court and off, not only preparing student athletes for difficult games, but for the challenges to come in lives.

I would like to list for my colleagues those Kansas Jaykawks who have been elected to the Naismith Hall of Fame in Springfield, Massachusetts: Dr. Naismith, Phog Allen, E.C. Quigley, John Bunn, Adolph Rupp, Paul Endacott, Dutch Lonborg, William Johnson, John McLendon, Wilt Chamberlain, Dean Smith, Clyde Lovellette, and Ralph Miller. In addition, KU's Lynette Woodard, who became the first woman to play with the Harlem Globetrotters, has also been recognized for her winning endeavor on the Jaykawks women's team.

Mr. President, this short history cannot convey the atmosphere of college basketball played at ''Phog'' Allen Field House, which opened in 1955. Although it resembles a large Kansas barn, when it's filled with 16,300 Jaykawkers it quickly becomes a near impossible place for opposing teams to win. The mood of the building is often inspiring, and Coach Allen's spirit is said to remain in residence and aid the Jaykawks in times of need.

On this 100th anniversary of KU basketball, I want the past and present fans, alumni, players and coaches to know the United States Senate appreciates their efforts for the past one hundred years in contributing to, and perpetuating the heritage of America's unique game; basketball.

AMENDMENTS SUBMITTED

THE REGULATORY IMPROVEMENT ACT OF 1997

LEVIN (AND OTHERS) AMENDMENT NO. 1644

(Ordered referred to the Committee on Governmental Affairs.)

Mr. LEVIN (for himself, Mr. THOMPSON, Mr. GLENN, Mr. ABRAHAM, Mr. ROBB, Mr. ROTH, Mr. ROCKEFELLER, Mr. STEVENS, Mr. GRAMS, and Mr. COCHRAN) submitted an amendment intended to be proposed by them to the bill (S. 981) to provide for analysis of major rules; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Improvement Act of 1998''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Effective regulatory programs provide important benefits to the public, including improving the environment, worker safety, and public health. Regulatory programs also impose significant costs on the public, including individuals, businesses, and State, local, and tribal governments.

(2) Improving the ability of Federal agencies to use scientific and economic analysis in developing regulations should yield increased benefits and more effective protections while minimizing costs.

(3) Cost-benefit analysis and risk assessment are useful tools to better inform agencies in developing regulations, although they do not replace the need for good judgment and consideration of values.

(4) The evaluation of costs and benefits must involve the consideration of the relevant information, whether expressed in quantitative or qualitative terms, including factors such as social values, distributional effects, and equity.

(5) Cost-benefit analysis and risk assessment should be presented with a clear statement of the analytical assumptions and uncertainties, including an explanation of what is known and not known and what the implications of alternative assumptions might be.

(6) The public has a right to know about the costs and benefits of regulations, the risks addressed, the risks reduced, and the quality of scientific and economic analysis used to support decisions. Such knowledge will promote the quality, integrity and responsiveness of agency actions.

(7) The Administrator of the Office of Information and Regulatory Affairs should oversee regulatory activities to raise the quality and consistency of cost-benefit analysis and risk assessment among all agencies.

(8) The Federal Government should develop a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and conduct the research needed to improve these analytical tools.

SEC. 3. REGULATORY ANALYSIS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—REGULATORY ANALYSIS

''§ 621. Definitions

''For purposes of this subchapter the definitions under section 551 shall apply and—

''(1) the term 'Administrator' means the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget;

''(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule;

''(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule;

''(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration uncertainties, the significance and complexity of the decision, and the need to adequately inform the public;

''(5) the term 'Director' means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs;

''(6) the term 'flexible regulatory options' means regulatory options that permit flexibility to regulated persons in achieving the objective of the statute as addressed by the rule making, including regulatory options that use market-based mechanisms, outcome oriented performance-based standards, or other options that promote flexibility;

''(7) the term 'major rule' means a rule that—

''(A) the agency proposing the rule or the Director reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs; or

''(B) is otherwise designated a major rule by the Director on the ground that the rule is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities;

''(8) the term 'reasonable alternative' means a reasonable regulatory option that would achieve the objective of the statute as addressed by the rule making and that the agency has authority to adopt under the statute granting rule making authority, including flexible regulatory options;

''(9) the term 'risk assessment' means the systematic process of organizing hazard and exposure information to estimate the potential for specific harm to an exposed population, subpopulation, or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions;

''(10) the term 'rule' has the same meaning as in section 551(4), and shall not include—

''(A) a rule exempt from notice and public comment procedure under section 553;

''(B) a rule that involves the internal revenue laws of the United States, or the assessment or collection of taxes, duties, or other debts, revenue, or receipts;

''(C) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

''(D) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

''(E) a rule relating to the operations, safety, or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund;

''(F) a rule relating to the integrity of the securities or commodities futures markets or to the protection of investors in those markets;

''(G) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission under sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315);

''(H) a rule required to be promulgated at least annually pursuant to statute;

''(I) a rule or agency action relating to the public debt or fiscal policy of the United States; or

''(J) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status of, a product; and

''(11) the term 'substitution risk' means a significant increased risk to health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 622. Applicability and effect

''(a) Except as provided in section 623(f), this subchapter shall apply to all proposed and final major rules.

''(b) Nothing in this subchapter shall be construed to supersede any requirement for rule making or opportunity for judicial review made applicable under any other Federal statute.

"§ 623. Regulatory analysis

''(a)(1) Before publishing a notice of a proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule covered by this subchapter.

''(2) The Director may designate any rule to be a major rule under section 621(7)(B), if the Director—

''(A) makes such designation no later than 30 days after the close of the comment period for the rule; and

''(B) publishes such designation in the Federal Register, together with a succinct statement of the basis for the designation, within 30 days after such designation.

''(b)(1)(A) When an agency publishes a notice of proposed rule making for a major rule, the agency shall prepare and place in the rule making file an initial regulatory analysis, and shall include a summary of such analysis consistent with subsection (e) in the notice of proposed rule making.

''(B)(i) When the Director has published a designation that a rule is a major rule after the publication of the notice of proposed rule making for the rule, the agency shall promptly prepare and place in the rule making file an initial regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis consistent with subsection (e).

