

# Regulation 2.0

**Cass R. Sunstein**

Administrator

Office of Information and Regulatory Affairs

Presentation at New York University Law School

New York, NY

April 30, 2012



# Moneyball

“The guy’s an athlete, Bill,” the old scout says. “There’s a lot of upside there.”

“He can’t hit,” says Billy.

“He’s a tools guy,” says the old scout . . .

“But can he hit?” asks Billy. . . .

Paul reads the player’s college batting statistics. . . .

“My only question,” says Billy, “if he’s that good a hitter why doesn’t he hit better?” . . .

Over and over the old scouts will say, “The guy has a great body,” or “This guy may be the best body in the draft.” And every time they do, Billy will say, “We’re not selling jeans here,” and deposit yet another highly touted player, beloved by the scouts, onto his shit list.

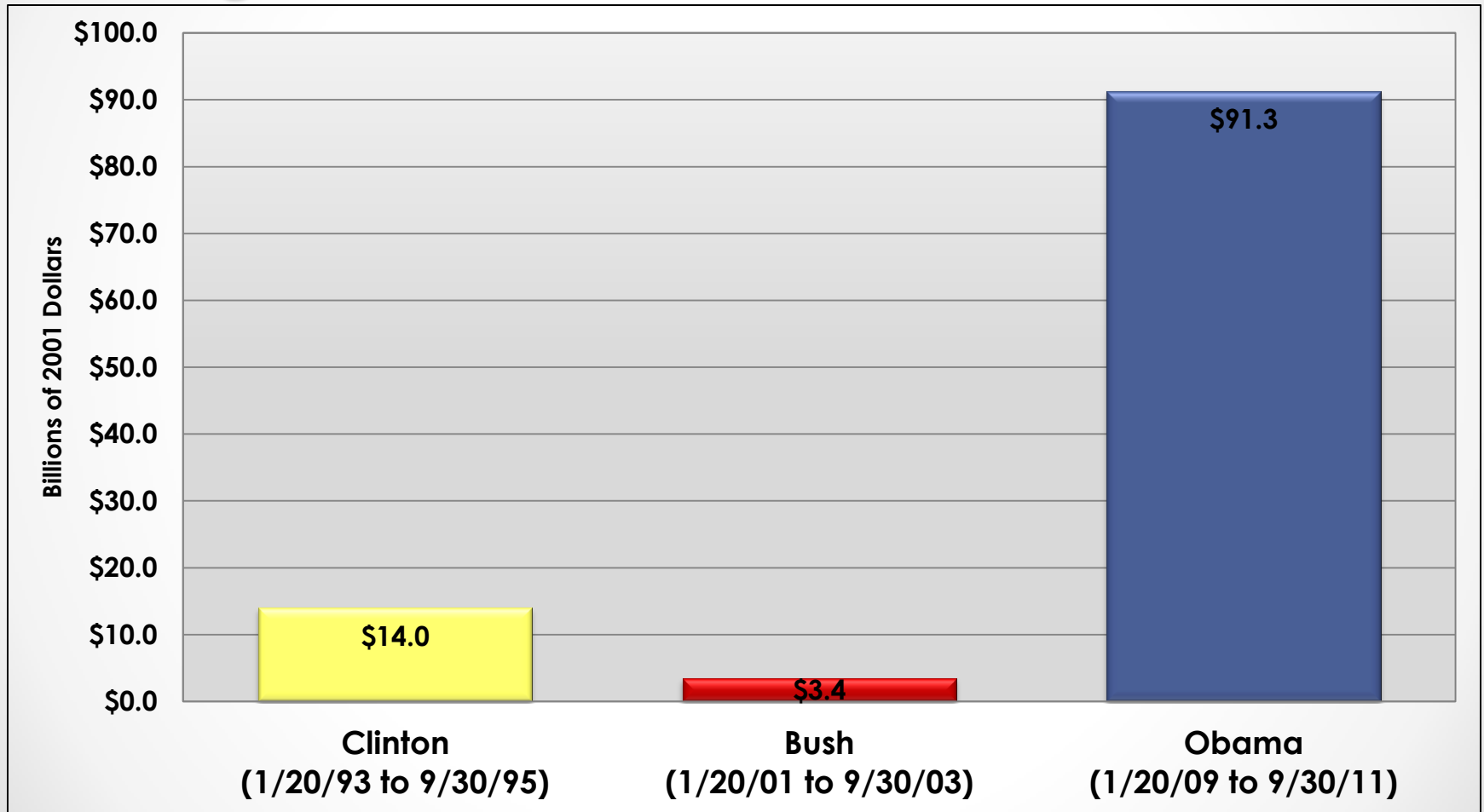
# Two Systems in the Human Mind

- **System 1:** Automatic, intuitive, effortless
- **System 2:** Deliberative, calculative, statistical

