

until OSHA itself and the scientific evidence can provide real guidance to small business and other businesses on how to reduce ergonomics injuries.

In the last 7 years, the incidence of ergonomics injuries has gone down by a third—26 percent in carpal tunnel syndrome and 33 percent in tendonitis. It is in the interest of employers and employees to reduce to the greatest extent possible the very painful, time-consuming and profit-consuming impact of ergonomics injuries.

Well, OSHA decided they had been working on this for a long time and they wanted to get something out the door before the Clinton administration left office. Our political friends said we have to have an ergonomics rule. This overrules State workers compensation laws and tells employees if they have an ergonomics injury, they can collect more workers comp than the State provides them. We are overruling State workers comp laws.

It also tells employees that if you get an ergonomics injury—say you are in a bowling league on your own time, or you are crocheting in the evening and you come up with an ergonomics injury—if that is made worse by the job that you are doing, then your employer has had it. This ergonomics rule doesn't give any sound guidelines on how employers and employees working together can reduce ergonomics injuries. That is what we need from OSHA, not a punitive measure which says if somebody has an ergonomics injury, you are dead; your workers comp account is going to be held hostage and you are going to be subject to lawsuits.

All this says is, that if the highway speed limit sign says don't drive too fast and you are driving down the road at what you think is a reasonable speed and a State trooper flags you over and says: You know what, you were going 40 miles an hour, and I think 35 miles an hour is a reasonable speed, so you are guilty. That is precisely what they propose to do with this ergonomics regulation, and it affects businesses of all sizes.

I have talked to soft drink distributors who say: If we don't go out of business, we are going to have to buy equipment and get rid of employees to have machines doing the work. You can talk to people in the delivery business—express delivery or any other delivery business—and they know that no matter what they try to do, even if they continue to reduce the incidence of ergonomics injuries, any time there is an ergonomics injury, they are going to be held responsible even if they didn't initially cause it. Well, we have the Small Business Regulatory Enforcement and Fairness Act and we have lawsuits that are about to be filed by many organizations representing small business. I support those lawsuits. I hope this body can act to stop the implementation of this draconian rule.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa now has 15 minutes.

Mr. HARKIN. Mr. President, I understand I am recognized for up to 15 minutes.

The PRESIDING OFFICER. That is correct.

THE CLOSEST ELECTION IN OUR NATION'S HISTORY

Mr. HARKIN. Mr. President, as I said this morning, we can certainly all agree that this Presidential election is one of the closest in our Nation's history. While AL GORE appears to have won the popular vote, leading by 223,000 votes, the electoral college outcome is much less clear, even though Vice President GORE also leads in the electoral college vote at this time. At this point, whichever candidate wins Florida will probably win the Presidency. Right now, according to the latest reports, only 388 votes separate the two candidates. That is 0.0067 percent of the votes in Florida—less than seven-thousandths of 1 percent.

Yet when it appeared that the extremely close vote in Florida would decide the election, rather than waiting for a careful counting of the ballots as required by Florida law, the Bush campaign pushed for acceptance of the current count. The American people disagree. According to a recent Newsweek poll, 72 percent of American adults believe that making certain the count is fair and accurate is more important than rushing to judgment to get matters resolved quickly. Democracy is slow, yes; democracy takes time, yes; but democracy is still the fairest system of all, and the American people understand that.

It was very discouraging that just days after the Bush campaign sharply criticized our respected former Secretary of State, Warren Christopher, for leaving open the possibility of seeking judicial review of highly questionable portions of the process, the Bush lawyers themselves went to Federal court to block a hand recount of questionable ballots—a process that is generally recognized as much more accurate than machine counting.

I also find it highly ironic that the Bush lawyers chose to try to block a hand recount when they themselves, according to news reports, supported a hand recount in New Mexico. In fact, in 1997, Governor Bush himself signed a Texas law that seems to encourage hand recounts of disputed votes.

Now, as we all know, just a few hours ago, the latest attempt to block a complete and fair count has been upheld by a court in Florida, although an appeal is expected shortly, if in fact it hasn't happened by now.

The court ruled that Florida's Secretary of State, who was an active Bush supporter and traveled around the Nation on his behalf, could cut off the county's recount efforts at 5 p.m. this afternoon. She made the decision to end the count at that time, 5 p.m. today, knowing full well that the hand count of the ballots allowed by Florida

law cannot possibly be completed by that point in time.

In America, we are certainly used to getting results of our elections from the news networks almost immediately after the polls close, sometimes 3 or 4 hours later in relatively close elections but almost certainly the next morning. However, we have to realize that what we heard from the networks early on election night were not actual election results but exit poll results based on a very few counted ballots. When the difference between the candidates falls below a couple of points, we have to wait for an actual vote count. When the difference falls below a few tenths of 1 percent, we have to wait for a careful recounting of the votes.

