106TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
106–272

WORKPLACE PRESERVATION ACT

JULY 29, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

---

Mr. GOODLING, from the Committee on Education and the Workforce, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 987]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 987) to require the Secretary of Labor to wait for completion of a National Academy of Sciences study before promulgating a standard or guideline on ergonomics, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 987, the Workplace Preservation Act, is to ensure that the National Academy of Sciences (NAS) completes the study (provided for in Public Law 105–277) of the available evidence examining "the cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders" before the Occupational Safety and Health Administration (OSHA) promulgates an ergonomics standard or guidelines.

COMMITTEE ACTION

The Committee on Education and the Workforce has been active in bringing attention to the questions of the scientific soundness and the effectiveness of a national ergonomics standard. A detailed explanation of the hearings follows:

105th Congress

In the 105th Congress, the Subcommittee on Workforce Protections held a hearing on May 21, 1997, to hear first hand what the medical community understands about so-called "ergonomics" injuries and illnesses, as well as the current state of medical knowledge of the causes and remedies for the general area of back, arm, neck, hand, and other musculoskeletal strains, aches, and pains. The witnesses testifying at the hearing included: Dr. Howard M. Sandler, M.D., President, Sandler Occupational Medicine Associates Inc., Melville, New York; Dr. Nortin M. Hadler, M.D., F.A.C.P., F.A.C.R., Professor of Medicine and Microbiology/Immunology, University of North Carolina, and Senior Attending Rheumatologist, North Carolina Memorial Hospital, Chapel Hill, North Carolina; Dr. Morton L. Kasdan, M.D., F.A.C.S., Clinical Professor of Surgery, Department of Preventive Medicine and Environmental Health, University of Louisville, Louisville, Kentucky; Dr. Stanley J. Bigos, M.D., Professor of Orthopedics and Adjunct Professor of Environmental Health, University of Washington, Seattle, Washington; and, Dr. Laura S. Welch, M.D., F.A.C.P., F.A.C.O.E.M., Professor of Medicine and Healthcare Sciences, Director, Division of Occupational and Environmental Medicine, George Washington University, Washington, D.C.

The Subcommittee on Oversight and Investigations held a hearing on July 16, 1997, to examine the feasibility of an ergonomics standard covering the multiple types and sizes of businesses and industries operating in the United States. This hearing reviewed the types of "ergonomics" issues being experienced in a broad range of industries, and the steps currently being taken to address these concerns. Witnesses testifying at the hearing included: Dr. Nelson Conger, DDS, Dalton, Georgia; Mr. Douglas B. Adams, Safety Coordinator, San Diego Unified School District, San Diego, California; Dr. Mark Berkman, Vice President, National Economic Research Associates, Inc., San Francisco, California; Mr. Carl Loop, Jr., President, Florida Farm Bureau Federation, Gainesville, Florida; and Dr. Franklin E. Mirer, Director, Health and Safety Department, International Union, United Auto Workers, Detroit, Michigan.

106th Congress

The Subcommittee on Workforce Protections held two hearings regarding an ergonomics standard in 1999. The first was on March 23, 1999, and focused on oversight of the Occupational Safety and Health Administration, specifically on OSHA's regulatory agenda, including a proposed ergonomics standard. Testifying at the hearing were: Mr. Charles N. Jeffress, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C.; Mr. Stuart McMichael, President, Custom Print, Inc., Arlington, Virginia, representing the Printing Industries of America, the National Federation of Independent Business, and the Alliance for Workplace Safety; Mr. David G. Sarvadi, Attorney-at-Law, Keller and Heckman LLP, Washington, D.C., representing the National Coalition on Ergonomics; Mr. James Elmer, James W. Elmer Construction Company, Spokane, Washington; and Mr. Bill Borwegen,

Occupational Health and Safety Director, Service Employees International Union, Washington, D.C.

On April 21, 1999, the Subcommittee on Workforce Protections held a hearing on legislation to amend the Occupational Safety and Health Act. Among the bills considered was H.R. 987, the Workplace Preservation Act. The witnesses testifying on H.R. 987 included the Honorable Roy Blunt, Member of Congress, 7th District of Missouri; the Honorable Nancy Pelosi, Member of Congress, 8th District of California; Dr. Stanley J. Bigos, Professor of Orthopedics with the Bone and Joint Center at the University of Washington Medical Center, Seattle, Washington; and Dr. Michael Vender, Hand Surgeon, Hand Surgery Associates, Arlington Heights, Illinois.

On May 19, 1999, the Subcommittee on Workforce Protections approved the Workplace Preservation Act (H.R. 987) and ordered it favorably reported to the Full Committee by voice vote. On June 23, 1999, the Committee on Education and the Workforce approved the Workplace Preservation Act (H.R. 987) by a roll call vote of 23–18 and ordered the bill favorably reported to the House of Representatives.

COMMITTEE STATEMENT AND VIEWS

Background

Section 6 of the Occupational Safety and Health Act (OSH Act), 29 U.S.C. Sec. 655, authorizes the Secretary of Labor to establish occupational safety and health standards, subject to certain procedural and substantive conditions. Among other things, the statute requires that such standards be based on sound science. In promulgating a standard, the Secretary has the burden of showing, by scientific evidence, not "conclusory statements," that the standard is necessary to address a "significant risk of material health impairment." *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute (Benzene case),* 448 U.S. 607, 100 S.Ct 2844 (1980); *AFL–CIO* v. *OSHA*, 965 F.2d 962 (11th Cir., 1992) In addition, section 6(b)(5), 29 U.S.C. Sec. 655(b)(5), requires that health standards be based on "the latest available scientific data in the field."

OSHA has made issuing an ergonomics standard its top priority [1] despite scientific uncertainties and Congressional concerns about the cost effectiveness of any such standard when such uncertainties exist. These uncertainties include defining what ergonomics-related injuries are and how work versus non-work and non-physical factors are related to such injuries.

At the beginning of this decade, OSHA considered workplace ergonomic hazards to be those that, though otherwise undefined, caused or contributed to "repetitive motion trauma" or "cumulative

[1] U.S. Congress, House. Committee on Education and the Workforce, Subcommittee on Workforce Protections, "Oversight Hearing to Review the Occupational Safety and Health Administration's Regulatory Agenda," Testimony of Charles Jeffress, Assistant Secretary of OSHA, March 23, 1999, 106th Congress, 1st session. In addition, the head of OSHA's ergonomics team in 1995, speaking about the intention of Congress to pass legislation requiring a moratorium on regulations for several months in 1995 said, "If the legislation says the moratorium runs through December the 31st, our anticipation is that we would get the proposal out January the 1st, unless it says do not work on any ergonomics standards or go to jail. If it only says we cannot publish the proposal, we can continue to work on it," Daily Labor Report, March 13, 1995, page A8.

trauma disorder."[2] Neither repetitive motion trauma, nor cumulative trauma disorder are defined medical terms;[3] indeed, the diagnosis and definition of even the most recognized form of "cumulative trauma disorder," carpal tunnel syndrome, remains much debated in the medical community.[4]

Nonetheless, in 1990, the Department of Labor estimated that "ergonomic hazards" in the workplace accounted for 48 percent of workplace illnesses, or about 3 percent of total injuries and illnesses.[5] In 1999, the Assistant Secretary for OSHA testified before the Subcommittee on Workforce Protections that ergonomic hazards cause or contribute to 34 percent of all workplace injuries and illnesses.[6] The reason for this tremendous increase (from 3 percent to 34 percent of total injuries and illnesses) in nine years is the changing and expanding definition of "ergonomic hazards." "Ergonomic hazards" are defined no longer in terms of causing or contributing only to "cumulative trauma disorders," but also to any "musculoskeletal disorder" (MSD). MSDs are defined as any "disorders of the muscles, nerves, tendons, ligaments, joints, cartilage, or spinal disks." Thus, ergonomic hazards are not confined to those alleged to cause "repetitive stress," but include one-time exertions and any other factors that may cause or contribute to back pain, muscle strain, or any other MSD.[7]

The importance of this change in the focus of ergonomics is significant both to public perceptions and to OSHA's attempt to regulate ergonomics. For example, a recent Washington Post article on "repetitive stress injuries" cited the number used by OSHA, 647,000 MSDs nationwide in 1996, without mentioning that this number was not the number of "repetitive stress injuries" but rather the total number of MSDs.[8] In fact, the overwhelming number of MSDs are back pain, a particularly difficult symptom to identify the cause of or to treat.[9] Furthermore, the medical and scientific communities have recognized that MSDs are often caused by nonphysical and non-work-related factors. Indeed, that is why the word

---

[2] U.S. Department of Labor, Office of Information, "Secretary Dole Announces Ergonomics Guidelines to Protect Workers From Repetitive Motion Illness/Carpal Tunnel Syndrome", August 30, 1990.

[3] U.S. Congress, House. Committee on Education and the Workforce, Subcommittee on Workforce Protections, "Hearing to Review Pending OSHA Legislation," Testimony of Dr. Michael Vender, April 21, 1999, 106th Congress, 1st session.