''(ii) Following the issuance of an initial regulatory analysis under clause (i), the agency shall give interested persons an opportunity to comment under section 553 in the same manner as if the initial regulatory analysis had been issued with the notice of proposed rule making.

''(2) Each initial regulatory analysis shall contain—

''(A) a cost-benefit analysis of the proposed rule that shall contain—

''(i) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(ii) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

''(iii) an evaluation of the relationship of the benefits of the proposed rule to its costs, including the determinations required under subsection (d), taking into account the results of any risk assessment;

''(iv) an evaluation of the benefits and costs of a reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rule making, including, where feasible, alternatives that—

''(I) require no government action or utilize voluntary programs;

''(II) provide flexibility for small entities under subchapter I and for State, local, or tribal government agencies delegated to administer a Federal program; and

''(III) employ flexible regulatory options; and

''(v) a description of the scientific or economic evaluations or information upon which the agency substantially relied in the cost-benefit analysis and risk assessment required under this subchapter, and an explanation of how the agency reached the determinations under subsection (d);

''(B) if required, the risk assessment in accordance with section 624; and

''(C) when scientific information on substitution risks to health, safety, or the environment is reasonably available to the agency, an identification and evaluation of such risks.

''(c)(1) When the agency publishes a final major rule, the agency shall prepare and place in the rule making file a final regulatory analysis.

''(2) Each final regulatory analysis shall address each of the requirements for the initial regulatory analysis under subsection (b)(2), revised to reflect—

''(A) any material changes made to the proposed rule by the agency after publication of the notice of proposed rule making;

''(B) any material changes made to the cost-benefit analysis or risk assessment; and

''(C) agency consideration of significant comments received regarding the proposed rule and the initial regulatory analysis, including regulatory review communications under subchapter IV.

''(d)(1) The agency shall include in the statement of basis and purpose for a proposed or final major rule a reasonable determination, based upon the rule making record considered as a whole—

''(A) whether the rule is likely to provide benefits that justify the costs of the rule; and

''(B) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

''(2) If the agency head determines that the rule is not likely to provide benefits that justify the costs of the rule or is not likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency, the agency head shall—

''(A) explain the reasons for selecting the rule notwithstanding such determination, including identifying any statutory provision that required the agency to select such rule; and

''(B) describe any reasonable alternative considered by the agency that would be likely to provide benefits that justify the costs of the rule and be likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the alternative selected by the agency.

''(e) Each agency shall include an executive summary of the regulatory analysis, including any risk assessment, in the regulatory analysis and in the statement of basis and purpose for the proposed and final major rule. Such executive summary shall include a succinct presentation of—

''(1) the benefits and costs expected to result from the rule and any determinations required under subsection (d);

''(2) if applicable, the risk addressed by the rule and the results of any risk assessment;

''(3) the benefits and costs of reasonable alternatives considered by the agency; and

''(4) the key assumptions and scientific or economic information upon which the agency relied.

''(f)(1) A major rule may be adopted without prior compliance with this subchapter if—

''(A) the agency for good cause finds that conducting the regulatory analysis under this subchapter before the rule becomes effective is impracticable or contrary to an important public interest; and

''(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons for the finding.

''(2) If a major rule is adopted under paragraph (1), the agency shall comply with this subchapter as promptly as possible unless compliance would be unreasonable because the rule is, or soon will be, no longer in effect.

''(g) Each agency shall develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals that contain significant Federal intergovernmental mandates. The process developed under this subsection shall be consistent with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

"§ 624. Principles for risk assessments

''(a)(1)(A) Subject to paragraph (2), each agency shall design and conduct risk assessments in accordance with this subchapter for—

''(i) each proposed and final major rule the primary purpose of which is to address health, safety, or environmental risk; or

''(ii) any risk assessment that is not the basis of a rule making that the Director reasonably determines is anticipated to have a substantial impact on a significant public policy or on the economy.

''(B)(i) Risk assessments conducted under this subchapter shall be conducted in a manner that promotes rational and informed risk management decisions and informed public input into and understanding of the process of making agency decisions.

''(ii) The scope and level of analysis of such a risk assessment shall be commensurate with the significance and complexity of the decision and the need to adequately inform the public, consistent with any need for expedition, and designed for the nature of the risk being assessed.

''(2) If a risk assessment under this subchapter is otherwise required by this section, but the agency determines that—

''(A) a final rule subject to this subchapter is substantially similar to the proposed rule with respect to the risk being addressed;

''(B) a risk assessment for the proposed rule has been carried out in a manner consistent with this subchapter; and

''(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule,

the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

''(b) Each agency shall consider in each risk assessment reliable and reasonably available scientific information and shall describe the basis for selecting such scientific information.

''(c)(1) When a risk assessment involves a choice of assumptions, the agency shall, with respect to significant assumptions—

''(A) identify the assumption and its scientific and policy basis, including the extent to which the assumption has been validated by, or conflicts with, empirical data;

''(B) explain the basis for any choices among assumptions and, where applicable, the basis for combining multiple assumptions; and

''(C) describe reasonable alternative assumptions that—

''(i) would have had a significant effect on the results of the risk assessment; and

''(ii) were considered but not selected by the agency for use in the risk assessment.

''(2) As relevant and reliable scientific information becomes reasonably available,

each agency shall revise its significant assumptions to incorporate such information.

''(d) The agency shall notify the public of the agency's intent to conduct a risk assessment and, to the extent practicable, shall solicit relevant and reliable data from the public. The agency shall consider such data in conducting the risk assessment.

''(e) Each risk assessment under this subchapter shall include, as appropriate, each of the following:

''(1) A description of the hazard of concern.

''(2) A description of the populations or natural resources that are the subject of the risk assessment.

''(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

''(4) A description of the nature and severity of the harm that could reasonably occur as a result of exposure to the hazard.

''(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

''(f) To the extent scientifically appropriate, each agency shall—

''(1) express the estimate of risk as 1 or more reasonable ranges and, if feasible, probability distributions that reflects variabilities, uncertainties, and lack of data in the analysis;

''(2) provide the ranges and distributions of risks, including central and high end estimates of the risks, and their corresponding exposure scenarios for the potentially exposed population and, as appropriate, for more highly exposed or sensitive subpopulations; and

''(3) describe the qualitative factors influencing the ranges, distributions, and likelihood of possible risks.

