would pay attention to such a sensible suggestion, but the Foreign Operations Appropriation bill did the opposite.

Another non-proliferation program, International Science and Technology Centers, would provide safe employment opportunities for former Soviet experts. There are thousands and thousands of Soviet experts, nuclear experts. They are not getting paid. They don't have housing. Their economy is in the toilet. We have a program: We want to hire them. We don't want Qadhafi hiring them. We don't want them being hired in Libya. We don't want them hired in North Korea. So we have a sensible program.

I will end with this. There are 4 more examples, but I will not take the time.

What do we do? We cut these programs. Then we all stand—and I am not speaking of any particular Senator—and say we are going to fight terrorism, and nonproliferation is our greatest concern, and we are worried about this technology changing hands. The bottom line is the programs that help to do that are cut. That is why it is so important that our amendment of yesterday be implemented in conference.

I yield the floor and thank my colleague from Pennsylvania.

Mr. SPECTER. Mr. President, before proceeding to the bill, I compliment my colleagues, the Senator from Tennessee and the Senator from Delaware, for their comments this morning, calling attention to the major international problems on nuclear proliferation. This body will soon be voting on legislation to have permanent normal trade relations with China. As noted by the Senator from Tennessee, the People's Republic of China happens to be a major violator in proliferating nuclear weapons. They sent the M–11 missiles to Pakistan, which have been the basis for the nuclear arms confrontation between India and Pakistan. They have helped to proliferate weapons in Iran and North Korea. It is my view that the best way to restrain the People's Republic of China from posing an enormous international threat is to continue to give them permanent trade relations on an annual basis.

I have discussed this many times with my distinguished colleague from Tennessee. I hope he will join me in ultimately opposing normal trade relations as the best leverage to try to keep the people's Republic of China in line.

We have seen, again and again, problems that the executive branch cannot be, candidly, relied upon, with waivers being granted. Separation of powers has been established. The Senate is here and the House is here in order to see that there is another view about what is happening with China. The most effective leverage is to have an annual checkup on them, and to have the normal trade relations as the leverage, which would be very, very important.

I urge my colleague from Tennessee and others to consider that when that vote comes up. There is more involved in that issue than just the money; the future of civilization may be on the line if we do not contain the People's Republic of China from proliferating weapons of mass destruction.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

APPROPRIATIONS FOR THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION, AND RELATED AGENCIES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to H.R. 4577, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4577) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies for fiscal year ending September 30, 2001, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that all after the enacting clause be stricken, and the text of the S. 2553, as reported by the Senate Appropriations Committee, be inserted in lieu thereof, the bill as amended be considered as original text for the purpose of further amendment, and no points of order be waived by virtue of this agreement.

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

AMENDMENT NO. 3590

(The text of the amendment (No. 3590) is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SPECTER. Mr. President, I am pleased to make the opening statement on the pending appropriations bill for the Departments of Labor, Health, Human Services and Education. The subcommittee, which the distinguished Senator from Iowa and I work on, has the responsibility for funding these three very important and major departments. We have come forward with a bill which has program level funding of $104.5 billion. While that seems like a lot of money—and is a lot of money—by the time you handle the priorities for the nation's health, by the time you handle the priorities for the nation's education—and the Federal Government is a relatively minor participant, 7 percent to 8 percent, but an important participant—and by the time you take care of the Department of Labor and very important items on worker safety, it is tough to find adequate funding.

We have structured this bill in collaboration with requests from virtually all Members of the Senate who have had something to say about what the funding priorities should be based on their extensive experience across the 50 States of the United States. We have come forward on the Department of Education with a funding budget in excess of $40 billion, more than $4.6 billion more than last year, and some $100 million over the President's request. We have established the priorities which the Congress sees fit. We have increased the maximum Pell grants. We have increased special education by $1.3 billion, trying to do a share of the Federal Government on that important item. We have increased grants for the disadvantaged by almost $400 million.

We have moved on the Department of Health and Human Services for a total budget of over $44 billion, which is an increase of almost $2.5 billion over last year. We have increased Head Start by some $1 billion, so it is now in excess of $6 billion. We have structured a new drug demand reduction initiative, taking the very substantial funds which are available within our subcommittee, and redirecting $3.7 billion to try to deal with the demand reduction issue.

It is my view that demand reduction is the long-range answer—that and rehabilitation—to the drug problem in America. We may be spending in excess of $1 billion soon in aid to Colombia, and it is my view that there is an imbalance in the $18 billion which we now spend, with two-thirds—about $12 billion—going to so-called supply interdiction and fighting street crime. They are important. As district attorney of Philadelphia, my office was very active in fighting street crime against drug dealers.

In the long run, unless we are able to reduce demand for drugs in the United States, suppliers from Latin America will find a way to grow drugs, and sellers on America's street corners will find ways to distribute it, which is why we have made this initiative to try to come to grips with the demand side.

Last year, we structured a program to deal with youth violence prevention. We have increased the funding by some $280 million so that now it is being directed in a coordinated way against youth violence, and some substantial progress has been made in the almost intervening year since this program was initiated.

A very substantial increase in funding has been provided in this bill for the National Institutes of Health. I would suggest that of all the items for program level funding in this $104.5 billion bill, the funding for the National Institutes of Health may well be the most important.

I frequently say that the NIH is the crown jewel of the Federal Government, and add to that, in fact, it may be the only jewel of the Federal Government. Senator HARKIN and I, in conjunction with Congressman PORTER and Congressman OBEY on the House side, have taken the lead on NIH. Four years ago, we added almost $1 billion; 3 years ago we added $2 billion; last year we added $2.3 billion, which was cut slightly in across-the-board cuts to

about $2.2 billion; and this year we are adding $2.7 billion.

There have been phenomenal achievements by NIH in a broad variety of maladies. There is nothing more important than health. Without health, none of us can function. It is so obvious and so fundamental.

These maladies strike virtually all Americans. I will enumerate the diseases which NIH is combating and making enormous progress: Alzheimer's disease, AIDS, amyotrophic lateral sclerosis, also known as Lou Gehrig's disease, Parkinson's disease, spinal cord injury, cancers—leukemia, breast, prostate, pancreatic, lung, ovarian—heart disease, stroke, asthma, multiple sclerosis, muscular dystrophy, autism, osteoporosis, hepatitis C, arthritis, cystic fibrosis, diabetes, kidney disease, and mental health.

I daresay that there is not a family in America not touched directly by one of these ailments. For a country which has a gross national product of $8 trillion and a Federal budget of $1.85 trillion, this is not too much money to be spending on NIH. We are striving to fulfill the commitment that the Senate made to double NIH funding in the course of 5 years. We are doing a lot. We are not quite meeting that target, but we are determined to succeed at it.

This bill also includes $11.6 billion for the Department of Labor, an increase for Job Corps, an increase for youth offenders, trying to deal with juvenile offenders to stop them from becoming recidivous. There is no doubt if one takes a functional illiterate without a trade or skill and releases that functional illiterate without a skill from prison, that illiterate, unable to cope in society, is likely to return to a life of crime. Focusing on youthful offenders, we think, is very important.

We have met the President's figures on occupational safety and health, NLRB, mine safety, and for a specific problem we have topped the President's figure slightly by $2.5 million, seeing the ravages of black lung and mine safety-related programs that I have personally observed both in Pennsylvania's anthracite region in the northeastern part of my State and the bituminous area in the western part of my State.

I was dismayed when the subcommittee came forward with its budget to have the President immediately articulate a veto message. I note my distinguished colleague from Iowa nodding in the affirmative. He did a little more during the Appropriations Committee markup and not in the affirmative. I left it to my colleague to have a comment or two about the President of his own party. I learned a long time ago, after coming to the Senate, that we have to cross party lines if we want to get anything done in this town.

I am pleased and proud to say Senator HARKIN and I have established a working partnership. When he chaired this subcommittee, I was the ranking member. I like it better when I chair and he is the ranking member. He spoke up in very forceful terms criticizing the President, the President's men, and the President's women for coming forward with that veto statement when we have strained to put together this total bill of $104.5 billion, and it has been tough going to get the allocations from the Appropriations Committee.

I thank Senator STEVENS, the chairman, and Senator BYRD, the ranking member, for coming up with this money. When the President asked for $1.3 billion for construction and $1.4 billion for additional teachers and class size, we put that money in the budget. We did add, however, that if the local boards make a determination, factually based, that the money is better used in some other line, the local school boards can spend the money in that line, giving priority to what the President has asked for, but recognizing that cookie cutters do not apply to all school districts in America.

We have structured some different priorities in this bill. The last time I read the Constitution, it was Congress who had the principal authority on appropriations. It is true the President must sign the bill, but to issue a veto threat after the subcommittee reports out a bill, before the full committee acts on it, before the full Senate acts on it, before there is a conference seems to me to be untoward.

Regrettably, in the past, this bill has not been finished until after the end of the fiscal year, so we have been unable to engage in a discussion with the President and a discussion with the American people about what are the priorities established by Congress. I emphasize that this is a bill which receives input from virtually all Members. We have hundreds of letters which pour into this subcommittee which we consider, and the same is true on the House side. This is no small matter as to who may be assessing the priorities for America. For the President to say his priorities are the only ones to be considered seems to me untoward.

That is as noncritical a word as I can fashion at the moment. I thank the majority leader, Senator LOTT, for scheduling this bill early. We intend to conference this bill promptly with the House and have a bill ready for final passage in July—hopefully in early July—and then let us see the President's reaction.

We are prepared to take to the American people the basic concept that if school districts do not need additional buildings, they ought to be able to use their share of the $1.3 billion for something else. If some school districts do not have a problem with the number of teachers they have, they ought to be able to use their share of the $1.4 billion for something else.

This is a very brief statement of a very complicated bill.

At the outset, I thank my colleague, Senator HARKIN, for his diligence and his close cooperation in bringing the bill to the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am pleased that the Labor-HHS bill has reached the floor relatively early this year. In the past few years, we have been sort of on the caboose end of the train.

It is an extremely important bill. It addresses many issues that are vital to the strength of our Nation—our health, education, job training, the administration of Social Security and Medicare, biomedical research, and child care, just to name a few.

Given its importance, I think it should be one of the first appropriations bills considered. But this is certainly the earliest this bill has gotten to the floor in many years. I am thankful for that.

At the outset, I thank my chairman, Senator SPECTER, and his great staff for their hard work in putting together this bill. As usual, Senator SPECTER has done so in a professional and bipartisan fashion. We all owe him a debt of gratitude for his patience.

This is always one of the most difficult bills to put together. This year the job has been especially difficult. I also thank the chairman of the full committee, Senator STEVENS, and the ranking member, Senator BYRD, for their support this year. Their help has been invaluable.

Before I say a few words about the contents of the bill, I think it is important to briefly discuss this year's budget resolution because we operate within its framework.

I believe this year's budget resolution shortchanged funding for important discretionary activities, including education, health, and job training. The funds were, instead, used to give tax cuts to the wealthy and to give the Department of Defense more money than it even requested. Our subcommittee's inadequate allocation was the inevitable result of that ill-advised budget resolution.

But that allocation forced our subcommittee to reach outside its normal jurisdiction to find mandatory offsets to fund the critical programs in this bill. Some may criticize the bill for that reason. Some of those criticisms are valid.

For example, I hope to work with my colleagues—hopefully when we get to conference—to reverse the reductions in social services block grants.

There are many good provisions in this bill. It increases funding for NIH, as Senator SPECTER said, by a historic amount, $2.7 billion. Education programs are increased by $4.6 billion. Head Start is increased by $1 billion.

The $2.7 billion increase for NIH will keep us on our way to doubling NIH funding over 5 years. We are on the verge of tremendous biomedical breakthroughs as we decode the mysteries of the human genome and explore the uses of human stem cells. We are doing the right thing by continuing to support important biomedical research.

The bill increases funding for child care from the $1.2 billion level last year to $2 billion this year. The availability, affordability, and quality of child care are major concerns for working families, and they desperately need these funds. Only about 1 in every 10 eligible children is served by this program. These dollars will go to working Americans who really need the help.

Again, I want to make sure the record reflects that last year, during our negotiations, our chairman, Senator SPECTER, guaranteed that we would have this increase this year. He lived up to that commitment. We had a tremendous increase in the child care program, and we thank Senator SPECTER for his commitment and for keeping his word to get that increase for child care this year.

I am proud we could also increase funding for education programs by, as I said, $4.6 billion. That includes a $350 increase in the maximum Pell grant to $3,650, the highest ever.

In this year that we celebrate the 10th anniversary of the Americans with Disabilities Act, the bill includes a $1.3 billion increase in funding for the Individuals with Disabilities Education Act, or IDEA.

We have also funded a new Office of Disability Policy at the Department of Labor. At HHS, we were able to add funds for several other programs funded under the Developmental Disabilities Act.

This bill also places great importance on women's health and includes over $4 billion for programs that address the health needs of women. I again might add that Senator SPECTER and I worked together on a women's health initiative that is part and parcel of this bill, and that is what that $4 billion is for.

The bill also includes a $50 million line item to address the issue of medical errors and to help health care practitioners and health care institutions, hospitals, and other health care facilities, to begin the process of developing methodologies and ways of cutting down on medical errors.

Medical errors are now the fifth leading cause of death in America. As we have looked at this, we found it is not just one person or one institution or one cause; there is a whole variety of different reasons. Quite frankly, I think our institutions and our practitioners have not kept up with the new technologies of today which in most of the private sector have helped us so much with productivity and which I believe in the health care sector can really help us cut down on medical errors. But that is what that $50 million is there to do.

The bill is not without its problems. As I mentioned, we do have a problem with the social services block grant. Hopefully, we will get this bill to conference and we will be able to fix that at that time.