[4] "Common but Confusing Workers" Wrist Ailments," The New York Times, July 21, 1999, page D6.

[5] U.S. Department of Labor, Office of Information, August 30, 1990.

[6] Testimony of Charles Jeffress, Assistant Secretary of OSHA, March 23, 1999.

[7] "Individual factors were found to be highly related to Cumulative Trauma Syndrome by a study of six different groups of American and Japanese subjects. Researchers found that factors such as body mass index, age, wrist depth to width ratio, hand dominance, and avocational exercise level, together always predicted the incidence of CTS with greater accuracy than did job-related factors. The importance of individual factors was found by the study to be at least four-fold greater than job-related factors." Accident Facts, National Safety Council, 1994, page 53. "Fourth, ergonomics is the study of people and their work environment. However, looking only at one's work ignores the major portion of life, which is spent away from work. Consider that, on average, work accounts for only 15% or less of life. It is not adequate to study just part of a patient's activities when researching the cause of what is suspected to be an environmental disease. If we were to look only at work in seeking the cause of AIDS, heart disease or tuberculosis for example, than a tautology would be created with work as the only answer. The scientific literature indicates that pregnancy obesity, smoking and other intrinsic factors completely unrelated to work increase the risk of getting carpal tunnel syndrome." U.S. Congress, House. Committee on Education and the Workforce, Subcommittee on Workforce Protections, "Oversight Hearing to Review the Status of Scientific Information on Ergonomics," Testimony of Dr. Morton L. Kasdan, May 21, 1997, 105th Congress, 1st session, Serial No. 105–31.

[8] "Repetitive Stress Solutions," The Washington Post, July 21, 1999, Section E, page 1.

[9] Testimony of David Sarvdai, March 23, 1999.

"disorders" rather than "injuries" is used.[10] In short, an ergonomics standard potentially affects nearly every employer in the United States. It would extend regulation into many common, everyday activities such as lifting, turning, walking, climbing, keyboarding, and sitting. It also would attempt to regulate in an area in which, by any analysis, the causes and effects are not well understood.

An ergonomics standard would also be very expensive. OSHA estimated the cost of its 1999 draft proposed standard as $3.5 billion per year. There are several reasons to believe that OSHA's estimates are substantially understated. First, small business owners who participated in a Small Business Advocacy Review Panel, the only outside panel that has thus far reviewed OSHA's current proposal, stated that, in their view, OSHA substantially understated the costs of compliance with the standard.[11] Second, an earlier proposal from OSHA in 1995, which OSHA estimated would cost American companies $4.5 billion per year in compliance costs, was reviewed by the National Economic Research Associates (NERA), who found that the actual costs for the trucking industry alone would be more than $6 billion per year.[12] In addition, the North Carolina School Boards Association has estimated the costs of an ergonomics standard for schools in that state alone, and considering only the costs of ergonomics analysis and not any job modifications, to be nearly $132 million.[13] The costs of an ergonomics standard are particularly difficult to predict because, as described below, without a scientific basis for a standard, OSHA is likely to propose a standard that is vague as to what employers must do in order to assure compliance.

Congress has had a lengthy history of involvement with OSHA's regulation of workplace ergonomics. In the 102nd Congress, legislation was introduced by Representative William Ford, Chairman of the Committee on Education and Labor, and Senator Edward Kennedy, Chairman of the Senate Committee on Labor and Human Resources, which would have required OSHA to issue a final ergonomics standard within two years of enactment (H.R. 3160, S. 1622). Similar legislation was introduced in the 103rd Congress (H.R. 1280, S. 575). Despite the Clinton Administration's support for the bills introduced in the 103rd Congress, neither the House nor the Senate passed the legislation.

Notwithstanding the fact that Congress did not enact the proposed legislation directing OSHA to issue an ergonomics standard, OSHA proceeded towards issuing such a standard. In June 1994, OSHA released a draft summary ergonomics standard and released a proposed standard in March 1995. OSHA's draft standard re-

---

[10] "Work-Related Musculoskeletal Disorders: A Review of the Evidence," Report of the National Research Council, (Washington, D.C., National Academy Press, 1998).

[11] OSHA was required by Section 609 of the Small Business Regulatory Fairness Enforcement Act to submit the standard to a Small Business Advocacy Review Panel prior to publication as a proposed standard. The Panel's report, issued on April 30, 1999, criticized nearly every aspect of the draft standard, including OSHA's cost estimates, which the Panel believes were substantially understated. One of the panelists stated, "government estimates are always 1/10 to 1/4 of the actual implementation costs."

[12] National Economic Research Associates (NERA) for the ATA Foundation, "Ergonomics and Economics: The Impact of OSHA's Proposed Ergonomic Standard on the US Trucking Industry," October 1996.

[13] Letter to Commissioner Harry E. Payne, Jr., North Carolina Department of Labor from Edwin Dunlap, Jr., PhD., Executive Director North Carolina School Boards Association, July 2, 1999.

ceived considerable criticism in Congress, particularly in the House of Representatives,[14] and subsequently, in adopting the fiscal year 1996 Appropriations for the Department of Labor,[15] Congress included the following language:

> None of the funds made available in this Act may be used by the Occupational Safety and Health Administration directly or through section 23 (g) of the Occupational Safety and Health Act for the development, promulgation, or issuance of any proposed or final standard or guideline regarding ergonomic protection or recording or reporting occupational injuries or illness directly related thereto.

Similar language was approved by the House Appropriations Committee as part of the Department of Labor Appropriations for fiscal year 1997, but was deleted by an amendment adopted by the full House of Representatives.[16] In the meantime, however, OSHA announced that it had withdrawn its proposed ergonomics standard and was reevaluating its strategy on ergonomics and the scope of any potential standard.[17]

During consideration of the fiscal year 1998 Appropriations bill for the Department of Labor, Representative Henry Bonilla again proposed to prohibit OSHA from promulgating an ergonomics standard during the fiscal year, and also to request an independent study by the National Academy of Sciences of the underlying medical and scientific questions involved in such a standard. Representative Bonilla's request for the NAS study was supported by a letter signed by 166 Members of Congress, including all of the Republican Members of the Committee on Education and the Workforce.[18] The final 1998 Appropriations bill included language prohibiting OSHA from promulgating the standard, but did not include the specific authorization for the NAS study.[19] Instead, the Chairman of the House Appropriations Committee, by letter, requested the Director of the National Institutes of Health to fund the study by the NAS.[20] Despite his request for a comprehensive study, in May 1998 the Director of the National Institutes of Health asked NAS merely to conduct a "workshop" to examine "literature relevant to work-related musculoskeletal disorders." [21]

---

[14] U.S. Congress, House, Amendment by Representative Tom Delay to H.R. 1158, 104th Congress, 1st session, March 15, 1995.

[15] Public Law 104–134.

[16] The FY 1997 Labor Appropriation bill (H.R. 3755) reported by the Committee on Appropriations included an amendment by Representative Henry Bonilla to prohibit OSHA from developing or issuing any proposed or final ergonomics standard during fiscal 1997. During House floor consideration on July 10–11, 1996, Representative Nancy Pelosi offered an amendment to strike the "ergonomics rider" from the bill. The amendment passed by a vote of 216–205, Congressional Record, pages H7239–H7242 and H7301.

[17] During a debate at the American Bar Association in March 1997, Nancy Adams, the OSHA Ergonomics Coordinator told attendees, that "the March 1995 draft proposed standard in effect no longer exists * * *" and OSHA pulled the document from its Internet site stating that it would initiate a new rulemaking on ergonomics as part of a four step action plan, Daily Labor Report, March 17, 1997, pages A9–10.

[18] Letter to Representative Robert Livingston, Chairman of the Committee on Appropriations and Representative John Porter, Chairman of the Subcommittee on Labor, Health and Human Services, and Education from a bipartisan coalition of 166 Members of the U.S. House of Representatives, June 26, 1997.

[19] Public Law 105–78.

[20] Letter to Dr. Harold E. Varmus, Director, National Institutes of Health from Representative Robert Livingston, Chairman of the Committee on Appropriations, July 31, 1997.

[21] "Work-Related Musculoskeletal Disorders: A Review of the Evidence," Report of the National Research Council, (Washington, D.C., National Academy Press, 1998), page 1.

During consideration of the fiscal year 1999 Department of Labor Appropriations, Representative Bonilla renewed his proposal for a comprehensive study of ergonomics by the NAS. The study was included in the omnibus appropriations bill, P.L. 105–277:

> Provided that $890,000 shall be for a contract with the National Academy of Sciences to conduct a study of all the available scientific literature examining the cause-and-effect relationship between repetitive tasks in the workplace and musculoskeletal disorders.

