleagues to let us pass the bill, we could do that at any time today or tomorrow if an agreement is reached.

But I again indicate it is going to be a full week. We are already eating into the August recess. We have some "must" legislation we hope to complete between now and sometime in August. We will have a final schedule to all of our colleagues by the end of the week.

Mr. President, was leaders' time reserved?

The PRESIDING OFFICER (Mr. KYL). Yes, leaders' time was reserved.

DISTORTIONS OF REGULATORY REFORM BILL

Mr. DOLE. Mr. President, now that we have begun consideration of regulatory reform, the defenders of the status quo have settled on the weapon of last resort: fear. Thus, we have reporters and pundits pronouncing in strident tones "the rollback of 25 years of environmental protection," the likelihood of increased outbreaks of E. coli food poisoning, and the horror of placing a pricetag on human life.

The sky is falling is undoubtedly next.

The only problem with all these arguments is that they are absolutely false, not just false in some small way, but false in every way. Apparently, the Chicken Littles who have engaged in these scare tactics did not even bother to read the legislation.

Had they done so, they would realize that most of the bill merely codifies Executive orders issued by every President since the Ford administration. Had they done so, they would realize this is a bipartisan piece of legislation that balances commonsense reform with the need to protect health, safety, and the environment. So here are a few facts—although I am not certain from some of the reports I read, the Ralph Naders, and the Bob Herberts of the New York Times, and others, even care about facts—but just in case somebody might care about facts, let me state some facts, and I quote directly from the legislation conveniently ignored by these liberal distortions:

Our regulatory reform legislation protects existing environmental health and safety laws.

Our legislation makes explicit that regulatory reform measures supplement and [do] not supersede—supplement and do not supersede. We are not going to supersede any law, we are going to supplement existing environmental health and safety requirements. Congress chooses the goals, and all we ask is that among several options achieving those goals that the one imposing the least possible burden be selected.

We do not see a problem, if you are going to have all these options, and one will accomplish the job with the least burden on the American taxpayer, the American consumer, the American businessman, generally small business men and women, why should we not choose that option?

However, a cost-benefit analysis of proposed regulations is not required before issuing rules that address an "emergency or health or safety threat that is likely to result in significant

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

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harm to the public or natural resources." If nonquantifiable benefits to "health, safety, or the environment" call for a more costly regulatory alternative, the agency is free to make that choice as well. And rules subject to a proposed congressional 60-day review period may be implemented without delay if "necessary because of an imminent threat to health or safety or other emergency." So it seems to me we have made it rather clear.

Some rollback.

Our regulatory reform legislation protects food safety.

Perhaps the most cowardly argument has been the one that suggests that our legislation would, in the words of one overly distraught commentator, mount "an all-out assault on food safety regulations" and block implementation of the Agriculture Department's proposed meat inspection regulations.

Does any reasonable person really believe that any politician, Democrat or Republican, is trying to gut food safety laws? Of course not. But for those who have made a career on scare tactics, this argument will apparently do. If they make it, surely somebody in the media will repeat it and repeat it and repeat it. That has been done for the past several days.

All of the protections in the bill noted above apply here, too, especially the one exempting a regulation from any delay if there is "an emergency or health or safety threat." But there are several additional ironies. First, the Agriculture Department already conducted a cost-benefit analysis of the meat inspection rule, and it passed. Second, in the entire bill the only time health inspections are mentioned, it is to exempt them from risk assessment requirements under this bill.

Our regulatory reform legislation does not place a price tag on human life.

The argument that regulatory reform would place a price tag on human life usually carries with it the notion that some lives will be worth more than others. This is a cynical argument and is completely at odds with what the bill would actually accomplish.

First, not only does the bill avoid putting a price tag on life, it explicitly recognizes that some values are not capable of quantification. Thus, both costs and benefits are defined in the legislation to include nonquantifiable costs and benefits.

The legislation also provides that in performing a cost-benefit analysis, there is no requirement to do so "primarily on a mathematical or numerical basis." And, second, agencies may choose higher cost regulations where warranted by "nonquantifiable benefits to health, safety or the environment."

Nothing could be more clear to this Senator, and we hope we have made it clear in the bill, which is sponsored by Republicans and Democrats.

Mr. President, I have quoted from the bill wherever possible. It is interesting that opponents of the bill never do. They probably have never seen the bill and do not know the numbers, and they do not intend to read it. They have bought into this nonsense that some Members of Congress are for dirty meat, that we want dirty meat—that is what I have read—that we want people to die of food poisoning.

I know they do not like to read these things because it is inconvenient, and they do not want the facts in many cases. But I challenge the opponents to stop distorting the truth and start seeking it. They can read the bill. To help them, I have prepared a summary of provisions that address the protections for health, safety, and the environment that I will include with this statement in the RECORD.

Then opponents can start telling us why they are really upset by regulatory reform. I suspect it has less to do with threats to the environment and more to do with the threat to Federal power in Washington, DC.

We have a lot of bureaucrats that might lose their jobs if we can ease some of the burdens on consumers, farmers, ranchers, small businessmen and women, the people who have to pay for all the regulations, and, in some cases, the costs exceed the benefits. In some cases, there are no benefits at all. The most costly regulations are usually the ones that impose a Government-knows-best requirement, and there is an entire culture devoted to telling the American people that the Government knows best; Washington, DC, knows best.

Our legislation is a direct threat to a smug assertion. By golly, we ordinary Americans hope you agencies do not take it personally, but we would really like you to show us why a rule imposing hundreds of millions of dollars makes sense and was the only way to do it.

So we think we are on to something here. It should not be a partisan issue, and it is not a partisan issue. A lot of my good colleagues on the other side of the issue are supporting this, and we hope to have more before the week is out.

The opponents are right in one respect: This is one of the most important pieces of legislation this Congress will address. Americans pay more in regulatory costs than they do to Uncle Sam through income taxes. Overregulation costs the American family an estimated $6,000 a year. I believe we can ensure regulations that both promote important goals like food safety and also minimize costs wherever possible, and I believe it is our obligation to do so. In that respect, I am an optimist. I have never succumbed to the chirpings of the Chicken Littles and do not intend to start now.

Mr. President, I ask unanimous consent that a section-by-section analysis of this legislation, particularly as it relates to protection of human health, safety, and environment, be printed in the RECORD.

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

S. 343: Responsible Regulatory Reform That Protects Health, Safety and the Environment

S. 343 DOES NOT OVERRIDE EXISTING HEALTH, SAFETY AND ENVIRONMENTAL LAWS

Sec. 624(a)—Cost-benefit requirements "supplement and [do] not supersede" health, safety and environmental requirements in existing laws.

Sec. 628(d)—Requirements regarding "environmental management activities" also "supplement and [do] not supersede" requirements of existing laws.

S. 343 PROTECTS HUMAN HEALTH, SAFETY AND THE ENVIRONMENT

Sec. 622(f) and Sec. 632(c)(1)(A)—Cost-benefit analyses and risk assessments are not required if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 624(b)(3)(B)—An agency may select a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" make that choice "appropriate and in the public interest."

Sec. 624(b)(4)—Where a risk assessment has been done, the agency must choose regulations that "significantly reduce the human health, safety and environmental risks."

Sec. 628(b)(2)—Requirements for environmental management activities do not apply where they would "result in an actual or immediate risk to human health or welfare."

Sec. 629(b)(1)—Where a petition for alternative compliance is sought, the petition may only be granted where an alternative achieves "at least an equivalent level of protection of health, safety, and the environment."

Sec. 632(c)—Risk assessment requirements do not apply to a "human health, safety, or environmental inspection."

S. 343 DOES NOT DELAY HEALTH, SAFETY AND ENVIRONMENTAL RULES

Sec. 622(f) and Sec. 632(c)—Cost-benefit and risk assessment requirements are not to delay implementation of a rule if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 533(d)—Procedural requirements under the Administrative Procedures Act may be waived if "contrary to the public interest."

Sec. 628(b)(2)—Requirements for major environmental management activities are not to delay environmental cleanups where they "result in an actual and immediate risk to human health or welfare."

Sec. 801(c)—Congressional 60-day review period before rule becomes final may be waived where "necessary because of an imminent threat to health or safety or other emergency."

S. 343 DOES NOT PLACE A "PRICE TAG ON HUMAN LIFE"

Sec. 621(2)—"Costs" and "benefits" are defined explicitly to include "nonquantifiable," not just quantifiable, costs and benefits.

Sec. 622(e)(1)(E)—Cost-benefit analyses are not required to be performed "primarily on a mathematical or numerical basis."

Sec. 624(b)(3)(B)—An agency may choose a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" dictate that result.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. THOMAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

SUPPORTING REGULATORY REFORM

Mr. THOMAS. Mr. President, I rise in strong support of S. 343, the Comprehensive Regulatory Reform Act, which will be before us today and, I suspect, for the remainder of the week.

I think that this is one of the most exciting opportunities that we have had this year. This is one of the opportunities for this Congress and this Senate, this Government, to take a look at some of the things that have been going on for 30 years, 40 years, without much examination, which have simply grown and have continued to become more expensive and larger, without a real examination of whether or not what is being done is the most effective way to do it, or whether or not it could be done in a less costly way. I think it is an exciting opportunity.

I have just returned, as have most of our associates, from a week in my home State of Wyoming. We did a series of town meetings and met with the rangeland users and met with the sugar beet growers and the chamber of commerce and the Rotary. As has been the case for some time, the issue most often mentioned is overregulation and the cost of overregulation. So I am excited about the opportunity to do something about that.

I suspect that we will run into the same kinds of discussions that we have when we talk about doing something about welfare reform—that somehow those of us who want some change in what we have been doing are less compassionate than those who want the status quo; that somehow those of us who want to take a look at and change the way regulation is imposed are less caring about the environment and about clean water and clean air than those who support the status quo. That is simply not true.

I suspect that we will hear from the opposition on this bill that somehow this bill will remove all of the regulatory requirements that exist. Not so. We will hear that somehow the regulations that are in place to protect us for various kinds of water and air problems will be eliminated or superseded. That is simply not so.

Many people can imagine what the last election was about. But I think we have talked about it a great deal. There were at least three things that I think were most important to the people of Wyoming. One was that the Federal Government is too big, that it costs too much, and that we are overregulating. I think those are genuine responses that people feel very strongly about.

So, Mr. President, here is our opportunity to do something about that. Clearly, the regulatory system is broken. What is being proposed does not do away with regulations. It simply says there is a better way to do it.

As our leader just indicated, overregulation is a hidden tax that is passed on to consumers. It is not absorbed by businesses. It is not a business issue, even though much of it affects business. The costs are passed on to you and to me. Furthermore, the regulations are not confined to business. It goes much beyond that, into small towns, cities, the universities, and other areas.

Unfortunately, regulations have been applied generally. In our Wyoming Legislature, I am proud that we have a situation where the statute is passed by the legislature, the agency that is affected drafts and creates the regulation, and it comes back to the legislature for some overview to see, No. 1, if it is within the spirit of the statute; No. 2, to see if it is indeed cost beneficial, that what it is set to accomplish is worth the cost of accomplishment.

We do not even have here an analysis of what the cost will be. The cost of regulation, as the leader indicated, is more than personal tax revenues. Some estimate it between $650 billion and $800 billion. Now, this bill will not eliminate all of that cost, of course, because there is a need for regulation, and there is a cost with regulation. The point is that we are looking for a way to apply that regulation in as efficient and effective a manner as can be and do something that has not been done for a long time, and that in the application of the regulation, to use some common sense in terms of what it costs with respect to what the benefits are, and to take a look at risk-benefits ratios to see if what will be accomplished is worth the cost and the effort of the application.

Furthermore, it gives us an opportunity to go back to some regulations that have existed and look at them. Let me give an example. In Buffalo, WY, there are 3,500 people. The EPA said we need to enforce the Safe Drinking Water Act. Fine. They are willing to do that. They are willing to put in a filtering system that costs $3 million for a town of 3,500 and made a good-faith effort to comply.

One year later, EPA responded and said they would send a compliance schedule. Buffalo never received the schedule.

Then when Buffalo proceeded as they had set forth in their schedule, EPA claimed that Buffalo never let them know what was going on.

After that was worked out, EPA accepted, in writing, the town of Buffalo's plan. The following year, EPA again claimed the city did not let them know what was going on and referred the case to the Department of Justice for prosecution.

When asked what happened, EPA said, "We changed our mind." The bottom line, the city of Buffalo wanted to comply with the Federal mandate, but the Federal overregulation and bureaucracy prevented that.

The University of Wyoming. We had several contacts from the University of Wyoming asking for a list of issues they were most concerned about. Do you know what was at the top of the list? Overregulation. Not grants, not money—overregulation. This is the university. This is not a business. This is the university, where a good amount of their resources were there to educate young people.

We have the same problem in health regulations, in the disposal of health care waste, which goes far beyond the clean air. It will cause some of the small hospitals in Wyoming to be closed.

Overregulation is particularly difficult for the rural areas of the West, where in our case more than half of the State belongs to the Federal Government. The things we do in our way of life, in our economy, our job creation, is always regulated more than most anywhere else in the country. We are very, very, concerned.

Let me give one example. There are leases, of course, for livestock grazing on Bureau of Land Management lands and on lands of the Forest Service. The leases are renewed regularly. This year, it was decided there had to be a NEPA study—that is supposed to be confined to areas of national concern—for every renewal of a grazing lease. The irrigators have to spend $100,000 this year to do a NEPA review on their conservation land. The cost of this is paid by you and by me.

Regulatory reform needs to have principles. This bill has them. It has cost-benefit analysis. I think that is a proper and reasonable thing. You and I do that. We make decisions for ourself and our family. We have a cost-benefit analysis, even though it may be informal. A risk assessment—it could be that the last few percentage points are too expensive to be reasonable and common sense. We need a look-back provision so we can go back and take a look at the regulations that now exist. There needs to be a sunset provision so that burdensome laws and burdensome regulations can be dropped or renewed. There needs to be a judicial review. S. 343 incorporates these principles.

I think we have a great opportunity to make better use of the resources

that we have, Mr. President, to provide greater protection for human health and safety in the environment at a lower cost and to hold regulators accountable for their decisions. What is wrong with that? I think that is a good idea, to hold the Congress accountable for the kinds of regulations, to limit the size of Government, so that we can create jobs that help consumers improve competitiveness overseas.

We should take advantage of this opportunity. This week will be the time to do it, to be realistic, to apply common sense, to reduce the cost and the burden of regulation. I am delighted that we will have a chance this year, this week, Mr. President, to do that.

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.

Mr. DORGAN. 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. DORGAN. I ask unanimous consent to proceed for 15 minutes as if in morning business.

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

FEDERAL RESERVE BOARD

Mr. DORGAN. Mr. President, last week the Congress was not in session, but the Federal Reserve Board met downtown in their marble building and took a baby step in rectifying the mistake it made on seven occasions last year when they increased interest rates in order to slow down the American economy.

Last year, the Federal Reserve Board said it was combating inflation in our economy, so it desired to slow down the economy some and prevent a new wave of inflation. Now it appears the Federal Reserve Board has apparently won a fight without a foe. There was no wave of inflation across the horizon.

Last week's announcement to decrease interest rates by one-quarter of 1 percent made the stock market ecstatic. In fact, the Federal Reserve Board acted to ratchet down inflation marginally and the stock market reached record highs.

In fact, if we look at the combination of economic news in the last week or two, it is quite interesting. The Federal Reserve Board says it has won a fight with a foe that did not exist. The stock market reached record highs. And corporate profits are at record levels.

The question would be, if all of those pieces of economic news are so good for the American economy, if this is such wonderful economic news, then why are the Americans so displeased? Why are the American people not dancing in the streets about this economic news? Record profits should mean that businesses are doing well creating jobs, expanding, hiring. Record stock market levels should mean that the experts think the American economy is robust and growing.

The simple answer is the people in this country are not satisfied because this economic news masks an important fact. The American people are not satisfied with this economic news for the same reason that the Federal Reserve Board's actions last year were a mistake. The fact is, and the reason is, we are now living in a global economy.

That means that stellar economic numbers may not translate into economic opportunities here in our country. Surrounding all of the bright economic news that was trumpeted last week, there was one small but critically important fact: American wages are going down.

Yes; corporate profits are at record levels. Yes; the stock market is ringing the bell. Stock market indexes have never been higher in their history. But the fact is, American wage earners, American workers, are doing worse. Investors do better; American workers lose ground. Corporations do better, American wage earners do worse. Wealth holders succeed; working families fail.

There is no economic news that this administration, this Congress, the Federal Reserve Board, the captains of industry, or the investment moguls on Wall Street can give the American people that will make them feel better about this economy as long as their real wages are declining. Unless and until we stop a 20-year decline in American wages, the American people will not be satisfied.

I always find it interesting that the press trumpets every month the report of how much we consumed. We measure economic health by consumption. But, of course, that is not economic health. It is what you produce that relates to whether you are healthy or not, not what you consume. But we trumpet, every month, all kinds of indices about economic performance and we see nothing—except maybe 2 column inches in the paper once every 6 months—about American wages. Yet, every month, the indices show American wages are declining.

Frankly, we have a circumstance today where corporate giants, led by U.S. corporations and followed by their international competitors, are constructing an economic model for the world that worries American workers. They have decided they want to produce where it is cheap and sell back into established marketplaces. That means corporations increasingly produce in Malaysia, Indonesia, Bangladesh, Singapore, Honduras, China—around the world—where they can hire cheap labor, often kids. They can pay dirt-cheap wages, they can dump their pollution in the air and in the water, make their product, and send it back to Pittsburgh for sale.

That strategy of playing the American worker off against 1 or 2 billion others in the world who are willing to work for pennies an hour is a strategy that might well lead to record corporate profits, but it also leads to declining U.S. wages. And that is the economic problem this country has to fix.

The bottom line of economic progress in this country must be, "Are we increasing the standard of living for the American worker?" And the answer today, amidst all of the glory of the wonderful economic news trumpeted every day in recent weeks, is no. The standard living for the average American worker is not advancing. It has been declining.

Our economic strategy for the 50 years following the Second World War was, for the first 25 years, a foreign policy disguised as economic strategy to try to help everybody else. We did that and it was fine. We could afford to do it because we were the biggest and the best and the strongest and the most. And even as we did that we progressed and so did the American worker. But for the last 20 to 25 years it has been different.

Our trade policy is still largely a foreign policy. It does not work to support the interests of our country. And what we see as a result of it is that other countries are growing and advancing and our country, measured by standard of living—the standard of living experienced by American workers—is not advancing.

The American people are tired of that. They want a change in economic circumstances. And we, one day soon, must have a real, interesting, and thoughtful discussion about these economic policies. Now, more than ever, this country needs a full-scale policy debate about economic strategy and what kind of strategy, including trade strategy and other strategies, results in advancing America's economic interests—not just America's corporate interests, not just America's investors' interests, but the interests of all Americans.

That is a debate we have not had. We did not have it during NAFTA. We did not have it during GATT. You could not have it, in fact. The major newspapers of this country—the Washington Post, the New York Times, the Los Angeles Times, the Wall Street Journal—would not even give you open access to an opportunity to discuss these things. It is interesting, with NAFTA, we counted the column inches on the editorial and op-ed pages "pro" and "anti." It was 6 to 1 pro-NAFTA, pro-GATT—6 to 1.

These are areas where you ought to expect there to be freedom of speech and open debate. But it is not so. And

the economic interests that propel that sort of imbalance in our major newspapers in our country, when we have these kinds of discussions, is the same economic interest that prevents the discussions even from getting any momentum in a Chamber like this. One day soon, I hope, that is going to change. And the sooner the better, if we are interested in providing some satisfaction for American workers whose only interest, it seems to me, is to work hard, have opportunity, and progress with an increased standard of living.

REGULATIONS

Mr. DORGAN. Mr. President, let me turn to the question of regulations. We, on the floor of the Senate, are going to be discussing regulatory reform. It has been of great interest to me to see what has happened on the issue of regulations. It has become a cottage industry, and certainly a political industry, to decide that government is evil, and government regulations are inherently evil, and what we need to do is wage war against government safeguards and standards.

Let me be the first to say that there are some people who propose and write regulations that make no sense at all and that make life difficult for people. That happens sometimes. I realize that. What we ought to do is combat bad regulation and get rid of it. Bad government regulations that do not make any sense and are impossible to comply with—we ought to get rid of them. I understand and accept that.

But I am not one who believes we ought to bring to the floor of the Senate initiatives that say, "Let's step back from the substantial regulations that made life better in this country for dozens of years."

We have had fights in many different venues to try to decide: When should we put an end to polluting America's air? How long should we allow America's kids to breathe dirty air because the captains of industry want to make more profit? When should we decide you cannot dump chemicals into our rivers and streams? When should we decide we want environmental safeguards so the Earth we live on is a better place to live?

We made many of those decisions already. We made fundamental decisions about worker safety. We made decisions about the environment. We made decisions about auto safety. Many of those decisions were the right decisions and good decisions. If we bring to the floor of the Senate, under the guise of regulatory reform, proposals that we decide we ought to retreat on the question of whether we want clean air in this country, then we are not thinking very much.

I do not know whether many Members of the U.S. Senate or many of the American people fully understand how far we have come. Do you know, in the past 20 years, we now use twice as much energy in this country as we did 20 years ago and we have less air pollution? We have cleaner air in America today than we did 20 years ago, yet we use twice as much energy.

Why do we have cleaner air? Is it because someone sitting in a corporate board room said, "You know, what I really need to do, as a matter of social conscience, is to stop polluting; what I need to do is build some scrubbers in the stacks so there are fewer pollutants coming out of the stacks and that way I will help children and help people and clean up the air"? Do you think that is why we cleaned up America's air? The job is not done, but do you think that is why America's air is cleaner now than 20 years ago, because the captains of industry in their paneled boardrooms decided to give up profits in exchange for cleaner air?

Not on your life. Not a chance. The reason the air in this country is cleaner than it was 20 years ago is bodies like this made decisions. We said, "Part of the cost of producing anything in this country is also the cost of not polluting. You are going to have to stop polluting. Is it going to cost you money to stop polluting? Yes it is. And we are sorry about that. But you spend the money and pass it along in the cost of the product, because the fact is we insist that America's air be cleaner. We are tired of degrading America's air, and having men, women, and children breathe dirty air that causes health problems and fouls the Earth we are living on."

What about water? Do you know now there are fewer lakes and streams with acid rain; that we have fewer acid rain problems, we have cleaner streams, cleaner lakes in America now than 20 years ago?

Why is that happening? Is it because somebody decided that they would no longer dump their pollutants into the stream? No; it is because the people in this country through their government said we want to stop fouling the streams. We had the Cuyahoga River catch on fire. The Cuyahoga River in Cleveland actually started burning one day. Why did that happen? Because the manufacturers and others in this country were dumping everything into these streams and thought it was fine. It was not fine. We decided as a matter of regulation that it was not fine.

There are some people who say, "Well, that is inconvenient for corporations. It costs too much to comply with all of these. Let us back away on some of these restrictions."

I want you to know that we are going back a ways. I have told this story before. I am going to tell it again because it is central to this debate. All government regulations are not bad. Some of them are essential to this country's health.

Upton Sinclair wrote the book in the early 1900's in which he investigated the conditions of the meatpacking houses in Chicago. What he discovered in the meatpacking plants of Chicago was a rat problem. And how did they solve the rat problem in a meatpacking plant in Chicago? They put out slices of bread laced with arsenic so the rats could eat the arsenic and die. Then the bread and the arsenic and the rats would all be thrown down the same hole as the meat, and you get your mystery meat at the grocery store. The American people started to understand what was going on in those meatpacking plants, and said, "Wait a second. That is not what we want for ourselves and our kids. It is not healthy."

The result, of course, was the Federal Government decided to pass legislation saying, We are going to regulate. What would you rather see stamped on the side of a carcass of beef—"U.S. inspected?" Does that give you more confidence? It does for me. It means that carcass of beef had to pass some inspection by somebody who looked at it not with an economic interest, but who looked at it, and said, "Yes; this passes inspection, and it is safe to eat."

Or do you want the meatpacking plants—the captains of industry in the meatpacking business who in the year 1900 would have been running a plant in which they were trying to poison rats in the same plant and mixing it with their meat? Well, I know who I would choose. I would choose to have a food system in this country that is inspected so the American consumer understands that we are eating safe food.

Let me talk about one other regulation that I am sure is inconvenient. In fact, I was involved with some of these when I was in the House of Representatives. People may recall that it was not too long ago when you went to a grocery store and picked up a can of peas or a package of spaghetti or an ice cream bar from the shelves or the cooler and looked at the side. What did you see? You saw that this is an ice cream bar, this is a can of peas, and this is a box of spaghetti. That is the only information you got about that food—nothing more; nothing about sodium; nothing about fat; nothing more. Because they did not feel like telling you.

So we decided that it would be in the consumers' best interest if they had some notion what was in this product. You go shopping at the grocery store and watch. People clog the aisles these days picking up one of these cans. They turn to the back. They want to find out what is in it. How much fat is in this one? How much saturated fat is in that product?

You give people information and they will use it. It is good information. It improves their health. It makes them better consumers. Is that a bad regulation that we require people to tell the

American people what is in food? No. I think it is a good regulation. But I will guarantee you this. Those who are required to do it fought every step of the way. The last thing they wanted to do was to have to comply with another regulation. I think these regulations make sense.

We are talking about regulations for safety, health, and the environment. Not all of them, not every one of them, but the bulk of the directions of what we were doing with regulation makes a lot of sense.

I do not want the debate this week here in the Senate to be a debate that is thoughtless. I would like it to be a debate that is thoughtful. Let us find out which regulations are troublesome, not which regulations are inconvenient or costly. I do not want to say to this industry or to that industry, "Yes. It is costly for you to comply with the clean air requirements. So that is fine. We will understand. We will give you a little break." I am sorry. I do not intend to give them a break. I do not intend that they have dirty air so they can have more profits.

I would like us to do this in a reasonable way. As I said when I started, there are some regulations that make no sense. I have seem some of them. I have participated in trying to get agencies to change some of them. I would be the first to admit that there are plenty of people working in the Federal Government who know all about theories and know all about the details but do not have the foggiest notion about what the compliance burdens are. These things need to make some rational sense. They need to be dealing with a goal that makes sense. They need to be constructed in a way so that compliance is enhanced. But I hope that the debate we have this week will really center on the questions about government regulation. What are we doing this for? In most cases, we are doing this for the public good.

So, Mr. President, I think this is going to be a fascinating and interesting debate. We have some people in this Chamber who would like the wholesale repeal of a whole lot of important environmental and safety regulations. I do not happen to support that. Some would. Others who say every regulation is terrific. I do not support that either. I think what we ought to do is try to figure out what works and what does not, to get rid of what does not, and keep what works and keep what is good for this country.

I hope that is the kind of discussion we will have as the week goes on on the issue of regulatory reform.

Mr. President, at this point I would like to yield the remainder of my 15 minutes.

The PRESIDING OFFICER. The Senator's time has expired.

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

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

BILLIONAIRES' TAX LOOPHOLE

Mr. KENNEDY. Mr. President, one of the worst examples of Republican misplaced priorities is the current blatant attempt to keep the tax loophole open for billionaires who renounce their American citizenship in order to avoid paying taxes on the massive wealth they have accumulated in America.

Under current law, these unpatriotic billionaires get a juicy tax break for turning their back on Uncle Sam. Does anyone in America seriously think they deserve it?

When Democrats initially tried to close the loophole last April, our proposal was rejected—supposedly because a few so-called technical questions needed to be addressed.

It turns out that the only serious technical issue was how to keep the loophole open, or at least save as much of it as possible.

The Joint Committee on Taxation completed its long-awaited study on the loophole on June 1 and it turned out to be a blatant attempt to save the loophole, rather than close it.

The Ways and Means Committee found the ways and means to keep the loophole open. They have even given the bill an appropriate number—H.R. 1812.

What a perfect number for a tax loophole bill—1812. That is about the year their thinking on tax reform stopped. Democrats will try to bring their 1812 bill into the 20th century when it gets to the Senate—and close that loophole tight on those unpatriotic billionaires.

I just wish our Republican friends would put as much time and effort into closing tax loopholes and reducing corporate welfare as they put into keeping loopholes open.

We would save tens of billions of dollars, and balance the budget far more fairly, instead of balancing it on the backs of Medicare and education and low-income working families.

Tomorrow, the Senate Finance Committee will be holding a hearing on the billionaires' tax loophole. It is vitally important that the Senate stand firm in its desire to close this flagrant loophole once and for all.

On April 6, 96 of us went on record in favor of closing it. If we really want to close this loophole, we cannot accept the Ways and Means Committee bill. That bill is more loophole than law.

It does not prevent massive income tax avoidance by patient expatriates, and it does nothing to prevent avoidance of estate taxes and gift taxes.

First, the House bill allows expatriates to pay no U.S. tax on their gains if they wait 10 years before they sell their assets.

This part of the loophole already exists in current law, as has been repeatedly pointed out.

There is no reason to leave it open. Expatriates should be taxed when they expatriate—at the time they thumb their nose at Uncle Sam.

Second, under the House bill, gains from foreign assets built up during U.S. citizenship would not be subject to U.S. tax after expatriation takes place. All U.S. citizens pay taxes on worldwide income, so why should not expatriates?

Any serious proposal to address this issue must tax the gains on the expatriate's worldwide assets, and this tax must be imposed at the time of expatriation.

In addition, under the House bill, expatriates will continue to use tax planning gimmicks to avoid taxes on gains from domestic assets by shifting income from this country to foreign countries. As long as the Tax Code exempts foreign assets from the tax, wealthy expatriates will find new ways to shift assets and avoid taxes.

Third, the House bill cannot be effectively enforced. Expatriates can leave the U.S. tax jurisdiction without paying the tax or posting any security. They merely fill out a form at the time of expatriation, and the IRS will be left in the cold.

Fourth, the House bill does nothing to prevent expatriates from avoiding gift and estate taxes. With good legal advice, an expatriate can transfer all assets to a foreign corporation and then give it all away without any gift tax liability.

Finally, in a particularly obnoxious maneuver, the Ways and Means Committee bill unsuccessfully attempted to gerrymander the effective date of its watered-down reform in a transparent attempt to permit a few more undeserving billionaires to slither through the full loophole before the mild committee changes take effect.

Under this proposal, wealthy tax evaders would have qualified for the loophole by simply having begun, not completed, the process of renouncing their citizenship by the February 6 effective date.

The Ways and Means Committee knows how to set a strict effective date when it wants to. On the very bill where the controversy over the billionaires' loophole first erupted, the committee set a strict effective date to prevent Viacom, Inc., from obtaining a $640 million break on the sale of its cable TV properties.

The committee required a binding contract to be reached by the effective date. Viacom could not meet that requirement, even though it had taken many steps over many months before the effective date to negotiate the contract.

Viacom lost the tax break because it had not taken the final step—and the same strict requirement of final action should be applied to billionaires who are in the process of renouncing their citizenship.

If they had not completed the final step by February 6, they should not be able to use the loophole.

Fortunately, the Democrats prevailed on the effective date, because of the spotlight placed on the issue. But that still did not stop them from finding an additional loophole for some of those seeking exemption.

To help these expatriates, the Republicans on the committee carved a new loophole for expatriates who become a citizen of a country in which the individual's spouse or parents were born.

In sum, at a time when Republicans in Congress are cutting Medicare, education, and other essential programs in order to pay for lavish tax cuts for the rich, they are also maneuvering to salvage this unjustified loophole for the least deserving of the superwealthy—billionaires who renounce America, after all America has done for them.

I say, this loophole should be closed now, and it should be closed tight—no ifs, ands, or buts. I intend to do all I can to see that it is.

Let us close the loophole, not just pretend it is being closed as the Ways and Means Committee bill does.

WAS CONGRESS IRRESPONSIBLE? LOOK AT THE ARITHMETIC

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is in a category like the weather—everybody talks about it but scarcely anybody had undertaken the responsibility of trying to do anything about it. That is, not until immediately following the elections last November.

When the new 104th Congress convened in January, the U.S. House of Representatives quickly approved a balanced budget amendment to the U.S. Constitution. In the Senate all but one of the 54 Republicans supported the balanced budget amendment; only 13 Democrats supported it. Since a two-thirds vote is necessary to approve a constitutional amendment, the proposed Senate amendment failed by one vote. There will be another vote later this year or next year.

Mr. President, as of the close of business Friday, July 7, the Federal debt—down to the penny—stood at exactly $4,929,459,412,839.22 or $18,712.31 for every man, woman, and child on a per capita basis.

SOUTH CAROLINA WATERMELONS: A RED, JUICY SMILE

Mr. HOLLINGS. Mr. President, I rise today to draw attention to a little green and red sticker on my lapel. It says, "I love watermelon." And Mr. President, I sure do.

Thanks to the hard work of South Carolina watermelon farmers like Jim Williams of Lodge in Colleton County, Senators and their aides tomorrow will be able to taste the sweet, juicy, red meat of the melon that we call smile fruit. All day Tuesday, my staff will deliver more than 500 watermelons to offices throughout the Senate.

This year, farmers in South Carolina planted more than 11,000 acres of watermelons. We produce all kinds of watermelons—Jubilees, Sangrias, Allsweets, Star Brites, Crimson Sweets, red seedless, yellow seedless, and a variety of other hybrids marketed in the Eastern United States.

Through the end of this month, farmers in Allendale, Bamberg, Barnwell, Colleton, Hampton, and other southern South Carolina counties will harvest hundreds of thousands of watermelons. In the Pee Dee areas around Chesterfield, Darlington, and Florence Counties, the harvest will continue until about August 20.

Mr. President, the bottom line is that all of these farmers will be laboring in the heat and humidity to bring Americans what we call Mother Nature's perfect candy. Our remarkable watermelons are sweet, succulent, and, most importantly, nutritious and fatfree. However, while many of us savor the taste of juicy pink watermelons at the beach, at barbecues, and at family reunions, we often forget the work and labor that goes into producing such a delicious fruit. In fact, if you ask many children these days where watermelons come from, they will answer "the grocery store." The truth is, Mr. President, that our farmers are among the most often forgotten workers in our country. Without their dedication and commitment, our Nation would not enjoy such a wonderful selection of fresh fruit, vegetables, and other foods.

South Carolina farmers lead the way in the production of watermelons. For example, my State was a leader in the development of black plastic and irrigation to expand the watermelon growing season. By covering the earth in the spring with black plastic, farmers are able to speed up the melons' growth by raising soil temperatures. In addition, the plastic allows farmers to shut out much of the visible light, which inhibits weed growth. In addition, I am pleased to note that the scientists at the USDA vegetable laboratory in my hometown of Charleston continue to strive to find more efficient and effective ways to produce one of our State's most popular fruits.

Therefore, as my fellow Members and their staffs feast on watermelons tomorrow, I hope they all will remember the folks in South Carolina who made this endeavor possible: Jim Williams of Williams Farms in Lodge; Les Tindal, our State agriculture commissioner; Wilton Cook of the Clemson University Extension Service in Charleston; Minta Wade of the South Carolina Department of Agriculture; and members of the South Carolina Watermelon Association and South Carolina Watermelon Board in Columbia. They all have worked extremely hard to ensure that Senators can get a taste of South Carolina.

