addition, the Chamber serves as a network for local businesses and a coordinator between them and the government of Salem. The Chamber also fosters a general sense of community in Salem, by welcoming new residents and promoting consciousness of Salem's unique heritage.

In its role as coordinator, networker, and initiator, the Chamber has proven itself to be a crucial player in Salem's recent economic expansion. The city of Salem can boast a net gain of 900 jobs over the past five years. These gains are due in no small part to the efforts of the Chamber of Commerce.

With a century of success behind it, the Chamber is now working to secure the future prosperity of Salem. The Chamber regularly notifies businesses of education and training opportunities so that Salem's labor force can continue to adapt to the changing needs of the economy. Further, the Chamber was instrumental in developing the Tech Prep program, which provides 25 local high school students with internships that prepare them for future careers.

Throughout its history, the Chamber has proven itself to be an indispensable asset to the city of Salem and the state of Illinois. Again, I would like to extend my congratulations to the Chamber and all of its members and hope that their second century is as successful as their first.●

BETHESDA SEVEN/CARD CLUB VISIT TO WASHINGTON, D.C.

● Mr. ABRAHAM. Mr. President, I rise today to honor seven people who visited our Nation's capitol from June 12 to June 15, 1998. Frank ''The Gin Mill'' Jonna, one of Gin's all time greatest players who began his career with Detroit Catholic Central and gained further fame as a Wayne State Tartar; Judy ''The Wicked Wick'' Jonna, one of Detroit's most prominent all around card players who was recently named one of the 50 best players in Concan history; Joe ''The Professor'' Sarafa, the legendary, steady utility man who never misses a beat when placed in the lineup on a moment's notice; Mike ''The Dish'' Sarafa, possibly the most exalted and prominent card shark of all time, far and away the most political player on the tour; Mariann ''MB'' Sarafa, initially named ''All Telcaif'' shopper but has since proven to be ''All World'' (also known to win a dish or two now and then while screaming ''Ayoooooon Michael''); Suzanne ''The Maoon killer'' Sarafa, easily the single greatest hustler in Concan history. She has been known to ask, in the middle of a game . . . ''how many points do you need to go down?'' while cramming money into that silly black wallet of hers; and Tony ''The Silent Winner'' Antone, the guy who never boasts, brags, or rubs in his victories (and there are many).

Mr. President, it is also worthy to note that while this incredibly fun filled weekend was occurring, the Detroit Red Wings were on their way to winning their second straight Stanley Cup. The Bethesda Seven played a critical role in the Game 3 victory at the MCI Center by strategically sitting in different areas of the arena so as to keep the thousands of Red Wings fans fired up.

Mr. President, I truly thank the Bethesda Seven for their visit. ●

GEORGE OSTROM

● Mr. BAUCUS. Mr President, I rise today to celebrate a true Montanan and a great friend on his 70th birthday.

Anyone who has come to know George Ostrom through his radio broadcasts, his photographs, his writing, or who has been fortunate enough as I have to spend time personally with him has come away with a better understanding of the American West and Montana in particular.

I've known George for too many years to count. Among other things, he and I share a passion for hiking in general and for hiking in Glacier National Park in particular. You see George has spent most of his 70 years in and around the Park. To this day, he hikes with a group that he affectionately calls the ''Over the Hill Gang.'' They hike once a week when the weather permits, usually between 30 and 40 times a year.

For years, George has invited me to join his friends for a hike. But you know how it is. Our schedules are busy and somehow I just never got around to it. Until last August. During our summer recess last year I joined up with George and his Over the Hill Gang. And what a day we had. We told stories (all of them were true, of course), shared water bottles and talked about our families, our hopes and our dreams. Mr. President, it was a day I will not soon forget.

Over the years, I had heard all about George's many awards including the honor bestowed on his weekly column ''The Trailwatcher'', which in 1996 was selected as the best weekly humor column in the United States by the National Newspaper Association. And I had seen many of his photographs of the Park in local and national magazines including Sports Afield, Field and Stream and Sports Illustrated.

But on that hike I came to know George Ostrom the man. A funny and engaging gentleman who will not quit until he gets where he is going. That spirit is Montana's spirit. An ideal that defines all of us. A common bond that all Montanans share.

Sadly, just a few days later, one of our group, Roger Dokken, fell to his death while hiking a different trail. Because of our time together, he was my friend—automatically. No politics, no agenda. Just two people doing together what they enjoy.

Through the triumphs and tragedies of life, George and his Over the Hill gang continue to hike on. They continue to embody what is good, what is right about Montana.