The accompanying report further details the issues that the NAS study is to consider:

> The Committee has provided $890,000 for a contract with the National Academy of Sciences (NAS) to conduct a study of all the available scientific literature examining the cause-and-effect relationship between repetitive tasks in the workplace and musculoskeletal disorders. The NAS study should address the following questions: (1) what are the conditions affecting humans that are considered to be work-related musculoskeletal disorders; (2) what is the status of medical science with respect to the diagnosis and classification of such conditions; (3) what is the state of knowledge, characterized by the degree of certainty or lack thereof, with regard to occupational and non-occupational activities causing such conditions; (4) what is the relative contribution of any causal factors identified in the literature to the development of such conditions in the general population, specific industries, and specific occupational groups; (5) what is the incidence of such conditions in the general population, specific industries, and specific occupational groups; (6) does the literature reveal any specific guidance to prevent the development of such conditions in the general population, specific industries, and specific occupational groups, and (7) what scientific questions remain unanswered, and may require further research, to determine which occupational activities in which specific industries cause or contribute to work-related musculoskeletal disorders.

The NAS began its study in early 1999. The study is expected to take approximately two years.

It should be emphasized that the NAS study was requested and funded by Congress because of the continued disagreement and controversy over fundamental questions regarding MSDs and work activities; questions that are important to society, employers, and employees, but are also necessary considerations in any rulemaking on ergonomics. As detailed above, over the past two years, the Committee on Education and the Workforce has conducted several hearings in which many of the country's leading physicians and researchers on injuries and disorders of the hands, back, and upper extremities provided testimony regarding the continued uncertainty about the cause and effect relationship between work activities and MSDs.

For example, Dr. Morton Kasdan, a Clinical Professor of Surgery, Department of Preventive Medicine and Environmental Health, University of Louisville, testified on May 21, 1997 that:

> There is a lack of scientific evidence that using our hands repetitively causes so-called cumulative trauma.[22]

Dr. Stanley Bigos, Professor of Orthopedics and Adjunct Professor of Environmental Health, Department of Orthopedics, University of Washington, author/ co-author of numerous articles and abstracts on back injuries testifying in May 1997 stated:

> I strongly believe that we should prevent harm to, and alleviate discomfort in working people. However, before making expensive policy decisions that would eventually take millions of dollars out of the pockets of hourly employees, I would demand at least one reliable prospective "testing" study to substantiate hypotheses. The American worker is not served by policy based upon bias-laden retrospective "searching" studies or soft outcome memory-based surveys that neither differentiate the many reasons for discomfort not differentiate complaints from damage and injury.[23]

Dr. Howard Sandler, an occupational and environmental physician, former medical officer with NIOSH, and a consultant to OSHA, EPA and the CPSC, testified that:

> Considerable interest and concern has been focused on the relationship between work and musculoskeletal disorders. At the present time, the risk factors, their interactions and their thresholds for causing effects have not been sufficiently identified. Once this information is established, risks can be effectively predicted and appropriate preventive actions can be instituted across the wide range of business and industry. Research presently underway should help to establish the scientific data which is currently lacking.[24]

Also, in May 1997, Dr. Nortin M. Hadler, Professor of Medicine and Microbiology/Immunology, University of North Carolina, and Attending Rheumatologist at the University of North Carolina Hospitals, author/co-author of many scientific articles and books on musculoskeletal disorders testified that:

> * * * very few putative ergonomic remedies have been subjected to scientific scrutiny. Where they have, they have proven effete or even counterproductive, if the health effect to be palliated is the complaint that a regional disorder is incapacitating in the workplace and therefore recorded on an OSHA 200 log or registered as a workers' compensation claim.[25]

Dr. Stanley Bigos, again testifying in April 1999 stated that:

---

[22] "Hearing to Review the Status of Scientific Information on Ergonomics," May 21, 1997, page 7.
[23] Ibid., page 156.
[24] Ibid., page 235.
[25] Ibid., page 10.

> We cannot provide a universal mandate without knowing specific dimensions that might work. How high should the bench be? How tall is too tall and too short? What about differences in age? Who will all of a sudden determine without data what is right or wrong—legal or illegal—borderline or punishable? From whose pockets will the costs come? As usual they will probably come from the employees take home pay.
>
> Don't be confused by those who want to over-simplify the model of the human body. Using the human body does not mean that you wear it out (discomfort from spring gardening or spring training is not caused by damage but by deconditioning of the winter rest).[26]

Dr. Michael I. Vender, Hand Surgery Associates, Chairman, Industrial Injuries and Prevention Committee, American Society of Surgery of the Hand, testified that:

> Many physicians state in their reports that the literature substantiates their opinions of a positive causal relationship between workplace factors and the development of conditions for which they are treating. As evidenced by testimony in numerous legal proceedings, these same physicians cannot explain a basic understanding of what work factors are actually present in the job, and what literature supports their assertions. It is true there is an extensive array of literature that alleges damaging effects of work-related factors. As scientists we all know that conclusions and opinions stated in the medical literature do not always prove to be true.
>
> Many opinions and conclusions stated cannot even be substantiated by the contents of the article itself, let alone be validated by other studies. Moreover, the same factors described as "work-related" are in fact descriptive adjectives that apply equally to non-job activities. With our present level of understanding, we cannot distinguish between on-the-job and off-the-job activities because the quantitative relationships between the factors and the medical conditions have so far eluded discovery by medical science. That is, we simply don't know how much is too much.[27]

Despite the ongoing NAS study that was requested and funded by Congress last October, OSHA has proceeded with an ergonomics standard. On February 19, 1999, OSHA released a draft proposed ergonomics standard. Pursuant to section 609 of the Small Business Regulatory Enforcement Act, the draft standard was then reviewed by a Small Business Advocacy Review Panel, which issued its report on April 30, 1999. The Review Panel criticized nearly all aspects of OSHA's draft proposed standard including OSHA's cost estimates, which the Panel believed were substantially under-

[26] "Hearing to Review Pending OSHA Legislation," Testimony of Dr. Stanley Bigos, April 21, 1999.
[27] Ibid., Testimony of Dr. Michael Vender, April 21, 1999.

stated.[28] Despite the Panel's criticisms of the proposed standard, OSHA recently forwarded its proposed ergonomics standard to the Office of Management and Budget for final review prior to its promulgation as a proposed standard. OSHA's announced timetable for the standard is to issue the proposed standard by the fall of 1999 and a final standard by the end of 2000, before the NAS study is completed.

OSHA's February 19, 1999, draft proposed standard underscores the need for the NAS study. The draft standard is vague in fundamental and critical aspects. For example, the draft standard never defines the hazard being regulated, except in circular terms ("work related MSD hazards" are any "workplace conditions or physical work activities that cause or are reasonably likely to cause or contribute to an (sic) work related MSD"). What are such conditions or activities? Is the hazard any lifting, or lifting over a certain weight, and if the latter, how much? Does it depend upon other factors, such as the physical condition of the individual? The reason that the draft is not clearer is not simply poor drafting, but the lack of scientific basis on which OSHA could reliably say which work activities cause MSDs.[29]

The Workplace Preservation Act (H.R. 987)

H.R. 987 is brief and simple: it prohibits OSHA from promulgating an ergonomics standard until the National Academy of Sciences completes its study and reports the results to Congress. The bill prohibits OSHA from promulgating either a proposed ergonomics standard under section 6(b)(2) or a final standard under section 6(b)(4).

Responses to arguments against H.R. 987

During the Committee's hearings and markups of H.R. 987, opponents raised a number of arguments against the bill. These arguments are addressed below:

The 1999 Appropriations language does not prohibit OSHA from issuing an ergonomics standard.

A letter dated June 22, 1999, from Mr. Jacob J. Lew, the Director of the Office of Management and Budget (OMB), to Representative John Boehner expressed the Administration's opposition to H.R. 987. Mr. Lew wrote that "[t]he law contains no prohibition on OSHA moving forward" with an ergonomics standard.

No one, certainly not the Committee on Education and the Workforce, has argued that the 1999 Appropriations or any other law currently prohibits OSHA from attempting to regulate ergonomics. The issue is whether OSHA should attempt to do so, in a preemptory way, when Congress has clearly indicated that additional study is needed. The Department of Labor should recognize Congress' concerns and simply await the results of the study before deciding whether regulation is appropriate. Instead, the Department of Labor has put in place a timetable for a final ergonomics stand-

[28] Small Business Advocacy Review Panel Report, April 30, 1999.

[29] This is only one of many concerns with OSHA's draft proposed standard and Representative Cass Ballenger, Chairman of the Subcommittee on Workforce Protections wrote an article for the Washington Legal Foundation entitled "OSHA Ergonomics Proposal Is Fatally Flawed," detailing problems with OSHA's draft standard, June 25, 1999.

ard before the NAS study is completed. During the Committee markup of H.R. 987, Representative Boehner stated:

> If OSHA meets its own timetable for this regulation, the final ergonomics standard will be in place before the National Academy of Science study is completed, and the study will be wasted. All of us in Congress ought to be outraged by such arrogance by any agency of government. At the least, we ought to very quickly pass Congressman Blunt's bill.

Even if OSHA should not otherwise move forward with a standard while the NAS study is underway, a letter signed by the Chairman and Ranking Member of the Appropriations Committee "authorized" OSHA to do so.