Also, the provisions in the bill that have the money for school modernization and for class size reductions are not targeted enough. They are just broadly thrown in there. Again, we had this battle last year. When it finally came down to it, the Congress agreed with the White House, in a partnership, that we needed to put the money in there for class size reduction. I believe the same needs to be done for school modernization.

We only put in 7 cents out of every dollar that goes for elementary and secondary education in America. We only provide 7 cents. A lot of that goes for, as I said, the Individuals with Disabilities Education Act. A lot of that goes for title I programs to help low-income areas. When it is all over with, we have just a penny or two left of every dollar that we can give out to elementary and secondary schools.

So when we put in money for school modernization, we ought to make sure that is what it goes for. Schools desperately need this money. Our property taxpayers all over this country are getting hit, time and time again, to pay more in property taxes, which can be very regressive, to help pay for modernizing their schools.

As we know, most of the schools need to be modernized; they have leaky roofs, and toilets that won't flush, water that is bad, and air conditioning—a lot of times they don't even have air conditioning—heating plants that are inadequate. As I pointed out, one out of every four elementary and secondary schools in New York City today are still heated by coal. And again, these tend to be in the lowest income areas. So we need to target that money. It is not in this bill. That is one of the problems with it. Again, I hope we can work that out as we go to conference.

It is a national disgrace that the nicest places our children see are shopping malls, sports arenas, and movie theaters, and the most run down places they see are their public schools. Again, we have to fix these in conference.

I thank Senator SPECTER, once again, for being so open and working with us in a very strong bipartisan fashion.

We worked together to shape this bill. Overall, it is a good bill, with a few exceptions that we have to fix once we go to conference.

I want to make clear, I support the bill in its present form. I hope we get a good vote on it as it leaves here and goes to conference. I reserve my right, however, on the conference report, when it comes back. I am hopeful we can get it to conference with a strong vote, sit down with our House counterparts, and work out our differences. Hopefully, we can come back to the floor having fixed the class size, school modernization, and social services block grant problems we have in this bill.

I thank Chairman SPECTER for working in a bipartisan fashion. I hope we can get through this bill reasonably rapidly today, hopefully get to conference next week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENT NO. 3593

(Purpose: To limit the use of funds for standards relating to ergonomic protection)

Mr. ENZI. Mr. President, I call up the amendment I have at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] proposes an amendment numbered 3593.

Mr. ENZI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 23, between lines 12 and 13, insert the following:

SEC. . None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate, issue, implement, administer, or enforce any proposed, temporary, or final standard on ergonomic protection.

Mr. HARKIN. I didn't hear the unanimous consent request.

The PRESIDING OFFICER. It was to dispense with the reading of the amendment.

The Senator from Arkansas.

AMENDMENT NO. 3594 TO AMENDMENT NO. 3593

(Purpose: To limit the use of funds for standards relating to ergonomic protection)

Mr. HUTCHINSON. Mr. President, I have a second-degree amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON] proposes an amendment numbered 3594 to amendment No. 3593.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the first word, and insert the following:

None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate, issue, implement, administer, or enforce any proposed, temporary, or final standard on ergonomic protection.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SPECTER. Mr. President, the amendment has been offered dealing with ergonomics, and it is not an unexpected amendment. This has been a contentious issue on this bill for many years. We have had the matter before. I have conferred with Senator HARKIN, and there is no doubt we ought to proceed with the debate and let people have their say and let us see how the debate progresses.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I want to make sure we understand late today that we are not the ones who have offered this contentious amendment. This is a very important bill that involves hundreds of billions of dollars. The two managers have worked on this, and they have a bill we can make presentable to the rest of the Senate. I just want to make sure, when I am called upon, and others are called upon, we are not the ones who offered this contentious amendment. We are not going to move off this amendment—that is the point I am making—until it is resolved one way or the other. If there is some concern about that, I think the people who want this bill moved should try to invoke cloture. It won't be invoked, but that is the only alternative.

AMENDMENT NO. 3594, AS MODIFIED

Mr. HUTCHINSON. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is modified.

The amendment (No. 3594), as modified, reads as follows:

Strike all after the first word, and insert the following:

None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate, issue, implement, administer, or enforce any proposed, temporary, or final standard on ergonomic protection.

This amendment shall take effect October 2, 2000.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, let me just make an observation. I hear the threats that they are going to filibuster this amendment. This amendment deals with Labor-HHS appropriations. The Senate has the right to vote on whether or not we are going to spend the money in the Department of Labor to implement regulations that have a dramatic impact on business, on workers. We have a right to vote on it. The House voted on it; the Senate is going to vote on it.

We have voted on this amendment in one way or another almost every year since 1995. This is not a new issue. So now some people are saying, wait a minute, we are not going to take this tough vote. Didn't we just have a vote on hate crimes? I think we had two. Didn't we have a vote on campaign finance? Some people didn't want to vote on those two issues on this side of the aisle. Didn't we vote on a Patients' Bill of Rights?

Really, what the minority is saying is, we want to vote on our issues, but not on an issue that is relevant. Every amendment I just mentioned was not relevant to the underlying Department of Defense authorization bill. But still we ended up allowing those votes. We didn't have to. Now we have a relevant amendment to the underlying bill, Labor-HHS, the Department of Labor appropriations bill. We think the administration is going too far in the proposed regulations which they planned on having effective in December—these regulations the Clinton administration is trying to run through without significant hearings and without oversight and real analysis of how much it would cost.

Here is an example. On cost alone, the Department of Labor said—OSHA said—this regulation will cost $4 billion. The Small Business Administration, which they control, said the cost could be 15 times as much, or $60 billion a year. This Congress is not going to vote on a regulation that could cost $60 billion a year as estimated by the Small Business Administration? The private sector estimates range to over $100 billion per year. Wow, that is a lot of money. Shouldn't we vote on it?

Are these good regulations or not? Are we going to be able to stop them or not? Do we want to stop them? What are the regulations? They deal with ergonomics and with motion. OSHA—the Occupational Safety and Health Administration—is saying: We want to have some control over motion, and we think maybe this is harmful, and therefore we are going to control it. It may mean lifting boxes, or sitting at your desk, or anything minuscule, or something large.

The Department of Labor is coming in and saying: You need a remedy, you need to change the way you do business, because we know how to do your business better, and if it increases costs, that is too bad—not to mention the fact that they say we are going to change workers comp rules in every State in the Nation. I wonder what Senator BYRD from West Virginia thinks about changing workers comp rules in West Virginia.

I used to serve in the Oklahoma legislature. I worked on those laws and rules in our State. Are we going to have the Federal Government come up with a reimbursement rate of 90 percent when our State already passed a workers comp rule of 67 percent? Does the Federal Government know better?

My suggestion is that my colleagues from Arkansas and Wyoming, in introducing this amendment, have every right to offer an amendment that says: We are going to withhold funds on this regulation. We don't want a regulation to go into effect in December without us having additional time to consider it, without knowing how much it is going to cost. Maybe it should be postponed or suspended; maybe we should let the next administration deal with it. Let's vote on it.

For people to say, wait a minute, we don't like this amendment, so we are going to filibuster—there are probably a lot of amendments I don't like. Are we going to filibuster all of those? I think that would be grossly irresponsible. We need to let the Senate work its way.

Mr. HARKIN. Will the Senator yield for a question?

Mr. NICKLES. Yes.

Mr. HARKIN. Would the Senator tell us under which Secretary of Labor and how long ago this proposed ergonomics rule was promulgated? How many years of study have we put in on it?

Mr. NICKLES. The original rule came out, I believe, in 1995, and it made very little sense. The latest proposal had over 600 pages. The business community and others who looked at it said it was not workable. The Department of Labor has come back and said let's revise it and make it more workable. Did they show us results? No. They said let's overrule the States' workers comp.

If this went into effect—and I don't think it will, so maybe that is why people don't want to vote on it. But does this Congress really want to overrule every States' workers comp law? I don't think so. I think it would be a mistake.

To answer the question, this administration has been trying to promulgate this rule for about 5 years. We have been successful most of those years in putting in restrictions to stop them. Unfortunately, we didn't get it in last year. To me, it was one of the biggest mistakes Congress made last year—not stopping this administration. Now they are trying to promulgate the rule, I might mention, right after the elections, right before the next President. I think a delay is certainly in order.

Mr. HARKIN. Will the Senator yield for a further question on that?

Mr. NICKLES. Yes.

Mr. HARKIN. Again, it was my understanding that it was former Secretary of Labor Elizabeth Dole who first committed the Department to issue an ergonomic standard to protect workers on carpal tunnel syndrome and MSDs, as they are called. It has been under study for 10 years; is that right?

Mr. WELLSTONE. The Senator is right.

Mr. NICKLES. I think he asked me. They may have been working on this Department of Labor takeover of, I don't know what—workers involvement. But they issued the rule on November 23 of last year—a rule that has 600 pages. They may have been working on it for 10 years, but I doubt that. This administration hasn't been in office quite that long. But with enormous expense.

I think, again, we should have a vote. To give an example, I came from manufacturing, and we lifted and moved a

lot of heavy things. I don't really think somebody from the Department of Labor could come into Nickles Machine Corporation and say: Hey, we know the limits on what somebody can lift as far as pistons and cylinders and bearings are concerned. Therefore, we suggest you put a maximum on it. Or maybe every Senator—everybody has a machine shop, or every Senator has a bottling company. Somebody comes into the Senate every day and loads the Coke machines and the Pepsi machines.

This rule says that you can't lift that many cases; that you can't lift two cases at once, or one case, or maybe you can only lift a six-pack or something. The net result would be an estimate that bottlers would have to hire twice as many people. Maybe this is an employment bill.

My point is you could increase costs dramatically with draconian results without even knowing what we are doing.

I think a delay and not to have a regulation with this kind of economic consequence coming right after the election and right before the swearing in of a new administration makes good sense.

Let's postpone this until the next administration.

I thank my colleagues for their efforts.

I yield the floor.

Mr. WELLSTONE. Mr. President, my colleague has the floor. But could I have my colleagues' forbearance for a 15-second request?

Mr. President, I would like to respond to some of what was said by the Senator from Oklahoma; in other words, after Senator ENZI, and go back and forth on this, pro-con.

Mr. ENZI. Mr. President, I ask unanimous consent that following my speech, Senator WELLSTONE be recognized as ranking member of the subcommittee that deals with this, and I ask unanimous consent that Senator HUTCHINSON be allowed to follow that.

The PRESIDING OFFICER (Mr. ALLARD). Is there objection?

Without objection, it is so ordered.

Mr. ENZI. Mr. President, I thank the ranking member. This is not a new issue for either of us. We have been holding hearings on it. It has been in the press. We both knew about it. He was here to debate it. This is not a surprise.

I am pleased that I am going to be able to make my floor statement. I think perhaps after the floor statement maybe the other side would like to join me in proposing this amendment. I think there will definitely be additional Members who will want to join me in this.

Mr. President, I rose today and offered an amendment that simply prohibits the Occupational Safety and Health Administration, OSHA, from expending funds to finalize its proposed ergonomics rule for 1 year. It was mentioned before that last year we didn't get a prohibition against them proceeding with it. You will hear in a bit how much that little error has cost us.

But before I tell you why this amendment is critically necessary, I want to tell you what this amendment is not about.

This amendment is not about whether or not OSHA should have any ergonomics rule. It is not a prohibition on ergonomics regulations generally. And it is most definitely not a dispute over the importance of protecting American workers. Clearly protecting workplace safety and health is of paramount importance.

As the chairman of the subcommittee that deals with worker safety, I feel a special responsibility to oversee the agency charged with safeguarding these workers. But I am not fulfilling this responsibility if I merely rubber stamp anything OSHA does just because OSHA says it is acting in the interest of worker safety and health. I have a duty to make certain that OSHA is acting responsibly, appropriately, and in the best interests of workplace safety and health. Sadly, OSHA has not done so with this proposed ergonomic rule. That is what this amendment is about.

Because of this rule and the way OSHA is going about it, the amendment merely requires that OSHA wait a reasonable 1-year period before issuing a final ergonomics rule. That is to keep OSHA from making drastic mistakes to add to those already made.

Let me tell you why it is imperative that Congress act now to require OSHA to take this reasonable additional amount of time for this rulemaking.

In a nutshell, OSHA is using questionable rulemaking procedures; OSHA omitted the analysis of the economic impact; OSHA hasn't resolved conflicting laws; and this rule infringes on State workers compensation—to name a few of the problems that riddle this overly ambitious rule. OSHA's haste to get through the rulemaking process is very clear. The rule OSHA has proposed is arguably the largest, broadest, most onerous and most expensive rule in the history of the agency—probably any agency. But OSHA has made it very clear that it intends to finalize the rule this year—just over a year from the time the proposed rule was published. This narrow-minded commitment to year's end can only mean that OSHA has already made up its mind in favor of the rule and thinks it will leave a mammoth and far-reaching legacy for the current Presidential administration. I would suggest it will be closer to the legacy of the OSHA home office inspections.

Perhaps you remember the letter issued by OSHA about the time we left for Christmas recess, the one that suggested OSHA was going to go into each home where people work and look for safety violations. From the time we found out about it, it only took 48 hours to see how far-reaching, imposing, and stupid that decision was. Of course, the whole Nation realized the implications of the home inspections even quicker.

I am extremely concerned that OSHA is blinded by the motivation to get it done during this administration and is not taking the time to carefully consider all the aspects and effects of this important rule.