''(g) When scientific information that permits relevant comparisons of risk is reasonably available, each agency shall use the information to place the nature and magnitude of a risk to health, safety, or the environment being analyzed in relationship to other reasonably comparable risks familiar to and routinely encountered by the general public. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks, well understood or newly discovered risks, and reversible or irreversible risks.

''§ 625. Peer review

''(a) Each agency shall provide for an independent peer review in accordance with this section of the cost benefit analysis and risk assessment required by this subchapter.

''(b)(1) Peer review required under subsection (a) shall—

''(A) be conducted through panels, expert bodies, or other formal or informal devices that are broadly representative and involve participants—

''(i) with expertise relevant to the sciences, or analyses involved in the regulatory decisions; and

''(ii) who are independent of the agency;

''(B) be governed by agency standards and practices governing conflicts of interest of nongovernmental agency advisors;

''(C) provide for the timely completion of the peer review including meeting agency deadlines;

''(D) contain a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

''(E) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements.

''(2) Each agency shall provide a written response to all significant peer review comments. All peer review comments and any responses shall be made—

''(A) available to the public; and

''(B) part of the rule making record for purposes of judicial review of any final agency action.

''(3) If the head of an agency, with the concurrence of the Director, publishes a determination in the rule making file that a cost-benefit analysis or risk assessment, or any component thereof, has been previously subjected to adequate peer review, no further peer review shall be required under this section for such analysis, assessment, or component.

''(c) For each peer review conducted by an agency under this section, the agency head shall include in the rule making record a statement by a Federal officer or employee who is not an employee of the agency rule making office or program—

''(1) whether the peer review participants reflect the independence and expertise required under subsection (b)(1)(A); and

''(2) whether the agency has adequately responded to the peer review comments as required under subsection (b)(2).

''(d) The peer review required by this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''§ 626. Deadlines for rule making

''(a) All statutory deadlines that require an agency to propose or promulgate any major rule during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

''(1) the date on which the requirements of this subchapter are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(b) In any proceeding involving a deadline imposed by a court of the United States that requires an agency to propose or promulgate any major rule during the 2-year period beginning on the effective date of this section, the United States shall request, and the court may grant, an extension of such deadline until the earlier of—

''(1) the date on which the requirements of this subchapter are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''(c) In any case in which the failure to promulgate a major rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

''(1) the date on which the requirements of this subchapter are satisfied; or

''(2) the date occurring 6 months after the date of the applicable deadline.

''§ 627. Judicial review

''(a) Compliance by an agency with the provisions of this subchapter shall be subject to judicial review only—

''(1) in connection with review of final agency action;

''(2) in accordance with this section; and

''(3) in accordance with the limitations on timing, venue, and scope of review imposed by the statute authorizing judicial review.

''(b) Any determination of an agency whether a rule is a major rule under section 621(7)(A) shall be set aside by a reviewing court only upon a showing that the determination is arbitrary or capricious.

''(c) Any designation by the Director that a rule is a major rule under section 621(7), or any failure to make such designation, shall not be subject to judicial review.

''(d) The cost-benefit analysis, cost-benefit determination under section 623(d), and any risk assessment required under this subchapter shall not be subject to judicial review separate from review of the final rule to which such analysis or assessment applies. The cost-benefit analysis, cost-benefit determination under section 623(d), and any risk assessment shall be part of the rule making record and shall be considered by a court to the extent relevant, only in determining whether the final rule is arbitrary, capricious, an abuse of discretion, or is unsupported by substantial evidence where that standard is otherwise provided by law.

''(e) If an agency fails to perform the cost-benefit analysis, cost-benefit determination, or risk assessment, or to provide for peer review, a court shall remand or invalidate the rule.

''§ 628. Guidelines, interagency coordination, and research

''(a)(1) No later than 9 months after the date of enactment of this section, the Director, in consultation with the Council of Economic Advisors, the Director of the Office of Science and Technology Policy, and relevant agency heads, shall issue guidelines for cost-benefit analyses, risk assessments, and peer reviews as required by this subchapter. The Director shall oversee and periodically revise such guidelines as appropriate.

''(2) As soon as practicable and no later than 18 months after issuance of the guidelines required under paragraph (1), each agency subject to section 624 shall adopt detailed guidelines for risk assessments as required by this subchapter. Such guidelines shall be consistent with the guidelines issued under paragraph (1). Each agency shall periodically revise such agency guidelines as appropriate.

''(3) The guidelines under this subsection shall be developed following notice and public comment. The development and issuance of the guidelines shall not be subject to judicial review, except in accordance with section 706(1) of this title.

''(b) To promote the use of cost-benefit analysis and risk assessment in a consistent manner and to identify agency research and training needs, the Director, in consultation with the Council of Economic Advisors and the Director of the Office of Science and Technology Policy, shall—

''(1) oversee periodic evaluations of Federal agency cost-benefit analysis and risk assessment;

''(2) provide advice and recommendations to the President and Congress to improve agency use of cost-benefit analysis and risk assessment;

''(3) utilize appropriate interagency mechanisms to improve the consistency and quality of cost-benefit analysis and risk assessment among Federal agencies; and

''(4) utilize appropriate mechanisms between Federal and State agencies to improve cooperation in the development and application of cost-benefit analysis and risk assessment.

''(c)(1) The Director, in consultation with the head of each agency, the Council of Economic Advisors, and the Director of the Office of Science and Technology Policy, shall periodically evaluate and develop a strategy to meet agency needs for research and training in cost-benefit analysis and risk assessment, including research on modelling, the development of generic data, use of assumptions and the identification and quantification of uncertainty and variability.

''(2)(A) No later than 6 months after the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter a contract with an accredited scientific institution to conduct research to—

''(i) develop a common basis to assist risk communication related to both carcinogens and noncarcinogens; and

''(ii) develop methods to appropriately incorporate risk assessments into related cost-benefit analyses.

''(B) No later than 24 months after the date of enactment of this section, the results of the research conducted under this paragraph shall be submitted to the Director and Congress.