The letter referenced above, signed by Representative Bob Livingston, then-Chairman of the Appropriations Committee and Representative David Obey, Ranking Minority Member of the Appropriations Committee, was not made public until several weeks after the Appropriations bill was passed and signed into law. As Representative Roy Blunt, sponsor of H.R. 987, testified before the Subcommittee on Workforce Protections:

> I know that my friend Ms. Pelosi and others will cite a letter signed by the ranking member, Mr. Obey, and the Chairman at that time, Mr. Livingston, saying that really, OSHA doesn't have to wait for this study. But I have to tell you that neither I nor most of the Members who voted for that million-dollar appropriation knew about that letter when we cast our vote. I don't think that's the way to legislate. I also don't think that helps the appropriations process. When the process is over, we are told there's really something that's not apparent in what we voted for, that Members should be aware of.[30]

Beyond that, the letter referred to adds little to the consideration of whether OSHA should issue an ergonomics regulation while the NAS study is underway; the letter certainly does not require OSHA to "thumb its nose" at Congress' desire for additional study to inform the regulatory process, and it does not change any of the policy reasons for requesting the NAS study.

We don't need another study. There's already sufficient science to support an ergonomics standard.

Opponents of H.R. 987 argue that the NAS study is unnecessary, and that there is already sufficient science to support an ergonomics standard. In support of that argument, opponents of H.R. 987 generally point to two reports, both of which say that there is evidence of some relationship between workplace activities and MSDs. Those reports are a 1997 report by the National Institute for Occupational Safety and Health (NIOSH) and the 1998 publication by the National Research Council of the results of the

[30] Testimony of Representative Roy Blunt, April 21, 1999.

two-day workshop on ergonomics hosted by the National Academy of Sciences.[31]

However, in testimony before the Subcommittee on Workforce Protections in March 1999, Assistant Secretary for OSHA Charles Jeffress claimed that "since 1900 there have been more than 2000 studies" on workplace ergonomics. What Mr. Jeffress failed to note was that, in conducting its 1997 literature review, NIOSH eliminated about 1400 of the 2000 studies without any in-depth analysis, and found that only a small minority of the remaining 600 studies met even NIOSH's minimal criteria for reliability.

Both the NAS and the NIOSH reports have been criticized on scientific grounds. As indicated above, the NAS report is based upon a two-day workshop rather than any independent, thorough analysis of the reliability of studies. NIOSH's report is based on a lengthier analysis of existing studies. However, NIOSH's approach has also been criticized for crediting only those studies showing a "positive" correlation between workplace activities and MSDs, rather than looking at the weight of the evidence.[32] Furthermore, the NIOSH report acknowledges the role of non-work factors and non-physical factors in MSDs,[33] but fails to explain how such factors can be separated from physical factors in the workplace in either causing or eliminating MSDs.

However, even if you accept the conclusions of the NAS and NIOSH reports that there is evidence of some relationship between work and MSDs, that is not sufficient to be the basis for a regulation. As mentioned above, the OSH Act requires that standards be based upon predictable and specific risk determinations. So too, does common sense and sound public policy. How can OSHA write a standard that purports to regulate such common work activities as lifting and bending and even sitting without knowing how much or what type of lifting or bending or sitting causes injury? Neither the NIOSH report nor the NAS report suggests that the answer to that question is known or knowable; indeed, the NIOSH report specifically says that "quantitative risk estimates are beyond the purpose and scope of this document."[34] Yet that is precisely the type of scientific information OSHA must have before it decides whether a standard is appropriate.

Employers are already implementing effective ergonomics programs, proving that enough is known about ergonomics in order to regulate.

The cost of injuries, personal and financial, not OSHA regulation, is the largest factor in employers' and employees' efforts to reduce

---

[31] "Musculoskeletal Disorders and Workplace Factors, A Critical Review of Epidemiologic Evidence for Work-Related Musculoskeletal Disorders of the Neck, Upper Extremity, and Low Back," U.S. Department of Health and Human Services, July 1997 (DHHS/NIOSH Publication No. 97–141); and Report of the National Research Council, 1998.

[32] Testimony of Dr. Michael Vender, April 21,1999.

[33] "While the etiologic mechanisms are poorly understood, there is increasing evidence that psychosocial factors related to the job and work environment play a role in the development of work-related musculoskeletal disorders of the upper extremity and back. Though the findings of the studies reviewed are not entirely consistent, they suggest that perceptions of intensified workload, monotonous work, limited job control, low job clarity, and low social support are associated with various work-related musculoskeletal disorders," "Musculoskeletal Disorders and Workplace Factors, A Critical Review of Epidemiologic Evidence for Work-Related Musculoskeletal Disorders of the Neck, Upper Extremity, and Low Back," U.S. Department of Health and Human Services, July 1997 (DHHS/NIOSH Publication No. 97–141), page 7–1.

[34] Ibid., page 1–14.

injuries and improve safety and health. In fact, tremendous improvement has been made. Workplace injuries are at the lowest rate since those statistics have been kept.[35] In addition, "repetitive stress injuries" have declined by 17 percent over the past three years without an ergonomics regulation.

Opponents of H.R. 987 argue that the fact that employers have taken steps to reduce these injuries proves enough is known about the causes to issue a regulation. In fact, the practical experience of employers is just the opposite. In summarizing its study of several "successful" efforts by employers to reduce ergonomics-related injuries, the General Accounting Office found that:

> Although the ergonomics programs at all of the case study facilities displayed each of these elements, there were often significant variety in how they were implemented. This variety typically resulted from factors such as differences in the facilities' industries and product line, corporate culture, and experiences during the programs' evolution.[36]

The last factor was also emphasized, in testimony before the Subcommittee on Oversight and Investigations, by Douglas Adams, who has responsibility for implementing ergonomics programs for the San Diego Unifed School District. Mr. Adams' testimony clearly states the problem:

> Over the years, I have personally evaluated a variety of ergonomic work tools, furniture, and peripheral equipment which, according to the manufacturer, have been designed to lessen strain or stress in various work applications. Some of these materials have shown some success for some employees, while others using the same material have actually aggravated existing conditions or developed entirely new symptoms. In many cases, employees working with the same ergonomically correct equipment on the same work assignments show drastically different results in workplace injuries. One may develop symptoms after a relatively short time period while the other never develops these symptoms at all.
>
> On some occasions we have attempted to provide relief for injured employees who later discovered that their hobbies or sports-related activities were the actual cause for their symptoms. This experience alone has demonstrated to us that there is no such thing as a "one size fits all" in the area of ergonomics. If the problem is not totally caused by work conditions, then the solution is not going to be found in the workplace no matter what regulations are adopted.
>
> This is not to say that the injuries are not "real." They are real. The problem is that as a result of the lack of scientific or medical understanding of the very nature of repetitive motion injuries, many employees find themselves

[35] "Work-Related Injuries, Illnesses Fell In 1997 to Lowest Rate on Record, BLS Says," Occupational Safety & Health, December 23, 1998, Page 925.

[36] General Accounting Office, Report to Congressional Requesters, "Worker Protection: Private Sector Ergonomics Programs Yield Positive Results," (GAO/HEHS–97–163), page 4.

being used as guinea pigs while experimentation continues to attempt to find a lasting solution to their problems.

In my experience, the most helpful factor in dealing with repetitive stress injuries has been education and training. However, you cannot "regulate" such training and education, because it is specific to each individual employee's comfort level with the various activities they perform inside and outside of the workplace.

My entire job focuses on what we can be doing to prevent injuries. Part of that is reflected in workers' compensation costs. Do we want to keep those costs down? Of course. It is in the interests of the teachers, administrators, and especially, our students, to keep those costs to a minimum. If we thought the Cal/OSHA ergonomics regulation would improve our workers' compensation picture, we would be the first to support it, if for that reason only. However, we have no reason to believe it, or any other ergonomic regulation would have that effect. Individual employers are implementing individual ergonomic programs—some are meeting with great success. Others are spending a lot of money, and having no change whatsoever in their illness and injury picture. And some have actually seen increased injuries after implementing such changes. There are case studies to justify just about any point of view.

For schools, cost is always an issue. In our school district alone, projections of costs to equip workers with the latest ergonomically designed work stations would exceed $750,000, with continuing costs as employees move to new work locations and new employees occupy these areas which may not feel quite right to them. Fresno Unified School District estimated a $250,000 cost to take similar measures.

What does $750,000 buy for a school district? It means 30,000 new text books or 500 new classroom computers. Cities and counties around the state of California—many of which are struggling to fund basic public services—will spend approximately $420 million to comply with the regulation, according to an economic impact study. We will spend this money, but we have no reason to believe we will see any reduction in repetitive stress illnesses.

This is because we simply do not have answers to some basic questions, such as:

- How many repetitions is too many for our landscape maintenance people raking leaves?
- How heavy is too heavy for teachers to lift a box of school supplies?
- How many hours at the computer is too many for the data entry clerk?
- What does the ideal chair look like? The ideal desk?
- What's the right height for a counter top in the school cafeteria?
- Who qualifies as an ergonomist?

• In short, what are the proven measures we should take to actually prevent these ailments?