For example, the public comment period for the proposed rule was much shorter than OSHA typically permits—even for much less significant rules. OSHA has never before finalized such a significant rule in a year's time. Moreover, in its haste to get through this rulemaking process, OSHA, until recently, omitted an analysis of the economic impact of the rule on the U.S. Postal Service, on State and local government employees in State plans, and on railroad employees—all together, over 10 million employees. These aren't optional economic impacts. These are mandatory, in light of the dollars involved. OSHA is apparently so busy with other things that it did not do the analysis for these entities until the end of last month, despite the fact that the Postal Service requested an analysis 5 months prior.

To add insult to injury, OSHA has only given these folks 2½ months to comment on the complex analysis that OSHA forgot to do, and OSHA won't even consider extending the overall comment deadline for these folks.

It is because they are trying to get it done this year. They have had 5 months to prepare it, and they tell the Postal Service that they have to analyze it in 2½ months—no extension.

Even more troubling than the fact that OSHA is rushing the rule is the way OSHA is going about it. OSHA's ambitions with this rule are so big and overreaching that OSHA has truly bitten off more than it can chew, and may be playing fast and loose with the rulemaking process and your tax dollars. In fact, OSHA has bitten off so much with this rule that it is apparently paying others to chew for it—too big a bite. They can't chew it all. So to make it happen in 1 year, they are going to pay others to do some of their chewing. I use the word ''apparently'' because of the difficulty getting answers.

Responding to inquiries first made by Congressman DAVID MCINTOSH, OSHA recently disclosed that it has paid at least 70 contractors a total of $1.75 million—almost $2 million—to help it with the ergonomics rulemaking. They are paying these contractors with our tax dollars in order to speed the process up on a bad rule. Congressman MCINTOSH's staff discovered that OSHA may have failed to disclose an additional 47 contracts for who knows how much more money. OSHA's own documentation reveals that it paid 28 contractors $10,000 each to testify at the public rulemaking hearing.

Going through some of the accounting information, I even noticed that one contractor had turned in an

itemized bill for less—and was still paid the $10,000.

When I asked OSHA for evidence of public notification that it was paying these witnesses, OSHA gave me none. I am very concerned that OSHA is paying so much money for outside contracts for this rulemaking that I intend to hold a hearing to get to the bottom of this issue. Let me state things I already know. I think you will be convinced, as I am, that we absolutely need to put the brakes on this rulemaking and force OSHA to straighten this mess out before it finalizes the rule.

First, OSHA does not seem to want to have me have this information. Some of it is just good accounting stuff. As the only accountant in the Senate, I am really interested. I have requested documents from OSHA that would give a clear picture of its relationship with some of these contractors, but OSHA has so far refused to give them to me, claiming a ''privilege.'' That applies to private citizens, not to Congress. We have the right to know where the dollars that we are spending go, unequivocally.

Now, Congressman MCINTOSH has been able to obtain some key documents from the contractors themselves, but OSHA placed strict constraints on Congressman MCINTOSH's ability to share them with fellow lawmakers. This is stuff that came from the contractors, and OSHA can still get its hands in and keep us from using it the way it ought to be used. OSHA did grudgingly agree that I could look at the documents—not take them or copy them or quote from them—but only in Congressman MCINTOSH's office. When I asked OSHA, as a courtesy, to permit Congressman MCINTOSH's staff member, Barbara Kahlow, to bring the documents to me, just to look at them, abiding by the rules, OSHA said no.

I am so concerned about this issue that I went over to Congressman MCINTOSH's office last night after I finished working at the Senate to look at these documents for myself. Now, fortunately, Congressman MCINTOSH's negotiations made that possible.

Can anyone believe that documents concerning money we are spending have to have special negotiations before I can look at them? It comes under my committee. I am in charge of the oversight on that committee. Let me recap that: I was told that the contracts and expenditures are privileged. I was told that information couldn't be brought to my office. I was told I could not copy any information. I was told I could not quote any information. I was told that I couldn't quote from the documents. I had to use extra time to go to the House side to even see those documents. I am not afraid of a little walk over to the House. I just couldn't understand why OSHA was going to so much trouble to keep the documents from me. I physically went to Congressman MCINTOSH's office last night and looked at the documents.

Because of OSHA, I can't quote these documents. I can't show you copies. But I can tell you what I saw. I saw that not only did OSHA pay 28 expert witnesses $10,000 a pop, and one of them didn't even ask for that much, it also appears that OSHA did the following: OSHA gave detailed outlines to at least some of the witnesses telling them what they were to say in the testimony; second, they had OSHA lawyers tell at least one expert witness that they wanted a stronger statement from the witness regarding the role of physical factors. That is an important scientific issue. These are supposed to be experts. They told him to make it stronger. Third, heavily edited testimony of at least some of the witnesses is evidenced. OSHA held practice sessions to coach the witnesses in their testimony. I have never heard of that around here. This sounds a lot like OSHA told its expert witnesses what to say. This sounds like OSHA made up its mind a long time ago in favor, and has been stacking the evidence to support its position.

I respect OSHA's need to enlist expert assistance in technical or scientific rulemaking. I expect them to get the right information. I would like to think it wasn't biased when they got it. And I have to say, I don't respect any agency paying witnesses to say what the agency tells them to say, and then holding the witnesses' testimony up as ''best available evidence.'' Best available evidence is what the OSH Act requires to support this standard. It doesn't say anything about paying witnesses or coaching witnesses. It doesn't say anything about telling them to change their testimony.

How can OSHA expect the public and Congress to have any confidence that it is promulgating regulations in the best interest of worker safety and health if it is asking supposed experts to tell OSHA what it wants to hear, so OSHA can promulgate whatever rule the administration thinks is in its own interest?

That has been the problem with the past years of looking at regulating ergonomics. OSHA makes up the rules. OSHA does the tests. OSHA says their tests are good. OSHA gets ready to propose a rule and realizes they have made a drastic mistake. That has happened in the past. That is why this little document is the first published proposed ergonomics regulation. It didn't happen until November of last year. This document, this is the first time we have gotten a look at this document. It is the first time it has been officially printed.

How can OSHA expect the public and Congress to have any confidence in its promulgating regulations in the best interest of worker safety and health if it is asking supposed experts to tell OSHA what it wants to hear, and has already told them what to say, so that OSHA can promulgate whatever rule the administration thinks is in its own interest? No wonder OSHA has promulgated such a greedy, overreaching rule.

Maybe I could pass all the OSHA reform legislation I wanted if I could pay 28 witnesses $10,000 apiece to come in and say what I wanted them to say in my hearings. Does that seem like a conflict of interest?

I wouldn't do things that way. In fact, we had a hearing recently about one of the most objectionable parts of this rule, the work restriction protection provisions. I will talk about those in a few minutes. We had to tell one of the witnesses we selected that we couldn't pay his transportation costs—not a $10,000 bonus to testify; we couldn't pay his transportation costs. We did this in part for financial reasons and in part because we wanted to avoid the appearance of impropriety that can result from spending taxpayers' dollars on a witness who is supposed to be giving an unbiased opinion. This witness came to Washington anyway—on his own dime. He didn't have his State pay for it. He paid for it out of his pocket to testify at my hearing because he felt so strongly about the terrible effects of this ergonomics rule.

Needless to say, I am very disturbed by what I have seen to date about this issue. OSHA's response is that it has always paid witnesses for their testimony. I can't find that in any public documents. I can't find that disclosure. I can't find where they actually said that they were paying them, and this was paid testimony. It seems that ought to be disclosed. Whether or not this is true, it remains to be seen whether OSHA has ever paid this many witnesses this much money and participated this thoroughly in crafting the substance of a witness' testimony. OSHA has also tried to give me the typical excuse of a teenager caught doing something wrong: Hey, everybody is doing it.

To that, let me first respond with the typical, but sage parental response: If everybody were jumping off a bridge, would OSHA jump off a bridge, too? That doesn't sound like good safety to me.

Second, everybody is most certainly not doing it. Representatives of both the Department of Transportation and the Environmental Protection Agency, two agencies that promulgate lots of supertechnical regulations, dealing with scientific things, have stated publicly that they do not pay expert witnesses, except possibly for travel expenses.

Let me say that again. The Department of Transportation and the Environmental Protection Agency, agencies that promulgate lots of supertechnical regulations, have stated publicly—you can read it in the paper—that they do not pay expert witnesses, except possibly for travel expenses. As the DOT general counsel put it ''Paying experts would not get us what we need to know.''

Finally, just because OSHA may have these things in the past, in my book that does not make this practice OK in this instance. On the contrary, it

makes any other instances of witness coaching equally objectionable. Two wrongs don't make a right. We can't do anything about past rulemakings, but we can do something about this one—if we act now.

Clearly, more needs to be learned about this subject, but if we don't pass this amendment, OSHA is going to forge ahead and finalize a document that they have already determined is the perfect answer even before the comments have been sifted through. They will finalize a possibly—no, almost assuredly—be a tainted rule, and we won't have another opportunity to stop them. A vote for this amendment makes certain that we will have sufficient time to conduct a thorough congressional investigation into this issue and force OSHA to clean up its rulemaking procedures if necessary.

Lest you think my concerns about this rule are only procedural, rest assured these procedural concerns are only half the problem here. This rule has serious substantive flaws. Much has been written and debated about the many problems with this rule—its vagueness, its coverage of preexisting and non-work related injuries, the harshness of its single trigger. I expect you have all heard something about these topics and my colleagues will talk more about these later today. In my investigation of the rule, I found two particularly troubling issues. Both involve the reach of the long arm of this overly ambitious rule into arenas outside of OSHA's jurisdiction—both with disastrous effects.

First, the rule will have a devastating effect on patients and facilities dependent on Medicaid and Medicare.

OSHA has created a potential conflict between the ergonomics rule and health care regulations. Congress recognized the importance to patient dignity of permitting patients to choose how they are moved and how they receive certain types of care when it passed the Nursing Home Act of 1987. This act and corresponding regulations mandate this important freedom of choice for patients. The ergonomics rule, on the other hand imposes many requirements on all health care facilities and providers concerning patient care and movement. Thus, these facilities and providers may be forced to choose between violating the ergonomics rule or violating both the Nursing Home Act and the patient dignity.

Moreover, OSHA's rule forces impossible choices about resource allocation between patient care versus employee care. The only way for businesses to absorb the cost of this rule under any situation is to pass the cost along to consumers. However, some ''consumers'' are patients dependent on Medicaid and Medicare. The Federal Government sets an absolute cap on what these individuals can pay for medical services. Thus, the facilities that provide care for these patients simply cannot charge a higher cost.

Simply put, these facilities and providers are unable to absorb the cost of the ergonomics rule. And there is no question these facilities will face a cost. OSHA's own estimate of the cost of compliance in the first year will total $526 million for nursing and personal care facilities and residential care. And you have to remember, we are saying that they really use conservative, from their point of view, estimates of costs. The industry estimates that the per-facility cost for a typical nursing home will be $60,000. But my issue with this rule is not that it will cost these facilities so much money—it is that it will cost elderly and poor patients access to quality care. You have probably heard about some of the facilities going out of business because of some appropriations measures we passed. We have corrected them a little bit. But my issue with this is not what it will cost these facilities, but what it will cost the elderly and the poor in access to quality care. Sadly these patients are already in danger of losing quality care. Many facilities dependent on Medicaid and Medicare are in serious financial straits due in part to the Balanced Budget Act of 1997. Ten percent of nursing homes are already in bankruptcy. And the Clinton administration just announced a request for an additional $20 billion for Medicaid and Medicare so that the reimbursement cap can be raised. All this is before the costly ergonomics rule places its additional tax on an already overtaxed system. Implementing this sweeping and expensive proposed ergonomics standard is simply more than this industry can bear.

Let me assure those who say this Medicaid/Medicare quandary will not have very broad impact—let me assure them that it will. Nearly 80 percent of all patients in Nursing Homes and over 8 million home health patients are dependent on Medicare or Medicaid. How will these patients receive health care if the ergonomics rule forces nursing homes and home health organizations out of business? The answer is, they won't. But it does not appear that OSHA has even considered that consequence. Perhaps OSHA is assuming that Congress will clean up after it by raising reimbursement rates to accommodate OSHA's rule? If this is the case, then OSHA itself has invited us to step in, prohibit OSHA from finalizing this rule and OSHA back to the drawing board. A vote in favor of this amendment will ensure that OSHA resolves the mess its rule creates for providers and patients before issuing a final rule. That ought to be a basic consideration for us in this body.

The second problem I am very concerned with is OSHA's encroachment into State workers' compensation. A provision of the rule would require employers to compensate certain injured employees 90 to 100 percent of their salary. OSHA calls this requirement ''work restriction protection'' or WRP. But it sounds an awful lot like workers' compensation doesn't it? They told us they don't have the money to do the job, and now OSHA apparently wants a new job—to be a Workers Compensation Administration. That is why we held a hearing, to see what was involved in that. But there are two problems with that. First, the statute that created OSHA tells us that OSHA is not to meddle with workers' compensation. Second, OSHA's intrusion into the world of workers' compensation will hinder its ability to perform its true and very important function—improving workplace safety and health. All of the States already do Workers Comp.

Thirty years ago, when Congress wrote the Occupational Health and Safety Act, it made an explicit statement about OSHA and workers' compensation. It wrote that the act should not be interpreted to:

> . . . supersede or in any manner affect any workmen's compensation law, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

Twice this provision uses the broad phrase ''affect in any manner'' to describe what OSHA should not do to State workers' compensation. As someone with the privilege of being one of this country's lawmakers, it is hard for me to imagine how Congress could have drafted a broader or more explicit prohibition on OSHA's interference with State workers' compensation.

Perhaps more importantly, this provision of the law makes good sense. All 50 States have intricate workers' compensation systems that strike a delicate balance between the employer and employee. Each party gives up certain rights in exchange for certain benefits.

For example, an employer gives up the ability to argue that a workplace accident was not its fault, but in exchange receives a promise that the employee cannot pursue any other remedies against it. The injury gets taken care of, the injury gets paid for, and the worker gets compensated.