''§ 629. Risk based priorities study

''(a) No later than 1 year after the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter into a contract with an accredited scientific institution to conduct a study that provides—

''(1) a systematic comparison of the extent and severity of significant risks to human health, safety, or the environment (hereafter referred to as a comparative risk analysis);

''(2) a study of methodologies for using comparative risk analysis to compare dissimilar risks to human health, safety, or the environment, including development of a common basis to assist comparative risk analysis related to both carcinogens and noncarcinogens; and

''(3) recommendations on the use of comparative risk analysis in setting priorities for the reduction of risks to human health, safety, or the environment.

''(b) The Director shall ensure that the study required under subsection (a) is—

''(1) conducted through an open process providing peer review consistent with section 625 and opportunities for public comment and participation; and

''(2) no later than 3 years after the date of enactment of this section, completed and submitted to Congress and the President.

''(c) No later than 4 years after the date of enactment of this section, each relevant agency shall, as appropriate, use the results of the study required under subsection (a) to inform the agency in the preparation of the agency's annual budget and strategic plan and performance plan under section 306 of this title and sections 1115, 1116, 1117, 1118, and 1119 of title 31.

''(d) No later than 5 years after the date of enactment of this section, and periodically thereafter, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to human health, safety, or the environment.

''SUBCHAPTER III—REVIEW OF RULES

''§ 631. Definitions

''For purposes of this subchapter—

''(1) the definitions under section 551 shall apply; and

''(2) the term 'economically significant rule' means a rule that—

''(A) is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable costs; or

''(B) is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities.

''§ 632. Review of rules

''(a)(1) No later than 1 year after the date of enactment of this section (and no later than every 5th year following the year in which this section takes effect) each agency shall publish in the Federal Register a preliminary schedule for the review of economically significant rules previously promulgated by the agency. The preliminary schedule shall be subject to public comment for 60 days after the date of publication. Within 120 days after the close of the public comment period, each agency shall publish a final schedule in the Federal Register.

''(2) In selecting which economically significant rules it shall review, each agency shall consider the extent to which—

''(A) the rule could be revised to be substantially more cost-effective or to substantially increase net benefits, including through flexible regulatory options;

''(B) the rule is important relative to other rules being considered for review; and

''(C) the agency has discretion under the statute authorizing the rule to modify or repeal the rule.

''(3) Each preliminary and final schedule shall include—

''(A) a brief description of each rule selected for review;

''(B) a brief explanation of the reasons for the selection of each such rule for review; and

''(C) a deadline for the review of each rule listed thereon, and such deadlines shall occur no later than 5 years after the date of publication of the final schedule.

(4) No later than 6 months after the deadline for a rule as provided under paragraph (3)(C), the agency shall publish in the Federal Register the determination made with respect to the rule and an explanation of such determination.

''(5)(A) If an agency makes a determination to amend or repeal a rule, the agency shall complete final agency action with regard to such rule no later than 2 years after the deadline established for such rule under paragraph (3).

(B) The Director may extend a deadline under this section for no more than 1 year if the Director—

''(i) for good cause finds that compliance with such deadline is impracticable; and

''(ii) publishes in the Federal Register such finding and a succinct explanation of the reasons for the finding.

''(b) The agency shall include with the publication under subsection (a) the identification of any legislative mandate that requires the agency to impose rules that the agency determines are unnecessary, outdated or unduly burdensome.

''(c)(1) The Administrator shall work with interested entities, including small entities and State, local, and tribal governments, to pursue the objectives of this subchapter.

''(2) Consultation with representatives of State, local, and tribal governments shall be governed by the process established under section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''§ 641. Definitions

''For purposes of this subchapter—

''(1) the definitions under sections 551 and 621 shall apply; and

''(2) the term 'regulatory action' means any one of the following:

''(A) Advance notice of proposed rule making.

''(B) Notice of proposed rule making.

''(C) Final rule making, including interim final rule making.

''§ 642. Presidential regulatory review

''(a) The President shall establish a process for the review and coordination of Federal agency regulatory actions. Such process shall be the responsibility of the Director.

''(b) For the purpose of carrying out subsection (a), the Director shall—

''(1) develop and oversee uniform regulatory policies and procedures, including those by which each agency shall comply with the requirements of this chapter;

''(2) develop policies and procedures for the review of regulatory actions by the Director; and

''(3) develop and oversee an annual governmentwide regulatory planning process that shall include review of planned significant regulatory actions and publication of—

''(A) a summary of and schedule for promulgation of planned agency major rules;

''(B) agency specific schedules for review of existing rules under subchapter III and section 610;

''(C) a summary of regulatory review actions undertaken in the prior year;

''(D) a list of major rules promulgated in the prior year for which an agency could not make the determinations that the benefits of a rule justify the costs under section 623(d);

''(E) identification of significant agency noncompliance with this chapter in the prior year; and

''(F) recommendations for improving compliance with this chapter and increasing the efficiency and effectiveness of the regulatory process.

''(c)(1) The review established under subsection (a) shall be conducted as expeditiously as practicable and shall be limited to no more than 90 days.

''(2) A review may be extended longer than the 90-day period referred to under paragraph (1) by the Director or at the request of the rule making agency to the Director. Notice of such extension shall be published promptly in the Federal Register.

''§ 643. Public disclosure of information

''(a) The Director, in carrying out the provisions of section 642, shall establish procedures to provide public and agency access to information concerning review of regulatory actions under this subchapter, including—

''(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

''(2) disclosure to the public, no later than publication of a regulatory action, of—

''(A) all written communications relating to the substance of a regulatory action, including drafts of all proposals and associated analyses, between the Administrator or employees of the Administrator and the regulatory agency;

''(B) all written communications relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government;

''(C) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government; and

''(D) a written explanation of any review action and the date of such action; and

''(3) disclosure to the regulatory agency, on a timely basis, of—

''(A) all written communications relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government;

''(B) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations, relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government; and

''(C) a written explanation of any review action taken concerning an agency regulatory action and the date of such action.

''(b) Before the publication of any proposed or final rule, the agency shall include in the rule making record—

''(1) a document identifying in a complete, clear, and simple manner, the substantive changes between the draft submitted to the Administrator for review and the rule subsequently announced;

''(2) a document identifying and describing those substantive changes in the rule that were made as a result of the regulatory review and a statement if the Administrator suggested or recommended no changes; and

''(3) all written communications relating to the substance of a regulatory action between the Administrator and the agency during the review of the rule, including drafts of all proposals and associated analyses.