These are the questions we face in the real world of complying with ergonomics standard. Yet, these are the very questions to which no one yet has the answers * * *

For schools, complying with this regulation will result in money which should be spent on children's education being taken away from classrooms and other valuable educational materials and programs. Instead, it will be spent to furnish administrators and clerks with the latest ergonomically correct items that may or may not be of any help to them. Ironically, this comes at a time when many of our school children are forced to use out-dated, damaged desks and classroom furniture left over from the 1950's and 1960's.

It does not make sense to force schools to expend scarce resources on ineffective, ill-defined workplace regulations. In the field of education, children should always remain our top priority * * * The parents in our school district rightfully expect educational funding to be used to benefit their children, not to be used to conduct experiments in occupational therapy.

As a medical problem, this first demands better medical research and understanding. Before the federal Occupational Safety and Health Administration follows California's lead and enacts cost prohibitive regulations, I urge you to see they take this into consideration.[37]

OSHA's regulation of ergonomics will not be burdensome on employers, it will only require that employers take obvious and reasonable steps to avoid hazards.

Another indication of the lack of quantitative risk information, which OSHA must have to write a reasonable and clear standard, is OSHA's attempt to justify the regulation by anecdote. Examples have been given about meat cutters changing the shape of the handle of the knife being used, resulting in fewer wrist injuries. Such examples are helpful, but they do not provide the scientific basis for regulation.

OSHA's February 1999 proposed standard illustrates the problem, and the danger of moving forward with regulation without scientific support. Under the proposed standard, an employer with a job in which a "work-related MSD" has occurred must do everything "feasible" to eliminate hazards that may cause or contribute to a subsequent work-related MSD in that job or any "similar" job. "Feasible" has been defined under the OSH Act as meaning anything "possible" short of forcing an entire industry to close down. *American Textile Mfrs. Inst.* v. *Donovan,* 452 U.S. 490 (1981). Thus, OSHA's regulation could require, for example, an employer to slow the speed of a production line or to implement costly job rotation or other measures, even in the absence of proof that these factors have caused injury or that the abatement required would prevent injury. Furthermore, the draft standard invites arbitrary enforce-

[37] U.S. Congress, House. Subcommittee on Oversight and Investigations, "Hearing on Ergonomics: A Question of Feasibility," Testimony of Douglas Adams, July 16, 1997, 105th Congress, 1st session, Serial No. 105–40, pages 60–63.

ment. Since OSHA does not define what the employer will be required to do in order to be in compliance (other than to do whatever is "feasible"), an employer has no assurance that a slow-down required in his or her production line, for example, will also be required of the employer's competitors.

We can have it both ways. NAS should go forward with the study, and OSHA should be allowed to go forward with its regulation.

This argument, made during Committee markup, unfortunately ignores the fact that OSHA's own timetable for its ergonomics standard calls for having a final regulation issued by the end of 2000, before the NAS study is completed.

Furthermore, even if OSHA does not meet its timetable, it is sensible public policy for OSHA to wait (or be required to wait) before deciding whether to propose a standard until the NAS study is completed. A proposed standard largely shapes a final standard. In fact, agencies may not deviate too far from a proposed standard in issuing a final standard, instead they must issue a new proposed standard. OSHA should keep an open mind on whether a standard is appropriate and necessary, and use the NAS study to help make that determination, rather than prejudging the answer.

SUMMARY

H.R. 987 ensures that a study of the cause and effect relationship between work activities and "musculoskeletal disorders" by the National Academy of Sciences is completed prior to OSHA promulgating an ergonomics standard or guidelines.

SECTION BY SECTION

Section 1. Short title

The Workplace Preservation Act.

Section 2. Findings

Describes the rationale for the bill including the finding that in October 1998, Congress and the President agreed upon a comprehensive study by the National Academy of Sciences of the medical and scientific evidence regarding musculoskeletal disorders * * * it is premature for OSHA to decide that a regulation on ergonomics is necessary or appropriate to improving workers' health and safety before such study is complete.

Section 3. Delay of standard or guidelines

States that the Secretary of Labor or OSHA may not promulgate or issue any standard or guidelines on ergonomics until the National Academy of Sciences completes a peer-reviewed scientific study of the available evidence examining repetitive tasks in the workplace and submits the report to Congress.

EXPLANATION OF AMENDMENTS

The Bill was reported without Amendment.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. This bill en-

sures that the National Academy of Sciences completes the study, provided for in Public Law 105–277, of the available evidence examining "the cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders" before the Occupational Safety and Health Administration promulgates an ergonomics standard. The bill does not prevent legislative branch employees from receiving the benefits of this legislation.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This bill ensures that the National Academy of Sciences completes the study, provided for in Public Law 105–277, of the available evidence examining "the cause and effect relationship between repetitive tasks in the workplace and musculoskeletal disorders" before the Occupational Safety and Health Administration promulgates an ergonomics standard. As such, the bill does not contain any unfunded mandates.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

COMMITTEE ON EDUCATION AND THE WORKFORCE

ROLL CALL 1 **BILL** H.R. 987 **DATE** June 23, 1999

PASSED 23 - 18

SPONSOR/AMENDMENT Mr. Petri motion to report the bill to the House with the recommendation that the bill do pass

MEMBER	AYE	NO	PRESENT	NOT VOTING
Mr. GOODLING, Chairman	X			
Mr. PETRI, Vice Chairman		X		
Mrs. ROUKEMA	X			
Mr. BALLENGER	X			
Mr. BARRETT	X			
Mr. BOEHNER	X			
Mr. HOEKSTRA	X			
Mr. McKEON	X			
Mr. CASTLE	X			
Mr. JOHNSON	X			
Mr. TALENT	X			
Mr. GREENWOOD	X			
Mr. GRAHAM	X			
Mr. SOUDER	X			
Mr. McINTOSH	X			
Mr. NORWOOD	X			
Mr. PAUL	X			
Mr. SCHAFFER				X
Mr. UPTON	X			
Mr. DEAL	X			
Mr. HILLEARY	X			
Mr. EHLERS	X			
Mr. SALMON				X
Mr. TANCREDO	X			
Mr. FLETCHER				X
Mr. DEMINT	X			
Mr. ISAKSON	X			
Mr. CLAY				X
Mr. MILLER		X		
Mr. KILDEE		X		
Mr. MARTINEZ		X		
Mr. OWENS		X		
Mr. PAYNE		X		
Mrs. MINK		X		
Mr. ANDREWS				X
Mr. ROEMER		X		
Mr. SCOTT		X		
Ms. WOOLSEY				X
Mr. ROMERO-BARCELO		X		
Mr. FATTAH		X		
Mr. HINOJOSA		X		
Mrs. McCARTHY		X		
Mr. TIERNEY				X
Mr. KIND		X		
Ms. SANCHEZ		X		
Mr. FORD				X
Mr. KUCINICH		X		
Mr. WU		X		
Mr. HOLT		X		
TOTALS	23	18		8

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the body of this report.

NEW BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of 3(c)(3) of rule XIII of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 987 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 1999.

Hon. WILLIAM F. GOODLING,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 987, the Workplace Preservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Cyndi Dudzinski.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 987—Workplace Preservation Act

CBO estimates that enacting H.R. 987 would not have a significant impact on the federal budget. The bill could affect both federal receipts and discretionary spending, but CBO estimates that any such effects would be negligible. H.R. 987 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The National Academy of Sciences (NAS) is currently undertaking a study on the effect of repetitive tasks in the workplace on musculoskeletal disorders and repetitive stress injuries. H.R. 987 would prohibit the Secretary of Labor from promulgating, through the Occupational Safety and Health Administration (OSHA), any standard or guideline on ergonomics until that study is completed and submitted to the Congress. The NAS report is due to be completed by December 2000. Without this legislation, OSHA expects to issue a proposed regulation in the fall of 1999 and finalize it late in 2000 or early in 2001, although legal challenges or other developments could slow this schedule. Enactment of this legislation could delay this process for about a year, but would not signifi-

cantly affect OSHA's workload or receipts from penalties levied as the result of OSHA citations during this period.

The CBO staff contacts for this estimate are Cyndi Dudzinski for federal costs, Susan Sieg for the impact on state, local, and tribal governments, and Karuna Patel for the impact on the private sector. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

STATEMENT OF OVERSIGHT FINDINGS OF THE COMMITTEE ON GOVERNMENT REFORM

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on the subject of H.R. 987.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress in the Constitution to enact the law proposed by H.R. 987. The Committee believes that the study authorized by Public Law 105–277 and the actions required of OSHA by this bill are within Congress's authority under Article I, section 8 of the Constitution.

COMMITTEE ESTIMATE

Clauses 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 987. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

There are no changes to existing law made by this bill.

MINORITY VIEWS

I. Introduction

H.R. 987 is yet another scheme by the Majority to scuttle the Occupational Safety and Health Administration's (OSHA) long-studied rule to help minimize workplace stress and strain injuries. If H.R. 987 were enacted, it would once again block OSHA from issuing a rule requiring employers to be cognizant of ergonomic hazards and to take steps to address those hazards. The contention by the Majority that we do not know enough to regulate in this area is disputed by the overwhelming majority of scientific opinion and has been disproved by the real world experience of thousands of employers who have taken steps to address ergonomic hazards and have substantially reduced injuries as a result. For the Congress to continue to act to prevent OSHA from issuing a rule on ergonomics is to senselessly condemn tens of thousands of workers to unnecessary suffering.