Each State has reached its own balance through years of experience and trial and error. Many of us have served in State legislatures where one of the perpetual questions coming before the legislature is changes to workers compensation. It is a very intricate process.

Significantly, Congress has never taken this autonomy away from the States by mandating Federal workers compensation requirements and, in fact, put those statements in, to which I referred earlier, where they are clearly not to get into workers compensation. The States have special mechanisms set up for resolving disputes and vindicating rights under the workers compensation systems.

OSHA wants to create its own Federal workers compensation system, but

only for musculoskeletal disorders, MSDs. But OSHA does not have the mechanisms or the manpower to decide the numerous disputes that inevitably will arise because of the WRP provision. I ask all Senators to talk with their State workers compensation people. I have not found any of them who did not think this was intrusive, who did not think this gets into their business which they have crafted for years and years.

OSHA does not have the mechanisms or the manpower these States have to decide the numerous disputes that will arise. All of a sudden, OSHA will have to decide disputes over the existence of medical conditions, the causation of the medical conditions, the right to compensation.

But what happens to workplace safety and health while OSHA is being a workers compensation administration? The devastating effect on workers compensation has been recognized by workers compensation commissioners across the country. The Western Governors' Association has issued a resolution harshly criticizing the WRP provisions. Moreover, Charles Jeffress met with a large group of workers compensation administrators, and when I asked him how many spoke in favor of this provision, he answered: None. It was not quite that definite, but he answered definitely none.

Significantly, this meeting took place before the proposed rule was published, so Mr. Jeffress obviously did not take their lack of support to heart in drafting the proposed rule.

If this lack of responsiveness is any indication, we can have no confidence OSHA will take this provision out of the final rule. A vote for this amendment ensures that OSHA will have to take additional time to consider all the negative feedback it has received on this issue alone. Hopefully, with this additional time, OSHA will recognize that it should stay out of the workers compensation business and get back to the important business of truly protecting this country's working men and women.

From all of these facts and circumstances, I hope it is as clear to you as it is to me that OSHA is not ready to take sensible, informed, reliable action on ergonomics. Unfortunately, it is equally clear that OSHA is going to push forward anyway unless we take some action. Because of the magnitude of this issue, it is absolutely imperative that cool heads prevail over politics. We must ensure that OSHA takes the time to investigate and solve problems with the rule without taking shortcuts. Nobody puts them under the deadline except themselves, but they are obviously convinced of the deadline.

If we do not act now to impose a reasonable 1-year delay of the finalization of the rule, OSHA will forge ahead and produce a sloppy final product that not only fails to advance worker health and safety, but also threatens the viability of State workers compensation, health care, the poor and elderly, not to mention businesses all across the country.

If even one of these issues I raised troubles you—and I think they should all trouble all of us deeply—then you must recognize the desperate need for a 1-year delay.

I urge your support of this amendment. I am joined in offering this amendment by my colleagues, Senators LOTT, NICKLES, JEFFORDS, BOND, HUTCHINSON, BROWNBACK, SESSIONS, HAGEL, DEWINE, CRAPO, BENNETT, THOMPSON, BURNS, COLLINS, FRIST, GREGG, COVERDELL, VOINOVICH, FITZGERALD, ABRAHAM, SNOWE, ASHCROFT, GRAMS, HUTCHISON, THOMAS, and ALLARD. I ask unanimous consent that they all be added to the amendment as original cosponsors.

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

Mr. ENZI. Mr. President, I urge my colleagues to vote in favor of the amendment that will ensure we have this delay to do it right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I do not know quite where to start. My colleague from Oklahoma had said earlier, and both my friends from Wyoming and Arkansas had said, we ought to have a debate. We will. We ought to be focusing on this issue. We will focus on this issue.

There are many important issues we should focus on in the Senate. This is an important issue. I want to speak about it. In my State, by the way, two-thirds of senior citizens have no prescription drug coverage at all. I would like to focus on that issue. I would like to make sure 700,000 Medicare recipients have coverage. Education, title I—I would like to talk about a lot of different issues, but this issue is before us. I hope we will be able to speak to many different issues in several months to come.

First, my colleague, Senator ENZI, complains about the rule, but there is no final rule. It is not final yet. That is the point. OSHA, which is doing exactly what it should do, Secretary Jeffress is doing exactly what he should do by law—holding hearings, getting input—they are going to issue a final rule. They have not issued a final rule.

My colleague jumps to conclusions and joins the effort over 10 years to block a rule, but the rule has not been made. There may be significant changes. When my colleague complains about the rule, let's be clear, they have not finished the process. We do not know what the final rule is yet. But for some reason, my colleagues on the other side of the aisle are so anxious to block this basic worker protection that they already feel confident about attacking a rule that does not exist.

Second, my colleagues say that OSHA is rushing.

Senator HARKIN was quite right in saying to Senator NICKLES: Wait a minute, didn't this go back to Secretary Elizabeth Dole? Wasn't Secretary Dole the first to talk about the problem of repetitive stress injury and the need to provide some protection for working men and women in our country? This has been going on for a decade. And Senator JEFFORDS and OSHA and the administration are rushing?

By the way, I say to my colleagues, time is not neutral. From the point of view of people—I am going to be giving some examples because this debate needs to be put in personal terms. It is about working people's lives, from the point of view of people who suffer from this injury, from the point of view of people who are in terrible pain, from the point of view of people who may not be able to work, from the point of view of people who can have their lives destroyed because of this injury, because of our failure to issue a standard. We are not rushing. Can I assure all Senators that we are not rushing from their point of view?

Then my colleague talks about home office inspections. This is a red herring. We agree, OSHA agrees, they are not going to be inspecting home offices. Why bring up an issue that is not an issue?

My colleagues talk about the WRP, the work restriction protection, and all about the ways in which it will undercut State worker comp laws. But you know what, in our committee hearing, we heard from witnesses that it has no effect on workers comp laws. We will debate that more. But no one, no Senator should be under the illusion that OSHA is about to issue a rule that is going to undercut or overturn State comp laws.

Then I hear my colleague, my good friend, complain about OSHA's use of contractors. They have hearings all across the country. They hire people to help them go through all of the paperwork. They hire people so that we do not have unnecessary delay. That is exactly what they should be doing. Frankly, I think these arguments that we hear on the floor of the Senate are just arguments in trying to prevent OSHA from doing exactly what its job is.

What is its job? There are today 1.8 million workers who suffer from work-related MSDs and 600,000 workers who have serious injuries and lost work time. That is a lot of men and women who are in pain and who struggle because of these workplace injuries.

Elizabeth Dole, a Republican, Secretary of Labor, recognized this 10 years ago. For 10 years, some of my colleagues have done everything they know how to do to block OSHA from issuing a rule to protect working people in this country. They come up with all these arguments, complaining about a rule—but we do not know what the rule is—saying that OSHA is rushing—when we have been at this for a decade—talking about the horror of

home office inspections—which will not take place; there will be no home office inspections—and so on and so forth.

Frankly, I think this is nothing more than an effort to make sure there is no rule issued at all. Because you know what, we are not arguing about even what kind of rule. That is the irony of this debate. I hope it will not become a bitter irony. We are arguing over whether OSHA should be allowed to issue any rule. Some of my colleagues are so comfortable with the status quo.

We have 600,000 workers with serious injuries, lost work time, and there are those who do not want OSHA to issue any rule.

Women workers—when you vote on this, one way or the other, remember women workers are particularly affected by these injuries. Women make up 46 percent of the overall workforce, but in 1998 they accounted for 64 percent of repetitive motion injuries, and they accounted for 71 percent of the reported carpal tunnel syndrome cases—women in the workplace, in pain, injured. We do not want to provide any protection?

I say to my colleagues, the only rush I see here is not OSHA's rush to provide some protection for working men and women, the only rush I see is the rush on the part of my colleagues to block OSHA from providing any protection.

Why the rush to block protection for working people in our country? That is my question.

The cost of these injuries to workers, employers, and the country as a whole is enormous. The worker compensation costs are estimated to be about $20 billion annually; overall costs, $60 billion.

I will have more to say about this later on in the debate, but when I hear about the nursing homes, and how if we have any kind of ergonomic standard, the nursing homes will go out of existence, I think of two things. No. 1, I wonder how many of my colleagues voted for the 1997 balanced budget amendment. I did not. But if you did, you ought to talk about a piece of legislation that was destined, given the draconian reductions in Medicare reimbursement, to play havoc especially with our hospitals and our nursing homes in rural America, and that is it.

Actually ergonomics programs save employers money because you prevent injuries, you cut worker compensation costs, you increase productivity, and you decrease employee turnover. I do not think that is really very difficult to grasp.

Let me repeat it. Ergonomics programs save employers money, save nursing homes money, because if you can prevent the injuries, you can cut the worker comp costs, you can increase productivity, and you can decrease employee turnover, which, by the way, is a huge problem in our nursing homes, as is the case with child care workers.

OSHA's proposed ergonomics rule would prevent about 300,000 injuries each year and save about $9 billion in worker compensation and related costs. I don't know, maybe you can come out with a figure of a little less or a little more, but that is significant.

Ergonomic injuries can be prevented. That is what is so outrageous about this amendment. Ergonomics programs implemented by employers, such as Ford Motor Company, 3M in my State of Minnesota, and Xerox Corporation, have significantly reduced injuries, lowered worker comp costs, and improved worker productivity. But only one-third of employers currently have effective programs.

On the House side, first of all, we have had the debate about whether or not there would be good science. Initially, back in 1999, we had an agreement between the Republicans and the Democratic leaders and the Clinton administration, which would fund a scientific study by the National Academy of Sciences of the scientific evidence on ergonomics with the understanding that OSHA's ergonomics standard would proceed. That was the understanding. That understanding clearly no longer counts. All the discussion about how we needed good science obviously was not the issue. My colleagues are not interested in any of that. They are only interested in one thing: They want to block OSHA from issuing any kind of rule that would provide protection to these working people.

Again, 1.8 million workers suffer from work-related MSDs, 600,000 workers from serious injuries. My colleagues come out on the floor and make arguments that amount to nothing more than delay because they want to block OSHA from issuing any regulation. They don't even want to wait to see what the regulation is. They just want to block it. They are for the status quo, but the status quo is not acceptable because we ought to provide some protection for these women and men in the workplace.

I could, but I will not, spend time with a lot of stories. I want to give my colleagues some sense of what this debate means in personal terms. That is what it is really about. It is not about a rule because the rule has not been promulgated. We don't know what the rule is. It is not about a rush on the part of OSHA because, if we go back 10 years, it was Elizabeth Dole, a Republican, who was first talking about the problem with these injuries. It is not about the scope of the rule because we don't know what it is. It is about whether or not we are going to have political interference to block an agency which has the mandate and the mission of protecting working men and women in this country. It is also about people's lives.

I say this to my colleague from Wyoming, whom I like and enjoy as a friend, to the extent people get a chance to spend any time with one another here:

I think this debate will be a sharp debate because I think there are some real differences between Senators on this question that make a real difference. I cannot help but express my indignation on the floor of the Senate that when you have 600,000 workers seriously injured every single year because we have not issued any kind of ergonomic standard and because there is no protection for them, I find this effort to block OSHA from issuing any kind of rule or protection to be really unconscionable. I find it to be unconscionable because we are talking about people's lives.

Keta Ortiz is a New York City sewing machine operator. I will quote from her testimony, which was at one of the public hearings on OSHA's proposed ergonomic standard.

My name is Keta Ortiz. I was sewing machine operator, a member of UNITE Local 89 for 24 years. I was 52 years old in 1992 when my whole life came crashing down around me.

You know what a cramp is, right? A terrible pain, it lasts a couple of minutes. Imagine you got cramps so powerful and painful they woke you up every night.

My cramps lasted one or two hours, without relief. I woke up with hands frozen like claws and I had to soak them in hot water to be able to move my fingers.

I was awake two or three hours every night, often crying. Exhausted every day. But I had no choice but to work. In the beginning the pain got better on the weekend. Then it didn't.

By the way, Mr. President, I was just saying to a close friend this morning as I read Ms. Ortiz's testimony that having struggled with back pain, my definition of pain is when you can't sleep at night. That is the worst. You get through it during the day, but in the evening you can't sleep because of the pain, and that is real pain.

This agony lasted months, then a year, and then five long years.

There are not words to explain what went through my mind in those hours in the middle of the night. The desperation, the fear that eats at your mind. The terror I felt when I realized I was going to have to stop working and didn't have money to pay the rent.

I thought, ''When will this ever end? How can I support my child? God, why have you abandoned me?''

I worked and worked through the pain, until I couldn't take it any more. Without work I was disoriented, very depressed, empty. I thought, ''I am useless, a vegetable.'' Negative thoughts invaded my mind and took over my days.

Who are these people who oppose an ergonomics standard? Have they ever worked in a factory?

Tell them it took me two and a half years before I saw my first workers' comp check. Tell them the operation I needed was delayed over two years by the insurance company . . . that I lost my and my family's health insurance.

Tell them that after dedicating so many years to my job, I destroyed my hands, damaged my mental health, and sacrificed the joy I felt in living. And I get barely $120 a week in workers' compensation payments.

Now, listening to Ms. Ortiz, I think this is a class issue. I think it is a class issue. I think that if these workers—these women and men like Ms. Ortiz—were sons and daughters, or brothers or

sisters, or our mothers and fathers and they were in the upper-income class, or professional class, there would be a hue and cry for an immediate rule to be issued by OSHA to protect them. But they are not the givers, the heavy hitters. This is a reform issue, too. They are not the players. I doubt whether Ms. Ortiz has contributed $500,000 in soft money—to either party, I say to my colleagues, so that I can make it clear this isn't aimed at any one individual Senator. I doubt whether she is maxed out at $2,000 a year in the primary and general election. I doubt whether she is enlisted as somebody who contributes $200 a year. I doubt whether she hires any lobbyist. But I have no doubt that she is a hard-working factory worker whose life has been destroyed.