There are several important reasons for these procedures. First, precinct and county election officials are dealing with many numbers quickly on election night. Mistakes are unavoidable. But in this case, where the difference is not 1 percent or a half percent but less than seven one-thousandths of 1 percent, or just over 300 votes out of over 5 million cast, we cannot allow any room for error.

The very machines that we use to count votes are prone to inaccuracies. The inaccuracies in some Florida counties occurred because not all voters marked their ballots to the preset machine standards. In some cases, they were using punch cards. Well, people don't always push the paper dot out of the hole, and sometimes they don't totally fill in the circle with the No. 2 lead pencil; thus, the machines can't always detect these votes. In a typical election, this isn't a problem.

Election officials know that one out of every so many votes won't be counted by machines. I wonder how many American people know it is a given fact that one out of so many votes will not be counted by a machine. They are very inaccurate. In an election where one candidate wins by 5 percent or 8 percent of the vote, these inaccuracies make very little difference in the final outcome.

But in an election as close as this, every single one of these votes matters. We have to count every single last one of them. No American should be disenfranchised because of a mechanical error. That is why I believe we have to be patient and allow the process to continue.

Again, former Secretary of State James Baker keeps saying that we have already counted the votes twice. But what he doesn't mention is that these counts were both done with machines that have error rates far larger than the percentage of votes separating the two candidates. Machine error rates are far higher than seven-thousandths of 1 percent. Mr. Baker says that machines don't have bias, that they are neither Democratic nor Republican. I keep hearing this statement.

It is also true that machines are far too inaccurate for the kind of count we

need in this election. These machines just cannot count all those ballots where the hole is not completely punched or the circle is not completely filled in. Only human beings who can see whether someone tried to punch through the paper or make a mark can do that. To those who say that machines are more accurate than human beings counting ballots I would just ask: Have you ever gotten a phone bill that was inaccurate? How about your credit card bill? Machines make mistakes all the time. If you are not careful in catching them, you may be paying a little too much on your phone bill when you pay it. That is why we carefully look over our bills. The only way to really accurately get a count is through the time tested, old-fashioned way of counting these ballots.

Why do we use voting machines? We do not use voting machines because they are more accurate. We use voting machines because, No. 1, they are quicker and, No. 2, they are less expensive. They do not cost as much. Still, the most accurate way of determining every person's vote is to have people walk into a voting place; you hand them a paper ballot. They walk into the booth; they take their pencil and they mark the X in the box or circle; they fold the ballot, stick it in the box, and when the polls close those ballots are hand counted by human beings, impartial panels—one from each party, let's say—counting these ballots.

If that is the most accurate way, why don't we do that in America? Because in a national election such as this it would take maybe a couple of months to count all the ballots nationwide, and we want to know before then what the results are. Plus the cost of paying humans to sit there and count the ballots would be exorbitant. So we must disabuse ourselves of this false notion that somehow voting machines are more accurate. They are not. The most accurate is still hand counting those ballots.

We have to remember also that there is nothing exceptional about conducting a recount. Both hand recounts and machine recounts are common in close elections. This happens all over America in every election. We have recounts even in local sheriffs' races. Imagine. Let's take the Florida race. Let's bring it home to a county. Let's say we are having a sheriff's race in a county and let's say there were 4,000 votes cast in the sheriff's race, 2003 for one candidate, 1,997 for the other. The county says it is too close; we are going to have a recount. They start hand recounting it. They hand recount 200 ballots out of the 4,000 and the outcome changes by 2 votes. Now, instead of being separated by 6 votes, the candidates are separated by only 4 votes.

Let's say the top ranking election official in the county comes in and says: Stop counting. You have counted 200 ballots; you cannot count anymore. What do you think the outcry would be like in that county?

What, you have counted 200 ballots, the vote has changed by 2, that could be 30 or 40 votes out of 4,000 ballots. That could reverse the original improperly counted outcome.

That is exactly what is happening in Florida on a much larger scale than the local sheriff's race to which I just alluded.

Secretary Baker protested that the election officials in control of the Florida counties being recounted are Democrats. I find it interesting he is not protesting that the chief election official in Florida is a Republican, the very official who decided today to suspend the ballot counting at 5 p.m. The Secretary also neglected to mention there are Republicans sitting in the counting rooms, monitoring the count to eliminate even the slightest possibility of partisanship. To this day I have not read or heard a single word in the newspaper or on the media anywhere to suggest that any improprieties in hand recounts have occurred. The American people can be satisfied that hand recounts are accurate and fair.