I trust that all Senators and their staffers will savor tomorrow one of the finest examples of the excellent produce we grow in our State. I also hope to see many folks wearing their "I love watermelon" stickers in celebration of the fruit that makes everyone smile—South Carolina watermelons.

MILO WINTER

Mr. PRESSLER. Mr. President, today I am pleased to pay tribute to an outstanding educator, Mr. Milo Winter, of Rapid City, SD. Throughout his career, he made tremendous contributions to our State in music education.

For the past 26 years, Milo served as band director at Stevens High School. The community of Rapid City knows him for his commitment to education and his drive for excellence. However, his reputation extends far beyond the borders of our State. He is known across the United States for his work at band festivals and clinics.

To see Milo's positive effect on his students and the community, one needs only look at the achievements of the Rapid City Stevens Band. In 1975, the band was selected by the United States Bicentennial Commission to represent the United States at a music festival held in the former Czechoslovakia. This was the first performance by an American high school band behind the Iron Curtain. In 1981 and 1984, the band received first place honors at the Cherry Blossom Band Festival here in Washington, DC. The band's appearance in the 1987 Tournament of Roses Parade in Pasadena, CA, marked the first time a band from South Dakota performed in this world-famous parade. Perhaps the greatest honor the band has earned is the Sudler Flag of Honor. This award, presented in 1987, is one of the most prestigious awards a band can receive. To receive this award, bands must be nominated for their outstanding performance of march music and be approved by a national committee.

Milo's leadership made these achievements possible. He consistently set high expectations for students, then saw them through with his own blend of encouragement and discipline. He demanded much of his students, but gave generously of his talent and effort in return.

This drive for excellence has been with Milo throughout his life. After receiving his degree from Augustana and

his masters from the University of South Dakota, Milo continued his pursuit of music by serving in the U.S. Army Band for 2 years.

Upon leaving the Army, Milo taught music at Beresford High School. After 2 years as the band director at Rapid City Central High, he accepted the position as band director at the newly created Rapid City Stevens High where he continued teaching for the rest of his career.

Milo instilled a love of music in many students, but countless students came away from his classroom with much more. The lessons they learned about setting goals, teamwork, attention to detail, and perseverance will stay with students throughout their lives. Many of these students will count Mr. Winter among those leaders who forever shaped their careers and characters. Mr. President, students in South Dakota have been blessed with a tremendous teacher and role model. On behalf of the people of South Dakota, I thank Milo and wish him the best in his retirement.

Mr. BYRD. Mr. President, I will probably require longer time than the remaining minutes before 1 o'clock. I ask unanimous consent that I may use such time as I may consume.

The PRESIDING OFFICER (Mr. FRIST). Without objection, it is so ordered.

C. ABBOTT SAFFOLD

Mr. BYRD. Mr. President, Walt Whitman said that man is a great thing upon the Earth and through eternity but that every jot of the greatness of man is enfolded out of woman. Shakespeare, in King Lear, tells us that "Women will all turn monsters."

In the book of Genesis, however, we are told that God, seeing the incompleteness of man standing alone, wanted to find a helper for him. And so God created this helper—Eve—whose name means "Life," and God created Eve from the rib of Adam himself. The symbolism of the rib is that it was taken from the place nearest to Adam's heart, thus indicating the close relationship of man and woman. The real essence of the story is that man and woman were made for each other, that woman is bone of his bone and flesh of his flesh. In the Genesis account, Eve is elevated to Ethereal beauty and lofty dignity. Milton, in his "Paradise Lost," has called her Queen of the Universe and fairest of the fair.

Throughout all the ages of mankind's existence on this Earth, some of the most vivid personalities have been those of women—such as Sarah, Rebekah, Rachel, Hannah, and Mary, the Mother of Jesus—even with such women as Jezebel and Potiphar's wife. Many of the women depicted in the scriptures exerted great influence over their husbands, over kings, and over nations. Many of the women remain nameless and some appear in groups under such headings as daughters, wives, mothers, widows. We are told of Lot's wife, the woman who looked back, and 15 words in the Old Testament tell her story—one brief, dramatic record that placed her among the well known women of the world. The 15 words are, "But his wife looked back from behind him, and she became a pillar of salt."

Then there is Jochebed, the mother of Moses—Hebrew lawgiver, statesman, and leader—and her name rises up today, some 35 centuries later, as one of the immortal mothers of Israel.

Miriam is the first woman in the Bible whose interest was national and whose mission was patriotic. She was the brilliant, courageous sister of Moses, and when she led the women of Israel in that oldest of all national anthems, "Sing unto the Lord," four centuries of bondage in Egypt had been lifted. It was a turning point in Israel's religious development, and a woman led in its recognition. Miriam is the first woman singer on record. The wonder of it is that she sang unto the Lord, using her great gift for the elevation of her people, who, with her, exalted over their escape from their enemies.

The first women to declare their rights on the death of their father were the five daughters of Zelophehad: Mahlah, Noah, Hoglah, Milcah, and Tirzah. Their father, a Manassite, had died in the wilderness, and the daughters explained that he was not in the company of Korah, who had rebelled against Moses. Because their father had not died, therefore, for any cause that doomed their family or their inheritance, they declared that they were clearly entitled to what he had left. This happened at a critical time with Israel. A new census had been made, preparatory to an entrance into the Promised Land. The new land would be distributed according to the census taken before Israel departed from Egypt for the Promised Land. The daughters of Zelophehad had been numbered among all those in the tribes who either were 20 years of age or would be 20 by the time the land actually was distributed, but they knew that under existing customs, they would have no property rights, even in the new land. What did they do? They marched before Moses and stated their case publicly. In order to be fair in the settling of the daughters' case, Moses went before God, a God of justice and right, and the great lawgiver came back and declared: "The daughters of Zelophehad speak right; thou shalt surely give them a possession of an inheritance among their father's brethren; and thou shalt cause the inheritance of their father to pass unto them." Moses wrote a new law which stated: "If a man die, and have no son, then ye shall cause his inheritance to pass unto his daughter."

The daughters of Zelophehad had filed one of the earliest reported lawsuits on record. In the American Bar Association Journal of February, 1924, there was an article in which this decision of the daughters of Zelophehad is quoted. It is described as an "early declaratory judgement in which the property rights of women marrying outside of their tribe are clearly set forth." The decision handed down in this time of Moses was a great victory for these five daughters. At last a woman had rights, because these five women had declared theirs and had had the courage to fight their case through with the authorities.

The only woman in the Bible who was placed at the height of political power by the common consent of the people was Deborah. Though she lived in the time of the "Judges," some thirteen centuries before Christ, there are few women in history who have ever attained the public dignity and supreme authority of Deborah. She was like Joan of Arc, who 27 centuries later, rode in front of the French and led them to victory over the English.

One of the most lovable women in the Bible is Ruth, and her abiding love embraces the person one might least expect it to—her mother-in-law, Naomi. Ruth was not only an ideal daughter-in-law, but she was also an ideal wife and mother. Her story, which finally culminates in her marriage to Boaz, a man of influence, is one of the most beautiful romances in the Bible.

Then there was the woman of Endor, to whom King Saul went in desperation, and she foretold his death. The King James version of the Bible, which is the only version of the Bible that I will read, calls her "A woman that hath a familiar spirit." Some modern writers have dubbed her the "Witch of Endor." Lord Byron has called her the "Phantom Seer." Kipling gives one of the most vivid portrayals of all in these lines:

Oh, the road to Endor is the oldest road
And the craziest road of all.
Straight it runs to the witch's abode
As it did in the day of Saul,
And nothing has changed of the sorrow in store
For such as go down the road to Endor.

The first reigning Queen on record who pitted her wits and wealth against those of a king was the Queen of Sheba. She came to Jerusalem from her kingdom in Southwestern Arabia to investigate all that she had heard about Solomon, Israel's wisest and wealthiest king. She worked out a trade zone demarcation and alliance with Solomon, and Solomon's commercial expansion followed after her visit. She was one of many rulers from far and wide who sought to learn about Solomon's wisdom. Others sent Ambassadors, but she was the only one to go herself, traveling a 1,200-mile journey by camel caravan. She was a courageous, resourceful

woman. The Queen of Sheba lives on now, nearly 30 centuries since her visit, as a woman whose spirit of adventure and whose resourcefulness, courage, and curiosity have not been surpassed by any queen in history. She certainly had a sense of good public and international relations which is unparalleled among many of the national leaders of today.

Esther is the central figure in what is one of the most controversial books in the Old Testament, because not once does the name of God appear in that book. But its significance and importance to Jewish history stems from the fact that it has become a patriotic symbol to a persecuted people of the ultimate triumph of truth and justice. And the courage of Esther becomes the dominating factor in the salvation of her people. Though the author of the book of Esther is not known, historians confirm the fact that he showed an amazingly accurate knowledge of Persian policies and customs, and critics place his work among the masterpieces of literature. Like many great characters in history, Esther makes her first appearance as one of the humblest of figures, an orphan Jewess. But 4 years later, she rises to the position of a queen of amazing power—a power which she manages to use wisely. The ancient writer's estimate of Esther's importance to the story becomes apparent, for in this short Bible book, Esther's name appears 55 times. The name of no other woman in the Bible is recorded so often.

The setting is placed in the sumptuous palace of the Persian Empire during the time of Artaxerxes II, who reigned 404–358 B.C. I shall not relate this fascinating story here today, but Esther had a strong belief in prayer, and she went before the king to intercede on behalf of her people. As she made ready to appear before the king, one of the most courageous assertions made by a woman in the Bible is credited to Esther. She said: "So I will go in unto the king, which is not according to the law; and if I perish, I perish." Here is a woman who had not only high courage but also sincere faith and devotion to the cause of her people. She had received a message from her cousin Mordecai, placing upon her this great responsibility. He said: "Who knoweth whether thou art come to the kingdom for such a time as this?"

Mr. President, challenging words these were for a young, inexperienced queen, and they have come down to us through the centuries, and may be considered applicable to us in the face of the challenges of our own time.

It was Mary Magdalene who was the first to see Christ's empty tomb, and she was the first to report to the disciples the miracle of the resurrection, the greatest event the Christian world has ever known. Certain of Christ's disciples followed Mary Magdalene to the sepulcher. John went in first and gazed in silent wonder at the open grave, and then Peter came and saw that the grave was empty and that the linen cerements were lying neatly folded in the empty sepulcher. Mary Magdalene, possessing a woman's sensitivity and able to believe even what eyes cannot behold, returned to the tomb and looked inside, where she saw two angels in white sitting there, the one at the head and the other at the feet, where the body of Jesus had lain. Strange it was that the first word spoken inside the empty tomb should be "Woman." And then there followed the angel's question: "Why weepest thou?" Mary Magdalene answered, "Because they have taken away my Lord, and I know not where they have laid him". Then she turned, and Jesus stood before her. Not until he spoke her name, "Mary," did she recognize that he was Jesus. Her lonely watch by the grave in the early morning had been an evidence of her faith. Because of her faith, she became the first witness to the resurrection of our Lord and Savior, Jesus Christ.

Lydia was a business woman, a "seller of purple," and probably one of the most successful and influential women of Philippi, but more than that, she was a seeker after truth, and thus she became Europe's first convert to Christianity. Her house became the first meeting place of Christians in Europe. Lydia will ever stand among the immortal women of the Bible, for she picked up that first torch from Paul at Philippi and carried it steadfastly. She was one of many to spread the Gospel of Jesus Christ through Europe and then farther and farther Westward, and it became brighter as the centuries unfolded.

One of the most influential women in the New Testament Church was Priscilla, a Jewess who had come out of Italy with her husband Aquila, who lived first at Corinth and later at Ephesus. They had left Rome at the time when Claudius, in his cruel and unjust edict, had expelled all Jews. It is recorded that she and her husband were tent makers. The Apostle Paul stayed with them at Corinth. She became a great leader in the church at Corinth and at Ephesus and later at Rome. In the latter two places, she had a church in her home. Christians honor her today because she served God "acceptably with reverence and godly fear", and because she was not "forgetful to entertain strangers; for thereby some have entertained angels unawares." Priscilla, let us not forget, had entertained a stranger, Paul, and from him had learned to strive to be "perfect in every good work . . . working in you that which is wellpleasing in his sight, through Christ Jesus."

Mr. President, I shall close my brief comments on the women of the Bible, by referring to the time when Christ sat at the house of Simon the leper, and there came a woman having an alabaster box of ointment of spikenard. She broke the box and poured the precious ointment on the head of our Lord. Some of those persons who observed this were very indignant and asked the question, "Why was this waste of the ointment made? For it might have been sold for more than three hundred pence, and have been given to the poor." And so they murmured against the woman, but Jesus said, "Let her alone. Why trouble ye her? Ye shall have the poor with you always, and whensoever ye will, ye may do them good; but me, ye have not always." Jesus said, "She hath done what she could; she is come aforehand to anoint my body to the burying". Jesus went on to say that weresoever his gospel would be preached throughout the whole world, this act of kindness which the woman had done, "shall be spoken of for a memorial of her." And so it is, that I am here today, twenty centuries later, speaking on the Senate floor about this nameless woman who gave of her treasured possession to honor Him who was about to die. And, as Jesus foretold, this display of reverence and adoration by this nameless woman, shall be told and retold through all of the centuries to come.

Mr. President, one could speak volumes about the women of the Bible or the great Roman matrons or the women of ancient history or the women of the middle ages, and women of our own times. There is much to be said, for example, through words of praise concerning the women who have been associated with our own institution, the United States Senate—Members, as well as workers who have labored faithfully, day after day, year after year, in the service of the Senate. And it is such women, many of whom will always remain nameless, who, through the years, and throughout all the parts of the globe, have been the real pillars of civilization.

I rise today to pay tribute to just such a worthy person—a true professional, a staffer of such talent, energy, and engaging personality that she is known throughout the Senate community simply by her first name—Abby. Abby Saffold has been a school teacher, a case worker, a legislative correspondent, a legislative secretary, chief clerk of a Senate subcommittee, a legislative assistant, a Floor Staff Manager, Secretary for the Majority (a post to which I appointed her in 1987), and now Secretary for the Minority. She is the first female to ever hold the post of Secretary for the Majority.

In short, Abby has done it all, and done it all very, very well. Few staffers, indeed, few Members, possess her grasp and understanding of the workings and the purpose of the institution

of the United States Senate. Her knowledge of legislative strategy, her managerial ability, and her negotiating prowess are all well known and greatly appreciated by everyone who has ever had the pleasure of working with Abby.

She is really unexcelled when it comes to an intuitive sense of this Senate and its machinations. Abby is the literal personification of the wonderful ability to maintain great grace under extraordinary pressure—the true mark of the professional.

Few individuals understand the great personal sacrifice routinely made by the legislative floor staff here in the Senate, on both sides of the aisle. Unpredictable schedules, long hours, intense pressures, time away from loved ones at important moments, broken engagements with friends and family—all are experienced to some degree by senior Senate staffers, but no one group experiences these demanding and trying disruptions with more frequency than the Senate floor staff.

These positions, in particular, demand extreme dedication, steady nerves, alert and facile minds, hearty constitutions, patience, and a deep and abiding love for, and dedication to, this institution and the important work it must perform. Never was there a better example of that dedication than C. Abbott Saffold. She is in every way a marvel, with the ability to perform difficult and demanding duties, always with a pleasant demeanor and unequaled coolness under fire.

I would be less than honest if I did not admit that Abby's decision to leave us causes me considerable sadness, because she is so much a part of the Senate family. In many ways, I cannot imagine the Senate without her. I know that for many months after her departure, I shall search in vain for her familiar cropped head and her friendly grin in the Chamber, only to have to remind myself once again that she has gone.

I offer her my heartfelt congratulations on an outstanding Senate career, and on her service to her country. Certainly I wish her blue skies and happy days as she begins her well-earned retirement time. But, I cannot deny that I regret her leaving. I shall miss her friendship and her always sage advice. As Paul said of two women Euodias and Syntyche—both eminent in the church at Philippi—"They labored with me in the gospel," so I say to Abby: "You labored with me in service to the Nation." For me, there will never be another Abby.

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 bill 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.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to offer an amendment relative to small business.

Mr. ABRAHAM. Mr. President, I will shortly offer the Abraham amendment.

In essence, our amendment would ensure that Federal agencies periodically assess the utility of regulations that disproportionately impact small business.

I think it is critically important any regulatory reform bill take into account concerns of America's small businessmen and women.

At this time, I yield to the distinguished chairman of the Judiciary Committee as much time as he desires for comment.

Mr. HATCH. Mr. President, I thank my colleague, and would like to thank the distinguished ranking member of the Appropriations Committee, Senator BYRD, for his excellent remarks covering the women of the Bible as well as I have heard him cover on the Senate floor, and his tribute to Abby Saffold, who, of course, all Members have a great deal of respect for.

Mr. President, I intend to start each day in this debate—I may not fully comply—with the top 10 list of silly regulatory requirements.

I would pick a few at random today. Let me start with No. 10: Delaying a Head Start facility by 4 years because of the dimensions of the rooms; No. 9, forcing a man to choose between his religion and his job because rules do not allow workers to wear a mask over a beard—stupid rules, I might add, silly regulatory requirements; No. 8, throwing a family out of their own home because of painted over lead paint, even though the family is healthy; No. 7, fining a gas station owner $10,000 for not displaying a sign stating that he accepts motor oil for recycling; No. 6, reprimanding a government employee who bought a new lawnmower with his own money but failed to go through the proper procedures; No. 5, citing a farmer for converting a wetland when he fills his own manmade earthen stock tank and made a new one, elsewhere on his property—on his own property, I might add. No. 4, failing to approve a potentially lifesaving drug, thus forcing a terminal cancer patient to go across the border to Mexico to have it administered; No. 3, prohibiting an elderly woman from planting a bed of roses on her own land; No. 2, fining a man $4,000 for not letting a grizzly bear kill him.

These are my top 10 list of silly regulatory requirements. No. 1: Requiring Braille instructions on drive-through ATM machines. We can see a lot of reason for that in our society today.

These are just a few of the reasons why we are here today. I intend to bring some more to the attention of Members as we continue to go on here. We all know the regulatory process is out of control. Regulators have an incentive to regulate.

Some regulations are not only counterproductive, they are just plain stupid, as some I have just mentioned. The status quo is not acceptable to the American people, especially if they get to know what is really going on in our society. And they all suspect the costs of regulation are mounting. Paperwork costs the private sector and State and local governments a small fortune. Compliance costs cost even a bigger fortune.

Regulation restricts freedom. What you can use your own land for, what medical treatment you can have or provide for your family, what your company is required to do, et cetera, et cetera.

It is especially onerous on small businesses. Regulatory reform is absolutely necessary to get the Federal Government off our backs. For economic flexibility and growth as well as to reform personal freedoms, we need to change the way in which the Federal Government regulates.

Regulatory reform is an essential part of making Government smaller. Regulatory reform will mean less Federal spending, lower Federal taxes, fewer Federal regulations, smarter regulations, and accountability on the part of those in the bureaucracy.

This bill is about common sense. I think most Americans would agree that our Federal Government is out of control and that the overregulatory system is eating us alive, especially in terms of the burdens it places on all Americans.

This bill simply requires that Government agencies issue rules and regulations that help, rather than hurt, people. It will require that the Federal bureaucracy live by the same rules that Americans have to live by in their own lives—you and I and everybody else. These rules are that the benefits of what you are telling people to do have to justify the cost.

The notion of common sense and accountability and rulemaking may be a radical idea inside the Washington beltway, but I believe that our fellow Americans are smothered in bureaucratic redtape in all aspects of their lives and they are pretty darned tired of the status quo.

This bill will not mean an end to safety and health regulations, as some of its critics would have you believe. All it will mean is that the people in Washington who devise such rules will have to ensure that the interpretations of those rules, or the rules themselves make sense. They will have to quit being the protectors of the status quo.

MYTHS AND FEARS: UNFOUNDED ATTACKS ON S. 343

In his first inaugural address, Franklin Delano Roosevelt inspired a nation beleaguered by the Great Depression with these calming words: "We have nothing to fear but fear itself." Now certain Democrats, representing the left of that great party and claiming to be the political heirs of Roosevelt, have turned 180 degrees. Instead of pacifying hysteria they are engaging in the worst form of fear mongering.

They content that regulatory reform will either overturn 25 years of environmental law or roll-back environmental, health, or safety protection. They also claim that passage of this bill will clog the courts, allow judges to second-guess scientific findings, delay needed rulemaking, and require the creation of a new bureaucracy of thousands.

Nothing could be further from the truth. Indeed, the root of the hysteria of the left is not a concern over the protection of health, safety, or the environment, but a concern over the loss of power. The liberal agenda has usurped power to the Federal agencies, which have become the left's biggest constituency. Real regulatory reform, such as S. 343, you see, will whittle away at the excesses of the modern centralized administrative state. It will force the bureaucracy to rationalize and make more cost-effective its rules and regulations. It will shift power back from Washington to the grass roots of the people. It will transform bureaucracy into democracy.

This bill is a commonsense measure. It simply requires Federal bureaucrats to ask how much a rule will cost and what the American people will get in return. Passage of this bill, in fact, will foster the protection of health, safety, and the environment by assuring that the American taxpayer will get more bang for the buck. It does so by mandating that the costs of regulation must justify the benefits obtained and that the rule must adopt the least costly alternative available to the agency. This will assure more efficient regulations, ultimately saving taxpayers hundreds of millions of dollars. Actually, billions of dollars.

Let me address certain myths arising from the fear campaign of the opponents of S. 343:

Myth No. 1: The bill will overturn or rollback environmental protection or health and safety laws. That is pure poppycock. Section 625 of the bill, the decisional criteria section, makes clear that the cost-benefit and risk assessment requirements supplement existing statutory standards. Thus, there is no supermandate that overturns statutory standards, such as the recently passed House regulatory reform bill. Instead, S. 343 works much the way the National Environmental Policy Act does. Where NEPA requires agencies to consider environmental impacts, S. 343 requires agencies to consider cost of the regulation. Neither statutory scheme overturns existing health, safety, or environmental standards.

So, forget about myth No. 1. It is phony. It is a lie.

Myth No. 2. They say cost-benefit analysis is unworkable because we cannot quantify benefits. In fact, one of these far-left liberal outrageous groups compared a cost-benefit analysis with what happened under Hitler's regime.

It is hard to believe that we would have that in this day and age, from groups that claim to be representing the public.

Let us just forget that myth, because opponents of S. 343, although they claim that the cost-benefit analysis requirement in the bill requires that costs and benefits be quantified, their argument is that benefits, such as clean air or good health, are too subjective to be quantified. As a result, benefits will be understated and rules consequently will not adequately protect health, safety, or the environment. That is their argument.

There is only one problem with this argument: S. 343 explicitly states that agencies must consider qualitative—as well as quantitative—factors in weighing costs and benefits, Section 624 even goes so far as to allow agencies to select a rulemaking option that is not the least costly if a nonqualitative consideration is important enough to justify the agency option.

Myth No. 3: The requirements for cost-benefit analysis and risk assessments will harm health, safety, and the environment by delaying implementation of needed regulations. This is simply not true. S. 343 contains emergency exemptions from cost-benefit analysis and risk assessments in situations where regulations need to be enacted to prevent immediate harm to health, safety, and the environment. Furthermore, agency actions that enforce health, safety, and environmental standards, such as those concerning drinking water and sewerage plants, simply are not covered by the Act.

In any event, the cost-benefit analysis and risk assessment requirements are hardly novel. Under orders on regulations that go back to the administration of President Ford, most agencies must already perform cost-benefit analyses for numerous rulemakings and many agencies, such as EPA, already conduct risk assessments as a routine matter. What this bill will do is to assure that cost-benefit analyses are done for all rulemakings and that risk assessments are based on good science.

Myth No. 4: The agency review and petition process will open up all existing rules for review and this will grind all agency activities to a halt. The agency review and petition process will have no effect on reasonable regulations. Only those regulations imposing unreasonable costs without significant benefits and rules based on bad science are likely to be modified or repealed. I might ask what is wrong with that?

Moreover, not all rules must be reviewed. Only major rules, which have an expected effect of $50 million on the economy need be reviewed. And the agencies have 11 years to review these rules. This is more than ample time to review rulemakings. As to the petition process, to be successful in having a petition to review a rule not on a review schedule granted, the petitioner must demonstrate a reasonable likelihood that the existing rule does not meet the decisional criteria section. In other words, that the rule would not be cost-effective if the rule was promulgated under the standards set forth in the bill. This is an expensive proposition, for the petitioner must do a cost-benefit analysis to demonstrate this point.

Ultimately, with regard to the petition process, it simply boils down to whether one thinks that the status quo is acceptable or not. Understandably, defenders of the status quo are horrified at the prospect that perhaps something ought to be done about rules already in existence whose costs to the American people are greater than the benefits that result. I disagree, of course, with that attitude.

Myth No. 5: The judicial review provision will create scores of new cause of actions clogging the courts and would allow judges to second guess agency scientific conclusions. Section 625 of the bill makes clear that judicial review of a rule is to based on the rulemaking file as a whole. Noncompliance with any single procedures is not grounds to overturn the rule unless the failure to follow a procedure amounts to prejudicial error—which means the failure would effect the outcomes of the rule. Thus, section 625 would not allow for courts to nit-pick rules. Moreover, section 625 requires courts to employ the traditional arbitrary and capricious standard, a standard which requires courts to show deference to agency factual and technical determinations. This prevents courts from second, guessing agency scientific findings and conclusions.

I would also note that it is ironic that those who oppose the judicial review provision of S. 343 on the grounds that it will clog the courts are the same people who oppose meaningful legal reform.

Why? Because they want these lawsuits to continue everywhere else.

They just do not want the American people and individual citizens and small businesses to be able to sue to protect their rights against an all-intrusive Federal Government which is over-regulating them to death.

Myth No. 6: Implementation of the bill would require a new bureaucracy of thousands. First of all, many agencies, such as EPA, already perform cost-benefit analyses and risk assessments. This is because of the existing executive order that requires such analyses for rules effecting the economy at $100 million. According to an EPA source, "[o]ne big misconception about these bills is that risk assessments and cost-benefit analysis requires a lot more work than has routinely been done at EPA." Second, the requirement for peer review panels to assure good science and plausible estimates for risk assessments, will not significantly hinder the promulgation of rules. Peer review only applies to risk assessments that form the basis for major rules—having the effect on the economy of $50 million annually—or major environmental management activities—costing $10 million.

I just wanted to get rid of some of these myths about this bill. I am sick and tired of articles written, like the one in the New York Times, that have no basis in fact. As a matter of fact, I think this is one of the most hysterical displays by the far left that I have seen. And it is even worse than the "People For The American Way" full-page ad against Judge Robert Bork that had some, as I recall, close to 100 absolute fallacious assertions in it that they never once answered after I pointed them out.

Mr. JOHNSTON. Will the Senator yield?

Mr. HATCH. I will be happy to yield.

Mr. JOHNSTON. One of the myths put out about the so-called Dole-Johnston amendment is that it contains a supermandate. That is, that the present requirements of law—for example, on the Clean Air Act, when it sets standards, for example, of maximum achievable control technology or the other specific requirements of law—that somehow those are overruled by this bill.

Would the Senator agree with me that the language is very clear in saying that does not happen under this bill? To quote the language, it "supplements and does not supersede the requirements of the present law." And, in fact, other language in the bill specifically points out that there will be instances where, because of the requirements of present law, you cannot meet the tests of the risk justifying the cost? The benefits justifying the cost? And, in other words, the requirements of present law, under the instant Dole-Johnston amendment, would still be in effect and would not be overruled by this bill? Would the Senator agree with me?

Mr. HATCH. I agree 100 percent with the distinguished Senator from Louisiana, who has coauthored the bill along with Senator DOLE and others here. Section 625 of this bill, the decisional criteria section, makes clear that the cost-benefit assessment requirements supplement existing statutory standards.

Mr. GLENN. Will the Senator yield——

Mr. HATCH. Thus, there is absolutely no supermandate.

Mr. GLENN. For a parliamentary inquiry? I wanted to straighten out the time. It was my understanding the time, starting at 2 o'clock, was to be divided equally among proponents and opponents of the bill. The Senator from Michigan—it was my understanding the time so far, the time of the Senator from Utah, had come out of the time of the Senator from Michigan? Is that correct?

Mr. HATCH. That is correct. I have used too much of this time, so I yield back my time.

Mr. GLENN. I know they were preparing a unanimous-consent request to that effect. We do not have that yet. But it was my understanding that those were the rules we were operating under. I just wanted to make sure everyone agreed to that.

Mr. HATCH. Mr. President, I ask unanimous consent a factsheet I have with me be printed in the RECORD at this point, as well.

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

S. 343: RESPONSIBLE REGULATORY REFORM THAT PROTECTS HEALTH, SAFETY AND THE ENVIRONMENT

S. 343 DOES NOT OVERRIDE EXISTING HEALTH, SAFETY AND ENVIRONMENTAL LAWS

Sec. 624(a)—Cost-benefit requirements "supplement and [do] not supersede" health, safety and environmental requirements in existing laws.

Sec. 628(d)—Requirements regarding "environmental management activities" also "supplement and [do] not supersede" requirements of existing laws.

S. 343 PROTECTS HUMAN HEALTH, SAFETY AND THE ENVIRONMENT

Sec. 622(f) and Sec. 632(c)(1)(A)—Cost-benefit analyses and risk assessments are not required if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 624(b)(3)(B)—An agency may select a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" make that choice "appropriate and in the public interest."

Sec. 624(b)(4)—Where a risk assessment has been done, the agency must choose regulations that "significantly reduce the human health, safety and environmental risks."

Sec. 628(b)(2)—Requirements for environmental management activities do not apply where they would "result in an actual or immediate risk to human health or welfare."

Sec. 629(b)(1)—Where a petition for alternative compliance is sought, the petition may only be granted where an alternative achieves "at least an equivalent level of protection of health, safety, and the environment."

Sec. 632(c)—Risk assessment requirements do not apply to a "human health, safety, or environmental inspection."

S. 343 DOES NOT DELAY HEALTH, SAFETY AND ENVIRONMENTAL RULES

Sec. 622(f) and Sec. 632(c)—Cost-benefit and risk assessment requirements are not to delay implementation of a rule if "impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources."

Sec. 533(d)—Procedural requirements under the Administrative Procedures Act may be waived if "contrary to the public interest."

Sec. 628(b)(2)—Requirements for major environmental management activities are not to delay environmental cleanups where they "result in an actual and immediate risk to human health or welfare."

Sec. 801(c)—Congressional 60-day review period before rule becomes final may be waived where "necessary because of an imminent threat to health or safety or other emergency."

S. 343 DOES NOT PLACE A "PRICE TAG ON HUMAN LIFE"

Sec. 621(2)—"Costs" and "benefits" are defined explicitly to include "nonquantifiable," not just quantifiable, costs and benefits.

Sec. 622(e)(1)(E)—Cost-benefit analyses are not required to be performed "primarily on a mathematical or numerical basis."

Sec. 624(b)(3)(B)—An agency may choose a higher cost regulation when "nonquantifiable benefits to health, safety or the environment" dictate that result.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, it was my understanding that when the Senator from West Virginia concluded and we began discussion on the regulatory reform bill, that there would be 2 hours of time equally divided between myself and Senator GLENN; and that the time for Senator HATCH's statement—I did yield to him—was to come out of my time.

I agree with that. I would like to know how much of my hour remains at this point.

The PRESIDING OFFICER. The time is 30 minutes remaining.

Mr. ABRAHAM. Mr. President, I do not think that is correct. I believe Senator HATCH spoke for 30 minutes.

Mr. HATCH. Mr. President, I ask unanimous consent that the time yielded to both sides on this matter will have begun at 1:15.

Mr. GLENN. Mr. President, reserving the right to object, would this then mean that the time certain that was established for a vote later this afternoon at 5:15 would have to be set back in accordance with that?

The PRESIDING OFFICER. Not necessarily.

Mr. GLENN. Then, Mr. President, something has to give here because we were supposed to have a certain time set aside for Senator NUNN, which I believe was 2 hours—2 hours for Senator

ABRAHAM and 2 hours for Senator NUNN; is that correct?

The PRESIDING OFFICER. Originally, that would have been 2 hours on the first amendment and 2 hours and 15 minutes on the second.

Mr. GLENN. What would be the timing on the vote this afternoon if we agreed to the proposal made by the Senator from Utah?

Mr. ABRAHAM. Mr. President, I object to the proposal of the Senator from Utah in that the Senator from West Virginia did not conclude his remarks until 1:25 p.m. We were to start at 1:25. I would have no objection in calculating based on that.

The PRESIDING OFFICER. The Chair will announce that the bill was laid down at 1:20 and that the next amendment would be laid down at 3 o'clock pursuant to the previous order.

Mr. HATCH. Parliamentary inquiry: As I understand, there was supposed to be 2 hours of debate. That should not begin until 1:20. That means that there should be 2 hours from 1:20.

The PRESIDING OFFICER. The previous agreement was that the amendment by the Senator from Michigan could be laid down at 1 o'clock with no other time agreement, and that the other aspect of the agreement was that the amendment could be laid down by the Senator from Georgia at 3 o'clock with votes beginning at 5:15.

Mr. HATCH. Then I suggest, and I ask unanimous consent, that the 2-hour time limit on this first amendment begin at 1:20 and that the 2-hour-and-15-minute time limit begin on the second amendment at 3:20.

I withdraw my unanimous-consent request.

Mr. GLENN. Mr. President, I suggest we proceed. We are wasting a lot of time on this. Let us just proceed. If we need extra time at the end, which I doubt that we will, then we can take appropriate action at that time. Otherwise, let us proceed and hope we can hit the 3 o'clock deadline anyway, if that is all right with the Senator from Michigan.

Mr. ABRAHAM. Very well.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to offer an amendment.

AMENDMENT NO. 1490 TO AMENDMENT NO. 1487

(Purpose: To ensure that rules impacting small businesses are periodically reviewed by the agencies that promulgated them)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. ABRAHAM], for himself, Mr. DOLE, Mr. KYL, and Mr. GRAMS, proposes an amendment numbered 1490.

Mr. ABRAHAM. 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:

(a) on page 27 line 13, strike "subsection" and insert "subsections"; and

(b) on page 27 line 13, after "(c)", insert "and (e)"; and

(c) on page 30, before line 10, insert the following:

"(e) REVIEW OF RULES AFFECTING SMALL BUSINESSES.—(1) Notwithstanding subsection (a)(1), any rule designated for review by the Chief Counsel for Advocacy of the Small Business Administration with the concurrence of the Administrator of the Office of Information and Regulatory Affairs, or designated for review solely by the Administrator of the Office of Information and Regulatory Affairs, shall be included on the next-published subsection (b)(1) schedule for the agency that promulgated it.