Helps explain:

- (1) Power of defaults
- (2) Importance of “channel factors” (eg maps)
- (3) Importance of salience (“you can’t miss it”)
- (4) Harmful effects of complexity (“yeah, whatever”)

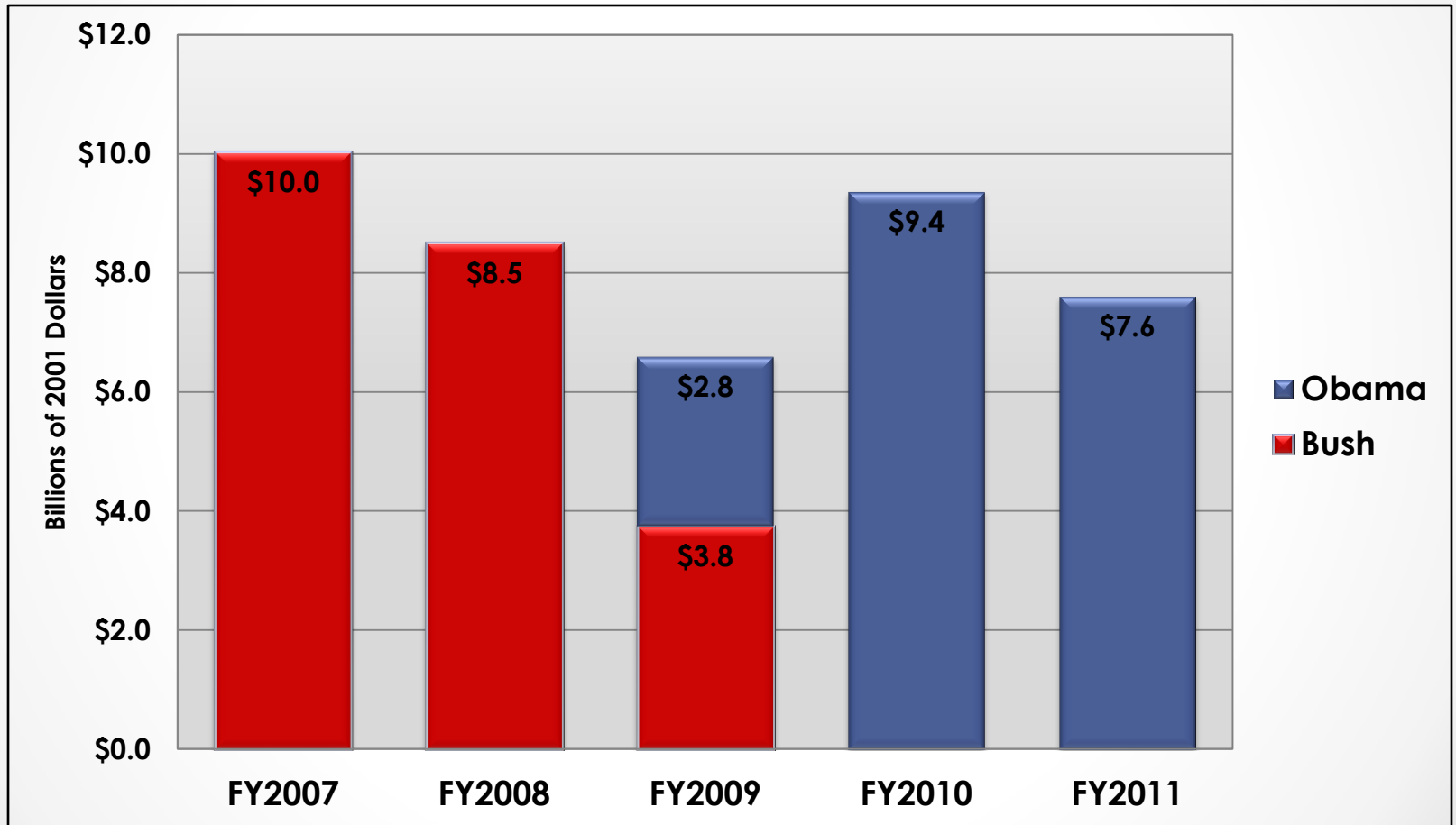
# “We’re Not Selling Jeans Here”: Total Annual Net Benefits of Major Rules through Third Fiscal Year of an Administration



# What the Benefits Are

- The benefits include billions of dollars in savings for consumers
- They include thousands of lives saved and tens of thousands of illnesses and accidents prevented
- They include billions of dollars in economic savings for businesses.