''(c) In any meeting relating to the substance of a regulatory action under review between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government, a representative of the agency submitting the regulatory action shall be invited.

''§ 644. Judicial review

''The exercise of the authority granted under this subchapter by the President, the Director, or the Administrator shall not be subject to judicial review in any manner.''.

(b) PERIODIC REVIEW OF RULES.—Section 610 of title 5, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a)(1)(A) No later than 60 days after the effective date of this section (and every fifth year following the year in which this section takes effect) each agency shall submit to the Administrator of the Office of Information and Regulatory Affairs and the Chief Counsel for Advocacy of the Small Business Administration a proposed plan describing the procedures and timetables for the periodic review of rules issued by the agency that have or will have a significant economic impact on a substantial number of small entities. No later than 60 days after the submission of the proposed plan to the Administrator and the Chief Counsel, such plan shall be published in the Federal Register and shall be subject to public comment for 60 days after the date of publication.

''(B) No later than 120 days after the publication of the plan under subparagraph (A), each agency shall submit a final plan to the Administrator and the Chief Counsel. No later than 60 days after the date of such submission of the plan to the Administrator and Chief Counsel, each agency shall publish the agency's final plan in the Federal Register.

''(C) Each agency's plan shall provide for the review of such rules no later than 5 years after publication of the final plan.

''(2)(A) Each year, each agency shall publish in the Federal Register a list of rules that will be reviewed under the plan during the succeeding fiscal year.

''(B) The publication of the list under subparagraph (A) shall include—

''(i) a brief description of each rule and the basis for the agency's determination that the rule has or will have a significant economic impact on a substantial number of small entities;

''(ii) the need for and legal basis of each rule; and

''(iii) an invitation for public comment on each rule.

''(3)(A) Each agency shall conduct a review of each rule on the list published under paragraph (2) in accordance with the plan maintained under paragraph (1) and pursuant to the factors under subsection (b). After the completion of the review, the agency shall determine whether the rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of the applicable statutes, to minimize any significant economic impact of the rule upon a substantial number of small entities.

''(B) No later than 18 months after the date of the publication of the list of rules referred to under paragraph (2)(A), each agency shall publish in the Federal Register the determinations made with respect to such rules under subparagraph (A) and an explanation for each determination.

''(4) If the head of an agency determines that the completion of a review of a rule under this subsection is not feasible within the period described under paragraph (1)(C), the head of the agency—

''(A) shall certify such determination in a statement published in the Federal Register; and

''(B) may extend the completion date of the review by 1 year at a time for a total of not more than 2 years.''; and

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

''(c) The Administrator and the Chief Counsel shall work with small entities to achieve the objectives of this section.''.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

''CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

''SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY

''Sec.
''601. Definitions.
''602. Regulatory agenda.
''603. Initial regulatory flexibility analysis.
''604. Final regulatory flexibility analysis.
''605. Avoidance of duplicative or unnecessary analyses.
''606. Effect on other law.
''607. Preparation of analysis.
''608. Procedure for waiver or delay of completion.
''609. Procedures for gathering comments.
''610. Periodic review of rules.
''611. Judicial review.
''612. Reports and intervention rights.

''SUBCHAPTER II—REGULATORY ANALYSIS

''621. Definitions.
''622. Applicability and effect.
''623. Regulatory analysis.
''624. Principles for risk assessments.
''625. Peer review.
''626. Deadlines for rule making.
''627. Judicial review.
''628. Guidelines, interagency coordination, and research.
''629. Risk based priorities study.

''SUBCHAPTER III—REVIEW OF RULES

''631. Definitions.
''632. Review of rules.

''SUBCHAPTER IV—EXECUTIVE OVERSIGHT

''641. Definitions.
''642. Presidential regulatory review.
''643. Public disclosure of information.
''644. Judicial review.''.

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

''SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY''.

SEC. 4. COMPLIANCE WITH THE UNFUNDED MANDATES REFORM ACT OF 1995.

Compliance with the requirements of subchapter II of chapter 6 of title 5, United States Code (as added by section 3 of this Act), shall constitute compliance with the requirements pertaining to the costs and benefits of a Federal mandate to the private sector in sections 202, 205(a)(2), and 208 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, 1535(a)(2), and 1538).

SEC. 5. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of enactment of this Act, but shall not apply to any agency rule for which a notice of proposed rule making is published on or before 60 days before the date of enactment of this Act.

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

Mr. LEVIN. Mr. President, today Senator THOMPSON and I and the cosponsors to S. 981, Senators GLENN, ABRAHAM, ROBB, ROTH, ROCKEFELLER, STEVENS, GRAMS, and COCHRAN are putting in the RECORD a substitute we will be offering in the Governmental Affairs Committee to S. 981, the Regulatory Improvement Act of 1997.

The substitute is the product of several months of dialogue with interested parties, including the Administration; environmental, labor and public interest groups; the business community; the National Governors' Association; academic experts and various associations. I hope that a number of these persons and groups will support the substitute.

This dialogue began with the Committee's hearing on the bill on September 12th and continued through the end of January. The substitute does not make any radical changes to the bill as introduced, but it does clarify a number of important issues and lay to rest areas of possible uncertainty.

The major changes in the substitute are:

(1) We have added a so-called ''savings clause'' that affirms that nothing in the bill is intended to supersede any requirement for rulemaking or opportunity for judicial review applicable under any other Federal law. That was our intent all along with this bill, but various groups asked that we make it explicit, so we did.

(2) We modified the judicial review section to conform it to current judicial review principles, by eliminating, for example, the requirement for showing of non-materiality with respect to the cost-benefit analysis or risk assessment. The regulatory analysis is part of the whole rulemaking record and shall be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary or capricious. Agency failure to comply with the procedural requirements of S. 981 would not, in and of itself, be grounds for remanding or invalidating the rule. However, if an agency totally fails to perform a required analysis, including peer review, the court shall remand or invalidate the rule.

(3) We modified the cost-benefit determination provision to make absolutely clear that the agency determination is a disclosure requirement and

does not dictate the substantive outcome of a rule.

(4) We changed the definition of ''substitution risk'' to require that it be a ''significant'' increased risk instead of just an increased risk, and we eliminated the requirement of a full risk assessment under the procedures of the bill for significant substitution risks.