So Mr. President, as George and his family celebrate his 70th birthday, I send my congratulations confident that George Ostrum is still well shy of being over the hill.●

MANAGERS' AMENDMENT TO THE REGULATORY IMPROVEMENT ACT

● Mr. LEVIN. Mr. President, today Senator THOMPSON and I, as sponsors of S. 981, the Regulatory Improvement Act of 1998, are putting into the CONGRESSIONAL RECORD a proposed amendment we will offer when S. 981 is brought to the Senate floor for consideration. The amendment reflects changes to the bill we have agreed to make in response to a number of concerns about the bill identified by the Administration and Members of the Governmental Affairs Committee. We are putting it in the RECORD at this time, to make the language available to the public and persons interested in this bill. We are also putting into the RECORD today the letter of July 15th from Acting OMB Director Jack Lew, stating that the Administration will sign the bill if the changes included in the Managers' Amendment are made and the bill passes both Houses in the same form. We welcome the support of the Administration in this effort and hope we can get the bill to the floor as soon as possible.

OMB stated in their analysis of costs and benefits of federal regulations in 1997 that regulation has enormous potential for good and harm. ''The only way,'' OMB said, ''we know to distinguish between the regulations that do good and those that cause harm is through careful assessment and evaluation of their benefits and costs.'' S. 981 would build that careful evaluation into the regulatory process of all the regulatory agencies. OMB estimated that of the significant or major regulations currently in effect, we have received approximately $300 billion in benefits at a cost of some $280 billion. We know that through the appropriate use of cost benefit analysis and risk assessment we can improve those figures. In a well-respected analysis of 12 major EPA rules and the impact of cost-benefit analysis on those rules, the author, Richard Morgenstern, former Associate Assistant Administrator of EPA and a visiting scholar at Resources for the Future, concluded that in each of the 12 rule makings, economic analysis helped reduce the costs of all the rules and at the same time helped increase the benefits of 5 of the rules. Report after report acknowledges the importance of good cost-benefit analysis and risk assessment for all agencies. It's long past time to get these basic requirements into statute. S. 981 offers us the best opportunity to do that.

The Managers' Amendment Senator THOMPSON and I will be offering to S. 981 reconfirms our intention that the bill not diminish or affect an agency's

responsibility to carry out the purposes of the substantive statute under which the agency is regulating. At the same time, the amendment does nothing to weaken the important requirements of the bill that agencies do a thorough and competent analysis of the costs and benefits of the major regulations they issue.

Mr. President, I believe S. 981 will significantly improve the regulatory process. If enacted, it 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. 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 programs—which are so vital to our health and well being—come under attack. By providing an open regulatory process guided by reasonableness and common sense, we are protecting important programs from harmful attacks.

Mr. President, I ask that copies of three letters exchanged between the Administration and Senator THOMPSON and me be printed in the RECORD.

I am also pleased to announce that the Minority Leader, Senator DASCHLE, has been added as a cosponsor to the bill, S. 981.

The letters follow:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 9, 1998.

Hon. FRED THOMPSON,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide the Administration's views on S. 981, the Regulatory Improvement Act of 1998. The Administration commends the thoughtful effort by both you and Senator Levin to address numerous concerns raised by the Administration and by others about the bill as introduced.

The Administration believes strongly in responsible regulatory reform. President Clinton's issuance of Executive Order No. 12866 was predicated on his belief that government should do a better job of assessing risks and evaluating costs and benefits before issuing major rules. While we have been skeptical of the need for further comprehensive regulatory reform legislation at this time, we have sought to work with the Committee to ensure that any bill advances the President's regulatory reform principles without creating unwarranted costs to taxpayers or needless burdens on agencies acting to protect human health, safety, or the environment.

The substitute bill issued earlier this month contains significant improvements over last summer's draft. We very much appreciate this effort. While the substitute is responsive to many of our concerns, there are still serious issues remaining. One of the problems with comprehensive legislation is that so many different kinds of rulemaking are affected. We want to be sure that any new law meets a simple test: that it truly improves the regulatory system, and does not impair—by creating more litigation, more red tape, and more delay—the agencies' ability to do their jobs. We are interested in working with you to see if we can find the common ground.

After a full review of the substitute to S. 981, we have concluded that the bill does not yet meet the test we have articulated, and therefore the Administration would oppose the bill if it were to be adopted in its current form. Our concerns are briefly outlined below, and we have developed and enclosed for your consideration a set of modifications to the bill that would remedy these and other concerns while remaining faithful to the sponsors' intent. As you know from our past conversations, many of these are critical to achieving an acceptable result.