**Costs of Major Rules, by Recent Fiscal Year (note: highest cost year, in last ten, was FY 2007; highest cost year on record was FY 1992, followed by FY 1987 and FY 2000)**



# Retrospective Review

## Executive Order 13563, Sec. 6(b)

- “Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs a preliminary plan . . . under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed . . . .”



## **EPA Retrospective Review plan**

The current Plan describes a large number of burden-reducing, cost-saving reforms, including 35 priority initiatives. . . . Taken as a whole, recent reforms, already finalized or formally proposed, are anticipated **to save up to \$1.5 billion over the next five years.**



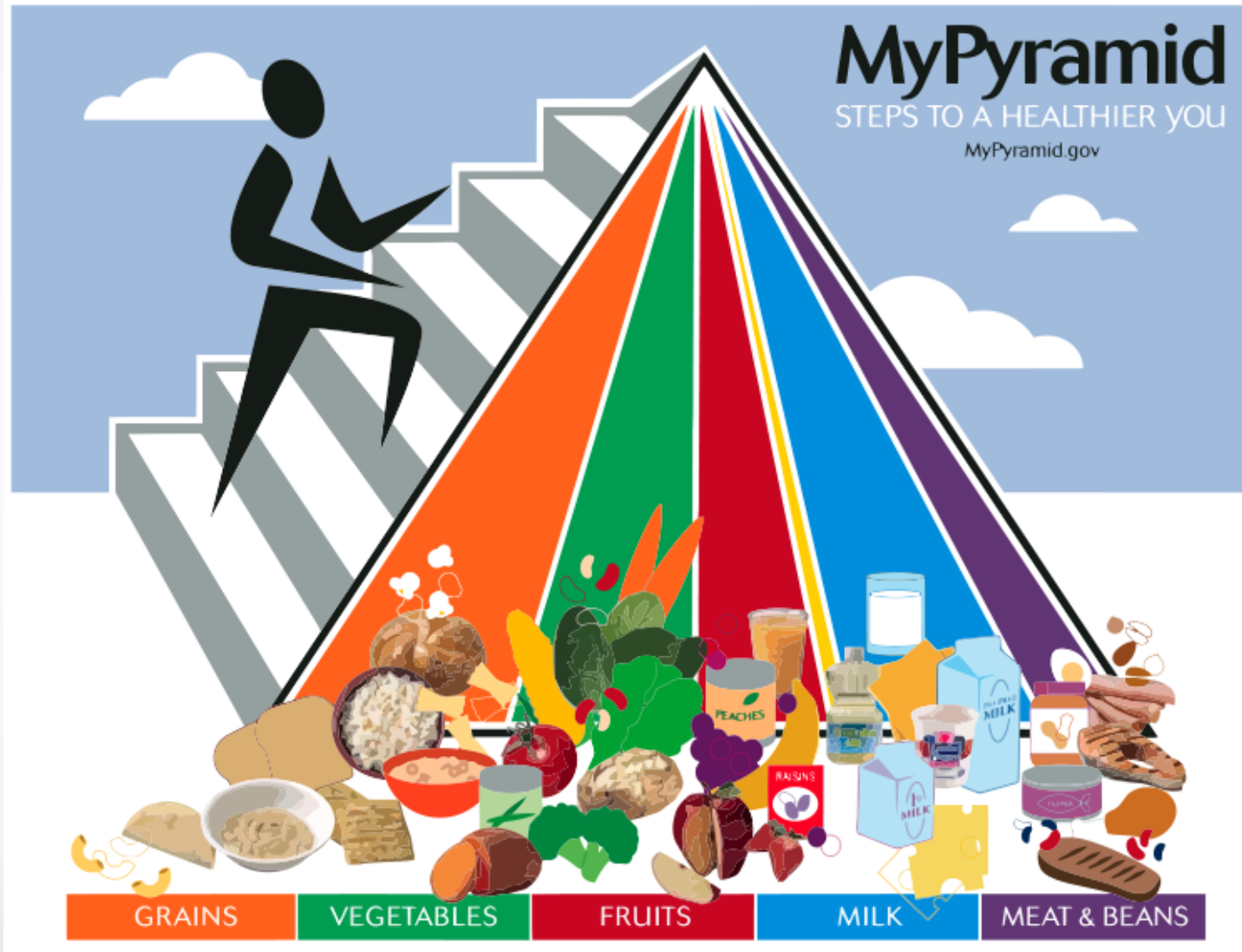
## Lookback results

- Last August, over two dozen agencies release reform plans, including over 500 initiatives. The release was preceded by public comment.