Again, what has happened today with the Secretary of State saying at 5 p.m. we have to have all the ballots in and stop counting the hand ballots—that is like in the local sheriff's race, you have counted 200 ballots out of 4,000, the votes have changed a couple, and the election official says: Don't count anymore. I think the American people understand this. They get it. You cannot just count a few and say we are going to stop there.

In our democracy, victory is determined by who gets the most votes in each State. I see no harm in waiting to make sure each count is fair and accurate. The electoral college doesn't vote until December 18, and their votes are tentatively set to be counted by a joint session of Congress on June 6, 2001. So we have plenty of time to make sure the true winner is named. So I submit the most fair and most accurate way of determining who won the electoral votes of Florida, because that is what is in contest right now, the electoral votes in Florida—the best way to determine that is to have a hand recount of all the ballots in Florida. I am told by those knowledgeable of this situation this could be done within probably 10 days to 2 weeks at the most. This could be done and then we would know with a finality and a certainty just who is selected to be the next President of the United States. If we do not do this, a cloud is going to hang over whoever is chosen to be the next President.

I think that is the proper way to proceed. It is improper, illogical, and not in the best interests of fairness and accuracy to stop the hand counting of ballots when only a few have been hand counted. I understand about 1 percent of the ballots in a couple of counties have been counted at this time.

With States such as Florida in question and with candidates separated by a tiny vote margin, it may take a few

weeks to make a clear determination. I believe that is in our best interests. Slow down. We are not in any hurry. What is the rush to judgment? Let's take our time. Whoever is the President, is going to be President for the next 4 years. I submit what is important at this point in time is not whether Vice President GORE is the President-elect or Governor Bush is the President-elect. That is not what is important right now. What is important right now is the sanctity of each person's vote; to make sure that each person's vote is counted properly. That is what is important here. If we know—and we do know—that machines make mistakes, and we have seven-thousandths of a percent dividing these two candidates in the State of Florida, then the most fair way to do it is to hand recount these ballots.

For the life of me I do not understand why the Bush campaign is so opposed to this. As I said earlier, we have hand recounts.

The PRESIDING OFFICER. The 15 minutes of the Senator has expired.

Mr. HARKIN. I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. As I said earlier, we have hand recounts every election in the United States. Most often they are on more local elections such as elections for county supervisor, maybe a State representative. But it is not unheard of to have hand recounts for the House of Representatives or for the U.S. Senate. It is just that we have never had a Presidential election this close. So if it is fair and logical and in the best interests of ensuring that every voter's vote is counted accurately, if it is in our best interests to do that in a race for sheriff, is it not even more in our interest to have that kind of hand recount in this race for the Presidency of the United States?

I believe those who are somehow trying to stop the hand recount in Florida, trying to say let's just take the machine count whatever it is and we will live by that, or I guess with some overseas ballots that are due in, knowing full well the margin of error in the machines is more than the percentage difference in the two votes—if you are making that argument, what you are basically saying is the most important thing is to stop the process right now. That is more important than deciding the fairness and accuracy of each person's vote.

There is no crisis in America. Frankly, I disagree with Secretary Baker completely. This morning he was saying the markets are now going to be upset by this. That is nonsense. That is just nonsense. The American people understand this. There is no crisis in America. We are going about our business. People are getting up and going to work every day. Nothing is happening. We can take our time. The President-elect is not sworn in until January 20. We have time to make sure

the vote is accurate and fair. There is no need to pull the curtain down and say, no, we have to end it right now, when so much is in doubt, when the race is so close, and when a fair and accurate counting of the ballots may move it one way or the other.

I do not know; maybe Mr. Bush will win the election. As I have said, it is not important right now whether Mr. Bush wins or Mr. GORE wins. What is important is that every voter's vote in Florida is counted accurately and counted fairly, and whether that takes us 10 days or 12 days or 2 weeks, I believe the American people deserve to have those votes counted fairly and accurately.

Earlier today my colleague from Pennsylvania, Senator SPECTER, introduced a bill proposing the formation of a commission to examine methods to reduce the miscounting of votes at the polls. I have cosponsored that legislation with him because I believe we do need to look at this situation. I think we should carefully examine alternatives, given the experience we are now going through. We should examine the electoral college. Maybe it is not perfect, but I happen to think it may be more perfect than a direct election but I am willing to look at it. Perhaps we could allocate the elector's votes by electoral district as Nebraska and Maine have decided to do. Perhaps we should consider automatically giving these electoral votes to whoever wins the State, rather than electing individual electors who could actually vote against the will of the voters in their areas. But I am intrigued by having electoral votes determined by congressional districts as Maine and Nebraska do, as I said.