1. Judicial Review. The Administration remains concerned that the judicial review provisions would promote tactical litigation over errors that were not material to the outcome of a particular rulemaking. We know that this conflicts with the sponsors' intent, as reflected in earlier hearing discussions. To avoid additional litigation over major rules, the troubling ambiguity in the current version of the bill should be eliminated.

2. Implicit Supermandate. We have been pleased that the sponsors of S. 981 consistently have agreed with the view that regulatory reform legislation should not alter or modify the substantive reach of particular statutes designed to protect human health, safety, or the environment. We remain concerned that the current language of the bill would be construed to narrow the range of discretion available to agencies under their existing statutory mandates to protect human health, safety, or the environment. The range of discretion available to agencies under current law must be expressly preserved to avoid an implicit supermandate.

3. Risk Assessment. The Administration believes that, while there have been improvements in Section 624, this section needs to be revised still further to eliminate the imposition of burdensome requirements where those requirements will not enhance major rules. For example, section 624 includes in its sweep an unbounded category of agency actions that are not rulemakings, as well as major rules where Congress has not predicated regulatory standards on risk assessment. These should be excluded. In addition, the requirement for revision of risk assessments threatens an endless and costly analytical process, reopened with each new study, that would provide additional fodder for protracted litigation. We also remain concerned that certain provisions are too specifically tailored to analysis of cancer risks, and are thus ill-suited to other objectives, such as an evaluation of risks related to environmental and natural resource protection, worker safety, or airworthiness.

4. Peer Review. The Administration is very concerned about requiring peer review in contexts where the process would add significantly to costs and delays of the regulatory process without any foreseeable benefit. For example, the requirement that cost-benefit analyses be subject to peer review would add little to the review already performed by the Office of Management and Budget in our regulatory review process. In addition, the requirement that peer review be entirely independent of the regulating agency would displace well-established and credible peer review mechanisms, while making good peer review virtually impossible in highly specialized subject areas (e.g. nuclear safety). We also believe that the statute should require no more than one round of peer review for each major rule.

5. Review of Past Regulations. While the Committee responded to many of the Administration's earlier concerns about review of past regulations, the current version of the bill creates two different, uncoordinated and likely duplicative processes for the review of past regulations, imposing a major burden on agencies and needless expense on taxpayers. The second of these should be deleted, and the cycle of review in the first should be set at 10 years.

6. Needless Burdens. A number of the bill's requirements would impose substantial costs on agencies where there would be no conceivable benefit to the public or regulated entities. For example, the bill imposes its analytical requirements and review requirements even where the costs of compliance with the regulation have been incurred by the regulated community and no costs can be avoided by selecting a different regulatory option. Our proposed changes address other examples as well.

7. Definitions and other issues. There are several definitions and other provisions that need to be added or modified to ensure clarity, to discourage unwarranted litigation that would delay new safeguards, to protect the constitutional prerogatives of the President and the deliberative process within the Executive Branch, and to eliminate unwarranted burdens on agencies. While many of these changes appear minor, it would be difficult to overstate their importance to us in evaluating the cumulative effect of this bill.

In developing revisions to the bill that would address our concerns, we have sought to suggest changes that are consistent with our understanding of the sponsors' intent and with the spirit of our very constructive discussions with the Committee staff. We would welcome a further opportunity to work with you before the bill is reported by the Committee.

Sincerely,

FRANKLIN D. RAINES,
Director.

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, July 1, 1998.

Mr. JACK LEW,
Director Designate, Office of Management and Budget, Executive Office Building, Washington, DC.

DEAR MR. LEW: In March of this year, Franklin Raines, then Director of OMB, sent us a letter expressing the Administration's views on S. 981, the Regulatory Improvement Act, shortly before its scheduled mark-up in the Governmental Affairs Committee. Mr. Raines stated that while ''the Administration believes strongly in responsible regulatory reform,'' it has ''serious issues remaining'' with respect to S. 981. Mr. Raines then enclosed ''a set of modifications to the bill that would remedy'' these concerns.

As you know, the bill was reported by the Committee on a vote of 10 to 5, and now awaits consideration by the full Senate. In the interest of addressing the Administration's concerns so we can join together in support of S. 981, we have enclosed our response to each of the proposed modifications included in the attachment to the March 6th letter from Mr. Raines. Our effort has been undertaken with the objective of seeking to eliminate any cause for confusion or misinterpretation about the specific provisions in the bill while doing no harm to the important remedial and beneficial effects of our legislation. We would be willing to offer a Manager's Amendment on the floor during Senate consideration of S. 981 which would make these changes. Because such an amendment would meet your concerns, we would do so with the understanding that the Administration would then support this important legislation.