Ergonomic injuries and illnesses remain the most common serious health risk workers face and ergonomic injuries and illnesses remain the single largest cause of injury-related lost workdays. In 1997, there were 620,459 lost workday injuries and illnesses due to overexertion, repetitive motion, and other bodily reactions related to ergonomic hazards. This represents 34 percent of all lost workdays injuries and illnesses. Work-related musculoskeletal disorders cost employers between $15 and $20 billion in workers' compensation costs each year. These are costs that can and should be reduced. For the Congress to act to further delay the development of an ergonomics standard is worse than simply encouraging bad business practices, it is to needlessly prolong pain and suffering.

Women workers are particularly victimized by ergonomic injuries and illnesses. Women are 46 percent of the workforce and 33 percent of those injured at work. Yet, women are 69 percent of those who lose work-time due to carpal tunnel syndrome; they are 63 percent of those who suffer repetitive motion injuries; and they are 61 percent of those who lose work-time due to tendonitis. Nearly half of all injuries and illnesses to women workers are due to ergonomic hazards.

Because ergonomic injuries are very rarely ever life-threatening, there seems to be a tendency to disregard their seriousness. The fact of the matter is that ergonomic injuries are often crippling. Workers with carpal tunnel syndrome miss more days from work (25 days on average) than workers with any other type of major disabling condition, including amputation. The pain and suffering experienced by victims of ergonomic hazards is real.

II. History of OSHA's ergonomic rule

The Majority views imply that OSHA is rushing forward recklessly to develop and issue its rule on ergonomics. Nothing could

be further from the truth. The fact of the matter is that OSHA has been working to address ergonomic injuries and illnesses through its regulatory, enforcement, and compliance assistance programs for more than two decades.

OSHA took its first enforcement action to address ergonomic hazards under the general duty clause in the mid-1970's. In the 1980's there was extensive enforcement on ergonomics in a number of industries with high rates and numbers of ergonomic injuries including the auto industry, meatpacking, poultry, apparel, and other assembly operations. Enforcement actions to address manual handling hazards were undertaken in package delivery, warehouse operations, nursing homes, and other high risk industries.

These enforcement actions resulted in a series of corporate-wide settlement agreements in these industries which required employers to identify hazardous jobs, control ergonomic risk factors, train workers about ergonomic hazards and injuries, and set up medical management programs for injured workers—the same elements that are required by OSHA's current draft ergonomics standard.

In 1990, OSHA published ergonomic guidelines for the red meat industry which recommended the same basic approach for controlling ergonomic injuries. Experience has shown that the approach set forth in the settlement agreements, OSHA guidelines, and current draft standard are sound, and when implemented can significantly reduce injuries and illnesses as evidenced by a 26 percent reduction in reported cumulative trauma cases from 1994 to 1996 in the red meat industry.

At the time the red meat industry guidelines were issued, then Secretary of Labor Elizabeth Dole announced that the Department of Labor was initiating rulemaking "to address the problem of ergonomic hazards on an industry-wide basis" to reduce repetitive trauma disorders, "one of the nation's most debilitating across-the-board worker safety and health illnesses of the 1990's." In April 1992, then Secretary of Labor Lynn Martin repeated this commitment stating that "information currently available support the initiative of Section 6(b) rulemaking" and in August 1992, OSHA initiated rulemaking with the issuance of an advance notice of proposed rulemaking.

But, nearly a decade after Secretary of Labor Elizabeth Dole promised government action to reduce the toll of ergonomic injuries and illnesses, and after more than a decade of experience that these injuries can be prevented, industry opponents and some in Congress are still trying to block a standard to protect workers.

III. Examples of individuals affected by ergonomic hazards

Present in the audience when the Committee considered H.R. 987 was Madeleine Sherod, a mother of five from Rockford, Illinois. As a result of work-related ergonomic injuries, she was disabled to the point that she could not even comb the hair of her children, wash dishes, or sweep floors in her home. Nadine Brown of Buffalo, New York was also in attendance when H.R. 987 was considered. Ms. Brown required corrective surgery as a consequence of a work-related musculoskeletal disorder and missed four months of work recovering from the surgery. Now, she is doing exactly the same job, under exactly the same conditions that necessitated the sur-

gery in the first place. Carolyn Shebora of Woodbridge, Virginia was also present when the Committee marked-up H.R. 987. She was required to have surgery on both of her hands as a consequence of a preventable work-related musculoskeletal disorder. She is fortunate in that her employer has already redesigned the cashier's workstations to ensure that others are not similarly injured.

Another victim was also present during the Committee's consideration of H.R. 987, Representative Carolyn McCarthy. "For 32 years, I was an active nurse, and let me tell you, at 24 years old, I pulled my back out for the first time. During that time, I had a young child and it became almost impossible for me to pick up that child for almost three months. * * * I certainly went to the doctors. I certainly tried to get treatment, but I will have a bad back for the rest of my life, and I lost a lot of work over it and there are a lot of things I couldn't do."

Kathy Jalbert was formerly a television news editor. Today, she is permanently disabled. "If there were ergonomic standards eight year ago, I wouldn't be suffering like I am today." Walter Penrose was formerly a computer information systems manager. Today, he suffers from thoracic outlet syndrome, carpal tunnel syndrome, ulnar tunnel syndrome and severe tendonitis. "I've been very lucky that my family has been able to help me or I'd be living on the street." Jane Margulies is a former school psychologist who now suffers chronic pain and is unemployed. "Carpal Tunnel Syndrome affected every aspect of my life. I can lift one-half pound, that's it. Coffee mugs are heavy, turning faucets on and off are hard, holding my husband's hand, dressing, washing, doing dishes, shopping—I can't do these anymore. I can't do any of my hobbies—pottery, gardening, bird watching (I can't hold binoculars), and even reading. It's too painful to hold the book and turn pages."

These are real people who have suffered serious disabilities and real pain. This is the kind of suffering that more than a half-million workers a year will continue to experience if we do not allow OSHA to move forward.

IV. National Academy of Science (NAS) study is no excuse to delay OSHA rule

Proponents of H.R. 987 contend that language included in last year's Omnibus Appropriations Act providing for a study by the National Academy of Science (NAS) of erogonomic issues was intended to delay OSHA's rulemaking until NAS completed its work. In fact, the NAS study was included only after those who oppose this rulemaking failed in their efforts to retain rider language prohibiting OSHA from proceeding. The NAS language was agreed to only after the Administration made it perfectly clear that OSHA would proceed with the ergonomics rule. The chief negotiator on behalf of the Republicans, Mr. Livingston, expressly acknowledged this understanding in a joint letter dated October 19, 1998 that he and the Ranking Democrat on the Committee on Appropriations, David Obey, sent to Secretary of Labor Alexis Herman:

> Congress has also chosen to provide $890,000 for the Secretary of Health and Human Services to fund a review by the National Academy of Sciences (NAS) of the sci-

> entific literature regarding work-related musculoskeletal disorders. We understand that OSHA intends to issue a proposed rule on ergonomics late in the summer of 1999. We are writing to make clear that by funding the NAS study, *it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.* (Emphasis added.)

A June 22, 1999 letter from the Director of the Office of Management and Budget, Jacob Lew, to Representative Boehner concerning the NAS funding also makes clear that the study was never intended to delay or prohibit OSHA from moving forward on its ergonomic rule:

> *The Administration agreed to the inclusion of funding for this study in the Omnibus Appropriations Act for fiscal year (FY) 1999, only on the understanding that this study would not be used as a reason to delay OSHA's issuance of a protective ergonomics standard or proposed standard.* (Emphasis added.) Former Chairman Livingston, who negotiated on behalf of the House majority, made it clear to the Administration that the NAS study would not prevent OSHA from moving forward with an ergonomics rule.
>
> * * * I believe the record supports the Administration's interpretation of Congressional intent on this subject. The law contains no prohibition on OSHA moving forward. Moreover, the letter Chairman Livingston and Representative Obey sent to Secretary of Labor Alexis Herman last year made clear that the study provision in no way implied that OSHA was barred from moving forward with its ergonomics standard. Sent on the same day as the Conference Report was filed by the Chairman and Ranking Member of the Committee, the letter is entitled to great weight in determining legislative intent of the provision.
>
> * * * The negotiations pertaining to the NAS study occurred in the context of the fact that neither the House nor the Senate had included a rider in any FY 1999 appropriations bill, as they had in previous years, to block issuance of a proposed or final rule or guideline on ergonomics.

