

# Moneyball for Local Regulators

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# Three Themes

- 1) Simpler: make things as easy as possible (global entry program; automatic renewal)
- 2) Nudge: New tools that influence without coercing (GPS; default rules) (note: “nudge units” in US, UK, and elsewhere)
- 3) Costs and benefits
- All subsumed under this:

# Evidence, Not Intuitions



# Toward Regulatory 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 not that bad a hitter,” says the old scout.**

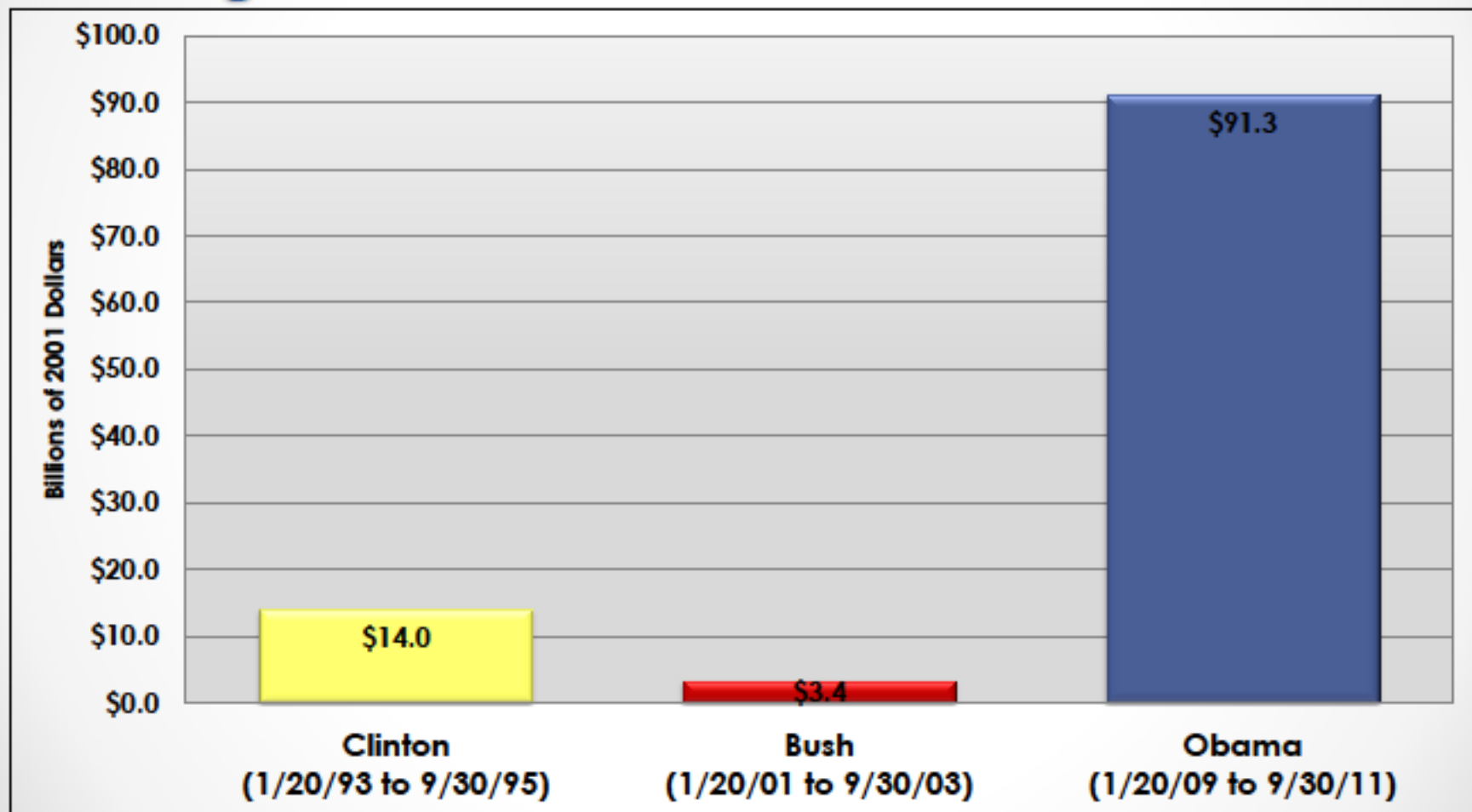
**...**

**Paul reads the player’s college batting statistics. They contain a conspicuous lack of extra base hits and walks.**

**“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 [bad] list.**

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



# Two Origins

- Reagan Administration and EO 12291
  - Benefits must outweigh costs
  - Must maximize net benefits
  - Clear economic test
- Paperwork Reduction Act
  - OIRA evaluates whether the collection of information by the agency: is necessary for the proper performance of the functions of the agency and minimizes the Federal information collection burden,