The path to this point has not been easy. Regulatory reform legislation over the years has engendered a great deal of distrust and friction among the interested parties. Yet we feel deeply that this moderate proposal will bring important analytical tools and openness to the very complex issues involved in

federal regulation and will give the American people the effective and efficient protections they deserve. If it's true that nothing worth doing is ever easy, then S. 981 may prove to be one of the most valuable pieces of legislation we'll have enacted in a long time.

We welcome your support and look forward to your response.

Sincerely,

CARL LEVIN,
Senior Member.
FRED THOMPSON,
Chairman.

Enclosure.

1. Judicial Review:

a. Page 62, line 16, insert after ''determining'' the following: ''under the statute granting the rule making authority''.

b. Amend Section 627(e) to read as follows: ''If an agency fails to perform the cost-benefit analysis, cost-benefit determination, or risk assessment, or to provide for peer review, a court may, giving due regard to prejudicial error, remand or invalidate the rule. The adequacy of compliance with the specific requirements of this subchapter shall not otherwise be grounds for remanding or invalidating a rule under this subchapter. If the court allows the rule to take effect, the court shall order the agency to promptly perform such analysis, determination, or assessment or provide for such peer review.''

c. No judicial review for Subchapter III, because Subchapter III will be deleted.

d. Clarification regarding interlocutory orders is not necessary.

2. ''Implicit Supermandate'':

a. On page 47, strike lines 1 through 4 and insert the following:

''(b) Nothing in this subchapter shall be construed to alter or modify—

(1) the substantive standards applicable to a rulemaking under other statutes;

(2) the range of regulatory options that an agency has the authority to adopt under the statute authorizing the agency to promulgate the rule, or the deference otherwise accorded to the agency in construing such statute; or

(3) any opportunity for judicial review made applicable under other statutes.''

3. Risk Assessment:

a. On page 54, strike lines 8 through 11 and insert the following:

''(ii) any risk assessment that is not the basis of a rule making that the Director reasonably anticipates is likely to have an annual effect on the economy of $100 million or more in reasonably quantifiable costs and that the Director determines shall be subject to the requirements of this section.''

b. On page 56, strike lines 10 through 12 and insert the following:

''(2) Significant assumptions used in a risk assessment shall incorporate all reasonably available, relevant and reliable scientific information.''

c. On page 56, strike lines 13 and 14 up to but not including ''and,'' on line 14 and insert the following:

''(d) The agency shall inform the public when the agency is conducting a risk assessment subject to this section''.

d. No amendment. (MACT and BACT).

4. Peer Review:

a. On page 58, strike lines 10 through 12 and insert the following:

''(a) Each agency shall provide for an independent peer review in accordance with this section of—

(1) a cost-benefit analysis of a major rule that the agency or Director reasonably anticipates is likely to have an annual effect on the economy of $500 million in reasonably quantifiable costs; and

(2) a risk assessment required by this subchapter.''

b. On page 60, between lines 12 and 13 insert the following:

''(e) A member of an agency advisory board (or comparable organization) established by statute shall be considered ''independent of the agency'' for purposes of section 625(b)(1)(A)(ii).

''(f) The status of a person as a contractor or grantee of the agency conducting the peer review shall not, in and of itself, exclude such person from serving as a peer reviewer for such agency because of the requirements of (b)(1)(A)(ii) of this section.''

c. On page 60, between lines 12 and 13 insert the following:

''(g) Nothing in this section shall require more than one peer review of a cost-benefit analysis or a risk assessment during a rule making. A peer review required by this section shall occur to the extent feasible prior to the notice of proposed rule making.''

d. On page 60, between lines 9 and 10 insert the following and renumber the remaining subsection accordingly:

''(d) The formality of the peer review conducted pursuant to this section shall be commensurate with the significance and complexity of the subject matter.''

5. Other

a. On page 70, between lines 20 and 21 insert the following and renumber the remaining subsections accordingly;

''(a) This subchapter shall apply to all proposed and final major rules and to any other rules designated by the President for review.''

On page 72, line 4, strike ''(a)'' and insert in lieu thereof ''(b)''.

b. Strike Subchapter III and strike section 610.

c. On page 53, strike lines 14 and 15 and insert the following: ''as possible unless the Director determines that compliance would be clearly unreasonable.''

d. No amendment (OSTP and OMB studies)

e. On page 51, between lines 17 and 18 insert the following: ''Consistent with subsection 621(2) and 621(3), net benefits analysis shall not be construed to be limited to quantifiable effects.''

f. On page 46, strike lines 19 through 22 and insert the following:

''(11) The term 'substitution risk' means a reasonably identifiable significant increased risk to health, safety, or the environment expected to result from a regulatory option and does not include risks attributable to the effect of an option on the income of individuals.''