The Majority views content that OSHA is somehow "thumbing its nose" at the Congress by proceeding on schedule with the development of an ergonomics standard. However, the proponents of the NAS study never contended at the time that the study was approved that it was intended to delay the development of an ergonomic standard. In fact, they expressly stated that the study was not intended to delay the issuance of an ergonomic standard. Further, the Administration only agreed to the funding for the NAS study on the understanding that it would not serve as a basis for delaying the issuance of the ergonomic standard. Finally, as Representative Livingston's and Representative Obey's letter makes plainly clear, the fact that OSHA planned to issue a proposed rule on ergonomics in the late summer of 1999, before the NAS study would be completed, was known before the funding the NAS study was ever approved. That letter is particularly compelling because it came on the heals of the House report on the Labor-HHS-Edu-

cation Appropriations bill for fiscal year 1998, the last bill to restrict OSHA's activity on ergonomics, which stated, "The Committee will refrain from further action to restrict OSHA's development, promulgation or issuance of an ergonomic standard after FY98."

V. The medical experts support OSHA's rule

Proponents of H.R. 987 also contend that we lack enough knowledge to regulate in the field of ergonomics. Experts in the field of ergonomics strongly disagree. The American Association of Occupational Nurses, the professional association for more than 13,000 occupational and environmental nurses, has stated, "a standard designed to protect workers from musculoskeletal injuries and illnesses is consistent with supporting scientific evidence." The American College of Occupational and Environmental Medicine, the largest occupational medical society representing over 7,000 physicians, has stated, "there is adequate scientific foundation for OSHA to proceed * * * and no reason for OSHA to delay the rulemaking process while the National Academy of Science panel conducts its review."

The American Industrial Hygiene Association (AIHA), the professional association of industrial hygienists, has stated, "AIHA feels that enactment of H.R. 987 would unduly delay the process of moving forward with an ergonomics proposal." In a position paper on ergonomics, AIHA stated, "there is a significant and growing body of knowledge related to the relationship between the physical work environment and musculoskeletal disorders." A press release dated February 22, 1999 stated, "The 60,000 members of the American Occupational Therapy Association feel strongly that the epidemic of work-related injuries occurring today is a public policy and economic problem that needs to be addressed, and OSHA's draft ergonomics standard will focus public attention on the problem."

The American Public Health Association first stated its position in a 1997 resolution and reiterated it in 1999, "[s]cientific evidence has established a cause-and-effect relationship between poor ergonomics in the workplace and chronic musculoskeletal disorders." The American Society of Safety Engineers (ASSE) has stated, "ASSE supports the concept of a federal standard addressing ergonomics" and has also stated, "ASSE believes there is enough science justifying the creation of such a standard."

The Human Factors and Ergonomics Society, the professional organization of ergonomists, has stated, "[e]rgonomics is a globally-recognized science with a body of validated research findings and practices * * * Ergonomics applications—based on solid research findings—not only can improve the workplace, but can make products and processes more competitive in the world market."

The National Advisory Committee on Occupational Safety and Health: an advisory committee to the Secretary of Labor and the Secretary of Health and Human Services made up of safety and health experts from management, labor, the safety and health professions, and academia; has stated, "Although some issues associated with ergonomics remain to be resolved, the science of ergonomics is strong and dates back at least fifty years and, in our view, is sufficient to move forward with a proposed OSHA

ergonomics standard. Clear evidence of this assertion and testimony to the benefits of ergonomics is the fact that many countries and Fortune 500 companies are using ergonomics successfully to reduce workplace injuries."

VI. Overwhelming scientific data supports OSHA's ergonomics rule

The most comprehensive review to date of the scientific literature surrounding ergonomics was conducted by the National Institute on Occupational Safety and Health (NIOSH) in 1997. NIOSH reviewed 2,000 studies and conducted a detailed review of more than 600 occupational epidemiology studies. H.R. 987, at section 2(a)(2), totally mischaracterizes the results of that study:

> A July, 1998, report by the National Institute for Occupational Safety and Health (NIOSH) reviewing epidemiological studies that have been conducted of "work related musculoskeletal disorders of the neck, upper extremity, and low back" showed that there is insufficient evidence to assess the level of risk to workers from repetitive motions. Such characterization would be necessary to write an efficient and effective regulation.

The Director of NIOSH, Dr. Linda Rosenstock, in response to an inquiry from Representative Clay, has stated:

> The statement in finding (2) of H.R. 987 misrepresents the conclusions of the 1997 NIOSH study. In fact, the NIOSH report—which finalized its review of over 600 occupational epidemiology studies after extensive external peer review by experts—found that a substantial body of credible epidemiologic research provides strong evidence of an association between musculoskeletal disorders and work factors (such as routine heavy lifting, daily exposure to whole-body vibration, routine overhead work, work with the neck in chronic flexion position, or performance of repetitive forceful tasks). This is particularly true when workers are exposed to several work factors simultaneously. In addition, NIOSH concluded that all musculoskeletal disorders can be caused by non-work exposures, but this does *not* negate association with work. (Emphasis in the original.)
>
> NIOSH does find an adequate science base for OSHA to initiate rulemaking for an ergonomics standard. Although some gaps in our knowledge exist, as they do in virtually any medical condition when looking at etiology, the scientific evidence is overwhelmingly clear concerning work exposure and musculoskeletal disorders. We know enough to prevent or reduce the severity of many of these disorders now. Further reviews of the same literature will not alter this mainstream scientific opinion.
>
> There are numerous examples of public health actions that were appropriately and successfully taken when there was enough information to act, even though information was incomplete. For example, public health actions against cigarette smoking were made without waiting for every carcinogenic agent in tobacco smoke to be identified. Ac-

> tions to prevent the transmission of the Human Immunodeficiency Virus were taken before the virus itself was isolated and the thalidomide disaster was averted in this country on the basis of incomplete science. Likewise, four of the most important OSHA health standards from the 1970's—lead, benzene, asbestos, and cotton dust—were all attacked at the time for being based on inadequate science. Today, exposures in the workplace to these four hazards are definitely lower and additional scientific information has continued to accumulate, demonstrating their hazardous nature at even lower levels of exposure than originally appreciated.

In 1998, the National Academy of Sciences received $490,000 from the National Institutes of Health at the request of Representative Bonilla and Representative Livingston to review the scientific evidence on the work-relatedness of musculoskeletal disorders. A steering committee of scientific and medical experts was chosen to organize a workshop, select leading researchers to participate, and to prepare a report of findings and conclusions based upon the papers and discussions from the workshop. NAS brought together more than 65 of the leading national and international scientific and medical experts to review the scientific evidence for the work relationship of ergonomic disorders and to assess whether interventions at the workplace were effective in reducing ergonomic hazards. NAS concluded:

1. the musculoskeletal disorders are a serious national problem;
2. scientific literature clearly demonstrates that musculoskeletal disorders in workers are caused by exposure to ergonomic hazards at work;
3. scientific research clearly demonstrates that effective work place interventions are available which can reduce ergonomic hazards and prevent musculoskeletal disorders; and
4. there is evidence that interventions are cost-beneficial for employers.

Expert witnesses may be found to represent virtually any point of view. However, in this case there is no question as to what the overwhelming view of most experts is.

There is even more compelling evidence for the efficacy of issuing an ergonomics standard, and that is experience. Businesses across the country in all types of industries have individually and voluntarily taken steps to address the problem of ergonomic injuries and illnesses. The record of their success in dealing with these problems is proof that workplace interventions will prevent or reduce their severity.

During Committee consideration of H.R. 987, Representative Kildee described how Mazda Motor Manufacturing Company had reduced ergonomic injuries and illnesses by 40 percent and how Consumers Power had reduced such injuries and illnesses among their employees by 60 percent. Mr. Roemer told of a Connecticut company that reduced injuries by 90 percent and reduced the costs of back injury claims from $88,000 to $8,700. He also told of a banking company that reduced ergonomic injuries and illnesses by 50 percent, and of a computer graphics company that reduced mus-

culoskeletal disorders by 41 percent from 1994 to 1995, and by 50 percent from 1995 to 1996.

Navistar International Corporation, one of the nation's largest manufacturers of medium and heavy trucks, school buses, and mid-range diesel engines implemented aggressive safety and ergonomic-related programs and closely coordinated case-management efforts. The company reduced its workers' compensation costs from more than $500,000 in 1991 to approximately $176,000 in 1997.

A 1990 corporate analysis of 3M's injury and illness data showed that 35 percent of all OSHA-recordable cases were related to work-related musculoskeletal disorders and 53 percent of all lost-time cases were related to such disorders. After implementing ergonomics programs in several demonstration plants, 3M implemented a company-wide program in 1991. Over the next five years, 3M reduced its OSHA-recordable cases by 22 percent and reduced lost-time cases by 58 percent. Within office settings, 3M's program included training and evaluations, work station adjustments, and installation of ergonomically correct equipment. Follow-up surveys of individuals with work-related musculoskeletal disorders showed that approximately 90 percent had improved or completely recovered.

A Fieldcrest-Cannon plant in Columbus, Georgia was found by OSHA to be in violation to the general duty clause of the Occupational Safety and Health Act for ergonomic related conditions. In response, Fieldcrest-Cannon established joint labor-management committees to design programs to reduce injuries and illnesses related to repetitive stress. As a consequence, back injuries at the Columbus plant were reduced from 19 injuries, including 17 lost days and 292 restricted duty days in 1993, to 1 injury in 1997, including no lost days or restricted duty days. While the OSHA settlement agreement applied only to the Columbus plant, the company has implemented similar programs with similar results at two other similar facilities.