  - A small fraction of those initiatives, already finalized or formally proposed to the public, will **save billions of dollars in the near future.**
  - The Department of Health and Human Services will soon remove unnecessary requirements now imposed on hospitals and other healthcare providers, with anticipated five-year savings **in excess of \$5 billion.**
- 
-

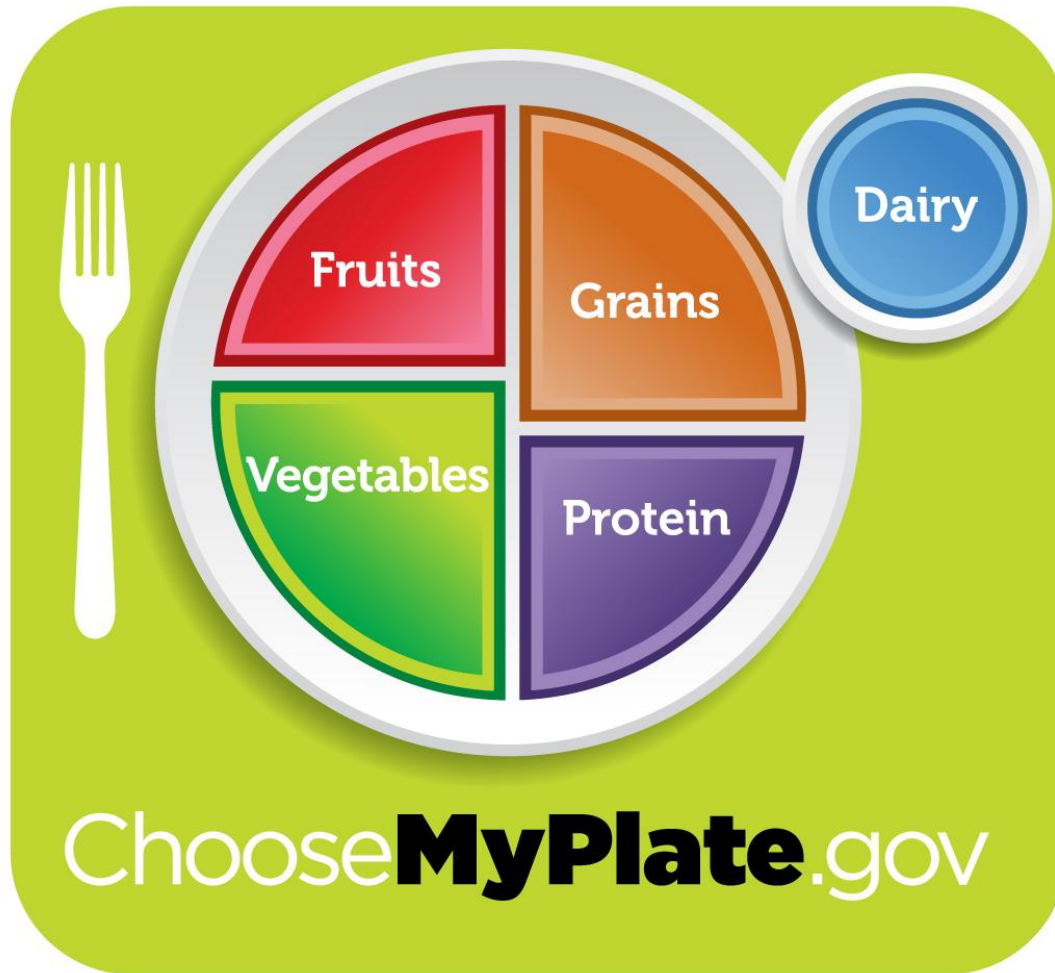
# Three Disclosure Principles (recall System 1)

- **Plate, not Pyramid:** Identification of clear path matters a lot
- **Comparison Friction:** information may not be helpful in the abstract; need to enable people to make comparisons
- **Smart Disclosure:** disclosure in machine-readable formats that can give rise to apps (eg letting consumers know about the nature and effects of their own past choices, so that they can make informed comparisons)

# Old USDA Food Pyramid



# New USDA Food Plate



# Old Fuel Economy Label

Compare this vehicle to others in the **FREE FUEL ECONOMY GUIDE** available at the dealer.