On page 46, strike lines 16 through 18 and insert the following:

''(J) a rule or agency action that authorizes or bars the introduction into or removal from commerce, or recognizes or cancels recognition of the marketable status, of a product under the Federal Food, Drug and Cosmetic Act;''

g. Executive Oversight:

On page 72, line 22, strike ''communciations'' and insert ''correspondence''.

On page 73, line 3, strike ''communications'' and insert ''correspondence''.

On page 73, line 10, strike ''substantive'' and insert ''significant''.

On page 73, strike lines 16 and 17.

On page 73, line 20, strike ''communications'' and insert ''correspondence''.

On page 74, line 3, strike ''substantive'' and insert ''significant''.

On page 74, strike line 9 through line 11.

On page 74, line 17, strike ''announced'' and insert ''published''.

On page 74, line 23, strike ''communications'' and insert ''correspondence''.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, July 15, 1998.

Hon. CARL LEVIN,
Committee on Governmental Affairs,
U.S. Senate, Washington, DC

DEAR SENATOR LEVIN: Thank you for your letter of July 1, 1998, in which you respond to the views on S. 981 that we expressed in former OMB Director Frank Raines' letter of March 6, 1998.

President Clinton has been a strong supporter of responsible regulatory reform. In addition to signing into law a number of important pieces of reform legislation, he and Vice President Gore are taking a wide range of administrative steps to improve the regulatory process. For example, under the guidance of Executive Order 12866, agencies are developing flexible performance standards and using market incentives whenever possible; are applying benefit-cost analysis to achieve objectives in the most cost-effective manner; and are reaching out to the affected parties, particularly our State and local partners, to understand better the intended and unintended consequences of a proposed regulatory action. Under the leadership of the Vice President's National Partnership for Reinventing Government, agencies are improving delivery of services, reducing red tape, and reforming practices to focus on customer service. The Administration's goal in these actions is to streamline and reduce the burden of government on its citizens, improve services, and restore the basic trust of public in its government.

The debate on comprehensive regulatory reform legislation is one that has sparked great passion and has provoked, as you aptly note in your letter, ''distrust and friction among the interested parties.'' We heartily agree with you that, to say the least, ''[t]he path to this point has not been easy.'' In part, this has been the result of earlier versions of this legislation proposed by others that sought not to improve the nation's regulatory system, but to burden and undermine it. In a variety of ways these bills would have created obstacles and hurdles to the government's ability to function effectively and to protect the health, safety, and environment of its citizens. In particular, these bills would have created a supermandate, undoing the many protections for our citizens that are carefully crafted into specific statutes. In addition, strict judicial review and complex analytic, risk assessment, peer review, and lookback provisions would have hampered rather than helped the government's ability to make reasonable decisions and would have opened the door to new rounds of endless litigation.

We appreciate your thoughtful efforts over the past year to respond to issues that we and others have raised. In your latest letter you continue to take seriously our concerns. Indeed, the changes you indicate that you are willing to make would resolve our concerns, and if the bill emerges from the Senate and House as you now propose, with no changes, the President would find it acceptable and sign it.

I should note, however, that our experience with past efforts to resolve these differences suggests that good ideas and the resolution of differences can be destroyed during the long process of getting a bill to the President's desk, and the nuances and balance that we have all sought in this legislation could be easily disrupted. Nanny of the terms used carry great meaning, and further modification is likely to renew the concerns that have animated our past opposition to bills of this type. Accordingly, we look forward to working with you to ensure that any bill the Congress passes on this subject is

fully consistent with the one on which we have reached agreement.

Sincerely,

JACOB J. LEW,
Acting Director.

Mr. THOMPSON. Mr. President, I want to ask my colleagues for their help to bring much-needed improvements to our federal regulatory system. In March, the Governmental Affairs Committee favorably reported S. 981, the ''Regulatory Improvement Act,'' by a 10–5 vote. At the time of the markup, the administration sent a letter to me and Senator LEVIN expressing a number of concerns with the bill. Over the past few months, we have worked to resolve those concerns, which largely involved adding clarifying language to the bill. In addition, some sections of the bill were modified, and a couple were dropped. On July 16, we received a letter from Jack Lew, the Acting OMB Director, on behalf of the administration. The letter says the administration supports the legislation with the proposed changes and will cooperate with us to pass it. These changes are explained in the accompanying summary of the managers' amendment that Senator LEVIN and I would support. I am pleased that the President recognizes that we need this legislation to deliver the effective and efficient regulatory system that the American people expect and deserve.