I have no doubt that we ought to pass this so OSHA should be able to do its work. OSHA should be able to perform its mission of providing protection for workers.

I remember when OSHA legislation first passed in the early 1970s. I remember that there was a book I used to assign to students, I think, by Paul Brodeur, called ''Expendable Americans.'' I think it was about a group of chemical workers who were working and who basically lost their lives because of asbestos, and they struggled with asbestosis and other lung-related diseases. The author's thesis was that these were people who were expendable.

We should not make Ms. Ortiz and other working people expendable. We should pay attention when 1.8 million workers a year struggle because of this kind of disease, MSDs, and 600,000 workers are in real jeopardy, with serious injuries and lost work time. They should not be made expendable.

Janie Jones, UNITE Local 2645, Arkadelphia, AR, poultry plant worker:

Good Morning, my name is Janie Jones. I'm President of Local 2645. I am also a member of the joint Union-Management safety Committee. I work at the Petit Jean Poultry de-boning facility, in Arkadelphia, Arkansas. I've been employed there for 7 years. In 1994, I was diagnosed with Carpal Tunnel Syndrome. At the time of my injury I was deboning thighs, since then I have been placed on numerous other jobs.

Let me describe a few of my previous jobs for you:

Breast pulling: the birds come down the dis-assembly line, we pull the breast from the bird, removing the skin as we do this. Approximately 9 birds a minute is required of the workers: one every seven seconds.

De-boning the thighs: six people used to do three different cuts to the thigh: arching, opening and de-boning. Now there are only three people doing these three cuts. Also, after the bone is taken from the thigh, a thigh-trimmer inspects and cuts out any bone that may be left. There used to be three people, and now one person cuts out the bone. But the line speed is still 28 per minute.

Now, I load the line. This means picking up the birds from a metal bin to my right and placing them on cone on a conveyor belt to my left. We are required to put 28–32 birds a minute on these cones. These birds are cold, sometimes frozen and they can weigh as much as six pounds. That's about 67,500 pounds that I have to reach and stretch to lift about 2½–5 feet every day.

When an injured worker goes to the nurse with pain and swelling, the nurse will usually treat the worker with a rub and arthritis cream and sends you back to your job. If you keep complaining, she'll also give you a heat pad, and then she'll send you back to your job. Then, if you still keep complaining, she'll do the rub, the heat pad, and send you to a light duty job. Sometimes, management then tells her they need this person on their old job, and she just agrees and they put the worker back on the job that injured them.

When workers are diagnosed with CTS by their own doctors, company will move you to another job which is not as fast-paced. But as soon as the pain gets better, they send you back to your old job, only to get worse again. This goes on until people can't take it anymore, and then they quit.

I say to my colleague from Arkansas that this is not a filibuster and I will be finished in a few minutes. I know he is anxious to speak. I want to put his mind at rest.

Let me give one more example, although if the debate goes on I can give you many, many examples.

This is the testimony of Eugenia Barbosa, Randolph, MA, an assembly line worker. By the way, this is testimony before OSHA during their public hearings when working men and women came and talked about their own lives in the hope that OSHA would be able to perform or fulfill its mission by law of providing some protection, which means issuing an ergonomics standard that can provide people some protection. My colleagues, through this amendment, want to block OSHA from issuing any standard—no standard, no help, no protection.

If you are not working at this kind of job, and you are not the one who is suffering from stress injury, it is easy to do. But for these workers, these people—I am a Senator from Minnesota and they are a big part of my constituency. They need the protection. That is why this debate is so important. It really is in the words of an old labor song by Florence Reece, wrote it, ''Which Side Are You On?'' This is a classic example.

I am on the side of Keta Ortiz and Janie Jones.

Eugenia Barbosa, Randolph, MA an assembly line worker:

Thank you for giving me this chance to come here today and share my story with all of you. My name is Eugenia Barbosa, an American citizen. I am an Injured Worker.

I came to America from Cape Verde with my family and started working at age 17 to help my mother and father. For the last 28 years of my life, I have worked in a factory that manufactures parts for major car companies. I worked in an assembly line making dashboard switches.

I produced 400 pieces or more per hour. To make the switches I used my thumb and forefinger to press and insert a rocker switch into the housing. To complete the dashboard switches, I assembled an additional piece using three springs, two pins, and plastic caps, also using my thumb and forefinger.

In 1991 I started feeling severe and constant pain in my right wrist. I was sent to the company doctor. I was given a splint and Motrin, and placed on light duty for two weeks. After two weeks I was sent back to my original position with a wristband for my right wrist, which I wore every day.

Between 1991 and 1995, I was in constant pain. When I spoke to management, they told me that they would decide when I was in enough pain to go to the doctor. The pain was so severe that I had to hang my arm while working to relieve some of the pain. I suffered emotionally and physically as the pain continued to get more severe.

That is what this debate is about.

In October 1995 my life changed. The pain was no longer in my right wrist; it was also in my right shoulder, arm, back, and neck. I told management about the pain which was so severe I couldn't even move. I was ignored.

Finally I was sent to the company doctor again. He gave me another splint to be used 24 hours a day, an elbow support and pain medication, and told me to do light modified work with my left hand. He also told me to rest my arm on an arm rest chair while working. The company was supposed to provide me with the arm rest chair but never did.

After 5 weeks I was called into my manager's office and was told it was time to remove my splint and go back to the assembly line. I was in so much pain that I started to cry.

The company put me on incentive work but with only my left hand to make 975 pieces an hour. I asked my manager why. He told me he didn't want to hear any garbage and that I should go back and do my job.

In March 1996 I started having pain in my left wrist, arm, shoulder, back and neck. It became so severe that I was rushed to the Emergency Room. The company doctor said there is nothing wrong with me.

I went to see another doctor who tested me and found that I had severe damage to my rotator cuff, radial nerve, and wrist. Since that time, I have had surgery three times, on my right shoulder, arm, and wrist. I still need surgery on my left shoulder and wrist. After my injury my life has complete changed for myself and for my family, and everyday I must deal with my pain. I am no longer able to work, I am now financially struggling to put my son through college, I'm unable to cook and clean for my family and even combing my hair and taking care of my own personal needs is now very difficult for me.

Their testimony was before an OSHA hearing on this ergonomics standard.

Elizabeth Dole, in 1990, tried to help these workers. We have been at it 10 years. Assistant Secretary Jeffress of OSHA is trying to move forward to issue a rule. They are doing the right thing. This is their mandate. This is what they are supposed to do under the law.

This amendment amounts to blatant political interference to prevent them from doing their job—which is to hold the hearings; which is to have careful deliberation; which is to decide on the final rule. They have not even decided on the final rule, but keep attacking a rule that doesn't exist, a final rule that will be reasonable and sensible but will provide protection to these workers—to these men and women all across the country.

Senators, Democrats and Republicans, there couldn't be a more important issue before us. This is a real clear

question of where you stand. I think we ought to stand for these working people. I think we ought to make sure that OSHA can do its job. I think there should be a rule that provides these workers with some protection. That is the right thing to do.

I urge you to oppose this amendment.

The PRESIDING OFFICER (Mr. FITZGERALD). Under the previous order, the Senator from Arkansas is recognized.

Mr. HUTCHINSON. Mr. President, I wish to respond to a few things that my colleague from Minnesota said.

First of all, I mention that my father spent more than 20 years in the poultry plants of Arkansas, Alabama, and Mississippi doing exactly the kind of repetitive motion work that the Senator from Minnesota described. I believe, if my father were on the floor of the Senate today, that he would as vehemently and strongly and vigorously oppose this OSHA draconian power move as much as I am going to oppose it.

Senator WELLSTONE emphasized that it is not yet a final rule and therefore it is premature for us to act. I don't think so. I hardly think it would be prudent on our part to wait until after they enacted the rule, and then come back and try to change it when employers would have already faced the rule that was in place. It is anticipated, as I understand it, that the rule will be finally promulgated by the end of this year. If we are going to act, we must act now.

Again, Senator WELLSTONE said they are not done yet. This is the 600 pages that they are to right now. I am concerned if we wait much longer that it may be 900 pages before the end of the year. This is the time for us to act.

One of the things that I appreciate about my distinguished colleague from Minnesota is that he believes what he is saying, and he doesn't mince words about it. He made it very clear that from his viewpoint this is class warfare. It is those mean, uncaring employers; it is those managers; it is those businesspeople—they just don't care about their employees. Then we have anecdote after anecdote.

That assumption is wrong. I think OSHA will state that does not describe 99.9 percent of the employers in this country. They do care. They have every incentive in the world in caring for those who work for them, ensuring there is a healthy and safe workplace.

Beyond that, we ought to talk about the small business man or woman who are struggling to meet every other regulatory burden that this Government has placed upon them and meet all of the tax burdens we placed upon them, trying to keep their heads above water, trying to make ends meet, trying to provide jobs for their employees, and trying to make a contribution to their community. And a rule such as this will have some of the most dramatic effects upon business and upon the economy of any rule ever promulgated by any agency. What about them?

As Senator ENZI pointed out, what about the senior citizen on Medicare or those senior citizens on Medicaid or those poor people who are on Medicaid and dependent upon them? What will happen to their health care when we tell health care providers they have to meet the new requirement, they have to comply with the new rule?

There is no increase in their budget. There is no change in the reimbursement formulas. You will get what you got before, but now you will have to meet all of the additional burdens.

I suggest those who are going to be hurt the most by this rule are those who are the most vulnerable in our society.

The Enzi amendment would simply prevent OSHA from finalizing an ergonomics program in fiscal year 2001. That is all it does. It gives the National Academy of Sciences the time it deserves to complete its ongoing, taxpayer-funded study and allow the public to then evaluate the merits of the proposal as well as the NAS study.

On Friday, November 19, 1999, Congress adjourned for the year, having completed its work for the 1st session of the 106th Congress. After we left town to return home, OSHA announced the following Monday its new ergonomic proposal. As a member of the Senate authorizing committee and the Subcommittee on Employment Safety and Training, I received no notice, no advance warning, no copy of the proposal—nothing. None of my colleagues serving on the committee received that same courtesy, either. With Congress heading home, OSHA decided it was in America's best interest to launch the largest regulatory proposal ever to be put forth by an administration. Shotgunning the proposal through its hoops in less than 12 months, OSHA refused to wait for the completion of the $890,000 NAS study, bought and paid for with hard-earned tax dollars.

The Subcommittee on Employment, Safety and Training, chaired by Senator ENZI, reacted as it should have. After weeks of evaluating the impact this proposal would have if actually enforced, we held our first hearing in April, addressing just one of many portions of the OSHA proposal, the work restriction protections, WRP. The WRP provisions would require employers to provide temporary work restrictions up to and including complete removal from work, based either upon their own judgment or on the recommendation of a health care provider. If the employer places work restrictions upon an employee which would allow them to continue to perform some work activities, the employer must provide 100 percent of the employee's after-tax earnings and 100 percent of work benefits for up to 6 months. If the employee is completely removed from work, the employer must still provide 90 percent of the employee's after-tax earnings and 100 percent of benefits for up to 6 months.

The hearing revealed that the WRP provision is a direct violation of section 4b(4) of the 1970 OSH Act. There is no ambiguity in the wording. I have it on this chart.

Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of employment.

This is in reference to the State workers compensation act. When the OSH Act was enacted back in 1970, the clear intent, explicitly stated, was that OSHA was never to impact the State workers compensation laws. Believe me, what they are proposing in this rule would do so entirely. Congress specifically withheld OSHA having that right to supersede or affect those State workers compensation laws. Congress did this because State workers compensation systems are founded upon the principle that employers and employees have both entered into an agreement to give up certain rights in exchange for certain benefits in the area of work-related injury and illnesses. Most often, employers give up most of their legal defenses against liability for the employees' injuries, and the employees give up their right to seek punitive and other types of damages in turn.

The crucial factor that makes State workers compensation systems possible is that the remedies it provides to employees are the exclusive remedies available to them against their employers for work-related injuries and illnesses.

Anyone who served in the State legislature, as Senator ENZI and I have, knows that this is always one of the biggest issues of debate, discussion, and ultimately, hopefully, consensus between labor and management. It has been a workable system. But it is dependent upon that idea that this is the exclusive remedy.

WRP's provisions are in direct contradiction of section 4b(4) and will shake the foundation upon which the State workers systems rests because they will provide another remedy for employees for work-related injuries and illnesses. That is an absolute contradiction of what the OSH Act, establishing this agency, intended in 1970.

Since WRP provisions conflict with workers compensation systems, there will certainly be confusion to say the least as to who is liable. That is precisely why Congress put section 4b(4) in the act 30 years ago. To be sure, I dug deeper and found the conference report filed December 16, 1970, accompanying the act. As it pertains to section 4b(4) it reads:

The bill does not affect any Federal or State workmen's compensation laws, or the rights, duties, or liabilities of employers and employees under them.

It is clear in the language of the statute as well as in the conference report, that Congress did not intend OSHA to have the power to affect and supersede State workmen's compensation laws. I

say to my colleagues, it doesn't get any clearer. How can it be misconstrued by OSHA? And they are simply in violation of the act that established them.

OSHA is not listening to Congress. Frankly, it also is not listening, not paying any attention to what other Federal agencies are saying about their proposal. According to the Small Business Administration, OSHA has grossly underestimated the cost impact of its proposal. The SBA ordered an analysis of OSHA's Data Underlying the Ergonomics Standard and Possible Alternatives Discussed by the SBREFA Panel.