(5) We changed the principles for risk assessment to be less prescriptive to the agencies and to be more accommodating for non-carcinogenic risks. The risk assessment provisions more accurately reflect the diversity and uncertainties in risk assessment while adding the requirement that agencies identify central and high-end estimates of risk.

(6) We added a requirement that agencies develop an effective process for State, local and tribal governments to consult with agencies and provide input as new rules containing federal mandates are developed and old rules are modernized.

(7) We enhanced the independence and quality of the peer review process, and require agencies to apply current standards for conflicts of interest.

(8) We modified the review of rules procedures to reduce the bureaucracy in the bill as introduced by eliminating the need for agency advisory committees. We also include an amendment to the Regulatory Flexibility Act to enhance the review of rules affecting small businesses and small governments.

Those are some of the most important changes made by this substitute.

I believe this bill will improve the regulatory process, will build confidence in the regulatory programs that are so important to this society's well-being, and will result in a better—and I believe—a less contentious regulatory process.

Mr. President, many people think that when many of us fought hard against the Dole-Johnston bill that we didn't really want to reform the regulatory process. Well they are wrong. Many of us were disappointed that we were unable to pass a comprehensive regulatory reform bill in the last Congress. We weren't going to support bad reform, but that doesn't mean we didn't want to see good reform. Those of us who believe in the benefits of regulation to protect health and safety have a particular responsibility to make sure that regulations are sensible and cost-effective. When they aren't, the regulatory process—which is so vital to our health and well being—comes under constant attack. By providing a common sense, moderate and open regulatory process, we are contributing to the well being of that process and immunizing it from the attacks on excess.

Mr. President, I ask unanimous consent that major changes in the substitute and a summary of the substitute to S. 981 be printed in the RECORD.

SUMMARY OF THE REGULATORY IMPROVEMENT ACT OF 1998 (SUBSTITUTE)

1. *Regulatory Analysis* (§623)

When issuing major rules (costing over $100 million or deemed by OMB to have a significant impact on the economy), Federal agencies must conduct a regulatory analysis, including a cost-benefit analysis and, if relevant, a risk assessment.

a. *Cost-benefit analysis*

The cost-benefit analysis shall consider: The expected benefits of the rule quantifiable and nonquantifiable); the expected costs of the rule quantifiable and nonquantifiable); and reasonable alternatives, including flexible regulatory options—such as market-based mechanisms or outcome-oriented performance-based standards;

b. *Cost-benefit determination*

The agency shall include in the statement of basis and purpose for the rule a reasonable determination: (1) whether the rule is likely to provide benefits that justify its costs; and (2) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, then the other reasonable alternatives considered by the agency.

If the agency determines that the rule is not likely to provide benefits that justify its costs or to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives, it shall: (1) explain the reasons for selecting the rule notwithstanding such determination; (2) identify any statutory provision that required the agency to select such rule; and (3) describe any reasonable alternative considered by the agency that would be likely to provide such benefits.

The agency shall include an executive summary in the regulatory analysis and in the statement of basis and purpose for the rule.

There is an exception from the regulatory analysis requirements when the agency for good cause finds that conducting the regulatory analysis before the rule becomes effective is impracticable or contrary to an important public interest.

Each agency shall develop an effective process to allow elected representatives of State, local and tribal governments to provide meaningful and timely input into regulatory proposals, consistent with the Unfunded Mandates Reform Act of 1995.

2. *Risk assessment principles* (§624)

Agencies shall conduct risk assessments under §624 for (1) major rules that have the primary purpose of addressing health, safety, or environmental risks, and (2) risk assessments not related to a rule making that the OMB Director determines would have a substantial impact on a significant public policy or the economy. To promote transparent and scientifically sound risk assessments, agencies would be required to—identify and explain significant assumptions made when measuring risks; notify the public about upcoming risk assessments and allow people to submit relevant and reliable information; disclose relevant information about the risk, including the range and distribution of risks and corresponding exposure scenarios, for the potentially exposed population and for any more highly exposed or sensitive subpopulations; and when scientific information permits, compare the risk being analyzed with other reasonable comparable risks familiar to and routinely encountered by the general public.

3. *Peer review* (§625)

Agencies shall conduct independent peer review for required cost-benefit analyses and risk assessments. Agency standards governing conflicts of interest apply. Peer review can be formal or informal, as warranted. Peer review is not required where the agency and OMB certify that an assessment or analysis has previously been subjected to adequate peer review.

4. *Deadlines for rule making* (§626)

For two years after the Act becomes effective, agencies have the opportunity for a 6-month extension from a regulatory deadline if needed to satisfy the requirements of the Act.

5. *Judicial Review* (§627)

Judicial review will ensure that agencies perform cost-benefit analyses, risk assessments, and peer reviews. The cost-benefit analysis and risk assessment are included in the rule making record for purposes of judicial review of the final rule only under the deferential arbitrary and capricious standard. Failure to comply with a specific procedural requirement of S. 981 regarding how to perform a risk assessment or cost-benefit analysis would not, in and of itself, be grounds for invalidating a rule.

6. *Guidelines, interagency coordination, and research* (§628)

Within 9 months, OMB is required to consult with CEA, OSTP and relevant agencies to develop broad guidelines for cost-benefit analyses, risk assessments and peer reviews as required by the Act.

Within 18 months after issuance of the general guidelines, each agency subject to §624 shall develop detailed guidelines for risk assessments tailored to agency programs, consistent with the general guidelines.

OMB shall consult with CEA and OSTP to evaluate and improve agency cost-benefit analysis and risk assessment practices.

Within 6 months, OMB shall consult with OSTP to enter a contract for research to develop common basis to assist risk communication, and to develop methods to appropriately incorporate risk assessments into cost-benefit analyses.

7. *Risk-based priorities study* (§629)

OMB, in consultation with OSTP, shall enter into a contract with an accredited scientific institution to conduct a study that provides a comparison of significant health, safety and environmental risks, the methodologies for such comparisons, including development of a common basis to assist comparative risk analysis related to both carcinogens and noncarcinogens, and recommendations on the use of comparative risk analysis to set priorities to reduce risks to human health, safety, or the environment.

Within 5 years, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to health, safety and the environment.