Most of us recall the partisan and ultimately destructive debate on this issue in the last Congress. Reforming regulation is an area fraught with distrust. It is tempting for opponents of reform to try to score political points by scare tactics. We have to set aside political posturing if we're going to get the job done. Just last week, former Majority Leader Howard Baker told us, ''it ill behooves America's leaders to invent disputes for the sake of political advantage, or to inveigh carelessly against the motives and morals of one's political adversaries. America expects better of its leaders than this, and deserves better.'' I hope we heed that good advice.

There's no doubt that improving the regulatory process is one of the toughest challenges we face. Regulation affects virtually every aspect of our lives. There are over 130,000 pages of federal regulations, and 60 agencies continue to issue new rules at a rate of 4,000 a year. The costs are hundreds of billions of dollars annually, and the public expects better results. As the costs of regulation rise with public expectations of better results, the need is greater than ever for a smarter way of regulating. We have to find ways to do more good while reducing the waste in the current system.

The evidence is overwhelming that we can achieve greater benefits at far less cost by regulating smarter. Hearings of the Governmental Affairs Committee, investigations of the General Accounting Office, the work of other congressional committees, and many scholarly studies show a striking consensus on this point. Our Committee also has found that the administration's Executive Order 12866 and other initiatives to reinvent regulation have not been as effective as was hoped.

I want to thank the 19 cosponsors who have joined me and Senator LEVIN to improve the regulatory process. The Regulatory Improvement Act will promote the public's right to know, improve the quality of government decisions, and make government more accountable to the people it serves. Ultimately, it will help improve the quality of our lives. That is why we have the support of State and local government, businesses of all sizes, farmers, educational organizations, think tanks, scholars, and the administration. We have a rare opportunity to reform the regulatory process. Let's pull together and get the job done.

● Mr. LEVIN. Mr. President, I ask that a summary of S. 981 and a summary of the proposed manager's amendment be printed in the RECORD.

The material follows:

SUMMARY OF LEVIN-THOMPSON REGULATORY IMPROVEMENT ACT

The Levin-Thompson regulatory reform bill would put into statute requirements for cost-benefit analysis and risk assessment of major rules and executive oversight of the rulemaking process. It builds on the bipartisan Roth-Glenn bill unanimously reported out of the Governmental Affairs Committee in 1995.

It requires agencies to do a cost-benefit analysis when issuing rules that cost $100 million or have other significant impacts. The agency must determine whether the benefits of the rule justify its costs; whether the rule is more cost-effective, or provides greater net benefits, than other regulatory options considered by the agency; and whether the rule adopts a flexible regulatory option. If the agency determines that the rule does not do so, the agency is required to explain the reasons why it selected the rule, including any statutory provision that required the agency to select the rule. If the rule involves a risk to health, safety or the environment, the bill requires the agency to do a quality risk assessment to analyze the benefits of the rule. Risk assessments and cost-benefit analyses for rules costing $500 million would undergo independent peer review.

During the cost-benefit analysis and risk assessment, the rulemaking agency is required to consider substitution risks—that is, risks that could be expected to result from the implementation of the regulatory option selected by the agency—and to compare the risk being regulated with other risks with which the public may be familiar.

In presenting the cost-benefit analysis and risk assessment, the rulemaking agency is required to present the results of the analysis and assessment in a clear and understandable form, including an executive summary of: the expected benefits and costs of the rule and the agency's cost-benefit determinations; the risk addressed by the rule and the results of any risk assessment; the benefits and costs of the other regulatory options considered by the agency; and the key assumptions and scientific or economic information upon which the agency relied.

The cost-benefit analysis, cost-benefit determinations, and risk assessment are required to be included in the rulemaking record and to be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary and capricious. In addition, if the agency fails to perform the cost-benefit analysis, risk assessment or peer review, the court may remand or invalidate the rule, giving due regard to prejudicial error, and in any event shall order the agency to perform it.

The bill codifies the review procedure now conducted by the Office of Information and Regulatory Affairs (OIRA) and requires public disclosure of OIRA's review process.

Finally, the bill requires the Director of OMB to contract for a study on the comparison of risks to human health, safety and the environment and a study to develop a common basis for risk communication with respect to carcinogens and noncarcinogens and the incorporation of risk assessments into cost-benefit analyses.