"(2) In selecting rules to designate for review, the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs shall, in consultation with small businesses and representatives thereof, consider the extent to which a rule subject to sections 603 and 604 of the Regulatory Flexibility Act, or any other rule meets the criteria set forth in paragraph (a)(2).

"(3) If the Administrator of the Office of Information and Regulatory Affairs chooses not to concur with the decision of the Chief Counsel for Advocacy of the Small Business Administration to designate a rule for review, the Administrator shall publish in the Federal Register the reasons therefor."

Redesignate subsequent subsections accordingly.

Mr. ABRAHAM. Mr. President, the amendment I have proposed with the majority leader and other Senators would ensure that the concerns of America's small businesses are not overlooked or ignored during the regulatory review process that S. 343 would establish.

We need some type of meaningful regulatory review process because, quite simply, the utility of a regulation may change as circumstances change. The fact that a regulation withstood cost-benefit analysis at the time of its promulgation provides no assurance that it remains cost-effective 5 or 10 years later. A review process with teeth, however, would ensure that regulations remain on the books only so long as they remain cost-effective.

Section 623 of the regulatory reform bill appears at first glance to address the need to review periodically the cost-effectiveness of existing regulations. Agencies would be required to publish a schedule of regulations to be reviewed. Regulations on the schedule would be measured against the cost-benefit criteria in section 624 of the bill. And, although the agency might have more than 14 years to conduct its review of a regulation, the regulation would terminate if the agency failed to complete its review of it within the time allowed.

As currently drafted, however, section 623 contains a significant loophole. Whether a regulation is subject to review under section 623 depends, at least in the first instance, on whether the agency chooses to place the rule on its review schedule. This amounts to the fox guarding the henhouse.

Under the bill's current language, the only way to add a regulation to the list of rules chosen by the agency is to present the agency with a petition that meets the extremely demanding standard set forth in the bill. It likely would cost hundreds of thousands of dollars to hire the lawyers and technical experts needed to prepare such a petition. Small businesses by their very nature do not have such large resources at their disposal. Thus, under the current language of section 623, agencies potentially could overlook or even ignore the needs of small businesses.

Mr. President, small businesses are too important to our economy to let that happen. Small businesses are the engines of job creation in our Nation. From 1988 to 1990, small businesses with fewer than 20 employees created 4.1 million net new jobs, while large businesses with more than 500 employees lost over 500,000 net jobs during the same period. It comes as no surprise, then, that 57 percent of American workers are employed by a small business. Thus, when we overlook the needs of small businesses, we put American jobs in jeopardy.

And when it comes to reducing the burden of regulations, the needs of small businesses are particularly acute. The hidden tax of regulatory burdens is highly regressive in nature: According to the U.S. Small Business Administration, small businesses' share of regulatory burdens is three times that of larger firms.

There are a number of commonsense reasons for this fact. First, unlike big businesses, small businesses cannot spread the costs of regulation over a large quantity of product sold to the public. Since the regulatory costs borne by small businesses are thus concentrated on a relatively small quantity of product, those costs have a disproportionate impact on the cost of goods and services sold by small businesses. Put simply, the advantages of economies of scale apply to regulatory costs just as they do to other costs of doing business.

A second reason why regulations hit small businesses especially hard is that small businesses simply cannot afford to hire the lawyers, consultants, and accountants needed to comply with the paperwork requirements that inevitably attend regulatory mandates.

When it comes to small businesses, the agencies' avalanche of paperwork falls not on an accounting or human resources department but, rather, on a hard-working entrepreneur who often lacks the time or expertise necessary to cross all the T's in the manner the agency has commanded.

The magnitude of this burden truly cannot be overstated. The Small Business Administration estimates that small business owners spend almost 1 billion hours per year filling out Government forms. An example illustrates the point. Recently, a small construction company inquired about bidding on a modest remodeling project at a post office in South Dakota. In response to that inquiry, the owner of the company received no less than 100 pages of bidding instructions. Needless to say, Mr. President, a 100-page book of bidding instructions might as well state on its cover that "small businesses need not apply."

In short, Mr. President, given the importance of small businesses to our economy and their disproportionate share of the cost of regulations, we need to ensure that S. 343 contains a regulatory review process that is responsive to the concerns of small businesses.

Our amendment would meet that need by empowering the chief counsel for advocacy of the Small Business Administration, also known as the "small business advocate," to protect the interests of small businesses during the regulatory process.

Under our amendment, the advocate would be permitted to add regulations that hurt small businesses to the list of regulations that the agencies themselves have chosen to review, in accordance with the office at the White House known as OIRA.

The advocate would do so pursuant to a simple process. First, the advocate would consult with small businesses concerning the burdens that regulations impose on them. Next, the advocate would consider criteria such as the extent to which a regulation imposes onerous burdens on small businesses or directly or indirectly causes them not to hire additional employees.

On the basis of such input and criteria, the advocate would designate regulations for review. If the administrator of OIRA then concurred in the advocate's designation of a rule for such inclusion, at that point the rule would be added to the list of regulations the agencies have chosen to review. Additionally, if OIRA itself chose to designate a rule for review, that rule could be added to the agency's list.

Our amendment thus would be a small business counterpart to the petition process available to larger firms. Just as through the petition process high-priced lawyers and consultants would ensure that regulations impacting big businesses are not overlooked as regulations are reviewed, so, too, would this process ensure that regulations, the heavy costs of which are borne by small businesses, are not ignored in the regulatory review process.

This task falls squarely within the advocate's mission. Created by a 1976 act of Congress, the advocate's mission is to "counsel, assist and protect small business," thereby "enhancing small business competitiveness in the American economy."

Pursuant to this mission, the advocate "measure[s] the direct costs and other effects of Government regulation on small businesses and make[s] legislative and nonlegislative proposals for eliminating excessive or unnecessary regulations of small businesses." The advocate also administers the Regulatory Flexibility Act, which has afforded it additional experience in assessing the impact of regulations on small businesses.

In fact, by allowing the advocate to designate rules for review, our amendment merely builds on the foundation laid by the Regulatory Flexibility Act. Under that act, the advocate reviews agency analyses of the likely impact of proposed and final rules on small businesses. Thus, under our amendment, the advocate's role in reviewing regulations will be very similar to its role in promulgating regulations.

In summary, Mr. President, small businesses need an advocate in the regulatory review process. For too long, small businesses have been left at the mercy of Federal agencies. Our amendment will ensure that small businesses' concerns are considered in a manner that reflects their contribution to our economy.

That is why the National Federation of Independent Businesses has scored our amendment as a key vote in its rating system.

In the end, Mr. President, our amendment will lead to more efficient regulations for small businesses and more jobs for American workers.

Mr. President, I reserve the remainder of my time.

Mr. DOMENICI. Mr. President, I wonder if the Senator from Michigan will yield a few minutes to me on his amendment.

Mr. ABRAHAM. Mr. President, I yield to the Senator from New Mexico such time as he shall need.

Mr. DOMENICI. Do we have enough time for me to ask him——

The PRESIDING OFFICER. The Chair should note that time is not controlled at this point.

Mr. GLENN. Mr. President, you say time is not controlled?

The PRESIDING OFFICER. Time is not controlled at this point.

Mr. DOMENICI. On this amendment.

Mr. GLENN. Mr. President, parliamentary inquiry. The discussion we had a little while ago resulted in no agreement. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, will you advise me when I have used 10 minutes, please.

Mr. President, the Federal regulatory process, from everything we can determine from our constituents and in various and sundry meetings across this land and in our States, is simply out of control. Federal regulations affect in a very real way every man, woman, and child in America.

The cost of Federal regulations, however, has been estimated to be as high as a half trillion dollars a year, $500 billion. Even the most conservative estimates of the cost of Federal regulations show that the cost of regulations has a profound impact on American citizens.

A recent Washington Post article reported that regulations ultimately cost the average American household about $2,000 a year. I believe one of the main reasons these regulations cost Americans so much is that often they are not generated in an efficient and commonsense manner. That does not mean we do not need regulations, but we need efficient and commonsense regulations.

The sheer volume of regulations proposed and finalized by Federal agencies every year is staggering. For example, the registry, that is, the Federal Register, in 1994 alone runs a total of 68,107 pages. They take up an entire storeroom of space in my office as we attempt to follow them.

Mr. President, how can anyone, no matter how earnest or diligent, comply with all of these? In my State, small business makes up about 85 to 90 percent of the employers. From my standpoint, I have suspected that they felt unrepresented and put upon, and about 2 years ago I established a small business advocacy group. We held field hearings on an informal and voluntary basis, and almost all the small business owners that I talked to and spoke with, the people who create almost all the jobs in our State, told me just how smothering this explosion has become.

I would like to read a letter from one of my constituents in this regard, a small businessman in northwestern New Mexico, Mr. Greg Anesi. He is the president of a small business in our State called Independent Mobility Systems which makes equipment for the handicapped. His business employs quite a few handicapped people. And Mr. Anesi wrote to me to tell me exactly how crushing simply preparing the paperwork required by regulations has become to his small business. The letter states:

> When we consider hiring additional employees, we are limited by the fact that the more people we employ, the greater the regulatory costs and the burdens.

Further, this crushing regulatory inefficiency can and does have a very damaging impact on the environment and on human safety because it diverts limited financial resources from the most pressing of environmental problems. The book called "Mandate for Change" reports that in 1987, "a major

EPA study found that Federal Government spending on environmental problems was almost inversely correlated to the ranking of the relative risks by scientists within the agency."

One way to solve the problem is to use best available science when making regulatory decisions about the environment and human safety. I have been a champion of that, and last year in ıact I attached the amendment to the Safe Drinking Water Act. That amendment would ensure that the best available peer-review science was used when promulgating safe drinking water standards.

Nor is the use of good science in environmental decisionmaking a partisan issue. In this same book, which I hold up, "Mandate for Change", which President Clinton endorsed as a book which tries to move us toward a better future, on page 216 there is a specific call to "expand scientific research on, and use of, risk assessment as part of a national effort to set environmental priorities." I am happy to see that S. 343 has incorporated environmentally conscious, good science concepts in its assessment provisions.

Another way to solve problems of inefficient Federal regulations is to make sure that agencies consider the costs and the benefits of the regulations they promote. I understand that will be a matter of very significant debate on the floor, what standard with reference to costs and how will costs and benefits relate one to the other.

Again, I do not believe cost analysis is a partisan issue. Every President since Richard Nixon, including President Clinton, has required cost-benefit analyses before rules are promulgated. Unfortunately, Federal agencies are not performing these analyses as well as they should. The fact that both S. 343 and Senator GLENN's regulatory reform bill contain cost-benefit sections show that both Democrats and Republicans agree on this point. Perhaps there is some disagreement as to how one would apply the costs and the concept of benefits in determining whether or not the costs were justified is still in order, and we will debate that.

Mr. President, the Abraham amendment to S. 343 allows for agencies to put an existing regulation on a list of meaningful cost-benefit reviews. The problem with the bill's current language is that there are only two ways for a regulation to be put on this list. First, it is up to the agency to choose to put an existing regulation on the list for review, while allowing the agency to do this sort of thing rather than forcing them to is exactly the problem we are trying to address with these bills. Second, an interested party can petition to get an existing rule on the list but only if that party can show that the rule is a major rule.

Showing that a rule costs the national economy $50 to $100 million can cost the interested party thousands of dollars. That is one of the problems. Small business does not have thousands of dollars to prove that the national economy will be influenced $50 to $100 million. When the interested party is a small business, that cost is simply out of reach no matter how ridiculous the existing regulation might be.

Mr. President, that is why I support the Abraham amendment. This amendment will empower the chief counsel for advocacy at the U.S. Small Business Administration, in concurrence with the administrator of the Office of Information and Regulatory Affairs, to add regulations to the agency's list which have significant impact on small business. This amendment, therefore, would allow the small businessman, the little guy, the small business owner, a real opportunity to make sure that Federal agencies actually perform the cost-benefit analysis that everyone says should be done but that everyone agrees are too often ignored in practice.

So, Mr. President, I compliment the Senator who has had to modify his amendment, as I understand it, to include OIRA, the administrator of the Office of Information and Regulatory Affairs, and some might think under certain circumstances that might not be the best. But I think over time, when you combine the small business advocacy office and the administrator of the Office of Information and Regulatory Affairs in the executive branch, over a period of time I think this amendment has a chance for small business to get some of their concerns on the list—that is, on the list to be reviewed—rather than it being as difficult as the base bill, S. 343, would provide.

I hope the amendment is adopted, and I thank the Senator for offering the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I want to make some remarks on the bill itself and then some remarks specifically on the amendment by the distinguished Senator from Michigan.

I firmly believe that this is one of the most important bills that we will take up this year. That probably comes as a surprise to a lot of people who think regulatory reform is pretty dry, arcane, and is about like watching mud dry, as far as interest goes. It is what we termed in the past a MEGO item, "my eyes glaze over" when you bring it up. That is about the interest that it will generate with a lot of people, because it is not debating B-2 bombers or the M1A2 tanks, or something like that. It deals with the nitty-gritty of rules and regulations, how they get published, why they are necessary, and so on.

Lest anyone think we have a lot of bureaucrats just sitting over on the other side of town dreaming up rules and regulations to put out on their own volition, that is not the way these things happen.

We pass laws in the Senate and in the House of Representatives and we send them over to the President. The President signs them. Then they go to the agencies to have the rules and regulations written that implement them, that let them be put into effect, that make them practical so they can go out and affect everyone, literally, in this country—businesses, organizations, individuals, families, children, elderly. Everyone is affected by many of these rules and regulations.

If we did a better job in the Congress, I think perhaps we would find less necessity for rules and regulations over in the agencies and the Departments. If we want to see the major problem area, we ought to look in the mirror, because what we do is too often see how fast we can get legislation out of here. We do slapdash work on it here, send it over and then we are somehow surprised that the agencies and the people doing the regulation writing do not do a better job, and then we are all concerned about why they did not do a better job when we did not do a good enough job in directing them in what they are supposed to do.

Having said that, some 80 percent of the regulations written are required to be written by specifics of legislation passed in the Congress. So we bear heart and soul a lot of the blame on this thing. But the importance of rules and regulations cannot be denied. It is what makes them applicable across the country.

Let me say this. I do not think there is a single Senator that I know of who thinks we should just go along with the status quo. The administration started a review of this whole area 1½ years ago, and they already cut out a lot of rules and regulations. They are in the process of doing more of that right now. So the Senate is interested, the House of Representatives is interested, the administration is interested, and it is that important. We are united on the need to make some changes. So this is not a partisan thing across the aisle on the need. The question is how we go about this.

Let me go back a few years to 1977. The Governmental Affairs Committee, of which I am a member—I was not chairman at that time. Later on I was chairman of the committee for 8 years. Senator ROTH chairs the committee now. But back in 1977, we had what was really a landmark study. It was a landmark study on regulatory reform. It resulted in OMB and OIRA changes, the establishment of processes there. It was an open process. So we had an interest through the years on these matters.

In this year, we had four hearings on the bill in committee. It was bipartisan in support in that committee. We deliberated, we considered everything everyone wanted to consider, and we had a 15–0 vote when that came out of committee. There was agreement on it, and it was a bill of balance.

I think we focused on many of the very central issues, and I will get to those in just a moment. But the bill that we have as S. 291 that has not been introduced here—of course, we are dealing with S. 343, the bill proposed by the majority leader—but that bill we passed out of committee, the Roth bill—and the bill which we would have as an alternative, S. 343, now is basically S. 291 that came out of committee, with just three changes. Those three changes are: A major rule would be defined as one having a $100 million impact per year. No. 2, if an agency fails to review the rules within 10 years, there would be no sunset. In other words, an administrator in an agency could not deliberately let it run beyond the time period and automatically have laws and rules sunset without congressional action. And No. 3, the difference between this and S. 291, as originally voted out of committee, is there is a simplified risk assessment process to comport with the National Academy of Sciences guidelines on risk assessment.

Those are the only three differences. This is a bill that was voted out of committee 15–0. We find ourselves in a position where we have several differences between what was provided in the bill out of committee and what the majority leader has proposed with S. 343. No. 1, the decision criteria, the test whether an agency can promulgate a regulation.

S. 343 proposes a least-cost basis. The bill voted out of committee proposed a cost-effective basis. There is a big difference between least cost and cost effective.

Another area of difference is that of judicial review. Under judicial review there are some major differences as to what would be judicially reviewable; in other words, what you can file suit in court on.

Another difference is the $100 million threshold. S. 343 has a $50 million threshold, which drastically increases the number of bills that would have to be considered.

Another difference is the petition process.

Another is the sunsetting, as I mentioned a moment ago.

Another is how we do risk assessment.

The effectiveness of regulatory flexibility is another.

If the agencies have done their job or have not done their job.

The lack of sunshine, openness, a requirement for openness in our legislation.

Of course, there is the area of specific interest fixes, and whether we, as proposed in S. 343, knock out Delaney or toxic release emissions requirements, inventory requirements that every community should have knowledge of.

These are some of the differences in the legislation between what we voted out of committee and the legislation the majority leader brought to the floor.

Let me talk about the cost-benefit analysis as a tool and not a statutory override. Now, there is substantial difference of opinion on this. Regulatory reform, we feel, should build on our health and safety accomplishments, while applying better science and economic analysis. Regulatory reform on its own and without any other consideration should not override existing environmental safety and health laws.

There seems to be a difference here. But in discussions about S. 343, there has been a refusal to include language that in the event of a conflict between a law—the Clean Air Act, for example—and the new standards in this bill that the law would govern. That is a major difference. I know we say we are in agreement on that. But the language that would spell that out very specifically has been difficult to come by up to now.

There are other statutory overrides in this bill, like the sunset of current regulations if an agency did not act to rewrite or renew them. There would be 10 years to review a petition process, and if it was not reviewed, the bill, according to S. 343, would sunset, would go out of existence.

There is also what could be considered a rewrite of Superfund and the Reg Flex Act. What they have in S. 343 is if the cleanup is worth more than $10 million, or will cost more than $10 million, there needs to be a new analysis of even work in process. I know there is a lot of work going on. But it is my understanding that that is still the intent of the bill.

Under the cost-effective regulations, regulatory reform should result in regulations which are cost effective. S. 343 requires agencies to choose the cheapest alternative, not necessarily the one which provides the most bang for the buck. Here is an example: If a $2 increase in the cost of a bill would result in the saving of 200 lives, to make a ridiculous example, the least cost would not permit that extra $2 expenditure.

Another area of interest: No special interest fixes. Congress should enact reforms of the regulatory process, not fixes for special interest. S. 343, as brought to the floor, rewrites the toxic release inventory which gives people the right to know what toxic substances have been released in their communities. It repeals the Delaney clause against additives in cosmetics with a substitute. It delays and increases costs of ongoing Superfund cleanups and prohibits EPA from conducting risk assessments to issue permits to even such things as cement kilns and others allowing them to burn hazardous waste.

So those are some of the areas. We have others. Better decisionmaking, not a regulatory gridlock is what we are after also. Regulatory reform should streamline rulemaking. It should not just be a lawyer's dream opening up a multitude of new avenues for special interests to tie up the process.

The bill, as brought to the floor, allows courts to review risk-assessment and cost-benefit procedures and to reopen peer review conclusions. It creates numerous petition processes for interested parties. These petitions are judicially reviewable and must be granted or denied by an agency within a time certain and these petitions will eat up agency resources and allow the petitioners, not the agencies, to set agency priorities.

Now, a very major difference also is the reasonable threshold. The new requirements should be applied wisely where the cost of conducting the analysis are justified by the benefits. But S. 343 sweeps into the new process an unwarranted number of regulations because it would, I believe, flunk its own cost-benefit test, because it provides for a threshold of $50 million, where the bill we brought out of the Governmental Affairs Committee, that Senator ROTH brought out, has a $100 million threshold, which means even then somewhere 400 to 600 reviews are going to have to be conducted per year. And cutting that $100 million standard in half, with no evidence that the extra taxpayer dollars needed to comply would be spent effectively.

In other words, how many can we really do effectively? That is the question. I think if we went to the $50 million threshold, we would probably find the agencies being swamped. We are going to spend a lot of dollars making no progress, as far as the accomplishment of regulatory reform.

Last, but certainly not least, is sunshine. Regulatory reform should be open and understandable to the public and regulated industries. It should be sunshine in the regulatory review process.

S. 343 as brought to the floor has no sunshine provisions to protect public participation and prevent secrecy in regulatory review. I can say this, going back a few years, when we had the Council on Competitiveness and a few things like that, we certainly need the sunshine provision. I think most people here would probably agree with that.

Mr. President, the rules and regulations that we are talking about involve every child in this country, every family, the milk you drink, the meat you eat, transportation, safety, water, air, all of these are things that will be affected by this legislation. That is the

reason that I say it will be one of the most important bills that we bring up this year.

I do not want confrontation on these things. I think the press has continued to play it mainly as confrontation. I do not like that, particularly because we are talking about working out cooperative methods and working out compromise on this so we can get a good bill for the whole country. We all stand here united on the need for regulatory reform. So I think it is important that we try and work as many of these things out as possible.

Now, with specific regard to the proposal made by the Senator from Michigan, I know his original proposal was one that I was prepared to oppose. But he has modified that proposal. I think after we have checked with some of the people involved on our side or wanted to be involved on our side, we may be able to accept the amendment over here. The amendment, as originally proposed, while well-intentioned, I think, would have added to special interest lobbying, would have delayed Government decision and frustrated effective regulatory reform. The amendment would have allowed a single official, and not even the Administrator of SBA but the chief counsel for advocacy, to determine any rule, any reg, to be put on the list for agencies. Agencies would have been forced to put these rules on just with one person's say-so. And that could have been any existing rule he or she might have chosen. I did not favor that approach to it because I think we had adequate protection in the bill in S. 343 and S. 291 both to cover that. We had adequate procedures that would have covered that without giving one person, in effect, what would be a czar's authority over all rules and regulations which already have to be reviewed for small business under the Regulatory Flexibility Act, which is required for agencies to evaluate the impact of proposed rules on small businesses and to consider less burdensome, more flexible alternatives for those businesses.

Both the Glenn-Chafee bill and S. 343, the one before the Senate, also strengthen the Regulatory Flexibility Act by providing judicial review of agency regflex decisions.

I think that is the right thing to do. I think both bills cover that. Trying to tighten up regflex is one thing, but creating a whole new set of powers for the Small Business Administration would be quite another thing.

I know the Senator has modified his proposal to say that now, instead of the chief counsel for advocacy at SBA being able to determine on his or her own that these things must be considered by the particular agency or department involved, he has said now that first they have to recommend these up to the Office of Information and Regulatory Affairs in the Office of Management and Budget, which is the office OIRA, that normally passes on these things.

It is our understanding that would be an adequate stopgap, an adequate monitor, a governor, if you will, or a sieve, to sort out what might be frivolous or might not be frivolous.

It is my understanding that the OMB, then, in the amendment as now proposed, would be able to stop that procedure if they wanted.

I ask my distinguished colleague from Michigan if that is his intent now, that once the SBA counsel has submitted this to OIRA, we could turn it down and that would be the end of it.

Mr. ABRAHAM. The Senator from Ohio is correct, I think. Our understanding is, with some changes which we made prior to introducing the amendment here today, it was to provide sort of a fail-safe to ensure that the concerns that the Senator from Ohio has expressed about the possibility of having the advocate of the Small Business Administration move into areas that were of negligible importance, that might be extraordinarily burdensome to the agencies, to provide a type of a fail-safe by requiring concurrence—in other words, approval—also, by the Administrator of OIRA.

Mr. GLENN. I was curious as to why the Administrator of the Small Business Administration was not the authority that would pass on these things to OIRA, or make the decision, rather than taking a subordinate officer and, in effect, elevating that officer for a greater authority than the Administrator has in being able to send things off for review at a different place.

Mr. ABRAHAM. I will say we felt, of the various responsibilities at the Small Business Administration, the advocate's office is, in effect, a somewhat independent figure whose principal responsibility under current law would seem to be very consistent with the responsibility of trying to protect small businesses with regard to promulgation of new regulations.

We thought that was the logical place to impose this responsibility. Also, the mechanism seemed to exist to do some of the study that is entailed in putting forth these recommendations.

We thought that this semi-independent status of the advocate, combined with the authorities already given it, were ones that justified and supported the notion of allowing that.

Mr. GLENN. I thank my colleague.

As I said earlier, at the appropriate time, after I have had a chance to check with a number of people on our side interested in the legislation, we may be able to accept. I, personally, think it is OK now as far as putting OIRA on as sort of a governor or place in which these can be judged before they would be sent to a department or agency. I would personally be prepared to accept it.

We would like to check with a few more people. I yield the floor.

Mr. JOHNSTON. Mr. President, I rise in support of the Abraham amendment. I congratulate the Senator for, first, his concern about small business, which is a concern of all Members on regulations; second, for having an appropriate screening mechanism to prevent the agency overload.

Agency overload, Mr. President, is one of the principal problems with this bill. We are all in favor, at least everyone that I have heard, says they are in favor of cost-benefit analysis, says they are in favor of risk assessment. The question is, do we give the agencies more work than they can do and overload their capacity to do it?

In its original form, the Abraham amendment might well have been subject to that criticism in that any rule on a look-back which the advocate designated would go into the workload of the agency.

However, in the form that the Senator from Michigan has proposed, there is an appropriate screen because the head of OIRA would have to concur with that judgment, which would ensure, I believe, that those rules which have a major effect on small business would be included in the workload, as they should be, but that we could prevent the agency overload.

Mr. President, I think this is an excellent amendment which will presently protect small business on the look-back.

If I may speak for a few moments on the pending bill and on the Glenn substitute, which the Senator has spoken about, there are a number of differences, Mr. President, and I believe that the pending bill, the so-called Dole-Johnston amendment, is a much better bill in terms of accomplishing the control over a runaway agency.

Mr. President, the Senator from Ohio [Mr. GLENN] states that under the Dole-Johnston bill, there would be a judicial review of the procedures in the risk assessment management; and under the Glenn substitute, there would not be that review of procedures.

Mr. President, exactly the opposite is true under the language proposed. Under the language of the Glenn substitute, it states specifically that any regulatory analysis for such actions shall constitute part of the record and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

The risk assessment protocol is included as part of the record and shall be considered by the court—shall be considered by the court—in determining the legality of the agency action.

Now, what does legality mean, Mr. President? Legality can only mean, in my judgment, the legality as measured by section 706 of the Administrative Procedure Act. If it does not refer to section 706, there is not, within the

Glenn amendment, a separate rule for testing and determining legality.

Now, what does section 706 say? Section 706(D) refers to the procedures, and that any rule which the reviewing court shall hold unlawful and set-aside agency actions which are "without observance of procedure required by law." "* * * without observance of procedure required by law."

There is nothing, Mr. President, in the Glenn substitute, to say that section 706(D) does not apply. That is the only thing that legality can mean.

Now, when we get into a further discussion of what the Dole substitute shows, we will have a blowup of the language and make this clear.

Mr. President, exactly the opposite is true. That is, Senator GLENN says that his amendment would prevent the review. We say it not only permits it, but requires it. And that, under the Dole-Johnston pending amendment, it prevents any such review by saying that, "failure to comply with the subchapter may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion."

Mr. President, another serious deficiency of the substitute is that there is no enforceable petition process on the Glenn substitute, no enforceable petition process—no enforceable look-back process.

Oh, there are words in there about you can adopt it—you have the petition process as provided for under the present law. But what does that amount to? I mean, if all you get is the petition process under the present law, you get nothing. That is what this bill is all about. What happens when you have an oppressive regulation, of which there are many, which did not follow a risk assessment protocol, which did not involve scientists or ignored the scientists, which is exorbitantly expensive, and which you want to take a look at?

Effectively, there is almost nothing you can do about it, because there are no standards by which you can seek that petition and get it reviewed. And, under the Glenn substitute, they simply take the present law and say: Whatever you do under the present law, we are not going to disturb. There is no look-back process that is enforceable. None at all. What it says is that you shall look back at these, all these regulations, within 10 years, or you may request to extend that up to 15 years. But what happens if you do not do it? It says you shall institute a rulemaking under section 553. What does that mean? It means you submit a notice of proposed rulemaking, which can go on forever, and which in turn is not enforceable. That is the problem today. What happens when you cannot get an agency to act? You have no recourse at all.

Some of these agency actions are absolutely ridiculous. Two years ago I first proposed a risk assessment. And the reason I did was we found in some of the rules which come before the Energy Committee, which I chaired at that time, that these costs were out of control. We could not figure out why it was, for example, that the cost of analyzing the Yucca Mountain waste site—the costs of characterizing that site—had gone up a hundredfold—a hundredfold—from $60 million to $6.3 billion. And we said, Why could this be? How can the cost of just determining, in this case a site for storage of nuclear waste, whether that site is suitable—not the building of the site, just determining whether that site is suitable—how could those costs have gone up from $60 million to $6.3 billion?

One of the things we found that they had done was adopted a rule where they had ignored their own scientists, absolutely ignored what the scientists had told them. They did not know what it was going to cost. The rule had no basis in health or safety. It was going to cost $2.1 billion to comply with and there was nothing anyone could do about it.

The Glenn substitute takes that same attitude, which is to say: Do not worry about it. You are fully protected under the present rules. We are not going to give you a right to go to court. We are not going to give you a right to enforce a petition process. We are not going to give you a right to have an enforceable look-back process. We are going to leave it as under present law, and under present law all you have to do is file your notice of proposed rulemaking and that is all you have to do. You cannot enforce and require the agency to proceed with that rulemaking.

So we will have a lot to discuss about this question of the two bills. There are improvements which need to be made, to be sure, in the Dole-Johnston substitute. One of those, which I hope to propose and have agreed to, and I have some confidence that we will be able to do so, is to take the CERCLA provisions—that is the Superfund, or environmental management procedures—out of this bill. I think they ought to be considered separately. Almost everybody agrees that you need to use risk assessment principles in determining cleanup when you have Superfund sites, but that it would better be done in a separate bill, reported out of the Environment and Public Works Committee in the Senate. And I believe there is a desire on the part of that committee to proceed with that. I think we ought to take those provisions out.

I also hope at the appropriate time we can increase the threshold amount from $50 to $100 million. Again, that relates to this question of overload. Because, just as Senator ABRAHAM has so wisely provided a screen to have a check on the amount of overload coming from consideration of small business matters, we need a screen to lift that bar a little higher, from $50 to $100 million. There is going to be a lot of work to be done under risk assessment and under cost-benefit analysis. There is a lot of work to be done. We do not want to overload the agencies.

So, Mr. President, I quite agree with Senator GLENN when he says that this is a very, very important bill. I am delighted there is, I believe on the part of all parties—myself and Senator DOLE, Senator GLENN, Senator HATCH, Senator ROTH, those who have been the leaders in this area—a desire to try to find a way to provide for an appropriate risk assessment and appropriate cost-benefit analysis.

I believe, with that desire of all parties, that we can work our will and get a good bill. But make no mistake about it, risk assessment, putting science as opposed to politics or emotion or prejudice or superstition—putting science back into the decision process and having a process that works, and that is required to be followed, a logical process—that tells the American taxpayer we are going to fully protect your health and safety but we are not going to foolishly spend money on things that do not relate to health and safety.

One final point about the Dole-Johnston amendment. My friend from Ohio, Senator GLENN, says that under our amendment you must take the least-cost alternative. Mr. President, that is simply not true. The bill very specifically states that where uncertainties of science or uncertainties in the data require a higher cost alternative, that you may do so. Or, where there are—actually, to give the language here, the language 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 appropriate and in the public interest and the agency head provides an explanation"—that may be adopted.

So, Mr. President, what we say is you get the least cost alternative that achieves the objectives of the statute unless the science is uncertain, or the data are uncertain, in which event you can get a more costly alternative. Or you may make a more costly alternative if nonquantifiable benefits to health, safety, or the environment make that in the public interest. What does that mean? That means, if it would save more lives to do something else. How can you quantify the value of life? You cannot. But you can go to a higher cost alternative if those nonquantifiable benefits to health, safety, or the environment make another alternative more advisable.

But we say that, if you are going to go to this higher cost alternative because of these nonquantifiable benefits,

or if there are uncertainties of science, then you must identify what those uncertainties are, or you must identify what those nonquantifiable benefits are, and then provide the least cost alternative that takes into consideration the nonquantifiable benefits.

So what we are saying is you may go higher, but you have to say why you went higher, and you cannot do it just because you want to or because it is politically attractive to do so or because some constituent group wants you to do it. You have to identify what it is that is uncertain or what it is that is nonquantifiable.

So, Mr. President, in closing, I will just say that the Abraham amendment, I think, is a good one now that both protects small business on the lookback procedures but provides the appropriate screen. Therefore, I support that amendment.

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

Mr. JOHNSTON. Yes.

Mr. GLENN. I ask my friend from Louisiana: On this least cost versus cost effective, he talked about uncertainties. What if there are no uncertainties, if the science is good, everybody is agreed on that, and if all matters are quantifiable, lives may not be monetizable in dollar value but they are quantifiable on lives to be saved? I believe the way S. 343 is written now, even if only a $2 or a $20 expenditure would save 100 lives, you still have to go with the least cost unless there is some uncertainty about the scientific data.

Is that correct?

Mr. JOHNSTON. Mr. President, that is not correct. I think it is an excellent question. I think the problem with the interpretation of the Senator from Ohio is that he is putting a very tortured and incorrect definition of the term "nonquantifiable benefits to health, safety and the environment." The value of the human life is by its nature nonquantifiable. I mean, you may say there are 10 lives. You can quantify it in that narrow sense. But that is not the sense in which this is meant. We are talking about values and benefits which are nonquantifiable. The value of breathing clean air is by its very nature nonquantifiable. How can you say when you go out on a beautiful, clear day where the temperature is just right, you feel good, how can you say that is worth $764 a week? You cannot. It is by its nature nonquantifiable. The health, safety, or the environment are by their nature nonquantifiable and, therefore, we have provided that.

But all we are saying is, if you as administrator are saying that you can save 10 additional lives, that you have to identify that as your reason for going to the more costly alternative, and if that was the reason, then you must take the least cost alternative that takes care of your 10 lives, that saves your 10 lives.

I hope I have made that clear to my friend from Ohio because it is a very key point.

Mr. GLENN. It is a key point. I think it is indicative of the kind of debate we are going to get into here on some of these specifics, the meaning of words and so on. It has to be something that will hold up in court, that is understood by the courts. And that is a real major problem on this whole bill. We spent days and many hours going through some of these word differences. This is one example of it that is going to be debated further as we get into this bill. I know basically we are on the Abraham amendment now.

Parliamentary inquiry. Does that run out at 3 o'clock?

The PRESIDING OFFICER. At 3 o'clock the Senator from Georgia will offer an amendment.

Mr. NUNN. Mr. President, will the Senator from Louisiana yield for 10 seconds?

Mr. JOHNSTON. Yes.

PRIVILEGE OF THE FLOOR

Mr. NUNN. Mr. President, I ask unanimous consent that Bill Montalto, of the House Committee on Small Business, be permitted floor privileges for the purpose of working on my amendment when it comes up.