8. *Review of Rules* (§§631–632; Sec. (b))

To periodically review economically significant rules, each agency shall publish a review schedule every 5 years. In selecting rules for review, the agency shall consider the extent to which the rule could be revised to be substantially more cost-effective, or to substantially increase net benefits, as well as whether the agency has statutory authority to modify or repeal the rule. If, as a result of the review, the agency determines to amend or repeal a rule, it shall complete the rulemaking within 2 years. For good cause, the OMB Director may extend the deadline for 1 year. Consultation with representatives of State, local and tribal governments shall be governed by the process established under section 204 of the Unfunded Mandates Reform Act.

To provide for the review of rules affecting small entities, S. 981 amends Section 610 of the Regulatory Flexibility Act. Agencies would review Reg-Flex rules every 5 years, and the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of OMB's Office of Information

and Regulatory Affairs would oversee the review process.

9. *Executive Oversight* (§§ 641–644)

The bill codifies the regulatory review process and sets out responsibilities and authority of OMB's Office of Information and Regulatory Affairs (OIRA) to develop policies and procedures to review regulatory actions and to develop and oversee an annual government-wide regulatory planning process that includes the review of major rules and other significant regulatory actions.

OIRA shall establish procedures to provide public and agency access to information concerning regulatory review actions.

Information to be disclosed to the public includes: the status of regulatory actions; written communications between OIRA and the agency on the regulatory action; written communications between OIRA and persons outside the Executive Branch; and a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch.

Information to be disclosed to the regulatory agency includes: written communications between OIRA and persons outside the Executive Branch on a regulatory action; a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch; and a written explanation of any review action taken.

The agency shall include in the rule making record: (1) a document identifying the substantive changes between the draft submitted to OIRA for review and the rule subsequently announced; (2) a document identifying and describing those substantive changes in the rule that were made as a result of the regulatory review and a statement if the Administrator suggested or recommended no changes; and (3) all written communications exchanged between OIRA and the agency during the review of the rule, including drafts of all proposals and associated analyses.

10. *Effective Date* (Section 4)

The Act shall take effect 180 days after the date of enactment, but shall not apply to any agency rule for which a notice of proposed rule making is published on or before 60 days before enactment.

MAJOR CHANGES IN SUBSTITUTE TO S. 981

SAVINGS CLAUSE: Adds a ''savings'' clause which affirms that nothing in the bill is intended to supersede any requirement for rulemaking or opportunity for judicial review applicable under any other Federal law.

JUDICIAL REVIEW: Conforms the judicial review section to current judicial review principles, by eliminating, for example, requirement for showing of non-materiality with respect to the cost-benefit analysis or risk assessment. The regulatory analysis is part of the whole rule making record and shall be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary or capricious. Agency failure to comply with the procedural requirements of S. 981 would not, in and of itself, be grounds for remanding or invalidating the rule. However, if an agency fails to perform a required analysis, including peer review, the court shall remand or invalidate the rule.

COST-BENEFIT DETERMINATION: Modifies the cost-benefit determination provision to make absolutely clear that the agency determination is a disclosure requirement and does not dictate the substantive outcome of a rule.

SUBSTITUTION RISK: Changes the definition of ''substitution risk'' to require that it be a ''significant'' increased risk instead of just an increased risk. Eliminates the requirement of a full risk assessment under the procedures of the bill for significant substitution risks. Requires that an agency identify and evaluate substitution risks in the regulatory analysis where information on such risks is reasonably available to the agency.

RISK ASSESSMENT: Changes the principles for risk assessment to be less prescriptive to the agencies and to be more accommodating for non-carcinogenic risks. More accurately reflects diversity and uncertainties in risk assessment while adding requirement for agencies to identify central and high-end estimates of risk. Provides a more accurate definition of ''risk assessment''. Applies the risk assessment procedures in the bill to important risk assessments, which are not related to a rule making, if designated by the OMB Director. Requires agencies to notify the public of upcoming risk assessments and to solicit relevant data.

COMPARATIVE RISK STUDY: Simplifies comparative risk study. Agencies are to use the results of study to inform the preparation of their budgets and strategic planning under the Government Performance and Results Act.

STATE/LOCAL GOVERNMENT: Requires agencies to develop an effective process for State, local and tribal governments to consult with agencies and provide input as new rules containing federal mandates are developed and old rules are modernized.

Strikes the requirement that an agency evaluate the benefits and costs of alternative approaches to regulating that *inter alia* ''accommodate differences among geographic regions and among persons with differing levels of resources'' and substitutes the requirement that consideration be given to alternatives that provide flexibility for small entities and state, local and tribal governments.

PEER REVIEW: Enhances the independence and quality of the peer review process. Applies current standards for conflicts of interest.

REVIEW OF RULES: Modifies review of rules procedures to reduce the bureaucracy in the bill as introduced by eliminating the need for agency advisory committees. Also amends the Regulatory Flexibility Act to enhance the review of rules affecting small businesses and small governments.

OTHER:

Provides more accurately worded exceptions to the definition of ''rule''; adds as an exception a rule that authorizes the introduction of a product into commerce.

Modifies definition of ''major rule'' to strike ''or a group of closely related rules''.

Findings better reflect the value of regulatory programs and how cost-benefit analysis can result in more benefits at less cost.

Modifies the ''good cause exception'' for meeting the regulatory analysis requirements of the bill by striking the limitations on what could be considered to be ''contrary to the public interest.''

Adds Council of Economic Advisors to entities required to be consulted by OMB Director when issuing cost-benefit analysis guidelines.

Provides that compliance with the Regulatory Improvement Act shall constitute compliance with the provisions of the Unfunded Mandates Reform Act as they relate to the private sector.

Mr. THOMPSON. Mr. President, I am pleased to join Senator LEVIN and eight of our colleagues in submitting a substitute for S. 981, the Regulatory Improvement Act. This substitute incorporates some clarifications and improvements to the bill as result of our Committee hearing, written statements and letters, and a series of discussions with the Administration, environmental and public interest groups, State and local government, scholars, and other interested parties. I ask unanimous consent that a summary of the substitute and a list of the major changes to the substitute be included in the RECORD following my remarks. The substitute is the text that we will use as the basis for our Committee markup. This bill is an effort by many of us who want to improve the quality of government to find a common solution. The supporters of this bill represent a real diversity of political viewpoints, but we share the same goals. We want an effective government that protects public health, well-being and the environment. We want our government to achieve those goals in the most sensible and efficient way possible. We want to do the best we can with what we've got, and to do more good at less cost if possible. The Regulatory Improvement Act will help us do just that.