Policy Planning & Evaluation, Incorporated, PPE, prepared the analysis that was issued September 22, 1999. The PPE reported that:

> OSHA's estimates of the costs in its Preliminary Initial Regulatory Flexibility Analysis of the draft proposed ergonomics standard, as furnished to the SBREFA Panel, may be significantly understated, and that OSHA's estimates of the benefits of the proposed standard may be significantly overstated.

This is the conclusion that we find another Federal agency coming to that OSHA has overstated what the benefits will be and they have significantly understated what the costs are going to be. The PPE further reported that OSHA's estimates of capital expenditures on equipment to prevent MSDs—the musculoskeletal disorders—do not account for varying establishment sizes, and seem quite low even for the smallest establishment size category.

The PPE attributed the overstatement of benefits that the rule will provide to the fact that OSHA has not accounted for a potentially dramatic increase in the number of MSDs resulting in days away from work as workers take advantage of the WRP provisions.

OSHA estimated the proposal's cost to be $4.2 billion annually—that is OSHA's best estimate. That is their cost estimate upon the economy and upon American business, $4.2 billion annually. That is not insignificant. But the PPE estimates that the cost of the proposed standard could be anywhere from 2.5 to 15 times higher than OSHA's estimate. That moves the cost from $10.5 billion to as much as $63 billion or higher. That is just one Federal agency versus another. That is the Small Business Administration saying what OSHA is preparing to do is going to cost small business in this country $60 billion or more.

Whom are you going to believe? Are you going to believe OSHA's estimate of a minimal impact? Are you going to believe the Small Business Administration? I don't know, but I don't want to risk the jobs of the American people. I don't want to risk the economy on conflicting opinions by two Federal agencies.

Finally, the PPE report for the Small Business Administration shows that the cost-benefit ratio of this rule may be as much as 10 times higher for small businesses than for large businesses. It is very easy for the other side, the proponents of this drastic, dramatic rule change, to come down and rail against big business. Do they not realize that small businesses, the tiny businesses, the mom and pop operations struggling to exist in this country, are going to be impacted 10 times more than large businesses?

So if you don't care about the impact upon the economy as a whole, if you don't care about the impact upon large employers, then please consider the impact upon those small businesses out there and what they are going to have to pay to try to comply with this ill-advised rule. The cost disparity is not some slight discrepancy. We are talking about $60 billion a year.

Who covers that cost? Who is going to cover the $60-plus billion a year imposed upon the business community of this country? OSHA has an answer. OSHA's answer is: Pass it off on the consumer. Just pass on the cost. That is easy enough. Of course it is inflationary, of course it hurts the economy, but we can solve the problem of this added cost. Just let the consumer pay.

Senator ENZI has well noted that cannot be done in Medicare. It cannot be done in Medicaid. It cannot be done on those businesses reimbursed by the Federal Government, where their reimbursement is capped. There is nobody to pass the cost to. No bother, OSHA is going to push forward anyway, and that is what they have done.

I have listened to the opponents of the Enzi argument make the case that if this rule is delayed any longer, thousands of additional employees will suffer. Let's be clear, please, colleagues. Let's be clear. With or without this, with or without the 600-page—so far—proposed ergonomics regulation, rule, OSHA can still enforce its current law. The current law states this in the ergonomics proposal, on page 65774. It is on the chart before us. This is it. Let me quote what their proposed rule says. This is under the general duties provision. OSHA says:

> [Every employer] shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; and shall comply with the Occupational Safety and Health Standards promulgated under this Act.

This is the general duty provision which OSHA has used widely in enforcing conditions in the workplace that they believe are detrimental to the worker. They already have that tool, and they are not hesitant about using that authority. They don't have to have a new ergonomics proposal. They don't have to have a new ergonomics regulation in order to protect the American worker.

By the way, this is not about whether or not we are going to address ergonomics at some point—we should. But we should do it in the right way. We should do it with due scientific study, based upon good scientific principles. It is not whether or not there is going to be an ergonomic standard. The issue is how it is going to be done and whether it is going to be done in a thoughtful way, respecting not only the worker but the needs of the employer. But I say again, OSHA currently has the authority under this general duty clause, and they can enforce ergonomics violations currently.

According to the proposal:

> OSHA successfully issued over 550 ergonomic citations under the general duty clause.

They even list a number of employers, too. They have the authority, and they are proud of the fact that over 550 times they have issued citations on ergonomics violations under the general duty clause.

The point is, OSHA is not a crippled agency—far from it. It is a full-fledged regulatory agency that has the power to put any business out of business.

This proposal contains serious flaws which just beg the question: Who is really calling the shots as OSHA? This is not the first regulatory blunder to come out of OSHA in recent days. Just last January, they announced their intention to regulate private residences, our homes. Perhaps my distinguished colleague, for whom I have the utmost respect, Senator WELLSTONE, would say whether they are just doing their job in that case?

The American people rightly rose in outrage that OSHA would think they have the authority to go into the American home and regulate it as a workplace. After being publicly ridiculed and repeatedly humiliated, OSHA dropped the issue. They didn't drop it, they said they want to talk about it next year. Good thing, too, since 10 percent of working Americans work from home at least part-time, and their pursuance would have caused a chilling effect on modern technology.

OSHA's home regulation should be mentioned during this debate because many of the hazards OSHA wanted to regulate would be ergonomic-regulated: keyboard height, monitor height, desk height, even the type of chair you might sit in, in your home workplace. The list doesn't stop there. It also includes other potential OSHA violations including the number of outlets, adequate lighting, exit signs, even the bannister height.

Neither OSHA nor the 1970 OSH Act provides any guidance as to how to carry out their responsibilities.

We raised even more questions: Are employers required to ensure that home offices remain clear of toys at all times so employees don't trip and fall? What about an employer's smoking policy? Does that apply to the home, too? Most important, what about liability for employees' accidents in their employees' homes? How could employers possibly monitor this based upon what OSHA was asking?

In that same vein of questions asked in January, we are here again questioning the validity of OSHA's ergonomics proposal: What statutory right does OSHA have to regulate State workers compensation?

Senator WELLSTONE says they are just doing their job. There is no doubt what they have proposed will impact State workers compensation law in violation of the 1970 OSH Act. What reason does OSHA give to why its WRP compensation package would not encourage fraud and abuse? Who would oversee fraud if it did occur? What about the cost estimates posed by another Federal agency, the Small Business Administration?

Again, it is not about how much we are willing to pay for an employee's safety but, rather, one agency's estimates being 15 times higher than another's, and then OSHA saying we have enough information, we have a solid basis to move forward.

Why are we funding the Small Business Administration if we are going to absolutely ignore their cost estimate in an area they ought to be experts? That is, experts on small business. They say it is 15 times higher than what OSHA says. If OSHA is going to shotgun an ergonomics proposal through the rulemaking process, at least I say they should do it right.

So I say to OSHA, put your love of regulating on hold and listen to what America is saying. You have 7,000 public comments submitted. Consider them all, not just a few that happen to support the agenda you seem to be pursuing.

Is it a love of regulating? This is a quote I think Senator ENZI used earlier. It is by Marthe Kent, who is the director of safety standards, the leader of OSHA's ergonomics effort, recently quoted in the Synergist magazine of May 2000. This is what was said:

I love it; I absolutely love it. I was born to regulate. I don't know why, but that's very true. So long as I am regulating, I'm happy.

That is one person's statement, though they are deeply involved in the ergonomics issue and the drafting of the ergonomics rule. But I think that might well reflect the way a lot of regulators feel.

So, concluding my comments, I just believe there is something much deeper at stake here, a very genuine and real philosophical difference.

Senator WELLSTONE believes, and those on the other side who support this rule believe, OSHA is just doing their job, and I believe we need to do our job. OSHA was not elected by the people, we were.

Not a day goes by that I do not have constituents in Arkansas call our office and complain about some regulatory agency that has gone afield, that has gone off on their own agenda.

Thomas Jefferson well recognized that the great threat to freedom of any individual comes when power becomes concentrated. Concentration of power, whether in the private sector, public sector, in a regulatory agency, in a corporation, if there is enough power accumulated in a single place, it threatens the individual's liberty.

I believe regulatory agencies today have become a fourth branch of Government unto themselves, unresponsive to what we say, unresponsive to what we do, until we are forced into a position of having only one tool left, and that is to cut off the funding for the implementation of the rule. That is what Senator ENZI has sought to do. That is why I think, on a bipartisan basis, so many realize this step is necessary.

I say to Chairman ENZI of the Senate Subcommittee on Employment Safety and Training that I appreciate his dedication to worker safety—no one doubts it—and for taking the high road when dealing with such highly contentious issues. And he has. Nobody told me when I joined his subcommittee that these issues were going to be easy. They have not been. But that is no reason for us to avoid asking the tough questions and, when necessary, taking the tough votes.

Until we get the answers—and OSHA does not have them now—until we get the answers to these tough questions, I ask my colleagues to take a hard, hard look at this ill-advised proposal. Look through it. It may take a week or two, but look through it, and you may understand why the Enzi amendment is so essential.

I ask my colleagues on both sides of the aisle to simply postpone, delay OSHA moving forward in this fiscal year with an ergonomics proposal that is going to dramatically impact the economy of the United States, I believe, and negatively impact the safety and the health of senior citizens on Medicare and Medicaid. Delay it by supporting the Enzi amendment. Allow the NAS the time necessary to complete their study and then maybe move forward with a good ergonomics rule to protect the workplace for American workers on the basis of sound science.

I thank the Chair, and I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise in opposition to the amendment offered by the Senator from Wyoming. This amendment would prevent the Occupational Safety and Health Administration (OSHA) from issuing ergonomic standards to protect workers from back injuries, carpal tunnel syndrome and other work-related musculoskeletal disorders (MSDs)

MSDs caused by ergonomic hazards are the most widespread safety and health problem in the workplace today. Every year 1.8 million workers suffer as a result of work-related MSDs bone or muscle disorders and one-third of those workers lose work time as result of these disorders.

These injuries are a burden on workers, and they are a burden on the economy. These injuries result in $20 billion per year in workers' compensation claims. OSHAs proposed ergonomic regulations would cut in half the cost of workers' compensation claims.

Ergonomic programs have slashed costs for businesses throughout California.

In 1997, Sun Microsystems average MSD disability claim dropped to $3,500, from $55,000, in 1993.

The Vale Health Care Center, in San Pablo, California, reduced the number of back injuries from ten per year to one per year.

The Fresno Bee, three years after establishing an ergonomics program, reduced workers' compensation costs by over 95 percent, and associated lost workdays and surgeries were eliminated.

Xandex, in Pentaluma, California; Silicon Graphics, in Mountain View, California; Rohm and Haas, in Hayward, Califoria; Blue Cross of California; Varin Associates, a California electronics manufacturing business, the city of San Jose, Pacific Bell, FMC Defense Systems Corporation, AT&T Global Information Systems, in San Diego, and Intel, in Santa Clara, California, have all implemented successful ergonomics programs.

Ergonomic standards have been studied ad nauseam.

There are more than 2,000 published studies on MSDs, and the scientific evidence strongly supports the conclusion that ergonomics programs can and do reduce MSDs.

In 1991, Secretary of Labor Elizabeth Dole believed there was sufficient scientific evidence that ergonomic injuries were a major problem in the workplace, and she committed the Labor Department to address the issue.

In 1991, Secretary of Labor Lynn Martin committed the Department of Labor to develop and issue a standard using normal rule-making procedures.

In 1998, at the request of the Representatives Livingston and BONILLA, the National Academy of Sciences (NAS) received a $490,000 grant to conduct a literature review of MSDs. Later in 1998, NAS released its findings. It concluded that ''research clearly demonstrates that specific interventions can reduce the reported rates of musculoskeletal disorders for workers who perform high-risk tasks.'' In other words, workplace ergonomic factors cause MSDs, but specific interventions can reduce the number of cases.

Congress then appropriated another $890,000 for another NAS literature review on workplace-related MSDs. This study will be completed early next year.

If the results are the same as the previous study, and I assume they will be, we should not prevent the Department of Labor from issuing ergonomic standards.

Ergonomic programs have proven to be effective in reducing motion injuries and other MSDs, and suggest that OSHA must be permitted to go forward with sensible regulations to ensure a safe workplace.

The problem is real, but it is a problem we can fix, and we can save businesses billions of dollars in workers' compensation claims by doing so.

I strongly urge my colleagues to help improve workplace safety by joining me in opposing this amendment.

Mr. KERRY. Mr. President, I would like to spend a few minutes today talking about the importance of the Department of Labor's ergonomics regulation, which seeks to protect the health and safety of American workers. I'd like to urge my colleagues to vote against the amendment proposed by Senator ENZI that would prevent the Department of Labor's Occupational Safety and Health Administration from issuing any standard or regulation addressing ergonomics concerns in the workplace.

Mr. President, let's be very clear about the issue before us, about the ergonomics issue, about employer health and safety, about the number of people nationwide—600,000 each year—that suffer from musculoskeletal injuries. In my state of Massachusetts, last year nearly 21,000 workers suffered serious injuries from repetitive motion and overexertion. Mr. President, if this amendment were to be passed by this body, then hundreds of thousands of people will continue to needlessly suffer on the job. The solution to this problem is NOT doing nothing, Mr. President, and that is what the Enzi amendment purports to do. Ergonomics injuries are real. They are prevalent in the workplace. And we must respond to this treacherous workplace hazard.