# Proposal

- States and localities should do same thing!
- Should not impose significant costs on private sector without some sort of screen
- More later on details
- One size does not fit all; question of capacity
- But should have some kind of “screen”

# Historical Notes

- Four Motivations:
- 1) Fragmentation of executive branch;
- 2) need for technical control (through economics);
- 3) excessive regulation;
- 4) executive management and priority-setting



# Process and Substance

- Process: (1) OIRA review: with veto power
- (2) Interagency coordination
- (3) Public comments
- Substance: Cost-benefit and net benefits
- Clinton: Essentially ratified in 1993

# Executive Order 13563: “Mini-Constitution” (and OIRA’s guidebook)

- Process and substance retained, and also:
- 1) Cost-benefit analysis; maximize net benefits
- 2) Low-cost tools: **“each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, appropriate default rules, and disclosure requirements as well as provision of information to the public in a form that is clear and intelligible.”**

# Executive Order 13563, continued

- 3) Public participation: **“Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.”**

# Executive Order 13563, continued

- 4) Integration and coordination: **“Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization.”**
- 5) The Regulatory Lookback

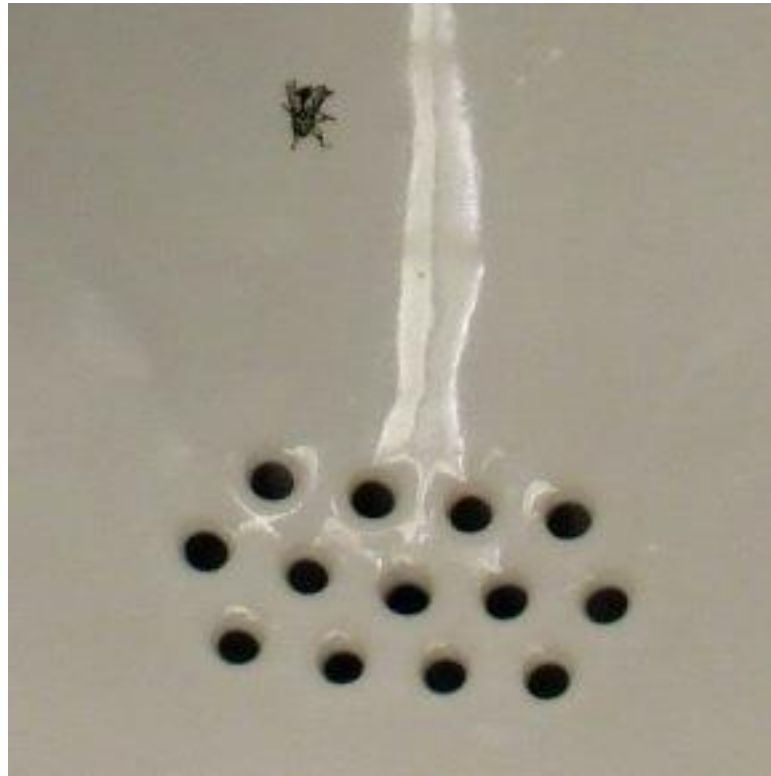
# Four Concepts

- **Nudge:** libertarian paternalism. Influences choices but let people go as they see fit. Cafeteria design (Lesson: small changes can have big effects)
- **Choice architecture.** All of our choices have architecture behind them.
- **Simpler:** Complexity is surprisingly harmful (for both private and public sectors) (Lesson: make it easy and intuitive)
- **System 1 and System 2** (present bias, optimistic bias)

What is a Nudge (1)? A GPS is. Also  
and similarly:



# What is a Nudge (2)?



# Nudges in the federal government

- Distinctive US approach: using behavioral findings
- Credit Card statute (default rules, disclosure)
- Retirement policy (automatic enrollment)
- Affordable Care Act (default rules, disclosure)
- Financial reform (“know before you owe”; simplification; Federal Reserve Board rule)
- Fuel economy and energy efficiency labels
- Education policy (simplification)
- Childhood obesity (choice architecture)
- Much more, and recall: \$90 billion in net benefits



# Do Nudges Work? (YES)

- Chetty et al.: Automatic enrollment has a **much** bigger effect than significant tax incentives (Denmark) (US Gov has responded)
- CARD Act – saving over \$20 billion annually, some of it through nudges
- Opower: Home energy report has an effect energy use equivalent to significant price increases
- FAFSA simplification – effect equivalent to a several thousand dollar education subsidy (US Ed Dept has responded; cf. new ACA application)
- For many areas, a challenge (and an **opportunity**)

# The Power of Default Rules

(imagination welcome)