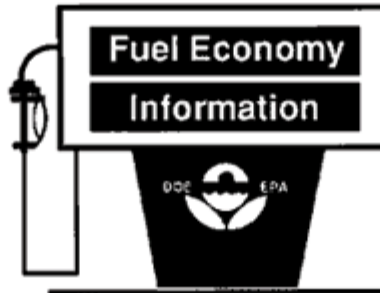
**CITY MPG**

**23**

Actual Mileage will vary with options, driving conditions, driving habits and vehicle's condition. Results reported to EPA indicate that the majority of vehicles with these estimates will achieve between

19 and 27 mpg in the city  
and between

26 and 35 mpg on the  
highway.



1993 CANARY 2.0 LITER  
L4 ENGINE FUEL INJECTED  
AUTO 3 SPD TRANS CATALYST  
FEEDBACK FUEL SYSTEM

Estimated Annual Fuel Cost:

\$850

**HIGHWAY MPG**

**30**

For Comparison Shopping,  
all vehicles classified as  
**COMPACT**  
have been issued mileage ratings  
ranging from 11 to 31 mpg city  
and 16 to 41 mpg highway.

# New Fuel Economy Label

**EPA  
DOT**

## Fuel Economy and Environment



Gasoline Vehicle

### Fuel Economy



**26** MPG

combined city/hwy

**22**  
city

**32**  
highway

**3.8** gallons per 100 miles

Small SUVs range from 16 to 32 MPG.  
The best vehicle rates 99 MPGe.

You **save**  
**\$1,850**

in fuel costs  
over 5 years  
compared to the  
average new vehicle.

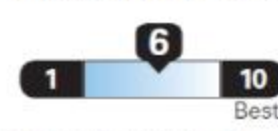
Annual fuel **cost**  
**\$2,150**

### Fuel Economy & Greenhouse Gas Rating (tailpipe only)



This vehicle emits 347 grams CO<sub>2</sub> per mile. The best emits 0 grams per mile (tailpipe only). Producing and distributing fuel also creates emissions; learn more at [fuel economy.gov](http://fuel economy.gov).

### Smog Rating (tailpipe only)



Actual results will vary for many reasons, including driving conditions and how you drive and maintain your vehicle. The average new vehicle gets 22 MPG and costs \$12,600 to fuel over 5 years. Cost estimates are based on 15,000 miles per year at \$3.70 per gallon. MPGe is miles per gasoline gallon equivalent. Vehicle emissions are a significant cause of climate change and smog.

**fuel economy.gov**

Calculate personalized estimates and compare vehicles



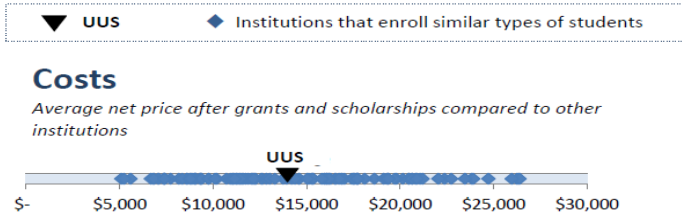
Smartphone  
QR Code™



# Department of Education College Scorecard

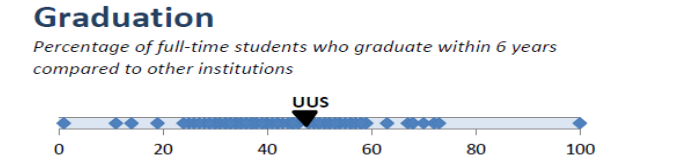
## University of the United States (UUS) Any town, State ^ Primarily Awards Bachelor's Degrees ^ Carnegie and Control

**What will it cost to attend UUS?**  
Depending on your circumstances:  
Tuition and fees only  
In-state: \$X,XXX  
Out-of-state: \$X,XXX  
Total costs before aid: \$XX,XXX-XX,XXX  
Average total costs after grants and scholarships ("net price"): \$XX,XXX  
Change from last year: ↑ X%