Ergonomics is the science of fitting workplace conditions and job demands to the capabilities of the working population. Mr. President, the scientific community understands that effective and successful ergonomics programs assure high productivity, avoidance of illness and injury risks, and increased satisfaction among the workforce. Ergonomics disorders include sprains and strains, which affect the muscles, nerves, tendons, ligaments, joints, cartilage, or spinal discs; repetitive stress injuries, that are typically not the result of any instantaneous or acute event, but are usually chronic in nature, and precipitated by poorly designed work environments; and carpal tunnel syndrome.

Many businesses, both large and small, have already responded to the threat of ergonomics injuries in the workplace. Mr. President, when businesses ensure that their workplaces are safe and protect workers from these types of injuries, their productivity rises! When workers are healthy, employers lose far fewer hours in productivity. Last year Assistant Secretary of Labor Charles Jeffress testified before the House Committee on Small Business and he reported that programs implemented by individual employers reduce total job-related injuries and illnesses by an average of 45 percent and lost work time and illnesses by an average of 75 percent. Mr. President, these numbers mean something, they indicate results, and they prove that making the workplace safe is crucial to increasing worker safety. But let me explain what these numbers really mean.

Beth Piknik is a registered nurse at the Cape Cod hospital. Ms. Piknik's 21-year career as an intensive care unit nurse was cut short due to a preventable back injury. On February 17, 1992, she suffered a back injury while assisting a patient. The injury required major surgery—spinal fusion—and two years of major rehabilitation before and after surgery. The injury was devastating to Ms. Piknik, both professionally and personally. Prior to her injury, Beth led a very active life, enjoying competitive racquetball, waterskiing, and white-water rafting. But most importantly, she enjoyed her work as an ICU nurse, which had been her career since 1971. The loss of her ability to take care of patients led to a clinical depression, which lasted four and a half years. She now administers TB tests to employees at the hospital. Her ability to take care of patients—the reason she became a nurse—is gone. Ms. Piknik's injury could have been prevented and so can the crippling injuries suffered by hundreds of thousands of workers every year.

In fact, many employers have already taken action and put into place workplace ergonomics programs to prevent these injuries. For example, the Crane Paper Company in Massachusetts had a serious problem with ergonomics injuries. In 1990, they put in place an ergonomics program to identify and control hazards, to train workers and provide medical management to intervene before workers developed serious injuries. These efforts paid off. Within 3 years of starting their ergonomics programs, Crane reduced their ergonomic injury rate by more than 40 percent.

Mr. President, the Department of Labor took public comments on the proposed ergonomics regulation through 90 days of written comments and nine weeks of public hearings. During the hearings, OSHA heard from hundreds of workers and local union members and representatives from eighteen international unions. These workers and union members—who represent all sectors of the economy including auto workers, nurses and nurses aides, poultry workers, teachers and teachers aides, cashiers, office workers—told OSHA why an ergonomics standard is desperately needed and how ergonomics programs in their workplaces have worked to prevent injuries. I would like to share with my colleagues a couple of statements from some of the workers from my state of Massachusetts who appeared at the hearings.

This is what Nancy Foley, who is a journalist from South Hadley, MA, had to say at one of the hearings. ''I am here today to strongly support an ergonomic standard. I suffer from serious injuries caused by a repetitive job. I want to see the ergonomics standard enacted so that others will not be injured as I have been. In 1988 I earned a masters degree in journalism from the University of Wisconsin-Madison. Most of my career was spent at the Union-News in Springfield, Massachusetts. As a reporter, I spent four to five hours a day typing on a computer keyboard. In 1993, I began having pain in my neck and weakness in my hands. I did not seek medical attention until 1995 when the pain had spread into my left shoulder and left arm, making it difficult for me to sit through the workday. Fear prevented me from seeking medical attention sooner. I was a part-time reporter, and I was afraid I would never be made full-time if my employer knew the job was hurting me. Even after seeking medical attention, I was afraid to go out of work to recover from the injuries. I thought that taking time out of work would hurt my career. In October 1998, I went out of work altogether and was never able to return. I settled my workers' compensation case in 1999, with the insurance company taking responsibility for my injuries and continuing medical payments. I have been diagnosed with repetitive strain injury, carpal tunnel syndrome, cervical strain, thoracic outlet syndrome, and medial epicondylitis. By the time I left the newspaper I was so severely injured, that my recovery has been very slow. I may never fully recover. I live with chronic pain every day. Sitting still triggers pain. I have trouble carrying groceries into my house and doing simple housekeeping tasks. I am trying to retrain to be a schoolteacher, but my injuries make the retraining difficult. I do my school work by lying in bed and talking into a voice-activated computer. That is the way I wrote this statement.''

Mr. President, these are the real voices, the real people, the reality behind the 600,000 injuries. Unfortunately, gauging from the debate so far today my colleagues on the other side of the aisle seem uninterested in talking about how devastating musculoskeletal injuries are. They are content to lambaste the Department of Labor and OSHA. They are content to nitpick at the rulemaking process, Mr. President, because they are incapable of refuting the proposed rule on its merit. They cannot deny that 600,000 a year suffer from musculoskeletal injuries. They cannot deny that workplaces that have adopted good ergonomics policies have increased productivity.

Let's be clear about this Mr. President. These types of injuries are a real problem for American businesses and workers. Industry experts have estimated that injuries and illnesses caused by ergonomics hazards are the biggest job safety problem in the workplace today. The 600,000 workers who suffer from back injuries, tendinitis, and other ergonomics disorders cost over $20 billion annually in worker compensation.

What is most troubling to me, Mr. President, is that these types of injuries are preventable. Something can be done to protect the American worker. In drafting this proposed rule OSHA worked extensively with a number of stakeholders, including representatives from industry, labor, safety, and health organizations, State governments, trade associations, and insurance companies. OSHA is currently in the process of holding stakeholder meetings on the draft rule for all interested parties. These comments are made part of the rulemaking record and OSHA is required to review these comments as the final rule is prepared. Just a few months ago, OSHA's small business liaison met with small business representatives in an open roundtable format. Mr. President, this is not a ''command and control'' regulatory action.

Mr. President, this proposed rule has been criticized by those on the other side of the aisle as unfair, unnecessary, and prohibitively costly for businesses. I disagree. The proposed rule is drafted as an interactive approach between employee and manager to protect the assets of the company in ways that are either already being done, or should be done under existing rules. This new rule is a guide and a tool, not an inflexible mandate.

The rule is a flexible standard that allows employers to tailor their programs to their individual workplaces. Small employers are not expected to have the same kind of program as big employers. The proposed rule exempts small businesses from record keeping requirements, so it does not add to small businesses paperwork burdens. Moreover, OSHA is reaching out to small businesses to provide them information on how to control ergonomics hazards through meetings and conferences and by providing on-site compliance assistance.

According to the Department of Labor, thirty-two states have some form of safety and health program. Four states (Alaska, California, Hawaii, and Washington) have mandated comprehensive programs that have core elements similar to those in OSHA's draft proposal. In these four states, injury and illness rates fell by nearly 18 percent over the five years after implementation, in comparison with national rates over the same period. We are not talking about something that has come out of the blue—ergonomics programs are creating positive results for workers all over the country.

Mr. President, in spite of the arguments for the Enzi amendment, there bulk of the science and the research proves that an ergonomic standard is needed in the American workplace.

The National Academy of Sciences has compiled a report entitled Work-Related Musculoskeletal Disorders. This report summarized 6,000 scientific studies on ergonomics-related injuries and concluded that the current state of science reveals that workers exposed to ergonomic hazards have a higher level of pain, injury and disability, that there is a biological basis for these injuries, and that there exist today interventions to prevent these injuries.

In 1997, the National Institute for Occupational Safety and Health completed a critical review of epidemiologic evidence for work-related musculoskeletal disorders of the neck, upper extremity, and lower back. This critical review of 600 studies culled from a bibliographic database of more than 2,000 found that there is substantial evidence for a causal relationship between physical work factors and musculoskeletal disorders.

Furthermore, Mr. President, we are not talking about a new phenomenon, or the latest fad. Ten years ago in 1990 under a Republican President, Secretary of Labor Elizabeth Dole committed the Department of Labor to begin working on an ergonomics standard. Then-Secretary Dole was responding to a growing body of evidence that showed that repetitive stress disorders, such as carpal tunnel syndrome, were the fastest growing category of occupational illnesses. This rulemaking has been almost ten years in the making. Mr. President, it is time to put safeguards in place for the American worker, and this should not be a partisan issue.

This rule has been delayed for far too long. In 1996, the Senate and the House agreed to language in an appropriations conference report that would prevent OSHA from developing an ergonomics standard in FY 1997. In 1997, Congress prevented OSHA from spending any of its FY 1998 budget on promulgating an ergonomics standard. Last year, money in the FY 1999 budget was set aside for the new National Academy of Sciences study, and the then-Chairman and Ranking Members of the House Appropriations Committee sent a letter to Secretary of Labor Alexis Herman, stating that this study ''was not intended to block or delay OSHA from moving forward with its ergonomics standard.''

Mr. President, we should wait no longer for this standard to be proposed and we should certainly not prevent OSHA from issuing its final ergonomics rule. Workers should not have to wait any longer for safety on the job. The time to protect the American workplace is now.

This standard is a win-win for workers and management: the greater the safety workers have on the job, the more time they spend on the job. The more time they spend on the job, the more productive the workplace. And it is obvious, but it bears restating, that the more productive the workplace, the more productive this country. Workers want to be at work, and their bosses want them at work.

It's been 10 years, Mr. President, since Secretary Dole promised to take action to protect workers from ergonomics injuries and to issue an ergonomics standard. Since that time, more than 6.1 million workers have suffered from serious injuries as a result of ergonomics hazards—injuries that could have and should have been prevented. Workers have waited too long for protections from ergonomics hazards. It's time to stop breaking the promises made to American workers and to support the promulgation of a final OSHA ergonomics standard not to protect workers.

Mrs. MURRAY. Mr. President, I strongly oppose this amendment.

We should be reducing the hazards that America's workers face—not putting roadblocks in the way of increased worker safety.

Ergonomic injuries are the single-largest occupational health crisis faced by men and women in our work force today.

We should let OSHA—the Occupational Safety and Health Administration—issue an ergonomics standard.

Ergonomic injuries hurt America's workers and America's productivity.

Each year, more than 600,000 private sector workers in America are forced to miss time from work because of painful musculoskeletal disorders (MSDs).

These injuries also hurt America's companies because these disorders can cause workers to miss three full weeks of work or more.

Employers pay more than $20 billion annually in workers' compensation benefits due to MSDs and up to $60 billion in lost productivity, disability benefits and other associated costs.

The impact of MSDs on women workers is especially serious.

While women make up 46% of the total workforce and only make up 33% of total injured workers, they receive 63% of all lost work time from ergonomic injuries and 69% of lost work time because of carpal tunnel syndrome.

In addition, women in the health care, retail and textile industries are particularly hard hit by MSDs and carpal tunnel syndrome.

Women suffer more than 90% of the MSDs among nurses, nurse aides, health care aides and sewing machine operators.

Women also account for 91% of the carpal tunnel cases that occur among cashiers.

Despite the overwhelming financial and physical impact of MSDs and the disproportionate impact they have on our nation's women, there have been several efforts over the years to prevent OSHA from issuing an ergonomics standard.

This amendment is intended to stop OSHA from implementing its ergonomic standard, which is scheduled to take place by the end of this year. We have examined the merits of this rule over and over again.

Contrary to what those on the other side of this issue say, the science and data support the need for an ergonomics standard.

We shouldn't be placing roadblocks in the way of its implementation.

The National Institute for Occupational Safety and Health (NIOSH) studied ergonomics and concluded that

there is ''clear and compelling evidence'' that MSDs are caused by work and can be reduced and prevented through workplace interventions.

The American College of Occupational and Environmental Medicine, the world's largest occupational medical society, agreed with NIOSH and saw no reason to delay implementation. The studies and science are conclusive.

Mr. President, the states are getting this right.

My state—the state of Washington—just one month ago became the second state along with California to adopt an ergonomics rule.

The rule will help employers in my state reduce workplace hazards that cripple and injure more than 50,000 Washington workers a year at a cost of more than $411 million a year.

The estimated benefits to employers from reducing these hazards are $340 million per year, with the estimated costs of compliance of only $80.4 million per year.

Now Washington and California both have ergonomic standards. North Carolina proposed an ergonomics standard and I understand that other states are also looking into the possibility of developing their own standards to benefit their workers.

We should take the cue from my state and others who have seen the wisdom of issuing ergonomics standards.

We cannot afford to delay an important standard which will greatly improve workplace safety.

Outside of ergonomics, I want to make one general statement about another provision of the underlying bill.

The Senate bill underfunds the Dislocated Worker programs by some $181 million dollars, and it underfunds vital re-employment services by $25 million.

This will mean that 100,000 dislocated workers will be denied training, job search and re-employment services.

In addition, the cuts in re-employment services would effectively deny 111,000 people seeking unemployment insurance from getting other vital re-employment services.

Last year these programs were very helpful to workers in my state who were laid off through no cause of their own.

For example, the Boeing company, the largest employer in my state, has been especially hard-hit by the trade consequences of overseas competition from Airbus. Thousands of workers have been laid off in the past few years.

Those workers who were laid off have been receiving benefits from these programs, and I think it's irresponsible to abandon these workers who were laid off through no fault of their own. We owe it to the workers of America to fully-fund those programs that benefit them and their families.

I urge my colleagues to correct this funding problem so these workers aren't left behind.

In closing, I urge my colleagues to oppose this amendment.

We should allow OSHA to issue an ergonomics standard.

It will be an important step forward in protecting our nation's workers from crippling injuries.