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

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. First, Mr. President, I want to say how strongly I agree with my distinguished colleague, the senior Senator from Ohio, when he speaks about the need for a bipartisan approach to obtain regulatory reform. I want to say that I hope we can continue to work together as we did in the Governmental Affairs Committee to move forward legislation that accomplishes the goals that I think we all seek on both sides of the political aisle.

Mr. President, I want to congratulate Senator ABRAHAM for his contribution in offering this amendment. I strongly agree with him that there is no area of activity more adversely affected by some of the regulatory reform actions of the past than small business. I think we all agree that small business in many ways is the most important part of our economy as it is the primary area that results in growth in our economy and, most importantly, is the area where the majority of jobs are being created.

So, again, I want to congratulate the junior Senator from Michigan for his contribution in proposing this most important amendment.

This amendment would strengthen the lookback provisions of section 623. It would provide a mechanism for adding rules adversely impacting small businesses to the agency schedules for reviewing rules.

As the amendment was originally drafted, it would have allowed the Chief Counsel for Advocacy at the Small Business Administration to have sole discretion to add small business rules to the agency review schedules. To respond to concerns about political accountability and the need for standards in selecting rules for review, Senator ABRAHAM has revised his amendment. I believe this revision is a balanced solution to a very important problem.

One of my concerns was that, in providing this discretion solely to the Chief Counsel for Advocacy at the Small Business Administration, the original amendment was a delegation of an extraordinarily broad power. Since the Chief Counsel for Advocacy at the Small Business Administration is, as the Senator from Michigan pointed out, semi-independent in the same sense that inspectors generals are independent, it gave tremendous authority for this individual to take whatever action he or she thought was appropriate in requiring rules to be reviewed.

As revised, the Abraham amendment would ensure more political accountability regarding which small business rules are added to agency review schedules. Small business rules could be selected jointly by the Chief Counsel of Advocacy for the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs. Alternatively, the Administrator of OIRA alone could choose small business rules for review. This would ensure that the Administrator of OIRA, a politically accountable official who also understands the burdens on the agencies, will be involved in the process.

In addition, the revised amendment makes clear that the standards applicable to other rules selected for review apply to the small business rules. For example, the Administrator of OIRA and the chief counsel must consider, in selecting a small business rule for review, whether review of the rule will substantially decrease costs, increase benefits, or provide flexibility.

Mr. President, I believe that Government must be more sensitive to the cumulative regulatory burden on small business. As I said earlier, small business is, indeed, the backbone of America, a crucial provider of jobs, a wellspring of entrepreneurial innovation and a central part of the American dream.

And again I congratulate Senator ABRAHAM for his hard work to help America's millions of small businessowners, their employees, and their families. I urge my colleagues to support this amendment.

Mr. President, I yield back the floor.

Mr. ABRAHAM. Mr. President, I will be very brief. I would like to first thank the Senator from Delaware for his help, and providing this amendment

has made it, I think, a stronger amendment, and I appreciate his judgment and guidance on these matters.

Mr. President, I would also say that the Abraham-Dole amendment has been strongly supported by all the Nation's major small business organizations, including the NFIB, the National Association for the Self-Employed, the Small Business Legislative Exchange Council, and the chamber of commerce, among others. I ask unanimous consent that those letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SUPPORT THE ABRAHAM-DOLE SMALL BUSINESS PROTECTION AMENDMENT TO S. 343

Government regulations constitute an enormous burden for small businesses. Therefore, periodic review and sunsetting of regulations which can become out-of-date, obsolete or excessively time-consuming and costly is a major priority for small business in the regulatory reform debate. Seventy-seven percent of NFIB members support reviewing and sunsetting regulations.

The intent of Section 623 of the Regulatory Reform bill is to make certain that regulations are sunsetted as they become obsolete. Regulations listed on review schedules published by the agencies would be measured against the cost-benefit criteria in section 624 of the bill.

Unfortunately, regulations would not be subject to review and eventually sunsetted unless the agency responsible for the regulation chooses to place it on the review schedule? That's almost like putting the wolf in charge of guarding the sheep.

If an agency doesn't put a regulation, which is particularly burdensome to small business, on the list for review the only recourse is to petition to have the regulation added to the review schedule. Petitioning will cost small business owners money—lawyers, consultants, researchers and others will have to be hired to prepare the petition in order to meet the high demands set forth in section 623.

The solution is the Abraham-Dole amendment. This amendment would empower the Chief Counsel for Advocacy at the U.S. Small Business Administration to add regulations to the agencies' review schedules which have significant impact on small businesses. The Advocate would seek input from small business men and women on regulations that need to be reviewed, would evaluate the suggestions from entrepreneurs and direct agencies to take proper action for reviewing those regulations. This amendment gives the only person in the Administration who is exclusively responsible with representing the special needs of small business the ability to ensure that regulations affecting them are not overlooked or ignored by agencies during the regulatory review process.

A vote is expected on the Abraham-Dole amendment after 5 p.m., Monday, July 10. This amendment has the strongest possible support from the National Federation of Independent Business. For more information contact NFIB at (202) 484-6342.

NATIONAL ASSOCIATION FOR THE SELF-EMPLOYED,
Washington, DC, July 7, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate, Dirksen Senate Building, Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 320,000 members of the National Association for the Self-Employed, I am writing to support your amendment to S. 343, the Comprehensive Regulatory Reform Act of 1995.

Currently, S. 343 calls for sunsetting regulatins as they become obsolete. The various regulatory agencies would judge the regulations against the cost-benefit criteria outlined in S. 343, seciton 624. The agencies would then place the outdated regulations on a review schedule.

The Abraham/Dole amendment would grant authority to the Chief Counsel for Advocacy of the Small Business Administration to add regulations to the review list, thus ensuring that all regulations affecting small business can be reviewed in a timely manner.

We commend your efforts to give the Chief Counsel for Advocacy this important authority. The Abraham/Dole amendment would greatly benefit the small-business community.

Sincerely,

BENNIE L. THAYER,
President.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, July 6, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the Small Business Legislative Council (SBLC), I would like to offer our support for your amendment to the pending regulatory reform bill to ensure regulations that have an impact on small business are given a thorough review for "cost-effectiveness" after they have been "on the books" for awhile. We commend you for the initiative as it addresses just the kind of disadvantage at which small business always finds itself in the regulatory process.

As we understand it, the pending bill requires agencies to review regulations for cost-effectiveness if the agency puts them on a review schedule, or a private party petitions to have them on the schedule. As you have correctly recognized, the odds are that small businesses will not have the wherewithal to either identify such regulations or petition for their reconsideration. Giving the Chief Counsel for Advocacy for Small Business the right to select the rules for review seems to us to be a sensible, cost-effective alternative to assure small business access to the process.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ,
President.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America;
Alliance for Affordable Health Care;
Alliance of Independent Store Owners and Professionals;
American Animal Hospital Association;
American Association of Equine Practitioners;
American Association of Nurserymen;
American Bus Association;
American Consulting Engineers Council;
American Council of Independent Laboratories;
American Gear Manufacturers Association;
American Machine Tool Distributors Association;
American Road & Transportation Builders Association;
American Society of Interior Designers;
American Society of Travel Agents, Inc.;
American Subcontractors Association;
American Textile Machinery Association;
American Trucking Associations, Inc.;
American Warehouse Association;
AMT—The Association for Manufacturing Technology;
Architectural Precast Association;
Associated Builders & Contractors;
Associated Equipment Distributors;
Associated Landscape Contractors of America;
Association of Small Business Development Centers;
Automotive Service Association;
Automotive Recyclers Association;
Automotive Warehouse Distributors Association;
Bowling Proprietors Association of America;
Building Service Contractors Association International;
Christian Booksellers Association;
Cincinnati Sign Supplies/Lamb and Co.;
Council of Fleet Specialists;
Council of Growing Companies;
Direct Selling Association;
Electronics Representatives Association;
Florists' Transworld Delivery Association;
Health Industry Representatives Association;
Helicopter Association International;
Independent Bankers Association of America;
Independent Medical Distributors Association;
International Association of Refrigerated Warehouses;
International Communications Industries Association;
International Formalwear Association;
International Television Association;
Machinery Dealers National Association;
Manufacturers Agents National Association;
Manufacturers Representatives of America, Inc.;
Mechanical Contractors Association of America, Inc.;
National Association for the Self-Employed;
National Association of Catalog Showroom Merchandisers;
National Association of Home Builders;
National Association of Investment Companies;
National Association of Plumbing-Heating-Cooling Contractors;
National Association of Private Enterprise;
National Association of Realtors;
National Association Retail Druggists;
National Association of RV Parks and Campgrounds;
National Association of Small Business Investment Companies;
National Association of the Remodeling Industry;

National Chimney Sweep Guild;
National Electrical Contractors Association;
National Electrical Manufacturers Representatives Association;
National Food Brokers Association;
National Independent Flag Dealers Association;
National Knitwear & Sportswear Association;
National Lumber & Building Material Dealers Association;
National Moving and Storage Association;
National Ornamental & Miscellaneous Metals Association;
National Paperbox Association;
National Shoe Retailers Association;
National Society of Public Accountants;
National Tire Dealers & Retreaders Association;
National Tooling and Machining Association;
National Tour Association;
National Wood Flooring Association;
NATSO, Inc.;
Opticians Association of America;
Organization for the Protection and Advancement of Small Telephone Companies;
Petroleum Marketers Association of America;
Power Transmission Representatives Association;
Printing Industries of America, Inc.;
Professional Lawn Care Association of America;
Promotional Products Association International;
Retail Bakers of America;
Small Business Council of America, Inc.;
Small Business Exporters Association;
SMC/Pennsylvania Small business;
Society of American Florists;
Turfgrass Producers International.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, July 10, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the 215,000 business members of the U.S. Chamber of Commerce, 96 percent of whom have fewer than 100 employees, I urge your strong and active support for two amendments to be offered to S. 343, the "Comprehensive Regulatory Reform Act of 1995." The Nunn/Coverdell amendment ensures that small businesses benefit from the broader protections of S. 343, and the Abraham/Dole amendment guarantees a voice for small businesses in the regulatory look-back process. To achieve meaningful reform for that segment of our society hit hardest by regulatory burdens—small businesses—these amendments are critical.

The Nunn/Coverdell amendment recognizes that there may be many instances where a regulatory burden on small businesses could be severe even though the $50 million threshold for a complete regulatory review has not been triggered. By deeming any rule that trips an analysis under the Regulatory Flexibility Act of 1980 a "major rule," small entities will receive the protection they need and deserve from the extreme rigors they often experience from even the best-intentioned regulations.

To address the problems associated with the mountain of existing regulations and their impact on small entities, the Abraham/Dole amendment will boost the power of small businesses to benefit more effectively from the sunset provisions of Section 623 of S. 343. Small companies often need all of their people-power and resources simply to keep afloat. They do not always have the ability to petition federal agencies for review of particularly onerous existing regulations. By vesting within the Small Business Administration responsibility for ensuring that regulations that are particularly problematic for small businesses are not excluded from the regulatory sunset review process, small businesses can be assured that their proportional needs are always considered.

The Chamber hears regularly from its small business members that federal regulations are doing them in. Support for these two amendments will validate that their cries have been heard and acted upon. I strongly urge your support for both the Nunn/Coverdell amendment and the Abraham/Dole amendment.

Sincerely,

R. BRUCE JOSTEN.

NATIONAL ROOFING CONTRACTORS ASSOCIATION,
Washington, DC, July 7, 1995.

Hon. SPENCER ABRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR ABRAHAM: The National Roofing Contractors Association (NRCA) strongly supports the "periodic review and sunsetting of regulations" amendment that you and Majority Leader Dole will offer to Section 623 of the Comprehensive Regulatory Reform Act of 1995, S. 343.

As we understand it, the intent of Section 623 is to ensure that regulations are sunsetted as they become obsolete. However, a regulation would not be subject to review and sunsetting unless the agency that administers the regulation schedules it for review. This would allow agencies a disproportionate amount of discretionary power to pick and choose regulations for sunsetting.

The Abraham-Dole amendment would curb the potential for agency bias by enabling the SBA's Chief Counsel for Advocacy to add regulations which have a significant impact on small business to an agency's review schedule. This would be done with input from the small business community.

Earlier this year, NRCA testified in support of the Regulatory Sunset and Review Act of 1995, H.R. 994. A copy of our written statement, which discusses specific regulations, is enclosed. Please note that attached to the statement is the Wall Street Journal article, "So You Want To Get Your Roof Fixed . . ."

NRCA is an association of roofing, roof deck and waterproofing contractors. Founded in 1886, it is one of the oldest associations in the construction industry and has over 3,500 members represented in all 50 states. NRCA contractors are small, privately held companies, and our average member employs 35 people with annual sales of $3 million.

Sincerely,

CRAIG S. BRIGHTUP,
Director of Government Relations.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I rise in strong support of the Dole-Abraham amendment and compliment my colleague from Michigan for his work in preparing this amendment. Obviously, it is going to be very popular. It is going to make a necessary improvement in the bill, which in its current form is a very good bill. But because small business is such an important part of our Nation's economy and because regulations can have a particularly pernicious effect on small businesses, because small businesses are not as well equipped as large companies are to hire the lawyers and the consultants and the other people necessary to deal with the red tape of Federal regulations, I think it is especially important that small businesses not be unduly negatively impacted by regulation, and therefore this amendment will certainly assist in this regard.

Small businesses are really the engine that drives our economy. In fact, from 1988 to 1990, small businesses with fewer than 20 employees created over 4 million new jobs in this country, and that was at the same time, Mr. President, that companies with more than 500 employees lost over 500,000 net jobs during that same period.

As I said, small businesses bear a disproportionate share of the burden of regulation. According to the Small Business Administration, small businesses' share of the burden of regulations is three times that of larger businesses.

Under the current language of section 623, a regulation would not be subject to review unless the agency chooses to place it on the review schedule or an interested party successfully petitions to have it added to the review schedule.

Since small businesses, as I noted, frequently do not have the same kind of resources to hire the lawyers and the consultants necessary to prepare a petition that would meet the demanding standards set forth in section 623, the bill's current language would allow agencies to refuse to review regulations that have a significant impact on small business. And that is where this amendment comes in. It is very important that agencies include in their review schedules any regulation designated for review by the chief counsel for advocacy of the Small Business Administration and OIRA. And that is the important point of this amendment.

In selecting regulations to designate for review, the advocate could seek input from small businesses and would consider criteria such as the extent to which the regulation imposes onerous burdens on small businesses or directly or indirectly causes them not to hire additional employees.

The amendment thus would create a small business counterpart to the petition process which is available to larger firms, with the advocate representing the interests of small businesses, just as the high-priced lawyers and consultants will represent, presumably, the interests of those larger businesses in that petition process.

And, of course, it has been noted why the advocate of the Small Business Administration is ideally suited to this task, because, according to the statute,

and I am quoting now, its mission is to "enhance small business competitiveness in the American economy." And the advocate "measure[s] the direct costs and other effects of Government regulation on small businesses and make[s] legislative and nonlegislative proposals for eliminating excessive or unnecessary regulations of small business."

As a matter of fact, the advocate also administers the Regulatory Flexibility Act which has afforded it additional experience in assessing the impact of regulations on small business.

So this amendment, Mr. President, would actually merely build on a foundation laid by the Regulatory Flexibility Act. Under that act, the advocate reviews agency analyses of the likely impact of the proposed and final rules on small businesses. So under the Abraham-Dole amendment the advocate's role in reviewing regulations would be very similar to its role in promulgating regulations.

Let me conclude with a couple points about concerns with this general approach, although, as I said, I think particularly with the amendment to the amendment that Senator ROTH spoke about a moment ago this should be a very popular amendment.

There was some question that it might be appropriate for there to be a limit on the number of regulations that the advocate could designate for review, but we think that under this process clearly agencies that choose to review regulations that hurt small business likely will not have many regulations added to their review schedule by the advocate. Those, of course, that ignore the concerns of small business could expect to have their review schedule expanded by the advocate, but that is part of the incentive which we are building into this amendment.

And second, there was a concern that really we ought to only be considering major rules; otherwise, we could clog the courts and clog the agency with an unnecessary workload.

It is true, of course, that the cost-benefit and risk-assessment requirements generally apply only to the promulgation of major rules, but many of the rules that hurt small business the most would not meet the cost threshold for major rules, and this is particularly true if the major rule threshold were to be raised from its current $50 million limit.

For example, the NFIB estimates that OSHA's widely criticized fall-safety rule would impose costs of $40 million annually, $10 million short of the $50 million major rule threshold. This rule would require employees, by the way, to wear an expensive harness with a lifeline attached to the roof any time that a worker works 6 feet or higher above the ground.

The negative impact of this rule on small businesses was the subject of an op-ed in the June 13, 1995, issue of USA Today. It is a good illustration of how even with a rule like this, which achieved a great deal of attention and would impose a significant cost on small contractors, it nonetheless would fail to meet that threshold requirement, and that is one of reasons why the kind of review called for in the Abraham-Dole amendment is not only appropriate but is really quite necessary.

So, Mr. President, I am sure that most of our colleagues will be in strong support of the Abraham-Dole amendment, and I certainly urge its adoption and would also indicate my strong support for the underlying bill.

I yield the floor.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I also would like to rise today as a cosponsor of the small business protection amendment to the Regulatory Reform Act.

The PRESIDING OFFICER. The Senator should be advised that under a previous order, we are to turn to the amendment of the Senator from Georgia at 3 o'clock.

Mr. GRAMS. I ask unanimous consent to address the Senate for about 7 minutes.

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

Mr. GRAMS. Mr. President, again, I want to say I rise as a strong cosponsor of the small business protection amendment to the Regulatory Reform Act, and as a strong proponent of holding Government accountable to the taxpayers, I believe this amendment would make a good bill even better.

I also compliment the Senator from Michigan for all the work he has done in this area.

The negotiations that many of us have undertaken on the Regulatory Reform Act have been long and often painful, especially as we witnessed the watering down of rational provisions. The sunset provision has been one of those casualties.

But the small business protection amendment would strengthen the provision in the bill which cancels or sunsets regulations as they become obsolete.

Excessive Federal regulations and redtape impose an enormous burden on this Nation. Regulations act as hidden taxes which push up prices on goods and services for American households, dampen business investment and, ultimately, kill jobs.

What concerns me most, however, is that a large portion of Federal regulations do not have strong scientific merit to back up their enforcement. I am also concerned that we are currently prohibited from even conducting cost-benefit analyses on some of the extensive regulatory measures in this country. How can this Congress make well-informed decisions if we cannot even consider these types of options?

More than 2 years ago, as a new Member of Congress, the first sunset amendment I offered was to H.R. 820, and that was the National Competitiveness Act. I mention this because my goal was not to hinder our ability to compete in the international marketplace. On the contrary, with overregulation strangling our competitiveness abroad, my goal was simply to provide a framework for ensuring oversight and accountability and to get agencies to start setting standards to justify the funding that they now receive.

After this first sunset amendment, I offered several more to various House appropriations bills, and almost a dozen were passed into law with wide bipartisan support.

Let me remind you, Mr. President, that the concept of sunsetting regulations is not new. In fact, President Clinton's Chief of Staff, Leon Panetta, offered sunset legislation when he served in the U.S. House of Representatives.

So now we have the opportunity with a single piece of legislation to sunset regulations that have outlived their usefulness.

As the 1995 Regulatory Reform Act is currently written, regulations would be listed on review schedules published by the agencies. However, a regulation would not be subject to review unless the agency chooses to place it on the review schedule. If the agency does not place a particular regulation on the review schedule, an individual or a small business may petition that agency to do so. But this is not as easy as it sounds. The individual or small business must meet unreasonably high standards—standards so stringent that the average person would have to hire expensive lawyers and consultants just to figure out how to meet that criteria.

What the small business protection amendment would do is to require agencies to include on their review schedules any regulation designated for review by the chief counsel for advocacy of the Small Business Administration in concurrence with the OMB's Office of Information and Regulatory Affairs. This represents an important step toward alleviating the burden of outdated regulations and also ensuring the future health of our economy.

Big businesses already have a loud voice in the regulatory process because they have access to resources often out of the reach of small businesses. But small businesses create millions of new jobs every year, and this amendment would allow their voices to be heard as well.

Mr. President, I am sure that there is not a single Member of this body who has not been contacted by a constituent from their home State because of

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some absurd and outmoded regulation. And yet some of my colleagues will argue that strengthening the sunset measure in the Regulatory Reform Act would place an undue burden on the regulatory agencies, who would have to spend a lot more time reviewing and a lot less time regulating. I argue that is what regulators ought to do—that is, review and then retire regulations that are no longer needed and then to fix those that are not working.

The fact is that strengthening the sunset provision of the Regulatory Reform Act will have absolutely no impact on regulations which serve a useful and realistic purpose. It will not make our air dirty or our water unclean. It will not pollute our environment or jeopardize our health or our safety.

What this amendment will do is to enhance the accountability and oversight that regulators have to the taxpayers of this country—the people who must foot the bill for every rule and requirement imposed by the myriad of regulatory agencies.

Establishing a fair procedure by which regulations can be reviewed periodically to ensure and to maintain their effectiveness is just plain common sense. That is why I am proud to be a cosponsor of the Abraham-Dole small business protection amendment, and that is also why I urge my colleagues to give it their support today as well.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I ask unanimous consent to speak briefly with respect to the Abraham-Dole amendment.

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

Mr. ABRAHAM. Mr. President, I would like to conclude my remarks. There does not appear to be anyone else at this point who wants to speak to the amendment.

I want to thank my colleague, the Senator from Minnesota, for his support on these matters pertaining to sunsetting regulations, as he already indicated, before this Congress took office, and I am sure he will continue his support in the process of putting together this amendment. His broad support for sunsetting regulations has been an important ingredient in our efforts to bring this particular amendment to the floor. I want to thank him for his remarks today.

As I said earlier, Mr. President, when I offered the amendment, I think that the bill we have before us has a system in place which will provide big businesses with a vehicle, a mechanism by which they can bring regulations up for review, because they will be in a position financially to afford the kind of technical cost-benefit studies and other types of inquiry necessary to present a petition that can be successful as it is considered.

Unfortunately, small businesses do not always enjoy that opportunity. It is also the case that regulations which cost $30 or $40 million that do not quite make it to the level which we consider major rules in this legislation, at the $30 or $40 million pricetag are very costly rules, very major rules from the standpoint of a small mom-and-pop business that is out there in America trying to survive.

So I think this amendment, as I said at the outset, strikes the proper balance between the need to place some constraints on how many regulations come up for review, on the one hand, and the legitimate needs of small businesses on the other to have their day in court.

My parents owned a small business for quite a long time. I know what they encountered as small business people, truly a mom-and-pop operation, in attempting to just sort out the demands that we in Washington placed on their business. Others come to my office all the time with similar expressions of concern. I believe this amendment gives the small business community a mechanism by which regulations that are costly to small businesses can be brought up for review, even if they are not initially placed on the list of rules to be reviewed by agencies, and be brought up for review without necessitating on the part of small businesses who often will not be able to afford the expensive process that the petition system provides.

I think it will be an effective addition to this bill and I hope an effective way by which small businesses across this country continue to have their voice heard as they deal with Federal regulation in the future.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I know we have run over our time for this particular amendment, but I believe there is a small meeting still going on. I ask my distinguished colleague from Michigan if he had considered having the reporting authority for small business concerns be the Administrator of the Small Business Administration?

It is a little unusual to go down somewhere in the organizational chart of any agency or department and give a particular person the authority, no matter what their title or what their normal responsibilities are, to bypass all other rules, regulations, and administrative procedures for that particular department, to bypass the administrator of their department, even though the administrator might not agree with what he is going to propose, and bypass within the depths of an agency the administrator and go directly to OIRA.

Would it not make more sense if we really did this through the administrator as the first step on this process? Otherwise, you could come up with a situation where you have an administrator who really does not agree, and maybe for some very good reasons, as to the actions that will be taken by the counsel for advocacy. I ask, was that considered? If that was turned down, what were the reasons for not going that route of having the administrator represent his agency?

Mr. ABRAHAM. The concern the Senator from Ohio expressed was one that we took into account in the process of putting together the amendment originally. What we tried to balance was the responsibilities of the different officials in the Small Business Administration.

The reason that we felt this particular office was the appropriate place to vest this authority was because of two things. No. 1, the responsibilities of this office are expressly those of advocating the concerns of small businesses. With all due respect to the head of any agency, as far as their set of responsibilities goes, whether it is the head of the SBA or any of the other agencies of our Government, they have other considerations they must take into account, whether it is political considerations or considerations that have to do with budget needs or managerial duties. But this office was set up, as we interpreted it, in an exclusive sense to try to really be the advocate of the small business community of America. It is the one place in Government where that power has been authorized by Congress.

We felt, as a consequence, that there would be fewer countervailing types of considerations brought before the advocate than at the other offices of SBA. We thought, as a consequence, the advocate could perform their jobs freed of, and somewhat liberated of, some of the other countervailing responsibilities that an administrator or other agents of the SBA might have. That is how we reached this judgment.

I think it certainly would be my expectation that the advocate would consult with and discuss with the agency and with the SBA Administrator decisions regarding regulations put on the rule. We thought this office was the place where the least argument could be made, where political pressures, special interest group pressures, and so on, were not justifying actions, and that in fact this had a certain amount of independence and a specific amount of authority, as well as what I said earlier, some of the tools it will take to make these decisions, because it is part of the current responsibility of the office to examine regulations for reasons of promulgation. So it makes sense that this might be the place.

Mr. GLENN. I say to my colleague that I would certainly hope that in

every case—as he said, the normal procedure would be that there would be consultation with the administrator.

Would it be acceptable to the Senator from Michigan to make it consultation and approval of the administrator before this matter was brought to OIRA?

Mr. ABRAHAM. At this point, I would not be in a position to make that change, I say to the Senator from Ohio. Because my mind is not fully closed on this, there are a number of people who participated in putting together this amendment initially, and I need to consult as to their feelings on this departure. I know a number of them earlier expressed the view that once we added the OIRA Administrator to the process in determining which regulations would be placed on the various agencies' lists, that we had satisfied any residual concerns which might exist as to having a person with a direct appointment and responsibility in the loop. I would need to go back and determine, I think, from some of the other people who are part of this, their receptive feeling to any change of that type.

Mr. GLENN. I would think we would get much more broad support if it had that arrangement in it. If this is such an unusual procedure, to say we go down within an agency and say we give that person responsibility for taking the basic function of that agency and making a review necessary by OIRA, or whatever else it might be—in this case OIRA—without the approval of the agency head—now, there are only two other places in Government that I am aware of where we do that. One is with the inspectors general, and we provide them considerable leeway. In fact, we require the inspectors general not only to report to their agency heads, we require them to give us those same individual reports because we feel if the IG's are so important in the work they do, that we give them specific authority to report outside the chain of command to the appropriate committees of Congress, in addition to reporting to their agency head—not to bypass completely, but in addition to reporting to the agency head.

The other place we do that is in the Chief Financial Officers Act, where the chief financial officers are required, by law, to report not only to their agency head but also to the appropriate committees of Congress.

Now, those are the only cases I know of where we authorize people, or require people, that if they want to take action, they are authorized to go outside the purview and outside the views of, and maybe the wishes of, their agency head, and do something that the agency head might not agree with.

So I think there is that problem. I would feel more comfortable, I guess, if we had the agency head required to be consulted. And if the report was still to go on to OIRA and the agency head objected, that reasons why the decision was made to go to OIRA over the objection of the agency head were made part of that report to OIRA, I do not know whether that was considered or not. But it seems that that would be a more normal procedure for what we want to do.

Mr. ABRAHAM. I do not want to express the suggestion that we have spent a huge amount of time considering the specific role of the head of SBA. But let me go back to the point as to why the chief counsel for advocacy was initially identified. That is, because in the reg flex language that is currently on the statutes, it states specifically in 602(b) that "each regulatory flexibility agenda shall be transmitted to the chief counsel for advocacy of the Small Business Administration for comment, if any."

In other words, because that was the way the statutes currently kind of vested authority for reg flex, we thought it was a sensible way to deal with it and was built more or less on that language. I think that was more the guiding notion that we used than any other particular consideration.

Mr. GLENN. Well, I say to my friend from Michigan that this is an enormously important position in that—I believe I state this correctly—all the rules and regulations being promulgated throughout Government are required to be submitted to SBA and be reviewed by SBA under reg flex, the Regulatory Flexibility Act. So everything that is going to occur in Government in the regulatory field is submitted to SBA specifically now, whether it is intended to cover big corporations, small or private businesses, individuals, or whatever. They, in effect, get a crack at them to make their comment.

This office of advocacy is the organization within SBA that looks at those. And so the recommendations that would be made to OIRA are potentially enormous in scope. All the rules and regulations promulgated by Government would have to go through that chain and could be kicked up to OIRA for whatever consideration they wanted to make. To take that out from under them—at least the oversight or the coordinated action of the administrator of SBA—is a mighty big step to make, and a mighty big important responsibility to give to that one person, whoever he or she might be in that office of advocacy.

So I think it would be better if it went in the other direction. We are still checking with some of the people interested in this on our side. We are way over on our time.

Mr. President, 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. ABRAHAM. 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. ABRAHAM. I ask unanimous consent that Senator NICKLES be added as an original cosponsor of the Abraham amendment No. 1490.

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

Mr. ABRAHAM. Mr. President, I ask unanimous consent that Senator HATCH, the Senator from Utah, be added as an original cosponsor.

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

Mr. ABRAHAM. Mr. President, 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.

Mr. HATCH. Mr. President, I strongly support the Abraham-Dole amendment, which would require agencies to include in their schedule to review existing rules, pursuant to section 623 of S. 343, any existing regulation that substantially affects small business as selected by the chief counsel for advocacy of the Small Business Administration.

Under section 623 as currently drafted, a regulation would not be subject to review unless an agency chooses to place an existing rule on the review schedule or an interested party is successful in having a petition to place a rule on the schedule for review.

Unfortunately, the petition process is costly and thus particularly burdensome to small businesses. Most small businesses do not have the resources to hire the attorneys, consultants, economists, or environmental experts, that may be necessary to prepare a petition that meets the exacting standards in section 624 necessary for granting a petition to review rules that are burdensome to small business.

This amendment will allow the chief counsel for advocacy of the SBA with the concurrence of head of OIRA to select rules to be put on the agency review schedule as a substitute for the petition process available to larger businesses with greater capital assets. It assures that the one official in the Administration exclusively responsible with representing the needs of small business will have authority to ensure that regulations burdensome to small business will be reviewed. In essence, the advocate will act as an ombudsman for small business.

The advocate, however, does not have unrestrained discretion to place existing rules on section 623's mandated review schedule. The advocate must seek

the input from small business as to what burdensome rules to review and the amendment establishes criteria, such as whether the existing rule causes small business not to hire additional employees, to guide the advocate in selecting rules for review. I do not believe that the review schedule system will be overwhelmed by the addition of rules that burden small business. Under the Abraham-Dole amendment the advocate will cooperate with the responsible agency and OMB to assure the efficacy of the agency review process.

I urge my colleagues to support this amendment.

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

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

AMENDMENT NO. 1491 TO AMENDMENT NO. 1487

(Purpose: To provide small businesses improved regulatory relief by requiring that a proposed regulation determined to be subject to chapter 6 of title 5, United States Code (commonly referred to as the Regulatory Flexibility Act) will be deemed to be a major rule for the purposes of being subject to agency cost-benefit analysis and periodic review; requiring factual support of an agency determination that a proposed regulation is not subject to such chapter; providing for prompt judicial review of an agency certification regarding the nonapplicability of such chapter; and clarifying other provisions of the bill relating to such chapter)

Mr. NUNN. Mr. President, I apologize to my colleagues for my voice. Obviously, I am losing it, but I will do the best I can this afternoon.

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. COVERDELL, proposes an amendment numbered 1491 to amendment No. 1487.

Mr. NUNN Mr. President, I ask unanimous consent further 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 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b).

On page 40, line 5, insert "and section 611" after "subsection".

On page 68, strike out all beginning with line 9 through line 11 and insert in lieu thereof the following:

"(A) include in the final regulatory flexibility analysis a determination, with the accompanying factual findings supporting such determination, of why the criteria in paragraph (2) were not satisfied; and

On page 72, insert between lines 14 and 15 the following new subsection:

(e) AMENDMENTS TO THE REGULATORY FLEXIBILITY ACT.—

(1) IMPROVING AGENCY CERTIFICATIONS REGARDING NONAPPLICABILITY OF THE REGULATORY FLEXIBILITY ACT.—Section 605(b), of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification, along with a succinct statement providing the factual reasons for such certification, in the Federal Register along with the general notice of proposed rulemaking for the rule. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(2) TECHNICAL AND CLARIFYING AMENDMENTS.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking "the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives"; and

(B) in subsection (b) by striking "his views with respect to the effect of the rule on small entities" and inserting "views on the rule and its effects on small entities".

On page 72, line 15, strike out "(e)" and insert in lieu thereof "(f)".

Mr. NUNN. Mr. President, this amendment assures that the Nation's small business community will derive full benefit from the fundamental changes to the regulatory process proposed in S. 343.

The amendment accomplishes this goal by establishing a direct statutory link between the existing requirement to the Regulatory Flexibility Act of 1980 [RFA] and the requirements of S. 343.

Under the Regulatory Flexibility Act, whenever a Federal agency proposes a rule that is expected to have a significant impact on a substantial number of small entities, the agency is required to conduct a regulatory flexibility analysis, with opportunities for public participation, to minimize the expected burden.

The Nunn-Coverdell amendment would, No. 1, require that a proposed rule, determined to be subject to the RFA, be considered to be a major rule for the purpose of cost-benefit analysis and periodic review. But we exclude the comprehensive risk assessment required under S. 343.

No. 2, the amendment would require agencies to provide factual support for any determination that a proposed regulation would not have a significant impact on a substantial number of small businesses and is exempt from the Regulatory Flexibility Act.

No. 3, the amendment provides for prompt judicial review of an agency certification that the Regulatory Flexibility Act does not apply to a proposed rule.

This is a bipartisan amendment.

This amendment enjoys strong support within the small business community.

I ask unanimous consent that copies of letters from some of those who are supporting this amendment in the small business community be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC.

SUPPORT THE BIPARTISAN NUNN-COVERDELL AMENDMENT TO S. 343

S. 343, the Dole/Johnston substitute, currently defines "major rules" as regulations that have more than a $50 million dollar impact. Those major rules are then subject to cost benefit analysis, risk assessment and periodic review.

Unfortunately, some regulations that have a significant impact on small businesses and other small entities may not meet the $50 million threshold. A regulatory cost that may be almost insignificant to a Fortune 500 company could have a devastating effect on a particular segment of the small business community. Or, the agency's estimate that the impact is less than $50 million may be significantly undervalued.

A good example of an expensive regulation that falls under the threshold is OSHA's so-called "fall protection" rule requiring roofers to wear harnesses with lifelines that are tied to the roof any time they are at least six feet above the ground. Not only will the total cost to small roofing companies be much more than $50 million, many believe the rule may create a greater danger for workers who will have to worry about tripping over each other's safety riggings.