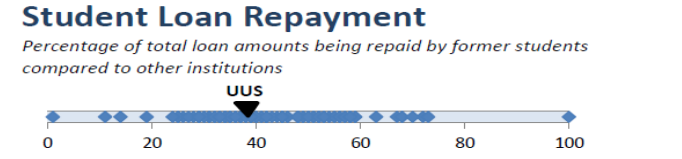


**How likely am I to graduate and how long will it take?**  

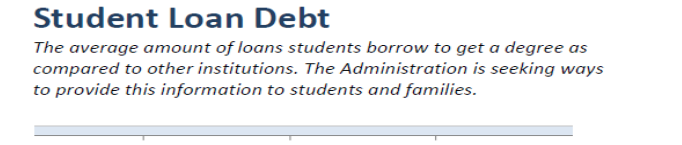
- XX% of students graduate in 4-years
- XX% of students graduate in 5-years
- XX% of students graduate in 6-years
- XX% of students transfer to another institution



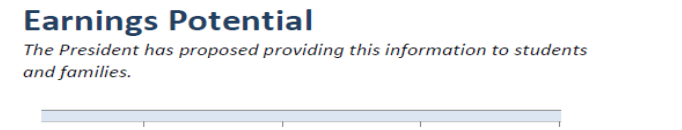
**Will I be able to repay my student loans after I graduate?**  
Former students are successfully repaying XX% of the total amount of federal student loans they took out to attend UUS.



**How much debt will I have when I graduate?**  
We don't have this information yet. Before you enroll, ask UUS to tell you about how many students graduate with debt and how much they typically owe.



**Will I be able to get a job after I graduate?**  
We don't have this information yet. Before you enroll, ask UUS to tell you about how many of their graduates get jobs, what kinds of jobs they get, and how much they typically earn.





# Health Insurance disclosure form

\_\_\_\_\_ : \_\_\_\_\_  
**Summary of Benefits and Coverage: What this Plan Covers & What it Costs**

**Coverage Period: [See Instructions]**  
**Coverage for: \_\_\_\_\_ | Plan Type: \_\_\_\_\_**



**This is only a summary.** If you want more detail about your coverage and costs, you can get the complete terms in the policy or plan document at [www.\[insert\]](#) or by calling 1-800-[insert].

Important Questions	Answers	Why this Matters:
What is the overall deductible?	\$	
Are there other deductibles for specific services?	\$	
Is there an out-of-pocket limit on my expenses?	\$	
What is not included in the out-of-pocket limit?		
Is there an overall annual limit on what the plan pays?		
Does this plan use a network of providers?		
Do I need a referral to see a specialist?		
Are there services this plan doesn't cover?		

# Graphic Warning labels

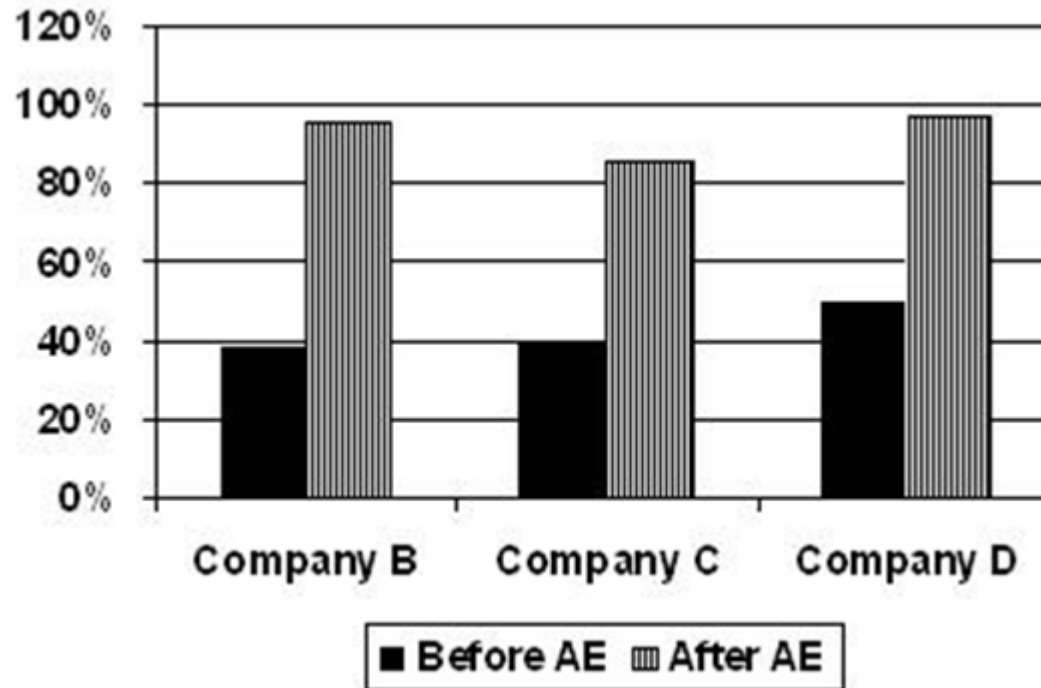


# Smart Disclosure

- **Nine major utilities and electricity suppliers are committing to providing more than 15 million households access to data about their own energy use with a simple click of an online “Green Button.”**
- **Green Button is an effort that allows electricity customers to download their household or building energy-use data in a consumer- and computer-friendly format.**
- **General idea: If consumers are given access to existing data, they could use it to make more informed choices about finance, healthcare, real estate, and more.**