We ought to consider providing counties and States the necessary funds to assist them in modernizing and standardizing their voting methods. Although it may be somewhat more expensive—we don't know—there is voting technology that exists and is used today, or some of it may be not used, that could reduce voting errors and errors in vote tally. No technology will completely eliminate inaccuracies, but this election clearly demonstrates our current methods must be improved. That is why I joined with Senator SPECTER to cosponsor this legislation. I really do believe we need a more standardized methodology of voting machines in this country.

I asked my staff earlier, How many different kinds of voting machines do we have in this country? We have looked at this question and we do not know the answer.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. HARKIN. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. We do not know how many different kinds of voting machines there are in this country. Since

we are a mobile people, we move from one State to another, one area of a State to another, they can go and be totally confused by a voting machine that is different than what they had used the election before. So I wonder aloud about maybe standardizing voting machines throughout the country so, no matter where you go, you have the same voting machine that you had before.

I also believe we have to look at the latest technology—it exists—which could reduce to the barest possibility that a person does not vote for whom he or she wants to vote. There are interactive devices; I have seen them demonstrated myself, devices that any person with a disability, whether you are blind or deaf or whatever you might be, could use alongside anybody else. It wouldn't differentiate.

It would ensure that when you walked out of that booth, you knew exactly for whom you voted or for what you voted in terms of some of the resolutions and other items that are on the ballots.

If nothing else, we ought to be about this in the next session of Congress. I commend my colleague from Pennsylvania for introducing this legislation in this session, and I look forward to cosponsoring it with him when we meet again in January.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ATLANTIC SALMON LISTING DECISION

Ms. COLLINS. Mr. President, it is with great disappointment that I rise today to comment on the decision announced yesterday by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to list as endangered Atlantic salmon in Maine. The decision represents an opportunity lost and reflects a process gone badly astray. It also raises serious questions about the mechanics of the Endangered Species Act, a law that I support, and how the Services have chosen to interpret and follow its dictates.

I rise also out of deep concern for the Atlantic salmon. The rivers of Maine once played host to magnificent runs of Atlantic salmon. Scores of fish returned each year to the streams where they were born after two- or three-year journeys out to sea, venturing thousands of miles off the coast of Maine, as far away as Newfoundland. The question is, "What is the best way to protect and restore these extraordinary fish?"

Yesterday's announcement is no small matter to my home State. It has serious implications for the aquaculture, blueberry, cranberry, and for-

est product industries that form the backbone of the economy in the most economically challenged area of Maine. The cruel irony underlying the decision is that Maine believed it had laid the issue to rest some three years ago when the Services withdrew a proposed listing and joined with the State in pursuing the Maine Salmon Conservation Plan. On December 15, 1997, the Services announced they were withdrawing their proposed listing of Atlantic salmon to pursue a "cooperative recovery effort spearheaded by the State of Maine." At that time Secretary of the Interior Bruce Babbitt announced:

We are unlocking the full potential of rivers in Maine and opening a new chapter in conservation history. The governor showed great leadership in forging this collaboration, which will enhance the ecology and economy of the state for years to come. The seven rivers will continue to attract more anglers, boaters and other sportsmen who will help grow and sustain new jobs and revenue as the rivers continue to stand as a model for the nation.

At the same time, Assistant Secretary of Commerce for Oceans and Atmosphere and NOAA Deputy Administrator Terry Garcia praised Maine's salmon conservation plan with these words:

This plan, which was developed by a state-appointed task force with input and advice from federal fisheries scientists, is an innovative effort to resolve the real world conflicts that occur when preserving a species clearly means rethinking traditional uses of a river. Our decision to protect salmon through this plan rather than through a listing under the Endangered Species Act highlights the ESA's flexibility and our willingness to consider state-designed plans.

Bruce Babbitt's and Terry Garcia's statements purported to highlight the ESA's flexibility and the Services' willingness to consider state-designed conservation plans. But the decision to list Atlantic salmon exposes the statements as hollow rhetoric and reflects a policy of inflexibility and of rejecting potentially effective state plans as alternatives to listing. In the end, Secretary Babbitt and Mr. Garcia reneged on their commitment to work with the state, within the framework of the state plan.

The Services have taken the implicit position that they are under no legally-binding obligation to abide by their earlier commitments to work with the state through the Maine Salmon Conservation Plan. In proposing the salmon listing, they abandoned the Plan, which the Services relied on to withdraw their 1995 proposal to list Atlantic salmon as threatened. Indeed, in withdrawing the proposed listing three years ago, the Services referred to the Plan as "a comprehensive collection of measures and protective actions that offer[s] a positive benefit to the species" and as a substitute for listing. Moreover, at the time, the Services signed a statement of cooperation with the State of Maine to support the Plan as the means toward restoring Atlantic salmon in the seven identified rivers.