The Nunn-Coverdell amendment, which is scheduled to be voted on after 5 p.m. on Monday, July 10, solves this problem by requiring all regulations that are currently subject to the Regulatory Flexibility Act (Reg-Flex) of 1980 to be subject to cost-benefit analysis and periodic review—but not risk assessment.

Which regulations currently fall under Reg-Flex? Reg-Flex requires the regulatory burden be minimized on those regulations which have a "significant impact on a substantial number of small entities." Last year, 127 regulations contained a Reg-Flex analysis. Small entities, which often bear a disproportionate share of the regulatory burden, include small businesses, small local

governments (like towns and townships) and small non-profit organizations.

The Nunn-Coverdell amendment also allows prompt judicial review of an agency's non-compliance with the Reg-Flex Act. If an agency incorrectly states that a regulation does not have a significant impact on small business—and it does—a judge will have the authority to put the regulation on hold until the Federal agency re-evaluates the regulation and reduces the burden on small business as much as possible.

Agencies would also be required to provide factual support to back up their decisions to ignore Reg-Flex.

The bipartisan Nunn-Coverdell amendment is a major priority for small business and has NFIB's strong support. Regulatory flexibility was recently voted the third most important issue at the White House Conference on Small Business. Please call NFIB at (202) 484-6342 for additional information.

UNITED STATES OF AMERICA
CHAMBER OF COMMERCE,
Washington, DC, July 10, 1995.

DEAR SENATOR: On behalf of the 215,000 business members of the U.S. Chamber of Commerce, 96 percent of whom have fewer than 100 employees, I urge your strong and active support for two amendments to be offered to S. 343, the "Comprehensive Regulatory Reform Act of 1995." The Nunn/Coverdell amendment ensures that small businesses benefit from the broader protections of S. 343, and the Abraham/Dole amendment guarantees a voice for small businesses in the regulatory look-back process. To achieve meaningful reform for that segment of our society hit hardest by regulatory burdens—small businesses—these amendments are critical.

The Nunn/Coverdell amendment recognizes that there may be many instances where a regulatory burden on small businesses could be severe even though the $50 million threshold for a complete regulatory review has not been triggered. By deeming any rule that trips an analysis under the Regulatory Flexibility Act of 1980 a "major rule," small entities will receive the protection they need and deserve from the extreme rigors they often experience from even the best-intentioned regulations.

To address the problems associated with the mountain of existing regulations and their impact on small entities, the Abraham/Dole amendment will boost the power of small businesses to benefit more effectively from the sunset provisions of Section 623 of S. 343. Small companies often need all of their people-power and resources simply to keep afloat. They do not always have the ability to petition federal agencies for review of particularly onerous existing regulations. By vesting within the Small Business Administration responsibility for ensuring that regulations that are particularly problematic for small businesses are not excluded from the regulatory sunset review process, small businesses can be assured that their proportional needs are always considered.

The Chamber hears regularly from its small business members that federal regulations are doing them in. Support for these two amendments will validate that their cries have been heard and acted upon. I strongly urge your support for both the Nunn/Coverdell amendment and the Abraham/Dole amendment.

Sincerely,

R. BRUCE JOSTEN.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, July 10, 1995.

Hon. SAM NUNN,
Hon. PAUL COVERDELL,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the Small Business Legislative Council (SBLC), I wish to offer our support for your amendment to ensure that proposed regulations, with the potential to have a significant impact on small businesses, are subject to a comprehensive cost benefit analysis. It makes sense to us to have as much data available as possible to assess the full impact proposed regulations will have on small business.

As you know, the delegates to the recent White House Conference on Small Business included several references to the regulatory process among their top recommendations. Clearly, the cumulative burdens of the current regulatory regime weighed heavily on their minds. We need to make certain that we do not add to that regulatory burden unnecessarily.

Along with the language in the Dole/Johnston version of S. 343 which allows for judicial review of agencies' compliance with the Regulatory Flexibility Act, your amendment will ensure we have a meaningful way to truly assess the impact of regulations upon small business and to ensure we do something to mitigate the impact.

The Small Business Legislative Council (SBLC) is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

JOHN S. SATAGAJ.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Equine Practitioners.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Interior Designers.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
AMT-The Association of Manufacturing Technology.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Automotive Warehouse Distributors Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Christian Booksellers Association.
Cincinnati Sign Supplies/Lamb and Co.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Chimney Sweep Guide.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Food Brokers Association.
National Independent Flag Dealers Association.
National Knitwear & Sportswear Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Wood Flooring Association.
NATSO, Inc.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.

Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC/Pennsylvania Small Business.
Society of American Florists.
Turfgrass Producers International.

NATIONAL ROOFING CONTRACTORS ASSOCIATION,
Washington, DC, July 7, 1995.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: The National Roofing Contractors Association (NRCA) supports the amendment that you will offer with Senator Coverdell to remove the $50 million "major rules" floor for small business in the Comprehensive Regulatory Reform Act of 1995 (S. 343), in order to apply cost-benefit and periodic review to all regulations impacting small business.

Federal agencies are poor at accurately estimating the cost of their regulations. OSHA estimated $40 million annually for its new Fall Protection Standard (Subpart M) and said that it would not have a significant impact on small business. NRCA estimates its impact to be at least $250 million annually, and it has already wreaked havoc on the industry.

Another example is OSHA's 1994 standard for asbestos containing roofing material (ACRM). OSHA estimated the annual costs to the roofing industry to be approximately $1 million annually, while NRCA estimated approximately $1.3 billion! OSHA's cost figures only took into consideration Built-up Roofing (BUR) removal, and it had failed to cover the vast majority of roof removal and repair jobs. NRCA estimated that removals of asbestos-containing BUR constituted less than 12 percent of all roof removal jobs.

Your amendment would end the tendency for agencies to underestimate costs by making all regulations now subject to the Regulatory Flexibility Act of 1980 (Reg Flex), subject to S. 343's cost-benefit analysis and periodic review requirements. And we appreciate your language giving judges the authority to immediately stay regulations if necessary.

NRCA is an association of roofing, roof deck, and waterproofing contractors. Founded in 1886, it is one of the oldest associations in the construction industry and has over 3,500 members represented in all 50 states. NRCA contractors are small, privately held companies, and our average member employs 35 people with annual sales of $3 million.

Sincerely,

CRAIG S. BRIGHTUP,
Director of Government Relations.

NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS,
Washington, DC, July 7, 1995.

Hon. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: The National Association of Towns and Townships (NATaT) strongly supports the Nunn-Coverdell amendment to S. 343 that would require all regulations currently subject to the Regulatory Flexibility Act of 1980 (RFA) to be subject to cost-benefit analysis and periodic review.

NATaT represents approximately 13,000 of the nation's 39,000 general purpose units of local governments. Most of our member local governments are small and rural and have fewer than 10,000 residents. Many of these small communities have very limited resources available to provide those services required of them such as fire and police protection, road maintenance, relief for the poor and economic development. Consequently, many regulations that have less than a $50 million threshold have a very significant impact on small towns and townships.

A good example is the commercial drivers license (CDL) requirement for public sector employees required by the Motor Vehicle Safety Act of 1986. While that law may not have seemed to have a significant impact, it had a significant impact on small townships that had to pay for the training and testing of drivers to obtain a CDL, especially those townships which use part-time drivers for snow removal or for emergency response to floods or tornados. Recently, drug and alcohol testing requirements were mandated for those who hold CDL's, adding to the cumulative impact.

Your amendment will also allow prompt judicial review of an agency's non-compliance with the RFA if an agency states incorrectly that a regulation will not have a significant impact on small entities. This has been a continual problem Agencies have often claimed no significant economic impact on small entities in their regulatory flexibility analysis while giving no justification for their reasoning, though we have believed quite the opposite.

Mr. NUNN. Mr. President, such a display of strong support for the Regulatory Flexibility Act has a very long history within the small business community, going back to the late 1970's. The Regulatory Flexibility Act of 1980 has been looked upon as the small business community's first line of defense with regard to the burdens of Federal regulations. Recognizing that the effective functioning of government certainly requires regulations, the Regulatory Flexibility Act was designed to compel agencies to analyze their proposed regulations, with opportunities for public participation, so that the final regulation imposes the least burden on small businesses.

Mr. President, given my focus today on the needs of the small business community, my remarks may suggest to my colleagues that the Regulatory Flexibility Act offers protections only to small business. In fact, the act's protections are available to a fairly broad range of small entities in addition to small businesses, including small units of local government, educational institutions, and other not-for-profit organizations. My friend from Ohio, Mr. GLENN, was especially vigilant regarding the application of the Regulatory Flexibility Act to small units of local government during his tenure as chairman of the Committee on Governmental Affairs.

Enactment of the legislation that became the Regulatory Flexibility Act was a key recommendation of the 1980 White House Conference on Small Business. Last month, small business persons from across the Nation came together for the 1995 White House Conference on Small Business.

It comes as no surprise that issues relating to regulatory relief were key topics of discussion among the delegates at the 1995 conference. They made clear their strong concerns regarding the current Federal regulatory process, from the way agencies design new regulations to how the agencies implement the regulations under their charge.

Many of the key features of S.343, and other legislative proposals to provide greater discipline to the regulatory process, were endorsed in the recommendations voted upon by the White House Conference delegates. In particular, the White House Conference's recommendations on regulatory reform called for assessing more proposed regulations against rigorous cost-benefit standards. Similarly, the broader use of risk assessment, based on sound scientific principles and compared to real world risks, were included within a number of recommendations voted the top 60 recommendations from the 1995 conference. Other conference recommendations called for the periodic review of existing regulations to establish their continuing need and to determine if they could be modified, based upon experience, to make them less burdensome.

Finally, Mr. President, the delegates to the 1995 White House Conference on Small Business adopted recommendations to strengthen the Regulatory Flexibility Act in many of the ways being done by the provisions of S. 343, and by the Nunn-Coverdell amendment. Action today to strengthen the Regulatory Flexibility Act may well be the most prompt congressional response to a recommendation from any White House Conference on Small Business.

Mr. President, in addition to establishing a statutory link between the Regulatory Flexibility Act and the requirements for cost-benefit analysis under S. 343, my amendment takes other steps to enhance the effectiveness of the regulatory flexibility process. First, an agency certification that a proposed regulation would not have a significant impact on a substantial number of small businesses would have to be backed up by facts. This is not the case today. Small business advocates complain about their being deprived of the act's protections by such unwarranted certifications of non-applicability.

Along the same lines, the Nunn-Coverdell amendment makes possible a judicial challenge of such unwarranted certifications early in the regulatory process. Abuse is prevented by requiring that the judicial challenge be brought within 60 days of the certification and in the Court of Appeals for the District of Columbia Circuit. Supporters of our amendment within the small business community believe that this provision and the enhanced judicial enforcement of the act already

contained in the bill will make the agencies take more seriously their responsibilities under the Regulatory Flexibility Act.

I know that during the debate on this provision concern will be expressed that the amendment will substantially overburden the regulatory staff within the various departments and agencies. They may cite figures drawn from the semiannual regulatory agenda which suggest that 500 or even 1,000 additional rules may be subject to cost-benefit analysis under the Nunn-Coverdell amendment. I believe these figures are inflated and inaccurate for the reasons that will, no doubt, be subsequently discussed.

In contrast, I am confident that the actual number is substantially smaller, certainly less than 200. By the time you count those proposed regulations within a $50 million or $100 million threshold, a number will be double counted: The number of proposed regulations covered is probably somewhere around 150. Even that number may be inflated by proposed rules that are exempt under S. 343's definition of rule.

My estimate, Mr. President—and I recognize that it is an estimate that is based upon 14 years of experience under the Regulatory Flexibility Act by the career staff of the Office of the Chief Counsel for Advocacy at the Small Business Administration, the office charged with monitoring agency compliance with the Regulatory Flexibility Act. It takes into consideration regulations for which regulatory flexibility analyses were done. It also takes into consideration those situations in which the Office of Advocacy believed the Act applied and the agency certified to the contrary.

While I agree that we cannot give the agencies an impossible set of tasks in reviewing proposed and existing regulations, we must not loose sight of the regulated public. I believe that they have a right to demand that proposed regulations be thoroughly analyzed, and that they meet rigorous standards of cost-benefit analysis, risk assessment when appropriate, and regulatory flexibility for small entities, Similarly, the regulated public has a right to expect that existing regulations be reviewed for their continuing utility, and when possible, modified to reduce their burden.

Mr. President, I urge my colleagues to support the amendment.

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

Mr. NUNN. Yes.

Mr. JOHNSTON. Mr. President, I will not subject the Senator to a long series of questions because I sympathize with the condition of his voice.

Mr. President, we have had conversations, both Senators from Georgia and myself and my staff, Senator ROTH, and others, concerning the problem of agency overload. It seems to me that all sides in this endeavor want to arrive at the same place, and that is the maximum protection for small business but a workable system for the agencies so that the agencies will not be overloaded.

We had proposed to the Senator from Georgia an alternative, which is, in effect, to have the same kind of fix that Senator ABRAHAM had in his amendment, which is to give OIRA, in effect, a veto over these procedures.

Mr. President, I ask unanimous consent that the amendment that the Senators from Georgia and I have discussed be printed in the RECORD at this point.

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

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined or designated to be a major rule pursuant to subparagraph (A) or (B), that is designated as a major rule pursuant to section 622(b)(2) (and a designation or failure to designate under this subparagraph shall not be subject to judicial review)."

On page 20, insert between lines 12 and 13 the following new paragraph:

"(2) If the agency has determined that the rule is not a major rule within the meaning of section 621(5)(A) and has not designated the rule as a major rule within the meaning of section 621(5)(B), the Chief Counsel for Advocacy at the Small Business Administration may publish in the Federal Register a determination, and accompanying factual findings supporting such determination, drawn from the initial regulatory flexibility analysis, that the proposed rule should be designated as a major rule because of its substantial economic impact on a significant number of small entities. Such determination shall be published not later than 15 days after the publication of the notice of proposed rulemaking. The Director or designee of the President shall designate such rule as a major rule under paragraph (1) unless the Director or designee of the President publishes in the Federal Register, prior to the deadline in paragraph (1), a finding regarding the recommendation of the Chief Counsel for Advocacy that contains a succinct statement of the basis for not making such a designation."

On page 20, line 13, strike out "(2)" and insert in lieu thereof "(3)".

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b)".

On page 69, line 5, insert after "entity", ", upon publication of the final rule,".

On page 69, line 7, strike "A court" and insert in lieu thereof "Notwithstanding section 625(e)(3), a court".

Mr. JOHNSTON. Mr. President, I will not propose that amendment today, but I simply ask the Senator, in fact both Senators from Georgia, if they will continue to work with us with a view to dealing with this problem of agency overload, hoping to find some alternative—if not the one that I have sent to the desk for printing, then some other alternative, so that we may deal with that question of overload.

Mr. NUNN. Mr. President, I say to my friend from Louisiana that the answer is yes. I will certainly continue to discuss any modification of this amendment that makes sense from the small business perspective, and also from the point of view of regulatory overload. This is a difficult area. None of us knows precisely what the numbers of regulations that are going to be affected here. So we are dealing with an unknown. But I do think that when we are in doubt, we ought to tilt toward not having a regulatory burden overwhelming the small business community. That would be my perspective. But I will be glad to continue to try to work with him in this regard because I know he has the same goal. We will continue to discuss it even as we debate it here on the floor.

Mr. JOHNSTON. Mr. President, I thank the Senator from Georgia for his answer.

Mr. NUNN. Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I withhold.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, first I want to thank my colleague from Georgia, Senator NUNN, for his dedication to this effort on behalf of small business. And we are all particularly sympathetic to the malady with which he returned from the recess. We wish him well soon.

I also want to answer the question of the Senator from Louisiana. As we continue through the process with Senator DOLE and his bill, we would obviously keep on the table discussions to try to facilitate his concern. We did not have enough time to talk a little earlier. But while we remain concerned about agency overload, I think the Senator from Louisiana would join with myself and the Senator from Georgia and others in sympathy for the overload that small business America has been suffering for too long, way too long.

Just to cite some of the figures, sometimes I think we forget what we are talking about when we talk about small business. There are over 5 million employers in the United States. Sixty percent of them are small businesses that have four—four—employees or less.

If you run a family business, or any endeavor, you understand what a limited resource that is standing against

the aura of the Federal Government. I remember years ago walking into our family business. My mother had come down to help us. We had four—myself, my father, my mother and one other at that time. I looked across the table. She was just staring across the room. This is many regulations ago. I asked her what the problem was. She had some government form in front of her, and she was literally scared to death. She was afraid that she was going to make a mistake that would somehow do harm to our family and our company. Even at that time it was threatening. And since that time—probably some 15 years ago—it has been regulation after regulation after regulation by the hundreds, by the thousands. People that had four employees or less had an enormous problem trying to respond to what all these regulations ask of small business.

Here is an even more startling figure. Of the 5 million companies, 94 percent have 50 employees or less. That means only 6 percent of the companies in the United States fall into this category where they have the kinds of resources—even as expensive as they are—to defend themselves.

Half the small businesses are started with less than $20,000. More than half the 800,000 to 900,000 businesses that are formed each year will go out of business within 5 years. One of the reasons is they cannot keep up with what their Federal Government is demanding of them.

From 1988 to 1990 small businesses with fewer than 20 employees accounted for 4.1 million net jobs. Large firms—that is the 6 percent—lost half a million jobs.

The point I am making here is that these small businesses need a lot of nurturing and help and assistance from a friendly partner and not a lot of burden and bludgeoning from a bully partner. As we have restructured corporate America, it is the small business that has given us the most to be optimistic about. They are creative, they take risk, and they are hiring people. They are virtually the only sector right now that is hiring people.

The point I am making is that we need to underscore how much attention we as a Congress need to give to facilitating small business. We have a lot of financial problems in our country that we have to resolve in the very near term. That is what all the balanced budget fights are about. But one of the four key components to fixing our financial discipline today is to expand the economy. We have such a large economy that a modest expansion gives us enormous relief, and the one place that we have the best chance of expanding our economy is small business. It literally makes no sense for us to not only be not attentive to relieving them from regulatory burden and threat and cost, but we should be very focused on the reverse; that is, creating every incentive that we can think possible to aid and abet small business.

Mr. President, the Congress has recognized this for a long time. And in 1980, as Senator NUNN has acknowledged, the Regulatory Flexibility Act was enacted. The idea was we were already worried about what was happening to small business. We were already treating small business like it was General Motors. So the Congress passed legislation that made the Government begin to become more flexible to analyze the proportionate impact of regulations on small business. The problem was that it did not require a cost analysis and there was no judicial review. So it had been ignored far too much.

So while the Congress came forward and said we are going to do this, we are going to really try to improve the situation for small business, it was a hollow promise. It has not achieved what it set out to do.

So the Nunn-Coverdell amendment takes the Regulatory Flexibility Act—which we have already passed; we have already acknowledged the purpose—and it said it will have to have meaning. It already requires extensive review and analysis. So we are simply saying that it will have to add a cost analysis and that there is a regulatory review so that it is enforceable, so that what the Congress meant to do in 1980 will in fact happen in 1995, 15 years later. That says something else about our Government.

The Senator from Louisiana has raised a legitimate problem. We are concerned about the administrative functions of Government. But if I have to choose between where the balance of the burden should rest, should it rest on the U.S. Government, the EPA, OSHA, the Labor Department, and their millions and their thousands of employees, or should it rest on the little company in Georgia that has three employees? And if I have to pick between those two, I am going with the little company in Georgia. Given the scope of the resources both have, the problem is a lot more fixable from a burden standpoint on the part of the Government than it is on that little firm and thousands of, millions of, others like it across the country.

This is a good amendment. This will help small business. If we help small business, Mr. President, they are going to help America because they are going to hire people looking for a job by the millions. And they are going to expand our economy.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I wonder if I might have a few minutes on another topic. Is the time divided?

The PRESIDING OFFICER. Time is not divided.

Mr. DOLE. If I may be permitted to speak out of order on two other matters.

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

FAILED APPROACH IN BOSNIA

Mr. DOLE. Mr. President, as the Serbian advance on Srebrenica continues, the administration, the U.N. bureaucracy, and some of our allies are busy defending their failed approach in Bosnia. They argue that the Bosnians are better off if the U.N. forces stay in Bosnia, that lifting sanctions on Serbia is the key to peace, that the Serb air defenses do not pose a threat to NATO air crews—the news from Bosnia notwithstanding.

In his response to a letter from Speaker GINGRICH and me, the President stated that he believed that the United States must support the U.N. protection forces' continued presence in Bosnia. He said that UNPROFOR had played and was playing a "critical role" in diminishing the conflict and was assisting the U.N. high commission on refugees in providing aid to the Bosnian population.

In order to believe that the United States and European approach in Bosnia is working, one simply has to play a game I call "let's pretend." The rules are simple. It goes like this:

Pretend that the U.N. forces are delivering humanitarian aid to those in need;

Pretend that the U.N. forces control Sarajevo airport;

Pretend that the U.N. forces are protecting safe havens such as Sarajevo and Srebrenica and that no Bosnians are dying from artillery assaults and shelling;

Pretend that there is a credible threat of serious NATO air strikes;

Pretend that the no-fly zone is being enforced;

Pretend that Serbian President Milosevic is not supporting Bosnian Serb forces;

Pretend that Bosnian Serb air defenses are not deployed against NATO aircraft and are not integrated into Serbia's air defense system.

Pretend that the rapid reaction force will react forcefully and rapidly under the same U.N. rules of engagement which have made UNPROFOR impotent;

Pretend that U.N. forces can stay in Bosnia forever and that we will never have to contemplate U.N. withdrawal.

Mr. President, if you can pretend all of the above, you can easily accept the administration's defense. On the other hand, if you react to reality and do not engage in multilateral make-believe, then you will not be persuaded by the administration's case. Without taking the time to review the last year or two or three in Bosnia, let us just look at the reports from the last week or so:

In Srebrenica, a so-called U.N. designated safe area, Serb forces overran U.N. observation posts and Serb tanks are within a mile of the town center—in fact, we have just had a report that they are even closer than that;

In Sarajevo, the hospital was shelled and more children were slaughtered;

Information surfaced that Bosnian Serb air defenses are tied into Belgrade's air defense system;

The no-fly zone was violated and NATO did not respond;

U.N. envoy Akashi assured the Bosnian Serbs that the United Nations would continue business as usual in the wake of the downing of U.S. pilot O'Grady and the taking of U.N. hostages.

Mr. President, these are only a few examples of the reality in Bosnia. It is this reality that should drive U.S. policy. It is this reality that has moved the Bosnian Government to reassess the U.N. presence in Bosnia. It is this reality that should prompt us to do the same.

The fact is that despite the presence of over 25,000 U.N. peacekeepers and despite the impending arrival of the rapid reaction force, the Bosnians are still being slaughtered, safe areas are under siege, and the United Nations continues to accommodate Serb demands and veto even limited military action designed to protect United States air crews. The fact is that the United Nations has become one of the means of securing Serb gains made through brutal aggression and genocide.

As Jim Hoagland aptly pointed out yesterday in the Washington Post, and I quote,

> The war has now reached a point where the U.N.'s value free equation of Serbs who are willing to kill with Bosnians who are willing to die cannot be sustained and cannot be allowed to spread deeper into the Clinton administration which too docilely accepted Akashi's veto on retaliation. Americans will no long support humanitarianism based on self-serving bureaucratic cynicism and fear.

Not my quote but a quote in the Washington Post from Jim Hoagland, who, I must say, has had a shift in his thinking recently.

The time for make-believe is over. The United Nations mission in Bosnia is a failure. The Bosnians deserve and are entitled to defend themselves. The United Nations must begin to withdraw and the arms embargo must be lifted. Therefore, I intend to take up a modified version of the Dole-Lieberman arms embargo bill following disposition of the regulatory reform bill.

Mr. President, I think every day it is worse and worse, if it can become worse, in Bosnia, particularly for the Bosnians. It seems to me it is high time to act.

I ask unanimous consent that the entire column in the Washington Post by Jim Hoagland be printed in the RECORD.

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

[From the Washington Post, July 9, 1995]

BOSNIA: THE U.N.'S MORAL ROT

(By Jim Hoagland)

The Serb missilemen who shot down Capt. Scott O'Grady's F-16 over Bosnia committed attempted murder and got away with it. After a month, there has been no American retaliation for an act of treachery that once would have brought the heavens down on its perpetrators.

Understand why the American government swallowed this humiliation (without even a serious denunciation of the Serb politicians in Belgrade who oversaw the shoot-down), and you understand why the international effort in Bosnia has failed so miserably—and why it should now be terminated.

A line has been crossed in Bosnia, a line that separates humanitarian impulse from moral rot; a line that divides ineffectiveness from dishonor. The United Nations is now on the wrong side of that line, protecting the Serbs (and the status quo) from retaliation for having downed O'Grady and for killing, wounding, imprisoning and harassing British, French, Spanish, Danish and other soldiers operating in Bosnia under the U.N. peacekeeping flag.

This can only undermine U.S. and European support for keeping those troops there and continuing an arms embargo against Bosnia. It is now embarrassingly evident that in Bosnia and elsewhere U.N. "humanitarian" operations are guided by bureaucratic dedication to career and organization. There is no room for justice, or for outrage over the Serbs' long record of atrocity and betrayal, in the mandate of Yasushi Akashi.

These are the two straws that break the United Nations' back in Bosnia:

(1) Akashi, the Japanese diplomat who is Secretary General Boutros Boutros-Ghali's representative in Bosnia, actively blocked French and British efforts to form outside the U.N. command a rapid reaction force to strike back at the Serbs after hundreds of peacekeepers were taken hostage by the Serbs and then released in June.

The rapid reaction force will be under Akashi's control and will observe the same peacekeeping rules imposed on the 22,500-man international army already there. Akashi promised the Serbs in a secret letter disclosed to reporters by the Bosnian government.

The new troops, like the old troops, will not be permitted to make distinctions between Serb aggressors, who have "ethnically cleansed" Muslim territories and the forces of the U.N.-recognized Bosnian government trying to regain its lost lands. If Akashi has his way, the United Nations will go on equating Serbs who blockade food shipments with Bosnians who starve because those shipments do not get through.

(2) Following O'Grady's escape, Akashi, with the backing of France and Russia, vetoed any new bombing raids on the Serbs. The U.S. Air Force was denied the chastising effect of retaliation and the preemptive protection of taking out Serb anti-aircraft missile batteries that are linked to computer networks controlled from Belgrade.

The chilling hostage-taking changes nothing, except to make the United Nations command even more timid. The murder attempt on O'Grady changes nothing except to end effective enforcement of the no-fly zone over Bosnia. Score in this exchange: Serbs everything, U.N. nothing.

That is galling, but it is now probably too late to fix. "You have to respond immediately," Sen. John McCain (R-Ariz.), a fighter pilot in Vietnam and prisoner of war for 5½ years, told me. "I don't think you can retaliate a month or two later and expect to have any effect."

But McCain also made this telling point: "We made a mistake in not publicizing the fact that this shoot-down could not have happened without the Belgrade computers the missile batteries are hooked up to. Instead the administration is constantly sending an envoy" to negotiate with Serb President Slobodan Miloseyic—suspected by some in U.S. intelligence of having given the order both for the downing of the F-16 and the grabbing of the U.N. soldiers.

This is how moral rot spreads. The United Nations once served as useful political cover for the major powers, who wanted to limit their own involvement in the wars of ex-Yugoslavia. The administration was right to try to minimize the dangers of rupture within NATO over a unilateral U.S. lifting of the arms embargo against Bosnia.

But the war has now reached a point where the U.N.'s value-free equation of Serbs who are willing to kill with Bosnians who are willing to die cannot be sustained and cannot be allowed to spread deeper into the Clinton administration, which too docilely accepted Akashi's veto on retaliation.

Americans will not long support humanitarianism based on self-serving bureaucratic cynicism and fear. For better or worse, American participation in the arms embargo will soon come to an end and NATO member troops will come out. The war is going to get bloodier. And the bureaucrats of the United Nations, who now pursue policies that profoundly offend a common sense of justice and decency, will not be blameless for this happening.

RELATIONS WITH VIETNAM

Mr. DOLE. Mr. President, news reports indicate that President Clinton is on the verge of making a decision about normalizing relations with Vietnam. I understand an announcement may come as soon as tomorrow. Secretary of State Warren Christopher has recommended normalization. Many Vietnam veterans support normalization—including a bipartisan group of veterans in the Senate, led by the senior Senator from Arizona, JOHN MCCAIN. Many oppose normalization as well. Just as the Vietnam war divided Americans in the 1960's and 1970's, the issue of how to finalize peace with Vietnam divides Americans today.

At the outset, let me observe that there are men and women of good will on both sides of this issue. No one should question the motives of advocates or opponents of normalization. We share similar goals: Obtaining the fullest possible accounting for American prisoners of war and missing in action; continuing the healing process in the aftermath of our most divisive war; fostering respect for human rights and political liberty in Vietnam.

I can recall in, I think, 1969 attending the first family gathering of POW's and MIA's. Only about 100 people showed up. I think I may have been the only

Senator there. And I promised that group that within 3 months we would have a meeting at Constitution Hall, which seats 2,000 people, and we would fill it up. And we did. And I remember wearing the JOHN MCCAIN bracelet for a couple of years back in those days when JOHN MCCAIN was still a POW.

So I have had a long and I think consistent interest in the fate of POW's and MIA's starting way back when nobody knew the difference, when bracelets were not ordinary, nobody knew what a POW/MIA was for certain. And so it is something that I have had an interest in for a long, long time.

The debate over normalization is about our differences with the Government of Vietnam, not with the Vietnamese people. The people of Vietnam have suffered decades of war and brutal dictatorship. We hope for a better future for the people of Vietnam—a future of democracy and freedom, not repression and despair.

The debate over normalization is not a debate over the ends of American policy; it is a debate over the means. The most fundamental question is whether normalizing relations with Vietnam will further the goals we share. In my view, now is not the time to normalize relations with Vietnam. The historical record shows that Vietnam cooperates on POW/MIA issues only when pressured by the United States; in the absence of sustained pressure, there is little progress on POW/MIA concerns, or on any other issue.

The facts are clear. Vietnam is still a one party Marxist dictatorship. Preserving their rule is the No. 1 priority of Vietnam's Communist Government. Many credible sources suggest Vietnam is not providing all the information it can on POW/MIA issues. In some cases, increased access has only confirmed how much more Vietnam could be doing. This is not simply my view, it is a view shared by two Asia experts—Steve Solarz, former chairman of the House Subcommittee on Asia and Pacific Affairs, and Richard Childress, National Security Council Vietnam expert from 1981 to 1989. Earlier this year, they wrote:

> Vietnam could easily account for hundreds of Americans by a combination of unilateral repatriation of remains, opening its archives, and full cooperation on U.S. servicemen missing in Laos.

Again, not my quote but a quote by the two gentlemen mentioned. They conclude that,

> Whatever the reasons or combination of reasons, Vietnam, in the current environment, has made a conscious decision to keep the POW/MIA issue alive by not resolving it.

This is a view shared by the National League of POW/MIA families which has worked tirelessly to resolve the issue for many years. It is also a view shared by major veterans groups, including the American Legion, the largest veterans group. The media have reported that the Veterans of Foreign Wars, the second largest group is supportive of normalization. Let me quote from VFW's official position adopted at its 1994 convention:

> At some point in time but only after significant results have been achieved through Vietnam/U.S. cooperative efforts, we should . . . move towards normalizing diplomatic relations.

A more recent VFW statement makes clear that normalization is not opposed by the VFW if it leads to a fuller accounting of POW/MIA cases.

If President Clinton intends to normalize diplomatic relations with Vietnam, he should do so only after he can clearly state that Vietnam has done everything it reasonably can to provide the fullest possible accounting. That is the central issue. The United States has diplomatic relations with many countries which violate human rights, and repress their own people. But the United States should not establish relations with a country which withholds information about the fate of American servicemen. As President-elect Clinton said on Veterans Day, 1992, "I have sent a clear message that there will be no normalization of relations with any nation that is at all suspected of withholding any information" on POW/MIA cases. Let me repeat: "suspected of withholding any information." Let me repeat, "suspected of withholding any information" on POW/MIA cases. I hope the standard proposed by President-elect Clinton is the same standard used by President Clinton.

No doubt about it, the Vietnamese Government wants normalization very badly. Normalization is the strongest bargaining chip America has. As such, it should only be granted when we are convinced Vietnam has done all it can do. Vietnam has taken many steps—sites are being excavated, and some remains have been returned. But there are also signs that Vietnam may be willfully withholding information. Unless the President is absolutely convinced Vietnam has done all it can to resolve the POW/MIA issue—and is willing to say so publicly and unequivocally—it would be a strategic, diplomatic and moral mistake to grant Vietnam the stamp of approval from the United States.

I ask unanimous consent that the article from which I quoted earlier be printed in the RECORD.

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

[From the San Diego Union-Tribune, Mar. 19, 1995]

PRISONER ISSUE CONTINUES TO TAINT RELATIONS

(By Richard T. Childress and Stephen J. Solarz)

Although the U.S. trade embargo with Vietnam has been lifted and consular-level liaison offices have been opened, relations between the United States and Vietnam are far from normal. The major remaining bilateral obstacle, the POW/MIA issue, is still cited by the Clinton administration as the primary impediment to normalization.

Multiple intelligence studies from the war through today conclude that Vietnam could easily account for hundreds of Americans by a combination of unilateral repatriation of remains, opening of its archives and full cooperation on U.S. servicemen missing in Laos, 80 percent in Lao areas controlled by the Vietnamese during the war.

While joint Vietnamese-American efforts to excavate aircraft crash sites and otherwise "clean up the battlefield" will continue to provide some accountability, it will not be enough. What is needed is a decision by Vietnam's ruling politburo to resolve the core POW/MIA cases, including those Americans last known alive in the custody or immediate vicinity of Vietnamese forces. That decision has not been made.

Reasons offered for this have included a divided politburo, a desire to exploit the POW/MIA issue for future financial or political advantage, a continuing residue of hostility or hatred toward Americans in Hanoi's ministries of interior and defense, and a fear of embarrassment. Some also speculate that Vietnam's leadership fears the United States will "walk away" once the issue is resolved.

Whatever the reason or combination of reasons, Vietnam, in the current environment, has made a conscious decision to keep the POW/MIA issue alive by not resolving it.

This fundamental aspect of Vietnamese emphasis on the POW/MIA issue has been central from the Paris negotiations in 1968–73 and through every administration since that time. Knowing it to be the most sensitive issue to Americans of all the other bilateral humanitarian concerns, Hanoi has consistently used it as the lodestar for leverage over American policy. Similarly, the compelling nature of the issue to Americans has caused it to be central in our dealings with Vietnam over the years.

This centrality to American policy-makers has, however, engendered different approaches. These have varied from concerted efforts to define the issue away and defuse it, to confronting the issue directly in order to resolve it. Even policy-makers who viewed the POW/MIA issue as a hindrance to healing or normalization demonstrated its centrality by expending much political capital in a failed attempt to prove the contrary.

