

**RUSH!**

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## GOVERNMENT'S HIDDEN TAX: TIME TO ACCOUNT FOR THE COST OF REGULATION

The Senate is expected soon to consider H.R. 3756, the Treasury and postal appropriations bill, which includes funding for the White House Office of Management and Budget (OMB). On July 23, the Senate Appropriations Committee adopted an amendment—Section 645, offered by Senator Ted Stevens (R-AK)—requiring OMB to prepare an accounting statement that estimates the cumulative costs and benefits of federal regulatory programs. OMB already is responsible for reviewing regulatory actions to ensure that they are consistent with the Administration's regulatory principles and agenda.

While there is much debate about federal taxes, spending, and the need to balance the budget, considerably less is known and understood about the benefits and burdens of regulation. Unlike federal tax and spending programs, no comprehensive cost accounting system exists for regulation. But regulatory costs—\$677 billion in 1996—are nearly one-half the cost of direct taxation. And the economic impact is significant; according to one estimate, federal regulations cause \$1.3 trillion in U.S. economic activity to be lost each year. Just as the annual federal budget allows policymakers and the public to debate and decide what programs to support and which ones to scale back and eliminate, information on regulatory costs and benefits would help them to determine what regulations do the most good for the money spent, set regulatory priorities accordingly, and minimize the burden on the economy.

**A Good First Step.** Under the Stevens proposal, OMB would be required to submit to Congress by September 30, 1997, a report on the cumulative costs and benefits of federal regulatory programs. OMB also must report on the effect of federal rules, both on the private sector and on the federal government, and provide estimates of the costs and benefits of rules costing more than \$100 million annually. The public would have an opportunity to comment on the OMB report before it is submitted to Congress. OMB also would have to offer recommendations to Congress and the President about how to reform regulatory programs that are not a "sound use of national resources." This is a sensible first step toward improving oversight and promoting greater efficiency throughout the federal regulatory system.

This proposal will be criticized by federal regulators and politicians. Regulation is one of the most politically convenient ways to carry out public policy because it typically does not require substantial, direct taxation or government spending. This is particularly appealing in an era of federal budgetary restraint. The Clinton Administration has put at least 10,000 new pages of federal rules on the books since 1993. But how much has this cost, and what did the American people get for their money? Because regulators gain power by regulating as much as possible, with little to stop them from regulating as if it cost nothing, opponents will use the same misleading rhetoric against this proposal that they used to defeat a far more comprehensive regulatory reform bill in 1995. The following three myths are typical:

**MYTH #1: It is doubtful that reliable estimates of costs and benefits can be developed.**

**REALITY:** There is no dearth of methodological tools available for estimating the costs and benefits of federal regulations. The Department of Commerce regularly surveys business establishments to collect information on expenditures caused by particular regulatory programs. Since 1981, every President has required federal agencies to consider costs and benefits in their regulatory decisionmaking. To assist them, OMB developed guidelines for such analysis. Even though federal agencies try to avoid any effort to measure the costs and benefits of their actions, dozens of these analyses have been done over the last 15 years. Between 1990 and 1995, for example, EPA did at least 70 rule-specific cost-benefit analyses. Ironically, in 1993, the Clinton Administration removed hundreds of rules from OMB review, de-emphasizing the need for cost-benefit analysis.

**MYTH #2: Any attempt to measure the costs and benefits of regulations will consume a significant amount of new resources.**

**REALITY:** With more than 130,000 federal regulators spending more than \$14 billion annually to develop and enforce regulations, how can more be needed? The Clinton Administration itself recognizes that federal agencies—which have been required to consider costs and benefits of regulatory actions since 1981—“are the repositories of significant substantive expertise and experience....” In addition, OMB’s Office of Information and Regulatory Affairs, which reviews rules before they are issued, has a fiscal 1996 budget of more than \$5 million and a staff of about 30 analysts and economists with years of experience reviewing and evaluating agency cost-benefit analyses. During the Bush Administration, OMB reported on the aggregate costs of regulations in a publication that later was stopped by the Clinton Administration; no such information has been published since then.<sup>1</sup> OMB already is in an excellent position to work with other agencies to prepare this statement, but Congress must demand that it be done and that it be made available to the public.

**MYTH #3: This is just the first step in an effort to justify a “roll back” of important public health, safety, and environmental protections.**

**REALITY:** The opposite would be true. Strengthening the use of cost-benefit analysis in regulatory decisionmaking would mean higher levels of protection. A recent Harvard study estimated that current regulation of health risks is so inefficient that for the same investment of resources, we could save an additional 636,000 years of life—60,200 premature deaths every year—simply by changing our priorities.

## CONCLUSION

The Clinton Administration and its allies in Congress already are on record as supporting regulatory cost accounting as part of more comprehensive regulatory reform legislation in 1995. In addition, President Clinton’s Executive Order 12866 on Regulatory Planning and Review requires federal agencies to “assess the costs and benefits” of regulations. The Stevens amendment simply suggests that the numbers should be added up so the American people can have some idea of the kinds of regulatory decisions their government is making and how good a job federal regulators are doing.

This is a good first step, and Congress must go further and implement a regulatory budget like the one proposed in H.R. 3277 by Representative Lamar Smith (R-TX). A regulatory budget would force federal regulators to operate within limits, much as an agency’s fiscal budget does. Both Congress and the President would be accountable to the public for making sure that economic resources are allocated in a manner that produces the greatest benefit to society.

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<sup>1</sup> See Executive Office of the President, Office of Management and Budget, Regulatory Program of the U.S. Government, April 1, 1991-March 31, 1992, p. 5.

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