# Simplifying Choices, 1: The Power of Defaults

## Automatic Enrollment Increases Savings



# Opt in vs. Opt out

- More people will stay in under “opt out,” even if transactions costs are very low, and hence default rules matter
- Examples: savings; health insurance; school meals; electronic rather than paper reporting and filing; privacy

- **President Obama on opt-out:**

“[W]e’re going to make it easier for small businesses to do what large businesses do: allow workers to automatically enroll in a 401(k) or an individual retirement account. We know that automatic enrollment has made a big difference in participation rates by making it simpler for workers to save – and that’s why we’re going to expand it to more people.”



## Simplifying Choices, 2: Eliminating Complexity

- Complexity can have serious adverse effects, defeating program goals.
- FAFSA reform – enabling large numbers of students to attend college.
- Prescription Drug Plans and CMS reforms
- Data call to all agencies to simplify requirements, especially on small business and participants in federal programs

# Social norms and private-public partnerships

- Energy use: levels decrease when people learn that they are spending more \$\$ than their neighbors
- Increase in usage of seatbelts, prompted in part by changing social norms
- Let's Move campaign: Walmart has committed to reformulating thousands of everyday packaged food items by 2015 by reducing sodium 25 percent and added sugars 10 percent, and by removing all remaining industrially produced trans fats.
- A number of companies, including Kraft Foods, General Mills, Coca-Cola, Pepsi, and Kellogg, have pledged to remove 1.5 trillion calories from their products by 2015, in an effort to combat childhood obesity.
- Distracted driving initiatives
- Note: *Deaths on highway at lowest level in recorded history*