Confronting the issue directly in negotiations has been the only demonstrable path to progress. It is, ironically, the path desired by the Vietnamese for reasons already outlined. When Reagan administration officials reopened the POW/MIA dialogue with Vietnam in 1981, the politburo was delighted. Referring to the 1978–81 freeze in U.S.-Vietnam talks, Hanoi's negotiators remarked that they "didn't know we still cared." That was also a challenge.

While the Clinton administration has rejected linking human rights directly to questions to normalization, that, too, is a potential obstacle. Strong feelings for linkage exist in some human-rights organizations, the American-Vietnamese community, the labor movement and in Congress. Linkage may not be desired as a matter of executive branch policy, but initiatives are possible in the new Congress along with other domestic pressures.

In the mid-1980s, legislation was proposed to use Vietnam's blocked assets to pay private claims, and significant lobby pressure was put on the Reagan administration and Congress to liquidate the assets. This initiative was opposed by the administration and

rejected by the Congress. The objection then was that it would interrupt humanitarian cooperation, that official claims of the United States government would become secondary, and that such transactions should be negotiated in the context of normalization discussions. Sufficient funds existed to cover the private claims, and the United States, as the custodian of the funds, was positioned to settle them from a position of strength and leverage.

Vietnam's near-term and long-term economic goals are central to its leadership. High on the leadership's bilateral list is most-favored-nation (MFN) status and eligibility for the so-called generalized system of preferences (GSP), an additional trade concession.

But Vietnam's primitive economy and rudimentary trade mechanisms hamper its accession to the General Agreement on Tariffs and Trade and, accordingly, limit American flexibility on commercial issues. In addition, various legal and regulatory obstacles stand in the way. Some of the relevant provisions can be waived through executive action; under certain conditions legislation may be required.

In any event, since it is Vietnam, the Clinton administration should be reluctant to take any significant steps without close consultation with Congress.

Despite a significant loss of American leverage after the trade embargo was lifted, one could argue that the United States is again positioned for progress. This plateau allows the Clinton administration some breathing room to hold firm; to insist on meaningful, unilateral action by Vietnam to meet the four POW/MIA criteria set forth by President Clinton and to advance a Washington-Hanoi dialogue on human rights in Vietnam.

In the interim, it is in both countries' interests that Vietnam proceed with internal economic reforms. This would assist Vietnam in further integrating into Asia generally and the Association of Southeast Asian Nations (ASEAN) specifically. This long-term objective was shared in some respects throughout each American administration since the end of the Vietnam conflict.

Such integration would also provide greater exposure of the Vietnamese leadership to international economic and political norms, perhaps reduce some Vietnamese paranoia and help convince the Vietnamese that the POW/MIA issue is a "wasting asset" for them that needs to be resolved. Integration would also mesh with Vietnam's desire for greater international acceptance. Finally, it would serve to lessen Vietnam's perceived isolation as a potentially threatened neighbor of an increasingly assertive China.

However, American policy-makers also need to view this from an internal Vietnamese perspective that would expect such integration and acceptance to relieve pressure for political reforms and improved human rights. Vietnam has boldly endorsed universal declarations on human rights and attempted to join the cultural argument between Asia and the West, as if its political system were even comparable to those advancing the argument in Asia.

For the foreseeable future, Vietnam will have three major objectives: continued political control under the Communist Party, economic development that does not threaten such control, and a sense of security in its relationship with China.

While political change is inevitable over time, it will be due to internal factors, and American leverage will be at the margins. Economic reforms have spawned divisions in Vietnam's communist party and government, as well as regional tensions between the North and the South. Recriminations are already evident between reformers and hardliners, and a significant American role in the Vietnamese economic future will be limited.

After listening to wishful speculation about a "new tiger" in Asia, spawned by young consultants, service industries and lobby organizations with a vested interest in lifting the embargo, American businesses are again looking at political and economic realities they tended to ignore for the past four years.

Press accounts of Vietnam's economic potential before and after the lifting of the trade embargo are strikingly different.

Overblown stories of "the last frontier," "the emerging tiger in Asia," and the loss of business to foreigners were common themes before. Now, the media is beginning to report about corruption, unenforceability of legal codes, currency problems, bureaucratic hurdles, arbitrary decision-making by government officials, the paucity of infrastructure and the reality that Vietnam, with few exceptions, is almost a decade away from real profitability on an American business scale.

Profits for American companies operating in Vietnam are not likely for several more years. A lot of money is being spent and very little is being made.

Most experienced observers of Asia's geopolitics recognize, as well, that Vietnam is not of real strategic relevance to the United States in the 1990s. Nonetheless, armchair strategists, military planners, and some in Congress continue to argue otherwise, and worry aloud accordingly.

Still, Vietnam is certainly looking for strategic solace. Its historic fear of China is underscored today by Chinese claims on island groups in the South China Sea, plus China's burgeoning economic and political clout. Although elements of Vietnam's current agenda are variously shared by ASEAN, American military power and political commitments are not designed to ameliorate arguments between China and Vietnam. The United States facilitated the end of the proxy war between China and Vietnam in Cambodia not by taking sides but by opposing both unworthy claimants in an international and regional context.

The reality of the economic and strategic conditions now and in the foreseeable future does not make Vietnam central to American policy. The Vietnamese desire for real normalization with the United States is recognized, but the gap is wide and will remain so despite the wishful, almost romantic thinking of some.

Vietnam and the United States do have a unique relationship forged through shared recent history. Both sides can regret missed opportunities. And while the history of bilateral negotiations is tortured, the significance of historic antagonisms can only be muted by a credible effort to resolve the POW/MIA issue, the only path to real healing and normalization.

In sum, fully normalized relations between the United States and Vietnam are not on the immediate horizon. Vietnam will remain, in an economic and strategic sense, of little importance to the United States. Relations could conceivably move forward in the absence of a real economic or strategic rationale with significant progress on POW/MIA accounting through unilateral Vietnamese action. The longer Vietnam delays in this regard, the more likely normalization could be linked to human rights concerns, as well. If this occurs, it would be supported by those who, heretofore, believed Vietnam would be able to forge a politburo consensus and finally end the uncertainty of America's POW/MIA families.

Normalized relations are quite logical in an ideal world. Full normalization with Vietnam is desirable, but as a practical matter is not possible or prudent as long as it can be credibly maintained that Vietnam can do more to account for missing Americans.

If the Clinton administration proceeds with the elements of normalization as an objective, rather than an instrument to resolve bilateral issues, domestic and congressional opposition is likely to increase. That, in turn, would further reduce executive branch flexibility, and create a renewed round of recriminations as well as a new gauntlet for future negotiators.

Mr. KENNEDY. Mr. President, I came over to address another issue. I listened to the majority leader's statement with regard to actions that may be taken by the President in the foreseeable future.

I want to commend what I thought was an excellent presentation by my friend and colleague, Senator KERRY, as well as Senator MCCAIN, on this issue on Sunday, as well as Senator SMITH from New Hampshire who was talking about this issue, I thought, in a very constructive, positive, bipartisan way.

I think for those who are looking to try to deal with an issue of this complexity, of this importance, Members would be wise to take a few minutes and review their presentations. I thought there were particularly convincing arguments to be made in favor of moving the process forward at this time, and I thought the statements that were made by, as I mentioned, my colleagues Senator KERRY and Senator MCCAIN that support that change were very compelling. I thought the observations of Senator SMITH, which took a different view but, nonetheless, were related to the subject matter, were constructive as well.

The country will be addressing this issue in the next several days or weeks. I think our Members would be wise to review their comments because they are individuals who have spent a great deal of time on this issue and, obviously, have given it a great deal of thought. The fact that they come from different vantage points in terms of many other different issues, both in domestic and foreign policy, and still are as persuasive on this matter, I think really reflects some very, very constructive and positive thinking.

COMPREHENSIVE REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1491

Mr. GLENN. Mr. President, the pending legislation before us is an amendment by the Senator from Georgia, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. GLENN. I particularly dislike having to oppose my good friend from Georgia, Senator NUNN. We worked together in the Governmental Affairs Committee on our bipartisan regulatory reform bill. We both supported the bill. I certainly have the very highest regard for him. He has always been a tireless champion of the interests of small business men and women in our country, and I certainly applaud him for that effort.

But I believe that while this amendment is very well-intentioned, I think there are two serious problems. I do not believe the amendment should be accepted. First, it revises the Regulatory Flexibility Act in a number of ways that I think do not fit with workable regulatory reform.

First, the amendment would require cost-benefit analysis of all reg flex rules. That is, rules that have a significant economic impact on a substantial number of small entities. This would be small businesses, local governments, and the like. Including these rules in the cost-benefit analysis process would increase the number of rules that have to go through that analysis by over 500 rules. That is not a figure grabbed out of thin air; that is the administration's estimate. It is based on actual Federal Register entries over the last year.

Now, OMB has estimated that if this passed this way, there could possibly be as many as 600 to 800 rules and regulations that would fall under this provision. That would raise the number of investigations and rulemaking procedures to something like three times our present number.

Now, agencies are going to be hard pressed with the budget cuts they are facing now just to do the analysis required if we just pass the Glenn-Chafee bill with its $100 million threshold. S. 343, which is before us now, would lower the threshold to an unreasonable $50 million. This amendment that we are considering now by the Senators from Georgia would have the potential of adding somewhere between 500 to the current rate, or up to as many as 800 more rules to that list. That just overloads the circuits.

To make the point even further, one estimate before our committee by one of the people testifying earlier this year was that each full-blown rule investigation costs somewhere around $700,000. If you take the 500 to 800 potential on this, that means we would be spending on investigations somewhere between $350 million for the 500 investigations, up to a potential of $560 million for the 800 investigations.

Let us say that is a pessimistic view of how much it costs, that $700,000. Even if you cut it in half, it means it is somewhere around $175 million up to, say, $270 or $280 million to do this increased number of investigations. So I say that agencies are going to be very hard pressed with these budget cuts to make it.

The second major problem with the amendment is the way it expands reg flex judicial review. The Glenn-Chafee bill is basically the bill brought out of committee earlier and is designated as S. 1001. As opposed to S. 1001, this amendment would allow judicial review of final rule reg flex analysis. As opposed to that, this amendment permits judicial review of proposed rule reg flex decisions.

Now, this expands enormously the number of judicial challenges that can be made, and it further overturns a principle that has been long held that court review should wait until an agency makes its final rulemaking decision and then challenge the whole process, whatever it is, and not permit judicial review challenges all along the way, which means that the persistent challenger can keep something bogged down in court for years and years. It can literally bog down the whole process, this number of new rulemaking procedures that would have to be reviewed.

So allowing judicial review of preliminary decisions about whether a rule is even subject to reg flex, which this would do, will bog down agencies and use more tax dollars unnecessarily and be a full employment bill for lawyers, basically. I do not think that should be the objective of this legislation.

Mr. President, further, I must admit that I do not understand exactly how this whole thing would work. It would increase the complexity, as I see it, and it would create more judicial review, to be added to our expense in a substantial way.

Let me say that the Regulatory Flexibility Act was passed by Congress as a way to ensure that agencies would evaluate the impact of proposed regulations on small businesses and other small entities such as local governments. The act was also intended to ensure that agencies consider less burdensome and more flexible alternatives for these small entities.

I have supported the reg flex act from its inception when passed here a number of years ago. But the legislation before us and the amendment we are considering now would fundamentally change the Regulatory Flexibility Act by making its considerations the controlling factor, the controlling decisional criteria, for the very promulgation of a rule. I do not think that is the way we ought to be going. We should ensure that the Federal Government is more sensitive to the needs of small business. I certainly agree with that. That is why the Glenn-Chafee bill, S. 1001, provides for judicial review of final reg flex decisions, and the whole process can be challenged at that one time. It does not permit judicial challenge at each step along the way, which means multiple judicial review, and additional ways of stalling what may be very good legislation.

Now, both bills also do provide—whether it is S. 343 or S. 1001, they both provide for congressional veto. In other words, a rule or regulation being put out by an agency can be challenged and brought back to the Congress and lay here under one bill for 60 days or 45 days for challenge here on the floor. That applies to small business provisions or any other provision.

So it seems to me that we have provided adequate protection, quite apart from the amendment as proposed by the Senators from Georgia.

I yield the floor.

Mr. President, 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. ROTH. 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. ROTH. Mr. President, I want to take a moment to talk about the small business amendment to S. 343 offered by Senator NUNN and Senator COVERDELL.

This amendment would, of course, modify the definition of "major rule" to include rules that have a significant impact on small business and small governments as provided in the Regulatory Flexibility Act.

This would have the effect of requiring all reg-flex rules to be subject to cost benefit analysis and the decisional criteria, as well as to be subject to the petition process for reviewing rules.

Mr. President, as I have said before, I am deeply concerned about the impact of the regulatory burden on small business. Indeed, that is exactly why I support the amendment offered by Senator ABRAHAM earlier today.

The Nunn amendment in its present form does raise some serious problems. I had hoped we could use an approach for this amendment similar to the Abraham amendment. So far, we have not been able to reach that agreement.

While I believe strongly in the need for regulatory reform, it must be reform that is workable. I fear that, as drafted, this amendment could place too heavy a burden on the agencies, which are already pressed by the many other provisions of S. 343.

This amendment does not distinguish clearly between costly rules which deserve detailed analysis, and smaller rules which should not be subject to time-consuming and expensive analysis.

I hope that we can work together to address the concerns about the workability of this amendment, concerns shared by many of my colleagues. I

would welcome the opportunity to use some of the good ideas in the Abraham amendment, such as giving OIRA greater responsibility in selecting rules for analysis, or to pursue other suggestions offered by my colleagues.

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.

Mr. COVERDELL. 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. COVERDELL. Mr. President, there has been an assertion that this would unleash a flood of regulatory burden on the agencies. I want to make the point again that quite the reverse would be the case. There has been a regulatory flood on the small businesses of America.

As I said in my opening statement, if I want to pick where I want that burden to be, it ought to be on the Government side, and not on the backs of all these small companies with 4 or less employees, or 50 or less employees, which is almost all the companies in America except for 6 percent.

Last year, 116 rules were swept up by the net of the Regulatory Flexibility Act, the act that is already in place.

Now, this idea that we would have 800, I think, is an unfounded assertion. If this had been in effect last year, it would have swept up 116, just as it did last year. Because there is a judicial review, there could be changes that would add some. I think it is most difficult to assert that we will have 500 or 1,000 new rules that would require action under this amendment.

Assuming, again, that there is more burden, it ought to be on the back of the Government and not on the back of the small business. We should be trying to protect the small businesses, not the regulators. That is where our concern is properly fixed—helping small businesses to generate new companies, new jobs, and expand.

Now, I would just like to take a moment, Mr. President, and review what is already required under the act which Congress has already passed, the Regulatory Flexibility Act of 1980. We have had any number of statements here asserting that we all support that.

Whenever an agency is required to publish a notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis.

What does that include? Each initial regulatory flexibility analysis required under this act shall contain a description of the reasons why action by the agencies is being considered; a succinct statement of the objectives of and legal basis for the proposed rules; a description of, and where feasible, an estimate, of the number of small entities to which the proposed rule will apply; a description of the projected recording, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; an identification to the extent practicable of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.

Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of political statutes and which minimize any significant economic impact of the proposed rule on small entities.

It goes on. Mr. President, that is what the Regulatory Flexibility Act required in 1980. I do not know how to do this without having a cost estimate. All we are saying in the amendment is that it should include a financial impact on small business—a financial impact on small business. And that there is an enforcement proceeding to ensure that is done—the judicial review.

I would be hard pressed, Mr. President, having fulfilled the act that already has been in effect for 14 years, I do not know how to do this as a former businessman and not understand economic consequences.

In other words, the argument I am making, Mr. President, is that the work is virtually done under the existing law. We are simply saying, Mr. President, that the Government is going to have to do and certify what we all intended all of small business to think we were doing when we passed this act.

Several points, Mr. President. First, I think the assertion of the increased burden is without sufficient evidence. The evidence we have would suggest a modest increase.

Second, Mr. President, the act that is already required of the agencies requires virtually all that is necessary already. If we spent the money to do all this work, why not have the fundamental question before the country and the American people: What is the cost going to be?

The average small businessman today is spending $5,500 per employee; the average American family is spending $6,000 a year because of the surge of regulation. We ought to know what the impact of these regulations would be.

Last, Mr. President, the point I would like to make is that we ought to be in the business of being more concerned about the small business person who has such limited resources and their ability to deal with one regulation after another after another than with worrying about what the regulatory overload will be on the people who are making all these regulatory reviews.

Mr. President, maybe a side effect would be that the agency will be more careful in determining whether or not it needs to propose a new regulation. That is another way we could affect what the ultimate cost is of the review of the regulation. They might start thinking, for a change, do we need it? And my guess is that this amendment, in fact the overall underpinnings of the bill itself, will suggest that the Government needs to be a little more thoughtful about imposing yet another requirement, another burden, and another form on that little company of two or three people, all over America, who have so little ability to respond or know, even, what the new regs require.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we all want and hope and believe in a significant and a meaningful regulatory reform. No one wants rules that do not make sense or are not cost effective. No one wants, or should want, regulatory requirements that exceed real needs. We want Government to be smart, efficient, reasonable and practical.

There are plenty of regulatory horror stories, some of which are accurate, some of which are not. There is more than enough evidence, though, for us to be convinced of the fact that the regulatory process needs fixing. It has needed fixing for some period of time.

We have been in the process of reforming it for years. Back in the late 1970's, when the Governmental Affairs Committee conducted a lengthy set of hearings and issued a multivolume report on the regulatory process, the findings in those hearings led directly to the Senate passage, in 1981, of Senate bill 1080, the number was at that time, by a unanimous vote, 94 to nothing.

S. 1080 looked similar in many ways to the legislation which we are considering this week. It had many of the same elements, including cost-benefit analysis of major rules, a procedure for reviewing existing rules, legislative review, and Presidential oversight.

S. 1080 did not make it into law because the coalition supporting it did not hold together once the bill got to the House. It was tough reform, and if it had been in place for the last 15 years we would not be here today with the legislation before us. We would undoubtedly have had a lot fewer horror stories and a lot more thoughtful regulation over the past decade and a half.

So we are here to try again, and I am all for it. We spent several months in the Governmental Affairs Committee earlier this year considering a bill introduced by Senators ROTH and GLENN

which, with a few amendments, we reported to the full Senate for its consideration. Many of us think it is a solid bill. It was passed by a unanimous, bipartisan vote of 15 to nothing. It has cost-benefit analysis, risk assessment, legislative review, and a procedure for the review of existing rules. It is tough but balanced. It is a bill that makes sense.

The bill is tough, the Governmental Affairs bill, which is basically now the Glenn-Chafee bill. It is tough because it would require by law that every major rule be subject to a cost-benefit analysis. It would require that each agency assess whether the benefits of the rule that it is proposing or promulgating justify the costs of implementing it. It requires that agencies select the most cost effective rules among the various alternatives.

These two elements are key controls to rational rulemaking. The Governmental Affairs approach, now embodied in Glenn-Chafee, is tough because, by statute, it resolves once and for all the role of the President in overseeing the regulatory process. The bill gives the President the authority to oversee the cost-benefit analysis and the risk assessment requirements, and recognizes the unique contribution that a President, above all of the agencies, can make to rational rulemaking. It also gives Congress the right and the practical capability to stop a rule before it takes effect.

The Glenn-Chafee approach is tough because it allows for judicial review of an agency's determination as to whether or not a rule meets the $100 million economic impact test and because a rule can be remanded to an agency for the failure of the agency to do the cost-benefit analysis or risk assessment. It is tough because it requires existing major rules to be subject to repeal should the agency fail to review them in 10 years, according to the schedule and the requirements of the legislation.

The bill was reported out of Governmental Affairs, as I mentioned, by a unanimous bipartisan vote. It is a balanced bill, and this is the balanced half of it. It is balanced because it recognizes that many benefits are not quantifiable and that decisions about benefits and costs are, by necessity, not an exact science but require, often, the exercise of judgment. It is a balanced alternative because it would require that, to the extent the President exercises his oversight authority over the rulemaking process, that authority must be conducted in the public eye and with public accountability.

It is a very important part of the Glenn-Chafee bill that we have some sunshine on the rulemaking process right up to and including the office of the President and the OMB. It took us years to get to that point. President Bush promulgated an Executive order—President Clinton has promulgated a similar Executive order—that called for sunshine when rules are kicked upstairs to the White House for their consideration before final promulgation. This bill, this alternative which is called Glenn-Chafee, in a very significant step incorporates, or would incorporate into law, the basic elements of the Executive orders of Presidents Bush and Clinton.

The Glenn-Chafee bill is balanced because it does not subject all rules to congressional review, just the major rules. It is balanced because it uses information as a tool for assessing agency performance and makes that information available to everyone to judge and to challenge. It is practical because it does not overwhelm the rulemaking process by requiring cost-benefit analysis and risk assessment for less than major rules. It is balanced because, while requiring an analysis and certification by the agency as to whether the benefits of the rule justify the costs, it does not override the underlying statutory scheme upon which a rule is based.

I believe the amendment before us, to address the specific amendment on the floor, goes too far. It would provide for the interlocutory judicial review at an early stage in a proceeding in a way which could swamp both the regulatory process and the courts. What we are trying to do is reform this system and not swamp it and not make it worse. We all, again—hopefully all of us—want to reform this system, the cost-benefit analysis, with the kind of risk assessment which is essentially in both bills.

But what we must avoid doing is swamping either the regulatory system so that it becomes totally unworkable, or delaying it through interlocutory court proceedings, which will, in effect, make the regulatory system unworkable.

I do not think any of us want that. We want a system which is commonsensical and does not impose costs and burdens on this society where the benefits are inadequate. But surely there is a role for rules. There is a role for the rollback of rules, for the review of existing rules, and we have to make sure, both in terms of new rules and review of existing rules, that we have a process which can function in a practical way.

The amendment before us would add this interlocutory appeal from an agency determination that a rule will not have a significant impact on a small entity and, therefore, it does not require regulatory flexibility analysis.

One of the problems with having that interlocutory appeal is that it then opens up the court process to two appeals on the same rule. You have a rule up front to a court for an interlocutory appeal if an agency does not do a regulatory flexibility analysis. That then can go to the court of appeals. That then can be appealed to the court of appeals. That then can be appealed to the Supreme Court just on the question of whether or not the agency erred in failing to do a regulatory flexibility analysis. But that does not end it because there is still an appeal at the end on the subject of regulatory flexibility analysis. This time, however, on the question of whether or not, assuming the regulatory flexibility analysis was done, it was done correctly.

So the amendment before us has really two problems. One is that it will significantly increase the load on courts and the delays in the regulatory process. It does it unnecessarily because in the bill itself there is judicial review of a decision by an agency not to conduct a regulatory flexibility analysis. But it is done at the correct time, which is at the end of the process, and it is done at a time when both aspects of regulatory flexibility can be decided by a court at the same time: One, if there was a failure on the part of the agency to conduct the regulatory flexibility analysis, was that failure error; and, second, if there was a regulatory flexibility analysis, whether or not the analysis was correctly done. That is the more practical way to do it. That is the way to avoid both swamping courts in judicial review prematurely, and that is the way if we can avoid having two judicial reviews in effect of regulatory flexibility analysis relative to the same rule.

The amendment also is going to create a problem in that it is going to probably double the number of rules. We can debate how many more rules there are going to be subject to this elaborate cost-benefit analysis requirement if we adopt this amendment. But the best estimate that we can make is that it would at least double the number of rules that will be subject to that cost-benefit analysis. It is costly. It is something which delays the process. It is obviously necessary when it comes to major recalls. I think all of us agree on that. Both bills contain that. The question is whether or not, given the downsizing of Government, we can effectively then load onto agencies these kinds of burdens to increase so dramatically the requirement relative to cost-benefit analysis.

So for both those reasons, I hope that we would either defeat or modify the amendment before us because to put it in the middle of the rulemaking, to put this interlocutory review in the middle of the rulemaking process, will use the court systems unnecessarily. It will use them prematurely. And it will end up overloading both systems. That would be harmful for people who are participants in the regulatory process, whether they are favoring a regulation or opposing it.

Again, I emphasize, this can work both ways. There are many businesses

that want to review existing rules. We want the reviews to go in a practical and a smooth way, too. There are many businesses which need new rules. For instance, the bottled water business has been waiting for a rule for years to try to put some restrictions on the representations of the type of water that is being sold as bottled water, as spring water, for instance. It is the business which is waiting for the rule. It is the business which is trying to stop the false representations relative to bottled water.

So this is not always the kind of outside groups versus business. This is frequently business that needs rules to be changed or added or amended. We have to make sure that this rulemaking process works in a practical and a functional way.

So, for that reason, I hope that the pending amendment will be defeated or modified.

I yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Michigan referred to the interlocutory appeal, and, in fact, the Nunn-Coverdell amendment has been criticized because it allows two appeals, both an interlocutory appeal to be taken within 60 days of the notice of the proposed rulemaking and a later appeal.

Mr. President, I have just been discussing with the Senator from Georgia a modification of that amendment to make sure that the final appeal relates only to those classes of appeals which would not otherwise be subject to appeal under section 706 of the Administrative Procedure Act or under section 625 of this act, which are, in effect, final agency actions, so that both the appeal and the remedy, the final appeal under this bill, would be a very limited and narrow one. But I will describe that amendment when it comes up.

Mr. LEVIN. I wonder if the Senator will yield just on that point for a question.

Mr. JOHNSTON. Yes.

Mr. LEVIN. Is the amendment going to be modified so as to prevent an appeal on how a regulatory flexibility analysis has been conducted if there were an interlocutory appeal on the question of whether a regulatory flexibility analysis should be done? Will the modified amendment be precluding an appeal on how that regulatory flexibility analysis has been conducted at the end of the rulemaking process? Because that would be taking away from small business something that it now has, for instance, with small units of government. I do not know if that is the intent. I think it should be clear. But the double appeal point that I was making, I think, is slightly different from the double appeal point which has been made previously, which is that the interlocutory appeal that is provided here goes to the question of whether or not there should be a regulatory flexibility analysis, and that presumably there still would be an appeal at end of the process on the question of how that analysis had been conducted, assuming one is ordered. So that is still a double appeal.

Mr. JOHNSTON. The question is an appropriate one. The first appeal in the interlocutory appeal process would be on the question of major rules, whether it meets the $50 million threshold, whether it is a matter that involves the environment, health, and safety, or whether it has a significant impact on a substantial number of small businesses and, therefore, requires the regulatory flexibility. That appeal would be taken within 60 days and putting the notice in the Federal Register. The idea here is that you foreclose further appeals after that 60 days. Now there is in addition to that in the present Nunn-Coverdell amendment a more limited petition for review which allows you to get into the quality of the regulatory flexibility analysis.

What we are saying is if it is subject to an appeal under section 706 of the Administrative Procedure Act, or under section 625 of this act, then the quality of that regulatory flexibility analysis insofar as it relates to the question of whether the final agency action was arbitrary, capricious or an abuse of discretion, they would have in that appeal the right to test the regulatory flexibility analysis at that point.

For those which were not subject to that, they would have the ability to appeal in any court in the Nation that has jurisdiction and to ask for what would be an order to go back and do the reg-flex analysis.

Mr. LEVIN. Is that at the end of the process? Is there an appeal open at the end of the process to order a reg-flex analysis if there were no interlocutory appeal that had been asked?

Mr. JOHNSTON. Yes.

Mr. LEVIN. So you have a choice as to whether to take an interlocutory appeal on that issue or to make that part of the final appeal; is that correct?

Mr. JOHNSTON. You have a choice. If you wait until the final appeal, it would be a more limited choice because the only remedy provided there is for the court, in effect, to order the reg-flex analysis, and if that then would call for a modification in the rule, then the rule would then be modified, but there would be, for example, no stay of the rule because of the inadequacies of the reg-flex.

Mr. LEVIN. It was my question—I am unclear—is it the intent of the modified amendment that there could be either an interlocutory appeal on the question of whether or not a reg-flex analysis has to be made or that issue could be raised for the first time at the end of the rulemaking process, either one would be allowed?

Mr. JOHNSTON. No; the question of whether this is a rule which has a substantial, significant effect on a substantial number of small businesses, which is the trigger for the reg-flex, it is the intent here—and this language has not been drawn—it is the intent here that that test be only once.

Mr. LEVIN. And that it must be made on interlocutory appeal?

Mr. JOHNSTON. That is correct. That is the intent. It is a little difficult to give precise answers since the actual language has not been drawn. That is the intent. But as to the quality of that, you can test that only later after the reg-flex attempt.

Mr. LEVIN. I thank my friend from Louisiana for his answers, and I then would withhold any further comment until after we see the language on it. I wonder if the Senator will yield for one additional question.

Mr. JOHNSTON. Surely.

Mr. LEVIN. Is the intent that the rulemaking process be stayed during the interlocutory appeal on reg-flex?

Mr. JOHNSTON. No, not at all. That is the whole idea.

Mr. LEVIN. Is that clear in the language of the amendment?

Mr. JOHNSTON. We believe so, but if it needs to be further clarified, it can be. The idea here is that you want to have this determination made early enough in the process so that you can remedy the defects in the rule while the rule is still going on and not have to wait until it is all over with, because some of these rules take 2 or 3 years. And if you do not find out until, say, your final appeal is 6 or 9 months after the final rule, then you have to stay the rule and go back and do it all over again.

Mr. LEVIN. Of course, that is what judicial review is all about. There is presumably an incentive to do the process right. That is why there is judicial review at the end. And you do not wipe out judicial review at the end in any event. You still allow judicial review in many ways, so it is not as though you are doing a whole bunch of things up front and thereby precluding the review at the end.

Mr. JOHNSTON. No, but you would preclude a review, for example, on whether this is a major rule, whether it has $50 million, if that is the trigger, or $100 million, which I hope we can get an amendment in to make it $100 million. That question would be reviewed, would be finally reviewed on the interlocutory basis.

Does the Senator understand what I am saying?

Mr. LEVIN. Is it the intent of the sponsors of this bill, and the Senator indicates the sponsors of this amendment, to preclude judicial review at the end of anything which can be raised by interlocutory appeal at the beginning?

Mr. JOHNSTON. Will the Senator reask the question.

Mr. LEVIN. Is it the intention of the sponsor of the bill pending here, of the Dole-Johnston bill, and is it the Senator's understanding that it is the intention of the makers of this amendment, that the interlocutory appeal which is provided is the exclusive remedy to raise the issues that can be raised by interlocutory appeal and that if anyone fails to raise an issue, which could be raised by interlocutory appeal, by interlocutory appeal, it cannot then be raised at the end of the rulemaking process?

Mr. JOHNSTON. That is correct. And I hope our language will properly reflect that.

Mr. President, let me be a little more clear if not only for the purpose of this small business amendment, the reg-flex amendment, but also for the purpose of the whole bill. The reason for having the interlocutory appeal is that the question can be put at rest early in the process.

If, for example, an agency determines that the rule is likely to have an impact of less than $50 million a year, then it would not be a major rule, would not require the cost-benefit analysis, or the risk assessment. They would make that determination early on, file that in the record, and any party, any interested party, would then have 60 days from the time of that determination to make this interlocutory appeal on the question of whether it was a major rule because of the amount of dollars, whether it was a rule that affects health, safety, the environment, which in turn requires the risk assessment, or in this case whether it has a significant effect upon a substantial number of small businesses.

The idea is that if that appeal is not made within 60 days, that you are foreclosed from raising that later on in the process.

Keep in mind that if an appeal is made within the 60 days on the basis that they failed to make it into a major rule, that the agency itself could make a determination, could in effect moot the appeal by going back and doing the cost-benefit analysis and the risk assessment.

What we find under the present law in areas like NEPA, National Environmental Policy Act, agencies tend to err on the side of conservative in doing an environmental impact statement, which is much more involved than the environmental impact assessment. They will do the statement rather than the assessment many times because they do not want all their work to be thrown out X years later at the end of the process.

The result is that it frequently requires tremendous amounts of additional expense in doing that which the law would not otherwise require. And the reason for the interlocutory appeal is to be able to get that question determined up front and early so that the results of the whole system will not be thrown out.

The concern with the Nunn amendment, even as amended, when amended, is that it is likely to cause an agency overload or much more than the agencies are able to do.

The amount of personnel that the agencies have, the amount of moneys that the agencies have in order to perform these risk assessments is, of course, limited. Now, how many additional rules would this require the agencies to do? We do not know. OMB tells us that it could be hundreds of additional rules that would be caught under this definition. It could have the effect of doubling, tripling, or even a fivefold increase in the amount of work that they have to do.

I hope, Mr. President, that if this amendment is adopted and becomes part of this law that that is not the result. However, I think that it is going to require continued analysis as this matter moves along. It is not my purpose, frankly, to vote for this amendment, although we are not making, or at least I am not making, a major challenge to this amendment, given the assurances of the Senators from Georgia that we will be able to continue to work on it to avoid the question of agency overload.

However, until we have dealt with a more assuring way with this question of agency overload, I will not be able to vote for this amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I believe this amendment to S. 343 is of paramount importance. S. 343, as written now, will unquestionably benefit small businesses by requiring Federal bureaucrats to only promulgate regulations that are cost-effective and based on good science. But adoption of the Nunn-Coverdell amendment will guarantee that small businesses, which represent the vast majority of employers and employees in this Nation, thus encompassing most Americans, will further benefit from regulatory reform by assuring that all regulations that are currently subject to the Regulatory Flexibility Act of 1980, termed the "reg flex act," will also be subject to S. 343's cost-benefit analysis provision and periodic congressional review.

Small businesses create most of the jobs in America. This is demonstrated by the fact that from 1980 to 1990, small businesses with fewer than 20 employees created 4.1 million net new jobs. Compare that with big business. Large businesses with more than 500 employees lost over 500,000 net jobs over the same time period.

According to the Small Business Administration, small business bears a disproportionate share of regulatory burdens. In fact, SBA, the Small Business Administration, estimates that the burden of regulations on small business is three times greater than that for large businesses. It is clear that to assure small businesses will continue to act as America's locomotive for job creation, Congress has to lift the regulatory burden from small family businesses.

The Nunn-Coverdell amendment will accomplish this through several mechanisms. First, the definition of "major rule." S. 343 is amended to include rules that have a significant economic impact on a substantial number of small businesses, virtually the same definition that triggers the reg flex act. The determination of a rule as a major rule subjects the rule to S. 343's cost-benefit analysis. This will assure that rules affecting small businesses will be cost-effective and less burdensome.

This designation of rules having a substantial impact on small businesses as a major rule subject to cost-benefit analysis is necessary to close a loophole in this bill. The $50 million threshold amount for a major rule may be too high for many small businesses. For instance, a regulatory impact of less than that amount may have a devastating effect on a small business or a sector of the economy that may not yet represent a significant burden on a Fortune 500 company. The Nunn-Coverdell amendment would resolve this problem by requiring that all rules that have a significant impact on small businesses be classified as a major rule under S. 343.