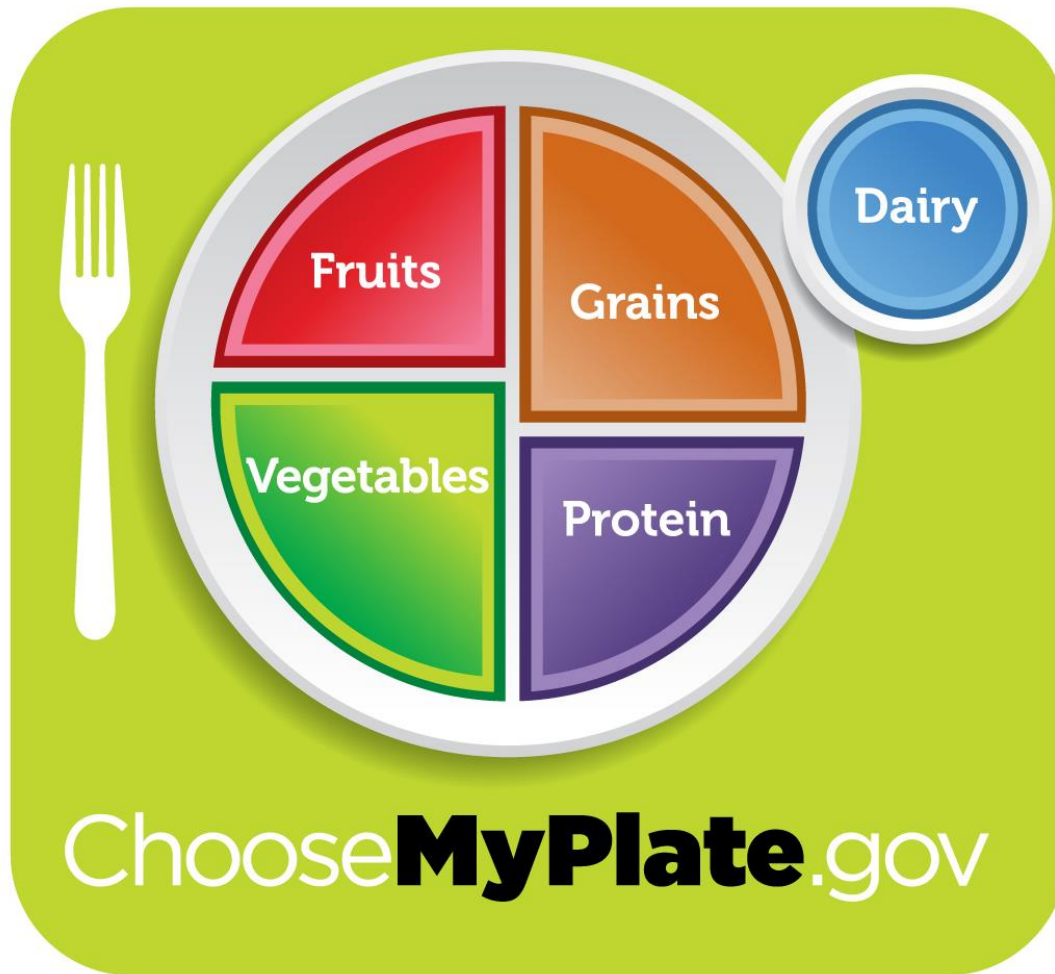
- Bean sprouts and soy cheese sandwiches
- Savings defaults
- One sided vs. two sided defaults for printing
- Green energy defaults
- Privacy
- Taxi tips! (cf. portion sizes)

# PLATE, NOT PYRAMID

## Old USDA Food Pyramid



# New USDA Food Plate



# Simplification Is A Nudge

- Basic finding: **Complexity can have serious adverse effects**, defeating goals. (What seems to be resistance may be a response to ambiguity!)
- Financial Aid for College Reform – enabling large numbers of students to attend college.
- Prescription Drug Plans
- Call to all agencies to simplify requirements, especially on small business and participants in federal programs
- Form Simplification Project

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# Simpler: Regulatory Lookback

## **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 . . . .”



# The Future

- “Agencies shall regularly report on the status of their retrospective review efforts to OIRA. Agency reports should describe progress, anticipated accomplishments, and proposed timelines for relevant actions, with an emphasis on the priorities described in section 3 of this order. Agencies shall submit draft reports to OIRA on September 10, 2012, and on the second Monday of January and July for each year thereafter, unless directed otherwise through subsequent guidance from OIRA. Agencies shall make final reports available to the public within a reasonable period.”

# Regulatory Lookback: Results

- Over 580 reform proposals
- Preceded by public comment
- Many already finalized
- Over thirteen billion dollars in savings over next five years
- Executive Order 13610
- “Members of the public . . . have important information about the actual effects of existing regulations. [A] gencies shall invite, on a regular basis . . . public suggestions about regulations in need of retrospective review.”

# Proposal

- State and local governments might do the same thing
- Formal office
- Informal (one person)
- Submit regulations for review (could be formal or informal; could involve economics; could have threshold)
- Many variations imaginable