# Reginfo.gov



OFFICE of INFORMATION and REGULATORY AFFAIRS  
OFFICE of MANAGEMENT and BUDGET  
EXECUTIVE OFFICE OF THE PRESIDENT

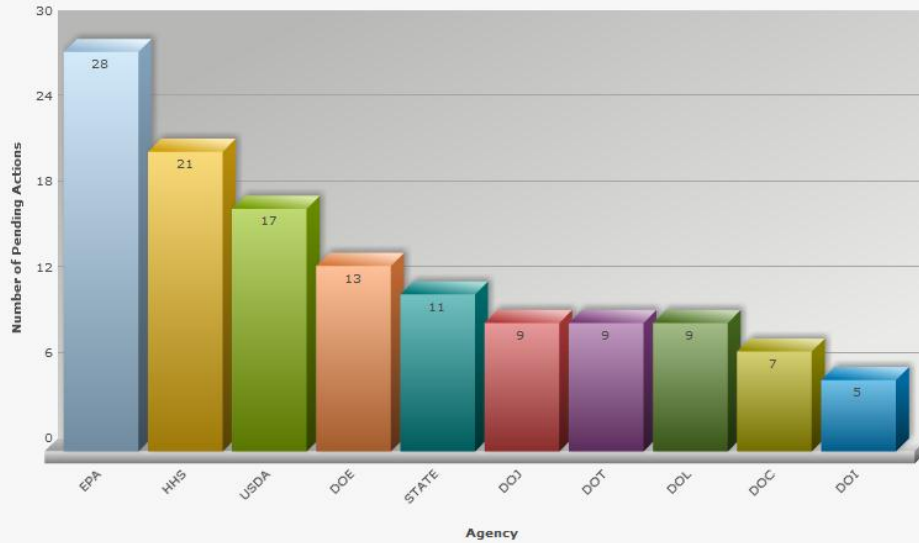
Reginfo.gov

U.S. General  
Services  
Administration

Search:  Agenda  Reg Review

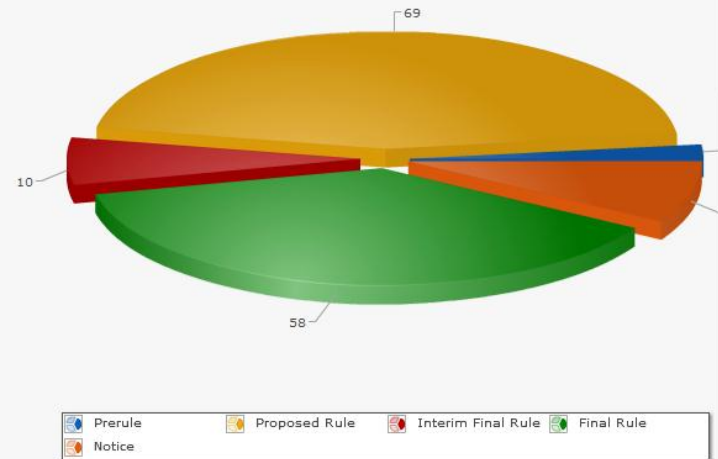
[Home](#) | [Unified Agenda](#) | [Regulatory Review](#) | [Information Collection Review](#) | [FAQs / Resources](#) | [Contact Us](#)

AGENCIES WITH THE MOST REGULATORY ACTIONS CURRENTLY UNDER REVIEW



Total Pending Actions: 153

Pending Actions By Rule Stage



View



# Regulations.gov



Your Voice in Federal Decision-Making

[Home](#)

[Help](#) ▾

[Resources](#) ▾

[Feedback and Questions](#)

 [Search](#)

 [Browse](#)

 [Learn](#)

## Let Your Voice Be Heard

Regulations.gov is your source for U.S. government regulations and related documents. Here you can find, read and comment on documents. **Share your knowledge** and **make your voice count**.

SEARCH for: Rules, Comments, Adjudications or Supporting Documents:

[Search](#)

[» Advanced Search](#)

### Coming Soon...

My Recent Searches



Regulations With  
Comments Due Soon

[Today](#) (38)  
[Next 3 Days](#) (69)  
[Next 7 Days](#) (193)

Newly Posted Regulations

[Today](#) (126)  
[Last 3 Days](#) (360)  
[Last 7 Days](#) (590)  
[Last 15 Days](#) (1,135)

### Are you new to the site?

Click the links below to get started.

- [» How do I find a rule?](#)
- [» How do I submit a comment?](#)
- [» How do I find my comment?](#)
- [» Do my comments make a difference?](#)

[Regulations.gov Webinar](#)

[Regulations.gov Re-launch](#)

[President's Executive Order](#)



# Data.gov (and Smart Disclosure)

An Official Website of the United States Government

Friday, March 02, 2012 Text: A+ A- A S



SEARCH

HOME

DATA

APPS

COMMUNITY

METRICS

OPEN DATA SITES

GALLERY

WHAT'S NEW

Visit the new  
**Education  
Community**



## Latest Datasets

- Large Truck Crash Causation Study (LTCCS) - ...
- Large Truck Crash Causation Study (LTCCS) - ...
- Large Truck Crash Causation Study (LTCCS) - ...
- Large Truck Crash Causation Study (LTCCS) - ...
- Motor Carrier Registrations - Census File...
- Motor Carrier Registrations - Census File...
- Pipeline Incident Data - Natural Gas...
- Pipeline Incident Data - Natural Gas...
- Pipeline Incident Data - Natural Gas...
- Pipeline Incident Data - Natural Gas...

# President's Jobs Council on International Regulatory Cooperation

Road Map to Renewal (Jobs Council Year-End Report, 2011):

## *Aligning international regulatory standards*

In a globalized economy, U.S. companies can be subject to the regulatory requirements of a number of jurisdictions in export markets. Divergent requirements can create unnecessary costs, burdens and delays that hinder market access, particularly for small and medium-sized companies that rely on exports to grow their businesses and hire workers. . . . [T]he administration should seek better alignment between U.S. regulations and the well-crafted regulatory approaches of major trading partners (where feasible and appropriate) . . . .



# US-Canada Regulatory Cooperation Council

On February 4, 2011, President Barack Obama and Prime Minister Stephen Harper announced the creation of the United States-Canada Regulatory Cooperation Council (RCC) to increase regulatory transparency and coordination between the two countries.

. . . Unnecessary regulatory differences and duplicative actions hinder cross-border trade and investment and ultimately impose a cost on our citizens, businesses, and economies. Given the integrated nature of our economies, greater alignment and better mutual reliance in our regulatory approaches would lead to lower costs for consumers and businesses, create more efficient supply chains, increase trade and investment, generate new export opportunities, and create jobs on both sides of the border.