A legitimate question is just how many regulations does this amendment encompass? How many new major rules will be subject to cost-benefit analysis under S. 343? In other words, what is the impact of this amendment to Federal agencies' resources and personnel? And the answer is, not that much. The reg flex act requires that regulatory burdens be reduced for those regulations that have a "significant impact on a substantial number of small entities."

Small entities include small businesses as well as both small governments and charities, entities that shoulder a disproportionate share of the cost of regulation. Last year under the reg flex act just 127 regulations qualified for that act's special treatment. The Nunn-Coverdell amendment, as I understand it, would encompass only that part of the 127 regulations that affect small business and even 127 is not a great or burdensome amount.

The other mechanisms of this amendment that assure protection of small businesses involve modifications of the reg flex act. The most important establishes a requirement for agencies to conduct a cost-benefit analysis before rules are promulgated under the reg

flex act. Furthermore, the determination by an agency that a rule will not have a significant impact on small businesses is made judicially reviewable. I believe that these changes will buttress our economy by reducing the burdens imposed on our small businesses by regulations.

So I urge my colleagues to support the Nunn-Coverdell amendment. I think it is a good amendment. I think it helps the bill. I think it closes a loophole. I think it protects small businesses. I think that it makes the regulatory forces in this country be more responsible and, above all, it amounts to common sense. To me, that is what this bill is all about—common sense. I think it would be well for us to support this amendment.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Michigan.

Mr. LEVIN. Mr. President, the Senator from Louisiana and I previously had a colloquy, and I very much welcome the language that he is going to be preparing to clarify a critical point, but it seems to me that the more that point is clarified, the less of a favor we are doing for small business in this amendment. Let me explain why.

In talking with the Senator from Louisiana, and just talking with the senior Senator from Georgia, it is quite clear that the intent of this amendment is that an issue which can be raised on an interlocutory appeal must be raised at that time or else it is precluded from being raised at the end of the rulemaking process.

The problem with that is that an awful lot is learned about the impacts of rules during the comment period. That is one of the reasons for the comment period. To preclude a small business from taking advantage of what is learned during the comment period so it can argue on an appeal at the end of the rulemaking process that this rule has a significant impact on small business or on small units of local government, it seems to me, is doing a disfavor, a disservice to these smaller units.

So while that clarification I think is important in terms of congressional intent and it is important in order to avoid two appeals on the same subject, the better road to go here is to have the appeal at the end of the process, as it is in the way the bill is written now, where you can use the comment period to gain evidence as to why a regulatory flexibility analysis is essential. To preclude a small unit, be it business or small unit of government, from taking advantage of that comment period to make a case as to why a regulatory flexibility analysis is necessary, it seems to me, is not the way we should be going in terms of trying to help both small businesses and small units of government.

So while I think the clarification is important, again, so we all understand what the intent is and while it is important in order to avoid two appeals on the same subject, the conclusion that is reached has the appeal at the wrong point. The appeal should be there. It is new. It is important to small business that there be an appeal on this issue and the small units of government. But the right place for that appeal to come is at the end of this process where they can then use the record which has been gained during the comment period to make the argument that there should have been a regulatory flexibility analysis and that failure to do so was an error which requires the rule to be remanded and to be done right.

I yield the floor.

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

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

AMENDMENT NO. 1491, AS MODIFIED

Mr. NUNN. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment, as modified, is as follows:

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B), that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I shall be deemed to be a major rule for the purposes of subchapter II;

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b).

On page 40, line 5, insert "and section 611" after "subsection".

On page 68, strike out all beginning with line 9 through line 11 and insert in lieu thereof the following:

"(A) include in the final regulatory flexibility analysis a determination, with the accompanying factual findings supporting such determination, of why the criteria in paragraph (2) were not satisfied; and

On page 72, insert between lines 14 and 15 the following new subsection:

(e) AMENDMENTS TO THE REGULATORY FLEXIBILITY ACT.—

(1) TECHNICAL AND CLARIFYING AMENDMENTS.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking "the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives"; and

(B) in subsection (b) by striking "his views with respect to the effect of the rule on small entities" and inserting "views on the rule and its effects on small entities".

On page 72, line 15, strike out "(e)" and insert in lieu thereof "(f)".

Mr. LEVIN. Mr. President, I wonder if I could ask the sponsors of the amendment the following question, since we have not had a chance to look at the modification.

Mr. GLENN. Mr. President, I know this has been the subject of debate on the floor—not publicly but among different Members. I wonder if we can have a brief explanation. We only have a few minutes before the vote.

Mr. LEVIN. Mr. President, it is my intention to ask the senior Senator from Georgia this question. Is it the intent of the modification to make it clear that there is only one appeal that is permitted on the issues which can be raised by interlocutory appeal and that one appeal is the interlocutory appeal? Is that, as previously stated by the Senator from Louisiana, the purpose and effect of the modification sent to the desk?

Mr. NUNN. If I could say to my friend, there are two parts of this modification. One is to make it clear that risk assessment is not required under this amendment, only cost-benefit analysis. We talked about that earlier this afternoon. There was an omission from the draft.

The modification relates to judicial review. You made the point that small businesses might need two bites at the apple. The way the amendment reads, there would be two bites at the apple. We intend to change that at a later point during the debate on this bill.

Mr. LEVIN. Is it the intent to modify it so there is only one bite at the apple?

Mr. NUNN. This whole issue of judicial review will require more work. As the Senator knows, it is complicated, and for me, is not fixed at this point. We are going to have to work on it more.

Mr. LEVIN. Is it the intent later on to require or to provide only one bite at the apple later on?

Mr. NUNN. That is my present intent. I am always persuaded by my friend's arguments, so we may have to think more on that.

Mr. LEVIN. Is it the intent that that one bite be the interlocutory appeal? Is that the present intent?

Mr. NUNN. I would like to work with the Senators on that.

Mr. GLENN. Would the Senator consider, rather than having a vote now, waiting until it is modified and wait until later?

Mr. NUNN. I believe we ought to go ahead and vote. This judicial review issue has to be addressed on the overall bill. So we are going to have to work on this issue more, within the overall bill. I would like to vote on this amendment.

Mr. LEVIN. I am wondering if the first part of the amendment could be voted on.

Mr. NUNN. There is no way to divide it at this point.

Mr. LEVIN. It is a rather unusual thing we are doing. We are adopting an amendment which we are saying later on we know needs to be modified, and it is the intent of the makers to modify it. I would think it would be better to modify it before we vote.

Mr. GLENN. Or you are going to get people locked in on this vote.

Mr. NUNN. I do not think this is going to be the issue on which people are voting. I hope I am not the first Senator to say on the floor that an amendment is not perfect. It will require further work. This will require further work on that limited point.

This is not the central point of the amendment. The central point is to have the small business community not be full beneficiaries of these very important changes to regulatory review process.

Mr. HATCH. Mr. President, 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. 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.

EXPLANATION OF ABSENCE

Mr. DOLE. Mr. President, the senior Senator from New Hampshire [Mr. SMITH] is necessarily absent from the Senate and is holding an important meeting on Superfund reform in his home State. He has asked me to announce that had he been present for the votes we are just about to take, he would have voted in favor of both the Abraham and the Nunn-Coverdell amendments.

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.

Mr. HATCH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 1490

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Hampshire [Mr. SMITH] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—96

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Gramm	Murkowski
Bradley	Grams	Murray
Breaux	Grassley	Nickles
Brown	Gregg	Nunn
Bryan	Harkin	Packwood
Bumpers	Hatch	Pell
Burns	Hatfield	Pressler
Byrd	Heflin	Pryor
Campbell	Helms	Reid
Chafee	Hollings	Robb
Coats	Hutchison	Rockefeller
Cochran	Inouye	Roth
Cohen	Johnston	Santorum
Conrad	Kassebaum	Sarbanes
Coverdell	Kempthorne	Shelby
Craig	Kennedy	Simon
D'Amato	Kerrey	Simpson
Daschle	Kerry	Snowe
DeWine	Kohl	Specter
Dodd	Kyl	Stevens
Dole	Lautenberg	Thomas
Domenici	Leahy	Thompson
Dorgan	Levin	Thurmond
Exon	Lieberman	Warner
Faircloth	Lott	Wellstone

NOT VOTING—4

Bond	Jeffords
Inhofe	Smith

So the amendment (No. 1490) was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1491, AS MODIFIED

The PRESIDING OFFICER. The question is now on amendment No. 1491, as modified, offered by the Senator from Georgia [Mr. NUNN].

Mr. COVERDELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia, as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. BOND], the Senator from Oklahoma [Mr. INHOFE], the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Hampshire [Mr. SMITH] are necessarily absent.

The PRESIDING OFFICER (Mr. BURNS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—60

Abraham	Feingold	Lugar
Ashcroft	Feinstein	Mack
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Bingaman	Graham	Murkowski
Brown	Gramm	Nickles
Burns	Grams	Nunn
Campbell	Grassley	Packwood
Coats	Gregg	Pressler
Cochran	Hatch	Robb
Conrad	Hatfield	Rockefeller
Coverdell	Heflin	Santorum
Craig	Helms	Shelby
D'Amato	Hollings	Simpson
DeWine	Hutchison	Snowe
Dole	Kassebaum	Specter
Domenici	Kempthorne	Thomas
Dorgan	Kerrey	Thompson
Exon	Kyl	Thurmond
Faircloth	Lott	Warner

NAYS—36

Akaka	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Inouye	Murray
Breaux	Johnston	Pell
Bryan	Kennedy	Pryor
Bumpers	Kerry	Reid
Byrd	Kohl	Roth
Chafee	Lautenberg	Sarbanes
Cohen	Leahy	Simon
Daschle	Levin	Stevens
Dodd	Lieberman	Wellstone

NOT VOTING—4

Bond	Jeffords
Inhofe	Smith

So, the amendment (No. 1491), as modified, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

EXPLANATION OF ABSENCE

• Mr. BOND. I regret that I was unavoidably absent for the votes today. I was away from Washington to participate in a court-ordered appearance. If I had been present, I would have supported both the Abraham and the Nunn-Coverdell amendments.•

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, after more than a decade, it is about time that we are starting to work on regulatory reform. We have a very good bill going through the House of Representatives. Hopefully, we will be able to get just as good a bill through the U.S.

Senate. I am glad that we are able to do this under the leadership of our majority leader, Senator DOLE, because this is a historic comprehensive regulatory reform. This bill, S. 343, is a response to the informal rulemaking that has exploded in the last 50 years that was not contemplated in the original Administrative Procedure Act which passed in 1946.

S. 343 involves a number of major regulatory reforms. These include cost-benefit analysis, risk assessment, petition reopener, judicial review, congressional review, peer review, and improvements to the Regulatory Flexibility Act.

S. 343 is the latest product of a long-term evolutionary process. The foundation for S. 343 comes from the 97th Congress in the form, which we passed at that time 94 to 0, of S. 1080. S. 1080 was the culmination of over 20 years of work in the Senate to reform the regulatory process. Unfortunately, that year, in the 97th Congress, the House leadership, then under the control of the Democratic Party, did not believe that regulatory reform was needed, because they believed in the regulatory state. So the House leadership neglected to follow through on that bill, and the bill was never considered by the other body.

Regulatory relief was a major issue in the congressional elections this year. It was part of our Contract With America. S. 343 is part of the fulfillment of the mandate that voters gave to the new leadership in Congress to bring about more effective and less costly rules and regulations.

As chairman of the Judiciary Subcommittee on Administrative Oversight and the Courts, I began the Judiciary Committee's efforts in what has become an extensive legislative process. Beginning last February, my subcommittee held hearings over 2 days and then held a markup where I offered a substitute, which was adopted and reported to the full committee.

Chairman HATCH then held another hearing before the full committee to consider the issue in even more detail. After a number of delays to accommodate the Democratic side of the aisle, the committee held 3 days of markup over a period of 3 weeks, and so the committee finally reported the bill last April 26.

Since that time, Members and staff have worked extensively with those who had questions or problems with the bill, even including the White House. We received, in fact, a number of very positive suggestions. And because they were positive, meant to be helpful, and it showed cooperation by the other side, including the administration, many of these were included in the bill.

S. 343 deals with two overall topics directly relevant to regulatory reform. The first major topic is regulatory analysis, including cost-benefit determinations for new and existing major rules or regulations of the Federal Government and, where relevant, Mr. President, risk assessment criteria and procedures.

The second major topic involves changes to the Administrative Procedure Act and other Federal statutes which contain equivalent provisions. These changes are in the procedures that the agencies are required to follow in rulemaking and also in the standards of judicial review and appeals of agency action.

Through these provisions, Congress will give Federal agencies new substantive and procedural guidelines on how the agencies are to use the legislative powers which Congress has given them through other statutes to regulate. The ultimate objective in our legislation is for better Federal rules and regulations, and by better rules, we mean, very broadly speaking, rules that are to do social and economic good, where the benefit outweighs the harm.

A second objective is to make the rulemaking process more rational and more open and to give persons who are the intended beneficiaries of the rule and those who are more likely to bear its costs greater opportunity to participate in the agency's proceedings. No one should reject the proposition that people who are to be affected by the regulations ought to have a part in the process of the agency's consideration of those, and also, once that process is over, through judicial review, to have a means of assuring that agencies, in effect, obey the law. S. 343 does that.

These changes were designed then to supplement and to strengthen the regulatory analysis requirements of S. 1080, which is the core of the regulatory analysis that is in this new bill before us.

I view the overall primary focus of this bill to be accountability. The essence of Government is accountability. The essence of lawmaking is accountability. The public holds us accountable through the regular election process. The regulatory scheme of things in the administrative branch of Government is somewhat removed from citizen participation, and the extent to which it is, I believe people who are regulators and people who make the regulations and rules tend to be less accountable.

This bill, not as perfectly as is done through the election process affecting those of us in Congress, intends to bring accountability to the process of the regulation and rulemaking of the faceless bureaucrat. This means agency accountability to the people as well as to Congress who has delegated its authority to the agencies. It also means congressional accountability to the people because we are ultimately responsible for the laws that we pass. We should not punt to the agencies and to the courts to make very important determinations that ought to be made right here. Unfortunately, there will be those who will try to misrepresent our intentions by arguing that this bill will be used to gut our Nation's health, safety, and environmental laws.

This argument, of course, is a sham, because there is not one among us who does not want to do everything that we reasonably can to protect the lives of our people and who recognize the need for sound and effective regulations. We all breathe the air, eat the food, and drink the water.

We all want our children and grandchildren to be as safe as possible. To suggest otherwise, as some in this body are doing, and particularly as the media likes to popularize, is just downright shameful. We are concerned about the lives of people. This does not compromise that principle whatsoever. What it means to do is that regulation and rulemaking be accountable; that people take into consideration alternatives; that there is not one way to do something, and that there ought to be a relationship between cost and benefit, and there ought to be a scientific basis for regulation. The fact is that many rules and regulations have become too rigid and costly. These rules themselves could actually threaten our Nation's limited resources, as well as public support for the necessary rules.

At a later time in this debate I am going to go into more specific detail about how ridiculous and onerous many regulations have become.

Mr. President, Majority Leader DOLE is to be commended for taking the initiative on this legislation and following through on what the American people want and expect. He is the leader of our party. Our party had a mandate in the election to do that, and he is carrying that out in the responsibility that he has. The efforts that are being made in the debating of this bill, in the consideration of this bill, is to make sure that our performance in office is commensurate with the rhetoric of the campaign. I think this bill is about as close as you can get to having that be a possibility.

As others have said, we have to find ways to do things smarter and cheaper. As the committee report points out, we have become hostage to the unregulated regulatory process. S. 343 will help us out of this quagmire by requiring sound, effective, fair, reasonable regulation that will do the job the people intend that they do.

We have all heard today very real stories of agencies gone mad. Well, I want to relate one story here today where bureaucrats got out of control. This story, and many others we will be hearing about, will underscore the need for commonsense reform. This story happens in my State. S. 343 is about

reasonableness and responsibility. The American people are inspired by reasonable decisions. When the Government acts in the best interest of the majority of its citizens, the American people are encouraged by the Government's responsible actions.

S. 343 is a responsible action which is in the best interest of the majority of Americans. One of the main problems this bill addresses is unreasonable regulations and overzealous regulators.

This problem is clearly evident when it comes to agencies like the Environmental Protection Agency. The EPA was instituted and developed to promote policy advancing a clean environment at reasonable costs with fair and rational oversight. Fair and rational oversight, though, has not been exhibited recently by the EPA. Presently, the EPA exhibits arrogance and overzealous behavior while enforcing the agency's adversarial relationship with small business and farmers.

Innocent citizens are easy prey for presumptuous EPA bureaucrats. I know this to be true because, as I have said, I have a constituent who has personal scars from unjustified hardships resulting from brash EPA officials.

This example happened outside a little town in the northwest corner of my State of Iowa. The name of that community is Akron, IA. It was business as usual that day at the Higman Gravel Co. Harold Higman, the owner, was outside topping off his pickup truck at the gas pump on his property. Mavis Hansen, a trusted employee of 20 years, was inside the office tending to the books, as she regularly did. Every other employee was working at their normal business responsibilities that early morning at 9 o'clock. You might say the morning routine had just begun.

Suddenly, in a violent breech of the morning's routine, nearly a dozen unmarked cars roared onto the yard of the premise of that gravel business. They screeched to a halt in cadence. Forty agents poured from the cars and surrounded Mr. Higman, cocking their guns in unison.

One agent, who was clad in a bulletproof vest, leveled his shotgun at Higman. The agent pumped the gun once to load it. As Mr. Higman, the owner, gulped and his knees quivered, the agent fumbled for his badge, and as Mr. Higman groped for words and he voiced a demand for an explanation, the agent responded with a "shut up" right in Mr. Higman's face.

Meanwhile, another agent stormed the office. There he found the trusted employee of 20 years, the accountant, Mavis Hansen, at her desk tending to the books, as you would expect her to be doing at 9 o'clock in the morning. The agent stormed in with his gun and yelled "freeze" with his gun cocked and left it aimed right at Mavis Hansen's head.

Poor Mavis Hansen sat frozen with shock, fear, and bewilderment. Now, Mr. President, to this very day, she still has nightmares and bouts of nervousness due to what happened that horrible day.

Obviously, there must have been a reason for 40 agents to appear, shoving their shotguns down the throats of the owner and the bookkeeper of this gravel business in the small town of Akron in northwest Iowa. You might wonder, was it some kind of a drug operation? Was there a cache of weapons? None of those, Mr. President. What the agents were looking for were two so-called toxic chemicals that were allegedly stored at the Higman Gravel Co. grounds, supposedly buried in barrels.

Now, this is what they had been told. They had been told this, Mr. President, by a paid informant. But it turns out that this paid informant was also a disgruntled former employee of the Higman Gravel Co. He had given the EPA a bum lead, and after 15 months of misery and ordeal, a jury in a criminal case finally decided that Higman was innocent. Mr. Higman and others were acquitted of charges stating that he had knowingly stored illegal toxic chemicals on his property.

That decision and the 15 months of litigation cost Mr. Higman $200,000 in legal fees, lost business, and what is even more important in my State, Mr. President, it gave this very responsible business person a damaged reputation.

It also cost the bookkeeper, Ms. Hansen—the woman that had the shotgun leveled at her as she was at her desk doing her books—two months leave of absence due to a nervous disorder, which still persists to this day.

Mr. President, the moral of this story must be prefaced with a poignant question: How in the world does the EPA justify such outrageous behavior?

It is the regulatory state gone out of control. They acted, as I have said, on rumor and innuendo. When the rumors did not pan out, they pressed ahead anyway, costing innocent citizens financial and psychological fortunes.

I will not go through all of the details in this case, Mr. President. But I think it behooves us as a society to take a broad view of this case and see what lessons can be learned.

To begin with, the EPA used a force of 40 men comprised of Federal and local agents. They used a force equipped to attack a mountain when it was only a molehill.

Second, the EPA's advanced scouting of the situation was disgraceful. They charged ahead with full force, though uninformed about the facts. They did not look before they leaped.

All too often, Mr. President, I hear of such overzealous and heavy-handed enforcement of our Nation's environmental laws. Yet, there is rarely accountability. This situation cannot continue. A presumption of guilt is formed. It is a foreign concept in our land. It should be a foreign practice as well.

The purpose of the EPA is certainly commendable. The purpose is to protect the Nation from environmental pollutants and toxins. The EPA is suppose to work to make our water clean and our air pure, and there is no one who would argue with those worthwhile goals. But the heavy-handed tactics are inconsistent with EPA's worthy objectives. In fact, such policy erodes whatever moral authority the EPA may hope to have to detect and deter pollution and polluters. Their image in the public's eye will only suffer and the public's confidence in the EPA's fairness will be shaken.

We certainly hope, Mr. President, that this reform will cause the EPA to reconsider its we-versus-they mentality, with respect to American small business. This bill will not overturn existing environmental law. The Comprehensive Regulatory Reform Act will require the EPA to reexamine existing rules and force them into revisions, but only, let me emphasize, where regulations are based on bad science or where a less costly alternative exists that achieves the statutory requirements. Small businesses certainly share the goal of a clean environment at reasonable costs, with a fair and rational oversight by the U.S. Government. Most, if not all, businesses want to comply with environmental laws and regulations.

Mr. President, it is my hope that this reform will change the EPA policy to promote a worthy social objective that fosters reconciliation and cooperation. This reform will help eliminate the heavy-handed tactics and threats against innocent citizens like Mr. Higman and Ms. Hansen. Through this reform the EPA could once again return to its original purpose of promoting policy which advances a clean environment through fair and rational oversight.

Mr. DASCHLE. Mr. President, I want to use this time to remark briefly on the pending measure, which will be the subject of a vigorous debate over the next several days, and the focus of our work today and in the days to follow.

The primary subject of this debate is the bill that was reported by the Judiciary Committee in a very controversial markup which was later modified through negotiations with Senator JOHNSTON and other colleagues.

I am grateful for the attention that Members have given the bill since it was reported by the Judiciary Committee, for I believe, over time, real improvements have already been made.

Nevertheless, throughout these negotiations, these clear differences have emerged among those who advocated changes in the way Federal agencies issue regulations. It has become apparent that a new, more reasonable and

judicious approach is needed if we are to enact responsible, regulatory reform, without causing gridlock in the Federal agencies.

There remain a number of problems with S. 343 which argue against adoption in its current form. First, its passage will likely result in a more convoluted, bureaucratic, and confusing system that practically invites manipulation and litigation by the best lawyers money can buy. It would allow, and even encourage, appeals and litigation throughout the regulatory development process.

The multifaceted petition process will create massive burdens on Federal agencies at a time when we are attempting to cut budgets and limit the size of Government.

The bill's $50 million threshold will drag hundreds of additional rules into this process, further burdening agencies. It also forces Federal agencies to choose the cheapest option, even if other alternatives are more cost effective and therefore more economical.

In sum, it would impose costs on Federal agencies that cannot be met under current budget constraints. The Office of Management and Budget estimates that S. 343 would cost Federal agencies an additional $1.3 billion and 4,500 full time employees each year simply to implement all its provisions. The Federal Government simply does not have the resources to absorb those requirements. Nor should it.

In addition to overburdening Federal agencies, S. 343, as currently written, would roll back some of the most important laws that protect our environment, our health, and our safety.

For the first time in my lifetime, we are contemplating a comprehensive retreat from the progress achieved in reducing air pollution, in cleaning up our rivers and lakes, in taking steps to ensure that the food we eat and the water we drink is safe and clean. In the past, this effort has been embraced by leaders Republican and Democratic. Whether it was President Nixon, Ford, Carter, Reagan, Bush, or President Clinton, this Nation has realized great benefits from an extraordinary bipartisan commitment on these matters.

Mr. President, last year 2-year-old Cullen Mack of my home State of South Dakota fell ill from eating beef contaminated with the E. coli bacteria. As a result of experiences like Cullen's, I held a number of hearings in the Agriculture Committee and the Department of Agriculture developed regulations which would help prevent recurrences of this problem. The rules would modernize the meat inspection process, using sensitive scientific techniques to detect contamination and prevent spoiled meat from making its way into our food supply.

This much-awaited rule will be held up by this bill. It will be delayed and perhaps even stopped. That is unacceptable and represents one of the problems with this bill in its current form.

In its attempt to reform the regulatory process, the bill overreaches—I believe, to the long-term detriment to the American people, including businesses. In South Dakota as in many other States, not only will the public benefit from tough new meat inspection rules, but so will the farmers and ranchers who raise the livestock and who benefit from the assurance that their products will reach the market in the best condition possible. The Senate should not support a process that would compromise that objective.

I want to make clear that I'm not suggesting that somehow the proponents of S. 343 are advocating the degradation of our environment, or have set out to contaminate our drinking water, or that they are unconcerned with a child's potential exposure to toxins. But passage of this bill will make those results more likely. And that is not a result that I can endorse.

I know that some of my colleagues will be taking the floor to make that case in detail, and to offer amendments which will attempt to ameliorate the most harmful provisions of the bill. And I know that some of my democratic colleagues have signed onto S. 343.

I also want to make it clear that there is a better alternative and that a number of amendments will be offered which will improve the bill and which I hope all Members will give their serious consideration.

The comprehensive alternative will produce commonsense reform without wholesale harm. I am hopeful that after some healthy debate on this matter, and in light of the amendment process that will begin today, my colleagues can be persuaded to support our amendments and the alternative developed by Senators GLENN and CHAFEE, should it be offered. That is the best, most defensible path to regulatory reform, because it does not sacrifice the environmental, health, and safety standards that American families have a right to expect and demand from their Government.

Mr. President, I can state with some confidence that no Member of this body will argue for a regulatory status quo. No Member of this body believes that every Federal rule is sacred. No Member will defend every law we've passed as perfect in its real-world application. There are too many regulations in general, and, in particular, too many that make no sense.

It is my strong hope that during this debate, we can come to agreement on a bipartisan regulatory reform bill that achieves serious, meaningful change, but does so recognizing the budgetary realities facing the Federal Government, recognizing the desire to prevent unnecessary and expensive litigation, and recognizing the fundamental importance of ensuring that Federal agencies should be able to issue those commonsense regulations which protect public health and safety, the environment, and other matters that most of us agree should be the subject of responsible Federal oversight.

Mr. President, I yield the floor.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

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

The PRESIDING OFFICER. The Senator from Utah is recognized.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NOS. 104–12 AND 104–13

Mr. HATCH. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Investment Treaty with Latvia (Treaty Document No. 104–12) and the Investment Treaty with Georgia (Treaty Document No. 104–13) transmitted to the Senate by the President on July 10, 1995; and the treaties considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's messages be printed in the RECORD.

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

The messages of the President are 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 Latvia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on January 13, 1995. 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 Latvia will protect U.S. investors and assist Latvia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthening the development of the 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 associated with investments; freedom of investments from performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's 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 10, 1995.*

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 Georgia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, signed at Washington on March 7, 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 Georgia was the eighth such treaty between the United States and a newly independent state of the former Soviet Union. The Treaty is designed to protect U.S. investment and assist the Republic of Georgia 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 of 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, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 10, 1995.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 62

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 Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Communications Act of 1934, as amended (47 U.S.C. 396(i)), I transmit herewith the Annual Report of the Corporation for Public Broadcasting (CPB) for Fiscal Year 1994 and the Inventory of the Federal Funds Distributed to Public Telecommunications Entities by Federal Departments and Agencies: Fiscal Year 1994.

Since 1967, when the Congress created the Corporation, CPB has overseen the growth and development of quality services for millions of Americans.

This year's report, entitled "American Stories," is a departure from previous reports. It profiles people whose lives have been dramatically improved by public broadcasting in their local communities. The results are timely, lively, and intellectually provocative. In short, they're much like public broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 10, 1995.*

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 Mr. HELMS:

S. 1015. A bill to provide for the liquidation or reliquidation of certain entries of pharmaceutical grade phospholipids; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1016. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Magic Carpet*; to the Committee on Commerce, Science, and Transportation.

S. 1017. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Chrissy*; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 1018. A bill for the relief of Clarence P. Stewart; to the Committee on Governmental Affairs.

By Mr. BAUCUS:

S. 1019. A bill to direct the United States Fish and Wildlife Service to examine the impacts of whirling disease, and other parasites and pathogens, on trout in the Madison River, Montana, and similar natural habitats, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COVERDELL:

S. 1020. A bill to establish the Augusta Canal National Heritage Area in the State of Georgia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FEINGOLD:

S.J. Res. 37. A joint resolution disapproving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS:

S. 1015. A bill to provide for the liquidation or reliquidation of certain entries of pharmaceutical grade phospholipids; to the Committee on Finance.

LEGISLATION CORRECTING THE RECLASSIFICATION OF PHOSPHOLIPIDS

Mr. HELMS. Mr. President, today I once again offer legislation to correct an obviously unintended and mistaken reclassification of pharmaceutical-grade, FDA-approved egg yolk phospholipid by HTS, the Harmonized Tariff Classification System. Another provision of this legislation has been accomplished in the Uruguay round GATT agreement.

Kabi Pharmacia is a U.S. company in Clayton, NC. Kabi has become a leading employer in rural Johnston County; it has 175 employees engaged in high-technology manufacturing and research work. The main product manufactured by Kabi Pharmacia in Clayton is intralipid, a unique intravenous feeding solution. Kabi must import a key, unique intralipid ingredient—pharmaceutical-grade, FDA-approved egg yolk phospholipid, because it is made only by Kabi's parent company in Sweden.

The duty on Kabi's phospholipid was set at 1.5 percent in the 1970's when Kabi began operations in Clayton. Beginning in March 1991, the unintentional HTS reclassification of the phospholipid more than tripled this duty, a situation that could not be corrected in the GATT agreement because it is a matter of U.S. law—which, of course, only Congress can change.

Mr. President, my legislation would return the rate on the phospholipid to 1.5 percent for the period from March 29, 1991, until January 1, 1995, when the duty for Kabi's phospholipid and other pharmaceutical components and products became zero under the GATT

agreement, and refund the unintended duty increase. The amount of the unintended duty increase is $396,779.16.

Mr. President, there has been no disagreement that the duty increase on Kabi's phospholipid was unintended and unwarranted. Simple fairness emphasizes the need for the legislation I offer today. The correction of the erroneous HTS reclassification must be retroactive in order that there can be an equitable redress. It is a matter of simple fairness and equity.

I ask unanimous consent that the text of this legislation (S. 1015) be printed in the RECORD.

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

S. 1015

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

SECTION 1. PHARMACEUTICAL GRADE PHOSPHOLIPIDS.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service not later than 90 days after the date of the enactment of this Act, any entry, or withdrawal from warehouse for consumption, of pharmaceutical grade phospholipids that—

(1) was made under subheading 2923.20.00 of the Harmonized Tariff Schedule of the United States;

(2) with respect to which a lower rate of duty would have applied if such entry or withdrawal had been made under subheading 2923.20.10 or 2923.20.20 of such Schedule; and

(3) was made after March 29, 1991, and before January 1, 1995;

shall be liquidated or reliquidated as if such lower rate of duty applied to such entry or withdrawal.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1016. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Magic Carpet;* to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

Mr. KERRY. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Massachusetts, in introducing a bill to allow the vessel *Magic Carpet* to be employed in coastwise trade of the United States. This boat has a relatively small passenger capacity, carrying up to 6 passengers on a charter business based out of Martha's Vineyard, MA. The purpose of this bill is to waive those sections of the Jones Act which prohibit foreign-made vessels from operating in coastwise trade. The waiver is necessary because, under the law, a vessel is considered foreign-made unless all major components of its hull and superstructure are fabricated in the United States and the vessel is assembled entirely in the United States. This vessel was originally built in a foreign shipyard in 1959, but since then has been owned and operated by American citizens. The owners of *Magic Carpet* have invested substantially more than the cost of building the boat in making repairs to it and maintaining it—in American shipyards with American products. This particular vessel is also of some historical value—*Magic Carpet* is a classic wooden yawl—few of these vessels still exist today and very few operate along the east coast. The owners wish to start a small business, a charter boat operation, seasonally taking people out of Martha's Vineyard.

After reviewing the facts in the case of the *Magic Carpet*, I find that this waiver does not compromise our national readiness in times of national emergency, which is the fundamental purpose of the Jones Act requirement. While I generally support the provisions of the Jones Act, I believe the specific facts in this case warrant a waiver to permit the *Magic Carpet* to engage in coastwise trade. I hope and trust the Senate will agree and will speedily approve the bill being introduced today.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 1017. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with the appropriate endorsement for employment in the coastwise trade for the vessel *Chrissy*; to the Committee on Commerce, Science, and Transportation.

JONES ACT WAIVER LEGISLATION

Mr. KERRY. Mr. President, I am pleased to join my colleague, the distinguished senior Senator from Massachusetts, in introducing a bill to allow the vessel *Chrissy* to be employed in coastwise trade of the United States. This boat has a relatively small passenger capacity, carrying up to 6 passengers on a charter business based out of Gloucester, Massachusetts. *Chrissy* is a historical vessel, built in 1912 in Friendship, Maine and is one of the last remaining Friendship sloops. The purpose of this bill is to waive those sections of the Jones Act which prohibit vessels from operating in coastwise trade without proper documentation of its chain of ownership. The vessel was built 83 years ago in Maine, but along the way the documentation has been lost. It is my hope that a document will be issued which will allow the owner to start a small business, a charter boat operation, seasonally taking people out of Gloucester.

I hope and trust the Senate will agree and will speedily approve the bill being introduced today.

By Mr. HELMS:

S. 1018. A bill for the relief of Clarence P. Stewart; to the Committee on Governmental Affairs.

THE CLARENCE P. STEWART RELIEF ACT

Mr. HELMS. Mr. President, today I offer a private bill to direct the Secretary of Agriculture to right a wrong committed against a dedicated public servant.

Clarence P. Stewart of Lillington, NC, served 23 years with the Agricultural Stabilization and Conservation Service [ASCS] at the Department of Agriculture. In April 1981, Mr. Stewart was North Carolina State Executive Director when, during the transition to a new administration, the ASCS decided to remove all State Executive Directors as part of what the Department described as a reduction-in-force [RIF].

Mr. Stewart considered appealing the ASCS decision but was told by his superior at the ASCS not to bother, that he had no right to appeal the dismissal action. Unfortunately, Mr. Stewart accepted this information at face value and did not appeal the ASCS decision.

Mr. President, years later, Mr. Stewart learned that, as a veteran, he did in fact have a right to appeal his dismissal from the ASCS. He also learned that 24 other State Executive Directors who had been dismissed at the same time as Stewart had appealed their dismissals to the Merit Systems Protections Board and they had won. In this appeal, known as the Blalock case, the Merit Systems Protection Board found that the State Directors had in fact been removed for cause rather than separated pursuant to RIF and as a result could be removed only if they were given advance notice and an opportunity to reply. The Merit Systems Protection Board ordered the Department of Agriculture to reinstate, retroactively, the appellants to their positions.

Although none of the appellants actually returned to work, the Department of Agriculture, as part of a settlement agreement, gave each appellant 1 year and 10 months salary and recomputed retirement benefits based on this increased salary.