The Regulatory Improvement Act is based on a simple premise: that people have a right to know how and why government agencies make their most important and expensive regulatory decisions. The S. 981 not only gives people the right to know; it gives them the right to see—to see how the government works, or how it doesn't. And by providing people with information the government uses to make decisions, it gives people a real opportunity to influence those decisions. So much of what goes on right now is pretty much done in secret. We're going to change that.

Second, the bill will make government more accountable to the people it serves. S. 981 is based on the idea that increased public scrutiny of government decision making—and people who make those decisions—will lead to better and more accountable government performance. It gives people the ability to look over the Federal government's shoulder.

The Regulatory Improvement Act will deliver more decisionmaking power closer to home—and into the hands of State and local governments. The bill empowers people and their State and local officials to provide input into the Federal system. It will make the Federal government more mindful of how unfunded mandates can burden communities and interfere with local priorities. When I became Chairman of the Governmental Affairs Committee last year, I asked the General Accounting Office to investigate whether the Unfunded Mandates Reform Act of 1995 was improving regulations, which was one of its goals. Unfortunately, the answer is ''No.'' GAO released the report today. It is entitled, Unfunded Mandates: Reform Act Has Had Little Effect on Agencies'

Rulemaking Actions. I view S. 981 as really phase two of the unfunded mandates reform effort, because it will make Federal regulators—not just Congress—more sensitive to local needs.

Finally, the Regulatory Improvement Act will improve the quality of government decision making—which will lead to a more effective and efficient Federal government. The Regulatory Improvement Act will require the Federal government to make better use of modern decisionmaking tools (such as risk assessment and cost-benefit analysis), which are currently under-used. Right now, these tools are simply options—options that aren't used as much or as well as they should be. The bill also will help the Federal government to set smarter priorities—to better focus money and other resources on the most serious problems.

The Regulatory Improvement Act bill builds on the Clinton Administration's government-wide reinvention efforts. It codifies many of the requirements of Executive Order 12866 and the principles of other Reinventing Regulation initiatives. It will give some needed horsepower to these efforts. This will help us reach our common goal: improving the quality of government. That's why the bill has broad bipartisan support, including myself and Senator LEVIN, as well as Senators GLENN, ABRAHAM, ROBB, ROTH, ROCKEFELLER, STEVENS, GRAMS, and COCHRAN. This is a common sense effort we all can be proud of.

NOTICE OF HEARING

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Fraud on the Internet: Scams Affecting Consumers.

This hearing will take place on Thursday, February 10, 1998, at 9:30 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the Subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, February 4, 1998, at 10:00 a.m. in open session, to consider the nomination of General Joseph W. Ralston, USAF, for reappointment as Vice Chairman of the Joint Chiefs of Staff.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, February 4, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nominations of Donald J. Barry to be Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior; and Margaret Hornbeck Greene to be a Member of the Board of Directors of the U.S. Enrichment Corporation.

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

COMMITTEE ON FINANCE

Mr. JEFFORDS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, February 4, 1998 beginning at 9:30 a.m. in room 215 Dirksen.

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

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 4, 1998 at 2:00 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on ''Judicial Nominations.''

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, February 4, 1998, at 9:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 4, 1998 at 10:00 a.m. to hold an open hearing.

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

ADDITIONAL STATEMENTS

FAIR MINIMUM WAGE ACT OF 1998

● Mr. TORRICELLI. Mr. President, I rise today in strong support of the Fair Minimum Wage Act of 1998. I am proud to be an original co-sponsor of this crucial piece of legislation.

Once again, we begin our fight for the dignity and respect of working Americans. Our goal is simple; to ensure that individuals dedicated to hard work and committed to their families no longer live in poverty. The fact is that while our nation is experiencing a time of unprecedented prosperity, nearly 12 million Americans earning the minimum wage still face a daily struggle to maintain an acceptable quality of life.

Sixty years ago, Labor Secretary Frances Perkins successfully convinced our predecessors of the need to pass legislation that would guarantee low wage workers a decent living. Today, the need to maintain a basic level of income for American workers is no less necessary. Indeed, that need has never been greater.

The statistics showing the economic injustice faced by low-wage workers are staggering. Full-time minimum wage workers earn only $10,712 year, $2,600 below the poverty level for a family of three. Given that fact, it should come as no surprise that 38 percent of the people seeking emergency food aid in 1996 were employed.

One reason behind these disturbing statistics is the diminishing purchasing value of the minimum wage. Between 1980 and 1995, inflation rose by 86 percent, but during the same time, the minimum wage was increased by a paltry 37 percent, greatly reducing the purchasing power of American workers. While the minimum wage legislation we passed in 1996 was a bold step towards closing that gap, our work is not complete. And with each passing day, as inflation marches on, workers' purchasing power once again is falling.

The legislation drafted by Senator KENNEDY will take the steps necessary to restore and maintain the purchasing power of the minimum wage into the next century.

As modest as our proposal is, The Fair Minimum Wage Act of 1998 will help guarantee low income workers a degree of economic dignity. It will increase the earnings of over 12 million workers, 60 percent of whom are women, 46 percent of whom are full-time workers, and 40 percent of whom are the sole breadwinners in their families.

An increase in the minimum wage is also closely linked to the success of the 1996 welfare reform. Individuals struggling to make the difficult transition from welfare to work deserve the opportunity to become truly self sufficient. We need to provide an incentive to exchange welfare checks for paychecks.

The Economic Policies Institute has concluded that, not only did low income families reap the majority of the benefits from the last increase, but minimum wage recipients experienced no disemployment effects. Despite the predictions made by our opponents, vulnerable groups, including teenagers and young adults, were not negatively effected by the increase.

In closing, I would like to thank Senator KENNEDY for drafting this legislation and for his tireless efforts on behalf of working Americans throughout his long career in the Senate. As he has said, this is the right thing to do. Put in the words of President Abraham Lincoln, ''Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed.''●