SUMMARY OF PROPOSED MANAGERS' AMENDMENT TO S. 981

Senator Levin and Senator Thompson plan to offer a Managers' Amendment when S. 981 is brought to the floor for Senate consideration. The Amendment would include the following:

1. JUDICIAL REVIEW

The bill as reported requires a court to consider the cost-benefit analysis, cost-benefit determinations, and risk assessment in determining whether the final rule is arbitrary and capricious. The bill as reported also requires a court to remand or invalidate a rule if the agency fails to perform the cost-benefit analysis, cost-benefit determinations or risk assessment, or to provide for peer review as required by S. 981. The Managers' Amendment modifies that requirement by giving the court the discretion to remand or invalidate the rule. The Managers' Amendment also adds a specific clarifying sentence that the adequacy of compliance with the specific requirements for performing the cost-benefit analysis, risk assessment, and peer review is not otherwise independent grounds for remanding or invalidating a rule. The Managers' Amendment also requires a court to order an agency to perform the cost-benefit analysis, cost-benefit determinations, risk assessment, or peer review whenever the agency fails to do so, even if the court allows the rule to take effect.

2. RELATIONSHIP TO OTHER STATUTES

The Managers' Amendment adds two additional provisions to the savings clause in order to reiterate that S. 981 does not contain a ''supermandate'' that would override or alter the substantive standards of the statute under which the rule is being issued. The Managers' Amendment confirms that S. 981 does not alter the range of regulatory options the agency has authority to adopt under the statute authorizing the agency to promulgate the rule or the deference otherwise accorded by the courts to the agency in construing such statute pursuant to the *Chevron* decision.

3. REVIEW OF RULES

The bill as reported contained two provisions for the review of existing rules: one for major rules and one for rules affecting small businesses and small governments. The Managers' Amendment strikes both review of rules provisions. S. 981 will impose new and important responsibilities on federal agencies to conduct their rulemakings with greater care and thoroughness. In order to direct the resources of the agencies to fully carrying out these requirements, the provisions for the review of existing rules were stuck. Of course, agencies remain free to review existing rules under the Regulatory Flexibility Act on their own initiative, at the request of an interested party, or pursuant to Presidential directive.

4. RISK ASSESSMENT

The bill as reported requires a quality risk assessment to be performed for each major

rule with a primary purpose to address risks to health, safety or the environment, as well as for risk assessments that are not the basis for a rulemaking and that the OMB Director determines may have a substantial impact on public policy or the economy. The Managers' Amendment narrows the coverage of the bill with respect to risk assessments that are not the basis of a rulemaking to those risk assessments that the Director anticipates are likely to have an annual effect on the economy of $100 millon or more.

5. PEER REVIEW

The bill as reported requires independent peer review of the cost-benefit analysis and risk assessment for each major rule. The Managers' Amendment would modify the application of peer review of the cost-benefit analysis to only those rules that the agency or OMB Director reasonably anticipates are likely to have an annual effect on the economy of $500 million or more.

The Managers' Amendment clarifies that members of agency advisory boards required by statute and persons who serve as contractors or grantees to the agency conducting the peer review are not precluded from serving as peer reviewers solely because of the requirement that the peer reviewers be ''independent of the agency.'' The Managers' Amendment also claifies that only one peer review of a risk assessment and cost-benefit analysis is required by S. 981.

6. NET BENEFITS

The Managers' Amendment clarifies that application of a net benefits analysis under S. 981 is not intended to be limited to only quantifiable benefits; S. 981 requires the net benefits analysis to include consideration of nonquantifiable as well as quantifiable benefits.

7. SUBSTITUTION RISK

The Managers' Amendment, in an effort to clarify the scope of responsibility required of an agency in assessing applicable substitution risks, incorporates the language in the bill used to define costs and benefits. Thus, substitution risk is defined in the Managers' Amendment as ''a reasonably identifiable significant increased risk to health, safety or the environment expected to result from a regulatory option.'' The definition also makes it clear that substitution risk does not include ''risks attributable to the effect of an option on the income of individuals.''

8. EXEMPTIONS

The bill as reported exempts from coverage of the legislation ''a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status of, a product.'' The Managers' Amendment both expands and limits this exemption. It expands it by adding ''removal'' of a product as well as ''introduction;'' it limits this exemption by applying it only to rules ''under the Federal Food, Drug and Cosmetic Act.''

9. OTHER

The Managers' Amendment would make a number of other technical or minor changes to the bill.●

JOHN D. ODEGARD, RECIPIENT OF THE FAA 1998 EXCELLENCE IN AVIATION AWARD

● Mr. DORGAN. Mr. President, I rise today to congratulate the John D. Odegard School of Aerospace Sciences at the University of North Dakota, and its dean and founder, John Odegard who have been selected by the Federal Aviation Administration to receive its 1998 Excellence in Aviation award. In addition to being one of North Dakota's most outstanding entrepreneurs, John is also a personal friend of mine and I can attest to the fact that this honor is truly deserved. It accurately reflects the contributions that John and the college have made to aviation education and research to make flying safer in our country.