Red Wing Shoes has reduced its workers compensation costs by 75 percent over four years, from more than $4,000,000 in 1991–92 to approximately $1,000,000 in 1995–96, despite the addition of two new plants. The company attributes the reduction to the adoption of a new philosophy—modifying equipment to fit the worker rather than forcing the worker to fit the equipment. Red Wing's program was not inexpensive and included significant work station modifications. However, the program has significantly decreased employee injuries and workers' compensation costs and improved worker morale and productivity.

In the late 1980's, the Fresno Bee recognized it had an ergonomics problem. The company invested $800,000 in their ergonomics program and, as a result, has achieved a 20 percent reduction in medical costs and temporary disability pay. According to company management, that reduction has more than offset the total cost of implementing the ergonomics program.

The poultry processing industry has historically been among the highest hazard industries in terms of lost time illnesses and injuries and work-related musculoskeletal disorders are a major source of such injuries and illnesses. In 1991, Perdue Farms implemented an ergonomics program for its employees. In 1996, Perdue had six

plants that recorded no lost-time illnesses or accidents in more than a million hours worked.

VII. Leadership on ergonomics by other jurisdictions

OSHA is not alone in its efforts to develop and issue a standard to prevent ergonomic injuries and illnesses. In 1997, the state of California issued a workplace ergonomics standard in response to a 1993 mandate by the state legislature. The states of Washington and North Carolina are also in the process of developing workplace ergonomic regulations.

Other countries are far ahead of the United States in their efforts to prevent ergonomic injuries and illnesses. The European Community has had a directive on manual handling to prevent back injuries (Council Directive 90/269/EEC) and a directive on video display terminal use (Council Directive 90/270/EEC) since 1990 which have been adopted as regulations by the member states. Regulations to prevent back injuries and/or upper extremity injuries have also been adopted in British Columbia, Australia, New Zealand, and Sweden.

In addition, voluntary standards organizations are moving to address this significant problem. In 1998, the American National Standards Institute (ANSI) issued a standard for Human Factors Engineering of Video Display Terminal Workstations (ANSI/HFS 100–1988). ANSI is now in the final stages of developing a standard on the Control of Work-Related Cumulative Trauma Disorders (ANSI Z–365).

VIII. OSHA rule is flexible

The Majority views contend that before we may successfully establish an ergonomic standard we must be able to answer such questions as, "How many repetitions are too many for our landscape maintenance people raking leaves? How heavy is too heavy for teachers to lift a box of school supplies? How many hours at the computer is too many for the data entry clerk?" They argue that there must be a single answer to each of these questions that all employers may uniformly apply, and that until there is, we do not know enough to issue an ergonomics rule. This, of course, is a standard that can never be met.

As Charles Jeffress, the Assistant Secretary for Occupational Safety and Health stated in a speech before the National Coalition on Ergonomics, the industry coalition that is leading the effort to prevent OSHA from proceeding with the development of an ergonomic rule:

> One size does not fit all. That is why OSHA has decided on the program approach. That's also why no one will ever be able to say that X number of repetitions or lifting X pounds will result in an injury or conversely that Y number of repetitions or Y pounds will definitely not result in an injury for anyone, anytime, anywhere. However, many employers have proven that establishing a systematic program to address issues as repetition, excessive force, awkward postures and heavy lifting, results in fewer injuries to workers.

> * * * a program approach offers employers the framework for addressing specific high risk areas and then handling other problems as they arise. It's the right way to go to provide needed protection for workers while providing maximum flexibility for employers.

OSHA has developed a draft ergonomic proposal that has been publicly available on OSHA's website since early spring. OSHA's draft rule provides a flexible framework that enables employers to address work-related musculoskeletal disorders in a sensible, practical manner. OSHA recognizes that there are a variety of solutions to most ergonomic problems and the draft rule permits employers to choose those solutions that are best for their workplace. OSHA's draft rule does not require companies to automate, nor does it require companies with effective existing ergonomic programs to change those programs.

The requirements that the draft rule imposes on employers are minimal. In manufacturing and manual handling operations, where ergonomic injuries are most likely to occur, the draft rule requires that management establish procedures to recognize and report ergonomic hazards and ensure that employees are aware of and able to report problems. If no ergonomic problems are reported the employer has met its full obligation. Where problems are identified, employers must implement measures to eliminate or control the problem to the extent feasible, must educate workers regarding the hazard and the employer's program to control it, must make available prompt access to treatment and provide working conditions that comply with that treatment during the recovery period, and must periodically evaluate the controls and programs to ensure they remain effective. Where an employer's ergonomic problems are limited, its ergonomic program may be limited accordingly. This is the nature of the burdensome requirements that are going to bankrupt the country that OSHA is seeking to impose.

The OSHA Act prevents OSHA from issuing a standard that is not both technically and economically feasible. If a standard does not meet both tests, it will be struck down. Requirements that would significantly impair the long-term profitability or competitive structure of an industry, for example, would not be feasible.

OSHA already enforces the General Duty Clause, the duty imposed on employers by sections 5(a)(1) of the OSH Act to provide a workplace free of recognized hazards, including ergonomic hazards, that are likely to cause serious harm. According to the Occupational Safety and Health Review Commission, it is not enough for OSHA to show, as the Majority argues, that a requirement will not force "an entire industry to shut down." Rather, to prove a violation by an employer who has an ergonomics program, OSHA must prove that the requirement was feasible for the particular employer and that the employer failed to adopt a measure that was technically possible and likely to reduce materially the ergonomic hazard.

In any event, the draft rule provided to the SBREFA panel does not require employers "to slow the speed of production or to implement costly job rotation" as the Majority claims. It provides that an employer may use any combination of engineering, work practice, or administrative controls to control ergonomic hazards and

that employers may install controls incrementally rather than all at once. If raising the employee's chair controls the hazard, the employer need do no more.

The OSHA draft rule is a flexible, program approach, drawn heavily from the best practices of employers. The draft rule does not "lock employers into old technologies," "freeze out innovation" or otherwise prevent employers from developing and implementing new and better strategies for preventing ergonomic injuries and illnesses. The rule does not specify any particular technology. Nor does the draft rule preclude or prevent us from benefiting from the results of the NAS study. It is important to understand the endeavor that the NAS is actually undertaking. The NAS is conducting a review of existing literature. The NAS is not conducting primary research or developing "new" science. Rather, it is conducting the third major literature review to be conducted in three years. Every study the NAS is reviewing is already available for use during OSHA's rulemaking. Employers will be able to use the study's results to develop their own control strategy. Finally, the experience of companies that have already implemented similar programs has not been that such programs are expensive or provide only dubious benefits. In fact, these programs have significantly reduced injuries and have cut costs rather than increasing them.

The following quote, from June 8, 1999 edition of The Charlotte Observer, was made in the context of unsuccessful efforts by some in North Carolina to prevent that State's Department of Labor from issuing an ergonomic standard. In our view, it applies equally to H.R. 987:

> In a blatant display of micromanagement and disregard for working people, the N.C. House last week approved a budget amendment that would delay the State Department of Labor's adoption of new rules to prevent musculoskeletal disorder injuries and illnesses in the workplace.
>
> * * * The cost in lost wages and lost productivity is staggering. So is the House's presumption in seeking to impose a two-year delay on consideration of the rules, known as the ergonomic standards.
>
> * * * By interfering with adoption of the ergonomic rules, the House not only ignores the [administrative review] process it set up in 1995, it also insults tens of thousands of working people whose livelihoods are threatened—and often halted—by workplace injuries and illnesses.
>
> To quote from another newspaper, the July 25, 1999 edition of the Chicago Tribune: "Almost a decade ago, then-Labor Secretary Elizabeth Dole said the government would set down rules to help protect workers from debilitating workplace injuries caused by such activities as lifting, pushing, pulling, and repetitive motion. Nothing ever came of Dole's vow." * * *

It is past time to fulfill that vow. Today, more than 500,000 people continue to be injured on the job each year, and ergonomic injuries and illnesses are still the single largest source of lost-workday injuries. Ergonomic injuries and illnesses continue to cost between

$15 and $20 billion a year in direct workers' compensation costs. The total costs of such injuries and illnesses, including lost income and productivity, may be as high as $60 billion a year. Clearly there are substantial benefits to be gained for workers, businesses, and the nation in proceeding with the development of an ergonomic standard.

W.L. CLAY.
DALE E. KILDEE.
MAJOR R. OWENS.
PATSY T. MINK.
TIM ROEMER.
LYNN WOOLSEY.
CHAKA FATTAH.
CAROLYN MCCARTHY.
RON KIND.
HAROLD E. FORD, Jr.
DAVID WU.
GEORGE MILLER.
MATTHEW G. MARTINEZ.
DONALD M. PAYNE.
ROBERT E. ANDREWS.
BOBBY SCOTT.
CARLOS ROMERO-BARCELO.
RUBEN HINOJOSA.
JOHN F. TIERNEY.
LORETTA SANCHEZ.
DENNIS J. KUCINICH.
RUSH HOLT.

○