Once Mr. Stewart learned of the Blalock decision he filed an appeal with the Merit Systems Protection Board. Because his appeal was filed late, the MSPB dismissed Mr. Stewart's appeal. He then filed a petition for review with the MSPB, but that too was denied. Mr. Stewart, therefore, has exhausted all possible avenues of administrative review.

Mr. Stewart is a North Carolina citizen who gave years of faithful service to his State and country. He was wrongfully removed from his job as North Carolina State Director of the Agricultural Stabilization and Conservation Service. At the time, he was told he had no right to appeal the dismissal when, as a decorated veteran who served his country valiantly in World War II, he had a very real right to appeal. Mr. President, I doubt that any of our colleagues believe that this

good man should be punished for having taken the word of his superior.

But for his superior's mistake, Mr. Stewart would have filed a timely appeal and would have prevailed just as the other 24 appellants did in the Blalock case. Mr. President, I do hope that in the interest of equity Mr. Stewart will receive the same benefits that were afforded the other State Directors.

By Mr. BAUCUS:

S. 1019. A bill to direct the U.S. Fish and Wildlife Service to examine the impacts of whirling disease, and other parasites and pathogens, on trout in the Madison River, MT, and similar natural habitats, and for other purposes.

WHIRLING DISEASE RESPONSE ACT OF 1995

Mr. BAUCUS. Mr. President, in "A River Runs Through It," Norman Maclean wrote, "in our family, there was no clear line between religion and flyfishing."

These words sum up the way we Montanans feel about our blue ribbon trout streams. Great flyfishermen—men like Bud Lily and Dan Bailey—are legends in Montana. And Montana rivers—the Madison, Yellowstone, Missouri, Bighorn, and Bighole—are the heart and soul of our State. We mark our calendars and plan our weekends around caddis and stone fly hatches or peak grasshopper season. These outstanding trout streams are in large part what makes Montana "the last best place."

But these rivers hold more that recreational value for Montanans. Fishing is big business. It is the engine that drives the economies of many communities throughout Montana. In fact, the net economic value of fishing in Montana is estimated to be nearly $300 million a year.

The discovery of whirling disease on the Madison River in late 1994 puts Montana's wild trout fishery at great risk. Whirling disease is a parasite that attacks the cartilage of young trout, particularly rainbow trout. Its impact has been devastating to rainbow trout populations on the Madison River, where whirling disease has caused a 90-percent decline in the last 3 years.

Whirling disease has also been detected in four other Montana river drainages as well as in Nevada, Oregon, Idaho, California, Colorado, Wyoming, and Utah.

Montana has taken the challenge of fighting whirling disease head on. Flyfishermen, scientists, State and Federal officials have joined together to learn more about this disease and find solutions. Today, I am introducing legislation that will better equip concerned Montanans to effectively deal with whirling disease and minimize its impacts to our world class wild trout fisheries.

The Whirling Disease Response Act of 1995 focuses on three objectives: coordination, containment, and research.

First, the Whirling Disease Response Act coordinates all existing data and research conducted to date on whirling disease. The act requires the U.S. Fish and Wildlife Service to compile, within 180 days, a report that summarizes all efforts to date with respect to whirling disease, to identify gaps in the available scientific information, and to make recommendations as to how the Federal Government can be a more effective partner to States confronted with whirling disease.

Second, the act requires the U.S. Fish and Wildlife to modify the Ennis Fish Hatchery so that it is a complete containment facility. This hatchery is critically important to wild trout research as well as to maintaining healthy trout fisheries throughout the United States. The U.S. Fish and Wildlife Service must make sure that this hatchery is not infected with whirling disease or any other water borne parasite.

Third, and most important, this act requires the U.S. Fish and Wildlife Service to significantly increase its role in whirling disease research. As debilitating as this disease is, relatively little is known about how to stop its spread. The U.S. Fish and Wildlife Service must make the fight against whirling disease a top priority. They must work with affected States, universities, and sportsmen toward a solution on whirling disease. This act makes whirling disease research a priority for the U.S. Fish and Wildlife Service.

While Montana has a significant stake in fighting whirling disease, it is not alone—19 other States are impacted by whirling disease. It is in America's best interest that we work aggressively to minimize the impact whirling disease has on our trout fisheries. I look forward to working with my colleagues from other affected States to see that we make headway in minimizing the impact whirling disease has on America's blue ribbon trout streams.

By Mr. FEINGOLD:

S.J. Res. 37. A joint resolution disapproving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China; to the Committee on Finance.

DISAPPROVAL OF MOST-FAVORED-NATION STATUS FOR CHINA

Mr. FEINGOLD. Mr. President, in 1974 Congress passed the Jackson-Vanik amendment to the 1974 Omnibus Trade Act establishing a linkage between human rights and most-favored-nation [MFN] trade status for nonmarket economies. The legislation was largely responsible, in my view, for the fantastic success of United States efforts to secure the freedom of movement for over 1 million Jews and other persecuted minorities from the Soviet Union.

Since 1989, when the Chinese military brutally gunned down hundreds of protestors in Tianmen Square and cracked down on the blossoming dissident movement in China, there have been efforts to link Chinese MFN to human rights improvements.

In 1991, legislation to set conditions for the extension of MFN to China was passed by overwhelming majorities in both the House and the Senate, only to be vetoed by President Bush. The House overrode the veto, but the Senate sustained it by a mere one vote. In 1992 Congress again passed bills to revoke MFN status for products manufactured by Chinese state-owned companies. President Bush vetoed that as well, and once again the Senate sustained the veto.

When President Clinton came to office in 1993, he issued an Executive order specifying seven areas in which the Chinese would need to make "significant progress" if MFN were to be extended in 1994. I was one of those who strongly condemned the action of the administration when it abandoned this position in 1994, because I believe it undermined the President's own credibility on human rights, and relegated U.S. human rights advocacy from a policy with teeth to one of rhetoric and symbolism. For the same reasons, I am disappointed that despite a year in which freedoms further diminished in China, President Clinton announced on June 2 that he would seek to extend MFN status to China again this year.

I am most outraged, though, Mr. President, that the United States would even consider extending MFN to China at precisely the moment that the Chinese have arrested a prominent human rights activist and American citizen, Mr. Henry Wu, and threatened to try him for espionage and subject him to the death penalty. This is yet another disgraceful mark on China's human rights record, and will hopefully compel us to respond finally with the toughest human rights policy possible.

Mr. President, that is why I am introducing today a joint resolution of disapproval, consistent with the Jackson-Vanik amendment of 1974, of the extension of nondiscriminatory treatment to products of the People's Republic of China.

There is no evidence, Mr. President, that the granting of unconditional MFN status to China—an element of a so-called policy of "constructive engagement"—has improved China's human rights behavior at all. Both Assistant Secretary of State for Asia and Pacific Affairs Winston Lord and Assistant Secretary of State for Human Rights and Humanitarian Affairs John Shattuck have said publicly that the human rights situation has not improved in China. The State Department's own 1994 report acknowledges that "In 1994, there continued to be

widespread and well-documented human rights abuses in China." From the events of the last 6 months, in fact, one can only conclude that the situation has worsened—even with MFN and robust trade.

The Chinese Government continues to exercise significant control on opposition and dissent; to abuse systematically is prisoners, including the use of slave labor and the alleged organ transplant of executed prisoners; and to impose harsh regulations in Tibet, while refusing to engage in any dialog with Nobel Peace prize laureate the Dalai Lama.

In the last 2 months alone, several prominent intellectuals have been detained while their homes have been searched simply for signing petitions in support of more political openness. More have been taken into custody and interrogated about their activities. Some have been questioned, released, and then sent away from Beijing, while others have just disappeared, including China's most prominent dissident, Wei Jeisheing, whose whereabouts since February are unknown, except to the extent that he is confirmed to be in police custody. Two weeks ago, Chen Ziming, another well-known prodemocracy activist, was suddenly reimprisoned after being released on a medical parole last year.

Stricter security laws have been adopted by the Politburo, and Beijing seems intent on limiting access of Chinese citizens to the tens of thousands of international nongovernmental organizations that will be in China this September for the U.N. Fourth World Conference on Women.

As the leader of the free world, the United States has the responsibility to work to protect human rights worldwide. The most recent action of the Chinese Government against an American citizen makes it a personal issue for many of us.

On June 19, Mr. Harry Wu entered northwest China, with a legal Chinese visa and with a valid United States passport, and was immediately detained by Chinese officials. For several days, China refused to confirm that it was in fact holding an American citizen, and in effect denied United States officials the access to our citizens that is supposedly protected under a United States-China Consular Convention. A U.S. diplomat was even sent on a wild goose chase throughout the northwest provinces earlier this month in search of Mr. Wu.

The announcement this weekend that Mr. Wu is going to be tried as a spy and potentially subject to the death penalty is the one of the most egregious violations I can think of. After spending 19 years in Chinese prison camps, and then seeking refuge in the United States, Mr. Wu has been actively researching the abuse of Chinese prisoners, including the trade of human body parts from executed prisoners to party officials. He has produced a film which was aired on the British Broadcasting Corp., published articles on the subject, and testified before congressional committees. He has publicized what can happen when the State has the will and instruments to take these actions, and has fought to halt this gruesome practice in China.

Mr. President, no one can possibly be deceived into thinking that Mr. Wu was arrested by Chinese officials for any other reason except to silence him. He is being threatened with death for uncovering horrid human rights abuses in China. The U.S. and international reactions must be anything but muted or conciliatory.

Earlier this year, the administration was willing to play hardball with trade when it came to Chinese piracy of software, and threatened to impose $1 billion worth of sanctions against products of specific state-owned industries. The threat worked, and the United States achieved its goals. I would entreat the administration to address the plight of a human being just as seriously.

My joint resolution is intended to send the message that we cannot have business as usual with China when human rights advocates, such as Harry Wu, are under the threat of death. In my view, MFN should not have been extended to China this year at all given its human rights record, but now, especially, we cannot offer conciliations of this kind.

China's human rights record is deteriorating, despite MFN, and there is little, if no, evidence that economic engagement is improving the human rights situation in China, as was earlier promised. Though China's economy is expanding brilliantly, political change is not coming: in fact, the Chinese Government appears to be doing everything within its power to ensure that economic development does not bring political liberalization. If anything, the Chinese need MFN to continue the trade and investment on which its economic development depends. For this reason, we must use MFN as a lever to protect human rights in China, and an American human rights crusader who is facing death.

I ask unanimous consent that the text of resolution be printed in the RECORD.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 37

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on June 2, 1995, with respect to the People's Republic of China.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. REID, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 44, a bill to amend title 4 of the United States Code to limit State taxation of certain pension income.

S. 254

At the request of Mr. LOTT, the name of the Senator from Vermont [Mr. LEAHY] 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 United States merchant marine during World War II.

S. 256

At the request of Mr. DOLE, the names of the Senator from New York [Mr. D'AMATO] and the Senator from New Hampshire [Mr. GREGG] were added as cosponsors of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 426

At the request of Mr. SARBANES, the name of the Senator from New Jersey [Mr. BRADLEY] 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. 588

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 588, a bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits.

S. 607

At the request of Mr. WARNER, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly-traded

stock to certain private foundations, and for other purposes.

S. 917

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 917, a bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 949

At the request of Mr. GRAHAM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 949, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington.

S. 959

At the request of Mr. HATCH, the names of the Senator from Louisiana [Mr. BREAUX] and the Senator from Utah [Mr. BENNETT] were added as a cosponsors of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

S. 969

at the request of Mr. BRADLEY, the name of the Senator from California [Mrs. BOXER] 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.

S. 1009

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1009, a bill to prohibit the fraudulent production, sale, transportation, or possession of fictitious items purporting to be valid financial instruments of the United States, foreign governments, States, political subdivisions, or private organizations, to increase the penalties for counterfeiting violations, and for other purposes.

AMENDMENTS SUBMITTED

COMPREHENSIVE REGULATORY REFORM ACT OF 1995

ABRAHAM (AND OTHERS) AMENDMENT NO. 1490

Mr. ABRAHAM (for himself, Mr. DOLE, Mr. KYL, Mr. GRAMS, Mr. NICKLES, Mr. HATCH, and Mr. INHOFE) 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:

(a) On page 27, line 13, strike "subsection" and insert "subsections"; and (b) on page 27, line 13, after "(c)", insert "and (e)"; and (c) on page 30, before line 10, insert the following:

"(e) REVIEW OF RULES AFFECTING SMALL BUSINESSES.—(1) Notwithstanding subsection (a)(1), any rule designated for review by the Chief Counsel for Advocacy of the Small Business Administration with the concurrence of the Administrator for the Office of Information and Regulatory Affairs, or designated for review solely by the Administrator of the Office of Information and Regulatory Affairs, shall be included on the next-published subsection (b)(1) schedule for the agency that promulgated it.

"(2) In selecting rules to designate for review, the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of the Office of Information and Regulatory Affairs shall, in consultation with small businesses and representatives thereof, consider the extent to which a rule subject to sections 603 and 604 of the Regulatory Flexibility Act, or any other rule meets the criteria set forth in paragraph (a)(2).

"(3) If the Administrator of the Office of Information and Regulatory Affairs chooses not to concur with the decision of the Chief Counsel for Advocacy of the Small Business Administration to designate a rule for review, the Administrator shall publish in the Federal Register the reasons therefor.

Redesignate subsequent subsections accordingly.

NUNN (AND OTHERS) AMENDMENT NO. 1491

Mr. NUNN (for himself, Mr. COVERDELL, and Mr. INHOFE) proposed an amendment to the amendment No. 1487 proposed by Mr. DOLE to the bill S. 343, supra; as follows:

On page 14, line 10, strike out "or".

On page 14, line 16, add "or" after the semicolon.

On page 14, insert between lines 16 and 17 the following new subparagraph:

"(C) any rule or set of closely related rules, not determined to be a major rule pursuant to subparagraph (A) or (B) that the agency proposing the rule determines will have a significant economic impact on a substantial number of small businesses, pursuant to subchapter I;

On page 39, line 22, strike out "and".

On page 39, line 24, strike out the period and insert in lieu thereof a semicolon and "and".

On page 39, add after line 24 the following new subparagraph:

"(C) an agency certification that a rule will not have a significant economic impact on a substantial number of small entities pursuant to section 605(b).

On page 40, line 5, insert "and section 611" after "subsection".

On page 68, strike out all beginning with line 9 through line 11 and insert in lieu thereof the following:

"(A) include in the final regulatory flexibility analysis a determination, with the accompanying factual findings supporting such determination, of why the criteria in paragraph (2) were not satisfied; and

On page 72, insert between lines 14 and 15 the following new subsection:

(e) AMENDMENTS TO THE REGULATORY FLEXIBILITY ACT.—

(1) IMPROVING AGENCY CERTIFICATIONS REGARDING NONAPPLICABILITY OF THE REGULATORY FLEXIBILITY ACT.—Section 605(b), of title 5, United States Code, is amended to read as follows:

"(b) Sections 603 and 604 of this title shall not apply to any rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification, along with a succinct statement providing the factual reasons for such certification, in the Federal Register along with the general notice of proposed rulemaking for the rule. The agency shall provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.".

(2) TECHNICAL AND CLARIFYING AMENDMENTS.—Section 612 of title 5, United States Code, is amended—

(A) in subsection (a) by striking "the Committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives" and inserting "the Committees on the Judiciary and Small Business of the Senate and House of Representatives"; and

(B) in subsection (b) by striking "his views with respect to the effect of the rule on small entities" and inserting "views on the rule and its effects on small entities".

On page 72, line 15, strike out "(e)" and insert in lieu thereof "(f)".

NOTICES OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Thursday, July 13, 1995, beginning at 9:30 a.m., in room 485 of the Russell Senate Office Building on S. 479, a bill to provide for administrative procedures to extend Federal recognition to certain groups.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing before the Subcommittee on Oversight and Investigations of the Senate Energy and Natural Resources Committee has been scheduled for Tuesday, July 18, 1995, at 2:30 p.m. The purpose of the hearing is to examine first amendment activities, including sales of message-bearing merchandise, on public lands managed by the National Park Service and the U.S. Forest Service.

The hearing will be held in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and

Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Kelly Johnson or Jo Meuse at (202) 224-6730.

ADDITIONAL STATEMENTS

SALUTE TO THE SPECIAL OLYMPICS

• Mr. DODD. Mr. President, now that the Special Olympics World Games have come to a close, I rise to again thank those who made this remarkable event possible. As my colleagues know, these games were held July 1-9 in New Haven, CT. This tremendous competition brought the world to Connecticut, and I want to take this opportunity to acknowledge some of the individuals who made it possible.

Were it not for the dreams and vision of Eunice Kennedy Shriver, the Special Olympics would not exist. This outstanding organization has flourished since she launched it, and it has left an extraordinary mark on the athletes, their families, their coaches and friends. I applaud Eunice, her husband, Sarge Shriver, and all the members of their family who have given so much to the Special Olympics throughout the years.

In New Haven, we were fortunate to have a member of the Shriver family at the helm of the 1995 World Games. I congratulate Tim Shriver on a job well done. The success of these games is due in large part to his hard work, dedication and leadership. I know Tim would agree, however, that this great success would not have been possible without the help and support of Chairman Lowell Weicker, the Special Olympics staff, the hundreds of volunteers and the cooperation and support of the New Haven community. I thank Mayor John Destefano and all the residents of New Haven for contributing in so many ways to this important event.

Cities and towns across Connecticut were fortunate to serve as host communities for delegations from each of the participating countries. This host program enabled families throughout the state to open their homes and their hearts to our visitors from abroad. This program proved invaluable for the hosts and the guests as cultures were commingled, traditions were shared and lifelong friendships were forged. I thank each of the communities and families that offered their hospitality to the world.

As with any event of this scale, the Special Olympics required significant financial support. I am proud to commend the many companies in Connecticut and throughout the country that donated hours of work and millions of dollars as corporate sponsors of these World Games.

Most importantly though, I want to recognize the athletes who competed in the Special Olympics. That is what these games are all about. From bowling to bocce, soccer to tennis, aquatics to equestrian sports, athletes from across the world came together to demonstrate their strength, dedication, and skill. The athletic abilities of these individuals are tremendous, and their ability to overcome obstacles to make it to New Haven is even more awesome.

Indeed, it is inspiring to see what each of these individuals has accomplished. It is the athletes, friends, families, and the coaches who dedicated themselves to this competition who deserve our highest commendation. Their enthusiasm and spirit was infectious, and we sincerely thank them for sharing their talent with us during these Olympic Games.

All the athletes came together during the opening ceremonies, one of the most memorable parts of these games. I will always remember the proud contingents of athletes from throughout the world entering the Yale Bowl to open the Olympics. They were greeted by the President of the United States and leaders of countries from El Salvador to Botswana and beyond. This spectacular event signaled the start of the World Games and kicked off a week of serious athletic competition and fun.

The opening ceremonies also launched a week-long demonstration of the ability of the human spirit to soar. There are members of every community who live each day with mental retardation and disabilities. We stopped this week to hear them say: "Watch us. We can do great things. We can bring you together and show you our strengths."

It is a lesson that we are fortunate to have learned. It is a message we should hear loud and clear and one that we should continue to heed in all that we do. In closing, I urge each of you to remember the Special Olympics athletes' oath as you confront the challenges in your life: Let me win, but if I cannot win, let me be brave in the attempt.•

TAX CUTS WORK

• Mr. ABRAHAM. Mr. President, one of the most frequent questions asked during the debate over the budget resolution was why, in the face of large deficits, were Republicans insisting on tax cuts. The answer is simple: Tax cuts work. By allowing Americans to keep more of what they earn, tax cuts encourage economic growth, job creation, and an increase—not decrease—in revenues to the U.S. Treasury.

Following the Reagan tax cuts in 1981, we witnessed one of the longest economic expansions in the history of the United States. Over 20 million new jobs were created while revenues to the Treasury increased dramatically. Just as importantly, the benefits of the Reagan tax cuts were felt by Americans from all income classes—rich and poor.

Tax cuts enacted this year could achieve similar results. I am including a short article by Malcolm S. Forbes, Jr. which makes an eloquent case for reducing the burden on the American taxpayer. As Mr. Forbes makes clear, Republicans can, and should, cut taxes and balance the budget at the same time.

FACT AND COMMENT

MEMO TO THE GOP: THE 1980'S WORKED

(By Malcolm S. Forbes, Jr.)

Republicans have accepted the notion that the 1980s were a big fiscal mistake, that Ronald Reagan was wrong to insist on tax cuts even in the face of congressional resistance to reducing spending.

Republicans are now in effect saying that no budget cuts mean no tax cuts. The GOP has it backwards. Properly structured tax reductions would trigger a robust economic expansion, as they did in the 1980s. They should be the center on which budget cuts are structured. Voters would thus see the GOP as the party of opportunity and growth, not as the party of austerity. Growth would also expand government revenues.

Reagan's much-criticized tax cuts were the principal catalyst of our longest peacetime expansion. Federal income tax receipts grew mightily. Even more impressive was the extraordinary surge in revenues of state and local governments. The federal deficits of the 1980s resulted from our unprecedented peacetime military buildup—which finally won the 40-year Cold War for us—and, more important, from Congress' inability to say no to domestic spending constituencies. If Republicans combine Reagan's pro-growth tax approach with their antispending proclivities, they will get credit for reviving the economy and curbing government.

Why should Republicans buy their opponents' bum raps about what actually happened when Reagan ruled?•

CASSANDRA JONES SELECTED AS EAST-WEST SOCCER AMBASSADOR

• Mr. FRIST. Mr. President, today, I would like to commend a very special young Tennessean for her selection as an East-West Soccer Ambassador, an all-star team of American youth soccer players ages 12 to 19. At 12 years of age, Cassandra Jones of Soddy Daisy is 1 of 15 nationally recruited players selected for this all-star team, and one of the youngest national stars to ever compete in this international program.

Cassie Jones was selected for the team based on her current soccer talent, her potential, and her ability to compete at the international youth soccer level. The program, originally founded in 1982, is a nonprofit, national soccer club that has earned a national reputation as America's leader in athletic diplomacy and well-rounded play development.

A straight-A student at Soddy Daisy Middle School, Cassie's excellence on the soccer field is matched by her drive and determination in the classroom, as well as her interest in other extracurricular activities. In addition to

soccer, she is involved in band activities, and enjoys reading and playing softball.

This month, Cassie and her Ambassador teammates will travel to northern Europe to represent the United States in a 2-week soccer tour of Scandinavia. Following a high-intensity training session in Denmark, the East-West Ambassadors will compete in the prestigious Gothia Cup tournament in Gothenburg, Sweden. The Gothia Cup pits more than 900 teams from 50 countries in its competition. From there, Cassie will return to Denmark for another major tournament, the Dana Cup in Hjorring.

Mr. President, I would like to take this opportunity to wish Cassie Jones the best of luck as she enters her first international competition and embarks on what could be a very promising soccer career. I am confident she will represent the State of Tennessee and the United States well, and I look forward to hearing more about her achievements, both on and off the soccer field, in the future.●

ORDERS FOR TUESDAY, JULY 11, 1995

Mr. HATCH. 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 Tuesday, July 11, 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 then 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 10 minutes each; 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.

Mr. HATCH. Mr. President, I further ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 p.m. for the weekly policy luncheons to meet.

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

PROGRAM

Mr. HATCH. Mr. President, 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 tomorrow; therefore, Senators should expect rollcall votes throughout Tuesday's session of the Senate.

ORDER FOR RECESS

Mr. HATCH. If there is no further business to come before the Senate, I now ask that, following the remarks of Senator REID, the Senate stand in recess under the previous order.

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

Mr. REID. Mr. President, I ask the unanimous-consent request be modified so I be allowed to speak for such time as I may consume. I will try to do it as quickly as possible, but I do not want to be bound by the 10 minutes when there is no one else here on the floor.

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

The Senator from Nevada.

REGULATORY REFORM

Mr. REID. Mr. President, in 1969 the Cuyahoga River in Ohio caught fire. I repeat, the Cuyahoga River caught fire. This river was so polluted that it actually started burning.

As a result of this, Members of Congress and the President decided it was time we did something about the rivers and streams in this country. Following that fire, that is a river catching fire, the Clean Water Act was passed. It has been 25-plus years since that river burned. Since that time, there has been a reversal of how the rivers and streams were. Then, 80 percent of the rivers and streams were polluted. Now, about 20 percent of the rivers and streams are polluted. We have made a lot of progress with the Clean Water Act, and that is the subject of this discussion tonight.

We have heard a lot of talk lately about regulatory reform, and I think it is important, because there is no area in the Federal Government—and as far as that goes, State government—that causes people as much concern as regulations. They have not only had the laws to deal with, but in recent years the laws propound regulations and the regulations propound all kinds of business decisions that people have to make.

It used to be that when we passed a law, or a State government passed a law, the laws could, in effect, be administered differently. If a bureaucrat wanted to administer the law in one part of the country in one way and in another part of the country in another way because of the climatic conditions, or whatever other variances there may be, he was able to do that. But the courts have said that is not permissible, that there must be, when a law is passed, rules promulgated so that law is enforced the same for everyone.

That has caused a lot of problems. We have heard, in recent days during the debate on this issue, a great deal about the pros and cons, for example, about threshold limits; that is, what dollar value should be in effect before a regulation is treated one way as compared to if it is under that threshold amount, should it be treated a different way. We have been barraged by declarations about rolling back existing rules, and this has caused areas of disagreement.

Within the framework of this debate, I have tried to find a commonsense approach to how we should approach this most important area of the law; namely, regulation reform. All too often, in issues such as this, it seems that common sense becomes clouded with political agendas, Presidential campaigns, congressional campaigns; obscured, perhaps, by various ideologies and smothered in the shouting from the right and the left. Common sense requires a balance, I think, in reform; a look at what is reasonable and then legislation that does not harm the whole to benefit just a few.

I do not know any Members of this body who would refuse small businesses the opportunity to grow and prosper. I know I feel that way because most of the jobs in this country are created by small businesses, not the General Motors, not the Lockheeds, not the Aerojets, but, rather, small businesses—mom and pop stores. In fact, small businesses produce about 85 percent of the jobs in the United States. So we must be responsive to how small business performs in our country. The better they perform, the more jobs are available, the better our country performs.

I have consistently been an advocate and have encouraged the stimulation of small businesses. They assume the risks of the marketplace and, as I have already indicated, are the backbone of our economy. But the profit of the business community should not come at the expense of clean air, clean water, and clean food. We cannot approach all problems with a dollar figure as the principal determination in the cost-benefit analysis.

Mr. President, as with all of us, we have recently returned from our States. Recently being in Nevada, and having had a number of town hall meetings, I heard from many people expressing concern about a rolling back of regulations that put certain areas that they were concerned about at risk, especially the environment. They were concerned also about the cleanliness of food and, of course, the safety of workers. In fact, a recent poll in Nevada is very illuminating, as to how people in Nevada feel. Nevadans do not believe they are overregulated in the areas of health and the environment. In fact, when you ask the people of the State of Nevada, "Do you think that laws and regulations relating to clean water are not strict enough? About right? Or too strict?" here is how the people of Nevada feel. Mr. President, 49 percent of the people in Nevada say that the clean water laws and regulations are not strict enough; 34 percent feel they are about right. Mr. President, that is about 85 percent of the people in Nevada who feel that the

clean water regulations are either just right or not strong enough. Only 11 percent of the people feel that they are too strict.

Clean air—again, 44 percent feel that the clean air regulations are not strict enough. Remember, the State of Nevada has Las Vegas, it has Reno, and then the vast majority of the State, areawise, is rural in nature. This takes into consideration the views of rural Nevadans. Nevadans said that clean air rules and regulations and laws are not strict enough, to the tune of 44 percent. Twenty-five percent said they are about right.

Mr. President, with the environment, when you ask the question broadly, "Do you feel the laws relating to the environment are not strict enough, too strict, or about right?"—39 percent said they are not strict enough; 29 percent said they are just right.

Food safety: 43 percent of the people of Nevada said they are not strict enough, 43 percent said they are about right, and only 8 percent said that food safety regulations are too strict.

Workplace safety: Again, the same situation, not strict enough, and about right. Those figures come to about 65 percent.

The people of Nevada are very concerned about food, water, air, and the environment generally.

It is interesting, people in Nevada were asked the question—that is, people over age 60—"Would you be less likely to vote for someone that tampered with Medicare or less likely to vote for someone that messed with the environmental laws?" Seniors, people over 60 years of age, said, "We would be less likely to vote for someone that tried to weaken environmental laws."

So I do not think Nevada is unusual. I do not know statistically how other States feel other than what I read in the Washington Post newspaper yesterday, where a writer said that a recent Times-Mirror survey shows that although a large majority of respondents want most types of regulations rolled back, they make an exception for conservation rules. Seventy-eight percent said that Government should do whatever it takes to protect the environment. So it sounds to me, Mr. President, that nationwide the people feel the same as they do in Nevada.

I am not advocating the existence of any program, rule, or regulation that does not serve the public good. That would not serve anyone's purpose. In fact, it hinders more than it helps.

But I would like to look at what Senator JOHN GLENN said when S. 343 was introduced. Senator GLENN, who is the ranking member of the Government Operations Committee, who has worked on this bill in this area of the law a significant amount, said:

> Any bill on the subject of regulatory reform to be deserving of support must pass the test that is twofold: Number one, does the bill support the reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and individuals? Number two, does the bill maintain the Government's ability to protect the health, the safety, and the environment of the American people? If the answer to both those questions is yes, then the bill should be supported.

That says it all. I congratulate and applaud Senator GLENN for this statement because that is what it is all about.

Mr. President, I believe that after the Government has acted on a problem, and there is a need for the Government to act on that problem, after time has passed I think it is important that we in Government look at the action that was taken by our prior Government. We have to reexamine I believe for efficiency, and because of that we need a periodic review. We do not have that. We should have that.

I have introduced legislation previously that said if Congress authorizes a program, we should reauthorize that program every 10 years, or it should fall. The reason I believe that is important is we have had some really unusual things happen in this Chamber that I am aware of.

It was just a year ago that I offered an amendment to do away with the Tea-Tasting Board—I repeat, the Tea-Tasting Board, costing almost $0.5 million a year, which had been going on for 60, 80, 100 years. We did not need it anymore. But it was just going on and on and on, like the battery you see on television. Had we had something in place that would have mandated a reauthorization of that program, the taxpayers' money would not have been wasted.

We had another program. During the Second World War it was important for soldiers to have wool. When wool gets wet, you can still stay warm with it. We did not have the synthetic products we now have. It was found during the Second World War we were not raising enough wool and mohair. As a result of that, we made special provisions that there would be a subsidy for people that would grow wool and mohair. This went on for 50 years. There was no need for it anymore. It was only recently that we terminated that program.

It should have been reviewed on a periodic basis. That is what we need to do with laws, and we need to do the same with regulations. Once a regulation is promulgated, there is no reason it should be there forever. There should be some way to reexamine that regulation that has been promulgated. That is what I am going to look for in the legislation that is now before this body.

Mr. President, I chaired a subcommittee when the Democrats were in the majority, a subcommittee in the Environment and Public Works Committee. It was the Subcommittee on Toxic Substances Research and Development. I chaired this subcommittee for a couple of Congresses. We had some really interesting hearings there. We had hearings that dealt with lead in the environment. And clearly as a result of those hearings, we focused attention on the need to do something about lead in the environment. We had physicians testify that it was the most dangerous condition for young children in America. Lead in the environment affected all people, no matter what race and no matter what economic strata they came from. We focused attention on this. As a result of that, legislation was passed that was directed toward taking lead out of the environment.

Mr. President, we held hearings on composite materials. These are the plastics that are used on airplanes like the Stealth fighter plane. We learned that in the workplace, this substance was killing people and making thousands of people sick. As a result of the hearings which we held, regulations were promulgated, workplaces were changed, and work conditions were changed. We needed to use composite materials. But we needed to do it safely.

We held hearings on fungicides and pesticides on foods learning that some of them were dangerous. As an example, hearings were held on a substance called alar, a substance to make apples, cherries, and grapes stay on trees longer than they normally would. This substance is now not used in the United States.

We held a significant number of hearings, Mr. President, on TOSCA. This is a program that we have now in effect that is old and needs to be updated. It has not been yet.

My only reason for pointing these things out is to suggest that in the areas I have mentioned, and in other areas such as lawn chemicals where we found people were getting sick, and we heard testimony before the committee that people died as a result of improper application of these substances and a lot of people got sick, that we have to be very careful that we do not throw the baby out with the bath water.

We have problems with too many regulations. But we must have a framework in place that allows protection of people in the workplace, in the marketplace, so that we can enjoy life with clean air and clean water. The regulations must be such that we can protect people but yet not make the rules so burdensome that people cannot conduct business.

This Congress has already had consideration of regulations. The House put a moratorium on all regulations. This body felt that had gone too far. Senator NICKLES, the senior Senator from Oklahoma, and I introduced an amendment. Basically, what the amendment said is that if a regulation has an impact of more than $100 million, this body and the House would

have the opportunity for a legislative veto. That regulation would not go into effect for 45 days. During that 45-day period, we would have the opportunity to review that. If we did not like it, we could wipe that regulation off. It would not become effective. If it had an impact of less than $100 million, it would become effective immediately, but we would have 45 days to review that regulation. If we did not like it, we could rescind it.

This is a reasonable, sensible approach to regulatory reform. I am happy to see that the version submitted by the majority through Senator DOLE has this approach in it.

That submitted by my friend, the senior Senator from Ohio, also has a provision similar to this in it. I think that is important. It recognizes that this body by a vote of 100 to nothing adopted the Reid-Nickles amendment.

In sum, Mr. President, we need a sensible approach to regulatory reform. I think that we should all keep in mind what Senator GLENN has said. I think we would acknowledge what he said is right.

Any bill on the subject of regulatory reform to be deserving of support must pass a test that is twofold. No. 1, does the bill provide for reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and on individuals? And, No 2, does the bill maintain the Government's ability to protect the health, the safety, and the environment of the American people?

That should be the goal that the majority and the minority work toward on this legislation. Let us not form gridlock. Let us work to improve the way that the American public must deal with these regulations and in the process protect what people want protected the most, and that is food, water, and working conditions.

Mr. President, I yield the floor. I understand that ends this session tonight.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9 a.m. Tuesday, July 11.

Thereupon, at 6:51 p.m., the Senate recessed until Tuesday, July 11, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 10, 1995:

UNITED STATES INFORMATION AGENCY

CHERYL F. HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 1 YEAR. (NEW POSITION)

MARC B. NATHANSON, OF CALIFORNIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 3 YEARS. (NEW POSITION)

CARL SPIELVOGEL, OF NEW YORK, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 1 YEAR. (NEW POSITION)

DEPARTMENT OF STATE

STANLEY A. RIVELES, OF VIRGINIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS U.S. COMMISSIONER TO THE STANDING CONSULTATIVE COMMISSION.

THE JUDICIARY

JOHN R. TUNHEIM, OF MINNESOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA, VICE DONALD D. ALSOP, RETIRED.