

## Dole Rules

We have another job for Dick Morris, the Democrat-turned-Republican Svengali who finally persuaded President Clinton to endorse a balanced budget. His new mission impossible, should he decide to accept it, is to turn Mr. Clinton around on his puzzling opposition to regulatory reform.

Admittedly, this lacks the sex appeal of taxes and spending, even though it may be more important to job creation. Certainly a less intrusive government is what voters seemed to want last Nov. 8. The House passed a sweeping regulatory reform in March, 236-141, and Republican Majority Leader Bob Dole moved his version to the Senate floor yesterday. Yet Mr. Clinton is once again standing athwart history yelling "stop."

In public, the White House has issued a veto threat under the signature of regulatory czarina Sally Katzen. In private, Vice President Gore and others have been working furiously to keep Senate Democrats from endorsing the Dole bill. So far Howell Heflin of Alabama has signed up anyway, but the White House is still trying to rally enough support to sustain a Democratic filibuster.

The strategy—to the extent this White House does strategy—seems to be to convince Mr. Dole that he can't pass his bill without major concessions that would gut the bill. This would let both sides take credit for "reform," even if it did little to change the burdensome status quo. We hope Mr. Dole doesn't fall for this gambit, because there are real matters of principle at stake.

One of those principles is that no major rule should be issued unless its benefits outweigh costs. This may seem like common sense, and of course every federal regulator already claims to do such "cost-benefit analysis." Mr. Clinton himself issued an order early in his term requiring such analysis for any regulation that imposes costs on the U.S. economy of \$100 million or more.

But in fact, federal agencies have either ignored or fudged that order. An April 1995 study by the Institute for Regulatory Policy found that executive branch compliance is essentially a joke. Analyst Jim Tozzi found that of 222 major Environmental Protection Agency rules issued from April to September of last year, only six had even been judged to have benefits greater

than costs. The rest went ahead anyway.

Ms. Katzen's White House regulatory review team also fell down on the job. Mr. Tozzi found that of 510 regulatory actions published, 465 weren't even reviewed by Ms. Katzen's office under that executive order. That's more than 90%. Of the 45 rules that were looked at, not one was returned to the rule-making agency for having failed to meet the cost-benefit test. In the private sector they fire people for that kind of failed oversight.

Meanwhile, a new study by Washington University shows that Mr. Clinton's own 1996 budget proposes a \$16.6 billion, or 6.3%, increase in spending for regulatory programs. While the White House talks about "reinventing government," researchers Melinda Warren and Barry Jones found that staffing for regulators will also rise—to a record 132,000 federal nit-pickers at 55 separate regulatory agencies. Since 1990, the number of federal regulators has climbed by 15%.

All of which argues for Mr. Dole to compromise no more than he already has. In particular, he would gut his own bill if he budged on the question of allowing courts to review agency cost-benefit calculations. While this runs the risk of greater litigation, only the threat of judicial review gives regulators an incentive to keep their numbers honest. Because regulators exist in order to regulate, some outside check on their zeal is essential.

We also hope Mr. Dole doesn't abandon his cost-benefit threshold of \$50 million, since lots of small businesses get hit even with a rule that costs less than Mr. Clinton's threshold of \$100 million. Republicans will lose if their bill is perceived to serve mainly big business. The bill could also use an amendment to protect against EPA's retroactive enforcement.

As for the broader politics, Mr. Dole has done all he can to bring Hamlets like Louisiana Democrat Bennett Johnston on board. The price of winning over the likes of Ohio's John Glenn or Michigan's Carl Levin isn't worth paying. Further concessions will win fewer Democrats now than will putting a bill on the Senate floor that forces Members to declare themselves. If Mr. Clinton and Senate Democrats want to filibuster, at least everyone will know that their rhetoric about reducing intrusive federal rules is so much eyewash.