Announcing the award, FAA Administrator Jane Garvey noted,

The FAA formally recognizes significant aviation research accomplishments each year through the Excellence in Aviation award. This research plays a prominent role in ensuring that the nation's airspace system remains the safest in the world.

''Aviation weather research conducted at the John D. Odegard School of Aerospace Sciences contributed to the development of the Terminal Doppler Weather Radar, which is used to detect wind shear near airports. The aerospace school, which has conducted aviation research, education and training programs for over 30 years, participates in a FAA-sponsored research project to chart wind conditions at the Juneau, Alaska, airport.

Mr. CONRAD. I join my colleague, Senator DORGAN, in congratulating Dean Odegard on this exceptional and well deserved honor from the FAA.

Dean Odegard and the Odegard School, which this year was named in his honor by a grateful state, are true national assets. John's work building the School at the University of North Dakota is one of the great accomplishments in North Dakota in my lifetime. His vision and ability to make his dreams a reality sets him apart in all of higher education and aviation. He began his career in 1968 with two small planes and a dozen students and transformed this fledgling operation into the premier aerospace training facility in the world with 1400 students, a fleet of 85 aircraft and 16 flight simulators.

The contributions of John Odegard and his staff and faculty to aviation safety in the development of new pilot training programs is a major achievement. His leadership in the creation of university-based air traffic controller training is providing our country with superior new young controllers that our country's air space system desperately needs. As the Administrator noted in her citation, UND's work in FAA-sponsored atmospheric research has resulted in the Terminal Doppler Weather Radar that is now making air travel even safer in the United States.

It is also important to note that the contributions made by the Odegard School to improvements in national aviation safety are a direct product of the investment the Federal government made almost 20 years ago. It was the FAA's Airway Science Program, begun in the early 1980's, that helped build the Odegard School's facilities on the University of North Dakota campus. Those investments, of which we are very proud, are paying dividends today in lives saved. That's what the FAA award recognizes.

Mr. DORGAN. Within our state, John's achievements are well recognized. The North Dakota State Board of Higher Education has honored John by placing his name on the aviation college at the University of North Dakota. The Odegard School of Aerospace Sciences is one of our state's flagship programs and draws students from every state in the nation as well as many foreign countries. Airlines from around the world send its pilots to be trained at UND. Its size and number of employees means it is also a significant economic asset and has served to help draw the aerospace industry to North Dakota.

Again, I want to offer my congratulations to John and all his faculty and staff at the Odegard School. We look forward to their continued contributions to the aerospace industry, not only in North Dakota but throughout the world.●

RETIREMENT FROM CONGRESS OF REPRESENTATIVE THOMAS J. MANTON

● Mr. MOYNIHAN. Mr. President, yesterday, a dear friend and colleague, Representative THOMAS J. MANTON, announced his intention to retire at the end of the 105th Congress, saying, ''I have worked for the citizens of this Nation, New York City, and Queens for most of my adult life.'' Indeed he has. Fourteen years as a Member of Congress. Fifteen years before that as a member of the New York City Council. Five years as an officer in the New York City Police Department. And two years as a Marine Corps flight navigator on active duty during Korea.

His departure is bittersweet for me. I take solace from the fact that he will continue to chair the Queens County Democratic Organization, a post he has held with honor and distinction for the past twelve years. And I am happy that he and his wife Diane will have more time ''to enjoy life and travel,'' as he put it; to enjoy his four children and—as of July 5th—his four grandchildren. But we here will miss his calm and steady demeanor, and his unwavering commitment to ''moderate government,'' which is, as Alexander Hamilton observed, the font of real liberty.

For the most part, I will leave it to others to recite his legislative accomplishments, which are legion. But I would highlight his service as co-chairman of the Congressional Ad-Hoc Committee on Irish Affairs. The bi-partisan Ad-Hoc Committee was established in 1977 to promote peace and justice in Northern Ireland. His interest is natural, for both his parents were Irish immigrants. The task, of course, enormous. But under TOM's steady leadership, the Ad-Hoc Committee made possible implementation of the McBride Principles. And the Ad-Hoc Committee had a huge role in this year's Good Friday Irish Peace Accord. Few men or women have had such positive effect in such a devastated and forlorn part of the world.

Horace remarked that ''We rarely find anyone . . . who, content with his