Mr. AKAKA. Mr. President, in 1970, Congress established the Occupational Safety and Health Administration (OSHA), to ''assure so far as possible every working man and woman in the Nation safe and healthful working conditions.'' Therefore, OSHA is responsible for ensuring that both employers and employees have access to the necessary training, resources, and support systems to eliminate workplace injuries, illnesses, and deaths. To achieve a safe and healthy workplace, OSHA must be pro-active in identifying workplace safety and health problems.

We, in Congress, must not forget our commitment to America's workers. That is why I am here today to speak on behalf of OSHA's effort to establish ergonomic standards.

Each year more than 600,000 workers suffer serious injuries, such as back injuries, carpal tunnel syndrome, and tendinitis, as a result of ergonomic hazards. Last year, in my State of Hawaii, more than 4,400 private sector workers suffered serious injuries from ergonomic hazards at work. Another 700 workers in the public sector suffered such injuries. These injuries are a major problem not only in the State of Hawaii, but across the nation. It affects not just truck drivers and assembly line workers, but also nurses and computer users. Every sector of the economy is affected by this problem. The impact can be devastating for workers who suffer from these injuries.

It is important to note that ergonomics is not new. It has been around as early as World War II, where the designers of our small plane cockpits took into consideration the placement of cockpit controls for our pilots. And, for OSHA this matter is also not new. OSHA has been working on ergonomic standards for 10 years, of which, for the last five years, OSHA has been delayed from finalizing any ergonomic standard. Opponents of a standard have either prohibited OSHA from issuing its standard or delayed its work until such time as the National Institute for Occupational Safety and Health (NIOSH) and the National Academy of Sciences (NAS) can complete their studies and report to Congress. Although NIOSH and NAS completed their reports and both indicated that there was credible research showing a consistent relationship between musculoskeletal disorders and certain physical factors, critics were not satisfied and requested another NAS report in 1998; yet another delaying tactic.

It is unfortunate that OSHA has been prevented from issuing any ergonomic standard for the past five years. It is important to note that some of these delays were part of agreements and promises made to proponents for accepting some of these requests. As we see now, the promises made have been broken. More specifically, in 1997, the leadership of the Appropriations Committee in the House agreed that the coming fiscal year would be the last time in which OSHA would be prohibited from spending any of its funds on issuing proposed ergonomic standards, and again, in 1998, House Appropriations Chair ROBERT LIVINGSTON and Ranking Member DAVID OBEY sent a letter to Secretary of Labor Alexis Herman that stated, ''it is in no way our intent to block or delay issuance by OSHA of a proposed rule on ergonomics.'' However, in 1999, legislation was introduced (H.R. 987 and S. 1070) to block OSHA's ergonomic standards, and the House Appropriations Committee adopted a rider that would shut down the rulemaking process and block OSHA's final rule.

American workers cannot afford any more delays. Injuries that result from ergonomic hazards are serious, disabling, and costly. Carpal tunnel syndrome results in workers losing more time from their jobs than any other type of injury. It is estimated that these injuries account for an estimated $20 billion annually in workers compensation.

The most compelling reason to allow OSHA to complete this process is that these injuries and illnesses can be prevented. In fact, some employers across the country have already taken action and put in place workplace ergonomics programs to prevent injuries. However, two-thirds of employers still do not have adequate ergonomic programs in place.

It has been 10 years since Labor Secretary Elizabeth Dole promised to take action to protect workers from ergonomic injuries and to issue an ergonomics standard. Since that time, more than 6.1 million workers have suffered serious injuries as a result of ergonomic hazards. OSHA's proposed rule would prevent 300,000 injuries each year and save $9 billion in workers' compensation and related costs. It is time for Congress to remember the commitment made to the nation's workforce when it established OSHA in 1970, and allow OSHA to continue its issuing of an ergonomics standard.

Mr. JEFFORDS. Mr. President, I rise to make a statement for myself as well as Senator EDWARD KENNEDY, Ranking Member of the Health, Education, Labor and Pensions (HELP) Committee; Senator SUSAN COLLINS; Senator CHRISTOPHER DODD; Senator OLYMPIA SNOWE; Senator DANIEL PATRICK MOYNIHAN; Senator CARL LEVIN; Senator CHARLES SCHUMER; Senator PAUL WELLSTONE; and Senator PATRICK LEAHY.

First, we would like to take this opportunity to commend the hard work and dedication of Senator ARLEN SPECTER. As Chairman of the Labor-HHS Appropriations Committee, he has the formidable task of crafting legislation which funds many of the programs under the jurisdiction of the HELP Committee, which I chair. This year's

bill, like many in recent memory, has proven challenging for Chairman SPECTER and Ranking Member TOM HARKIN, and they have done their best to deliver a fair bill.

There is no doubt; funding is tight. However, we would like to make a plea to appropriators as they put the finishing touches on the Labor-HHS Appropriations bill.

This year, 46 Senators signed a letter in support of the Low Income Home Energy Assistance Program (LIHEAP). Specifically, we asked for $1.4 billion in regular LIHEAP funding, along with $300 million in emergency funding. In addition, we urged $1.5 billion in advance LIHEAP funding for fiscal year 2002. While funding was not as much as we had hoped for in FY2001, our concern centers around the lack of advance FY2002 LIHEAP funding.

As you know, the importance of LIHEAP funding has been demonstrated this past year as many states have faced extreme temperatures and high fuel costs. The clear need for timely energy assistance in the form of consistent regular LIHEAP funding has been demonstrated. For planning purposes, the states have come to rely on the knowledge that our advance funding mark provides them. An advance appropriation allows for orderly planning of programs, as well as creating administrative systems for more efficient program management.

Advance appropriations for LIHEAP has been an effective tool that allows states to determine eligibility, establish the size of the benefits, determine the parameters of the crisis programs and enable the states to properly budget for staffing needs. In addition, states need an idea of the anticipated program's size in order to effectively meet their obligations under the law.

In conclusion, we appreciate the difficult work facing the Appropriations Committee. However, we feel strongly that this advance funding allocation is a critical tool in assisting our states to have the most effective LIHEAP programs possible, and we look forward to working with Chairman SPECTER to restore this funding in conference.

Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, the bill the Senate is considering today addresses some of the nation's most pressing problems and is very important to my state, the largest state in the nation, with a population of 34 million people.

California's schools face huge challenges—low test scores, crowded classrooms, teacher shortages, booming enrollments, decrepit buildings.

California has 5.8 million students, more students than 36 states have in total population and one of the highest projected enrollments in the US.

California has 40 percent of the nation's immigrants; we have 50 languages in some schools.

Many of California's students have low test scores and are taught by uncredentialed teachers.

At the college level, the University of California has the most diverse student body in the US. Federal programs provide nearly 55 percent of all student financial aid funding that UC students received. Our colleges and universities are facing ''Tidal Wave II,'' the demographic bulge created by children of the baby boomers who will inundate California's colleges and universities between 2000 and 2010 because the number of high school graduates will jump by 30 percent.

Our needs are huge.

I am pleased that the bill before us increases education by $4.6 billion over last year. The federal share of elementary-secondary education funding has declined from 14 percent in 1980 to 6 percent in 1999.

Devoting more resources to education is critical in my state. On May 17, the American Civil Liberties Union filed a suit against the California Department of Education charging that many of our students do not have the bare essentials for getting an education, basics like textbooks, school supplies, libraries, computers, and credentialed teachers. In some classes, there are not enough seats or desks, the air conditioning and heating systems are broken and the roofs leak. I do not know what the outcome of this suit will be, but it is certainly a sad commentary on the state of our schools.

Clearly, we need to do more and this bill makes a start.

The bill increases the Title I program, the program for disadvantaged students, by $278 million. I am grateful that the committee included two of my requests relating to what is called the ''hold harmless'' provision.

In 1994, Congress put in the law a requirement that the Department of Education annually update the number of poor children so that the allocation of funds would truly reflect the most recent count of poor children. This is a very important provision to growing states like mine. However, despite my opposition, the hold harmless provision has been included in the last three annual appropriations bills and this bill today, effectively overriding the census update requirement and locking in historic funding amounts for states despite the change in the number of poor children.

Secretary Riley said—I wholeheartedly agree—that ''a basic principle in targeting should be to drive funds to where the poor children are, not to where they were a decade ago.'' Because of the hold harmless, my state has lost over $120 million since 1998 and I am disappointed that my efforts to totally eliminate it were not successful. Nevertheless, I appreciate the inclusion of two provisions: (1) a provision that says that the Department of Education cannot apply the Title I ''hold harmless'' to other programs that use the Title I formula in whole or in part; and (2) a provision clarifying that the ''hold harmless'' will not apply to any ''new'' funds, funds exceeding the FY 2000 level. These are steps forward.

Head Start is one of the most important federal programs because it has the potential to reach children early in their formative years when their cognitive skills are just developing. Many studies have confirmed the significance of bringing positive influences to early brain development. But we know that poor children disproportionately start school behind their peers. They are less likely to be able to count or to recite the alphabet.

Providing low-income children with access to programs that encourage cognitive learning and prepare them to enter school ready to learn is important. Head Start has the potential to reach every low-income child, to help every eligible child learn in the preschool years.

The addition of $1 billion in this bill for Head Start could enroll 1 million more children by 2002, a 19 percent increase over last year. This is good first step. Nationwide, only 42 percent of eligible children participate in the Head Start program. I would like to see 100 percent of all eligible children enrolled. I think we can do it. California has 764,462 poor children age 5 and under in poverty, but we are only serving 13 percent of eligible children. We must do better.

The Rand Corporation has found that for every dollar invested in early childhood learning programs, taxpayers save between $4 and $7 later by reducing the need for alcohol and drug treatment programs, special education programs, mental health services, and the likelihood of incarceration. The proposed $1 billion increase is a good step to ensuring that every child gets a head start.

I firmly believe, however, that we must do more with the proposed $1 billion increase than merely enroll more children in the program. We must continue to improve the Head Start program such that children leave the program able to count to ten, to recognize sizes and colors, and can begin to recite the alphabet, to name a few indicators of cognitive learning. We must also continue to raise the standards and pay of Head Start teachers.

We also need to recruit qualified Head Start teachers who have demonstrated knowledge and teaching skills in reading, writing, early childhood development, and other areas of the preschool curriculum. Having qualified teachers is a critical way to jump-start cognitive learning and ensure that our youngsters start elementary school ready to learn.

I am disappointed that the bill ''flat funds'' (provides no increases) for helping newly immigrant children. Appropriations were $150 million in 1998, $150 million in 1999, and $150 million in 2000 and in this bill.

California receives $180.00 for each eligible immigrant child which hardly begins to address the needs these children bring to the classroom. These are

the most at-risk of all children. They speak another language; their schooling has been interrupted and they have huge adjustment challenges. We can do better.

It is disappointing that the bill does not specifically include the President's initiatives on school construction and class size reduction. These are long overdue.

The bill does include in the Title VI block grant $2.7 billion that local districts can use to reduce class sizes and/or to build schools. This will help my state. California will need 300,000 new teachers by 2010. Eleven percent or 30,000 of our 285,000 teachers are on emergency credentials. For school construction, modernization and deferred maintenance, California needs $16.5 billion by 2004. Two million California children go to school today in 86,000 portable classrooms.

California started reducing class sizes in grades K–3 in the 1996–1997 school year. We had then and we still have some of the largest class sizes in the country. And every parent knows that the smaller the class the more individualized attention students receive and the more effective the teacher can be.

I am pleased to see the increase of $817 million for the Child Care and Development Block Grant. Quality, affordable child care helps keep low-income working parents employed and off welfare. The increase in child care funds will help increase the number of available child care ''slots'' and improve the quality of this care.

Health care is another important concern of Californians that is addressed in this bill in several ways.

The California health care system is on the brink of collapse. In my state, 38 hospitals have closed since 1996 and 15 percent more may close by 2005. Over half my state's hospitals are losing money. Seismic safety requirements add more cost strains.

We have an uninsured rate of 24 percent (7.3 million people), far above the national rate of 18 percent. Despite a thriving economy, the number of Californians without health insurance grows by 50,000 per month.

California has the second highest incidence of HIV/AIDS in the US. While the AIDS death rate has declined, it is still too high; 40,000 new infections develop each year. In California, 100,000 people are living with HIV/AIDS.

California ranks 37th overall among states having children immunized by the age of 18 to 24 months.

For NIH, with a 15 percent increase or $2.7 billion, this bill will keep us on the path toward doubling NIH over five years. Even though Congress has given NIH generous increases in the last two years, NIH in 2000 can only fund 31 percent of grant proposals.

Investing in biomedical research has given us longer lives, healthier lives, and cures and new treatments and insights into diseases ranging from asthma to Alzheimers. This is an area of governmental activity that Americans overwhelmingly support. Fifty-five percent of Californians said they would pay more in taxes for more medical research.

This bill increases cancer funding by almost $500 million, raising the National Cancer Institute to $3.8 billion. Dr. Richard Klausner, Director of NCI, indicated during the Subcommittee's hearing on funding for NIH that in order to fund all the meritorious grant applicants NCI would need a 20 percent increase in funding. I am hopeful that the increase in this bill will bring us closer to a cure and will give us the tools to better treat the 1.2 million Americans that will face cancer this year.

While the National Cancer Institute is making great strides in understanding cancer and how to treat cancer, cancer is still the second leading cause of death for all Americans, meaning that one of every four people dies of cancer. Fifty percent of Americans have had someone close them die from cancer.

There are 1.2 million new cases each year. Over 552,000 Americans will die from cancer this year. Because of the aging of our population, the incidence of cancer will continue to grow and reach staggering proportions by 2010, with a 29 percent increase in incidence and a 25 percent increase in deaths, at a cost of over $200 billion per year. The cancer burden will balloon especially in the next 10 to 25 years as the country's demographics change.

Why invest more in cancer research? The Cancer March Research Task Force said we could reduce cancer deaths from 25 to 40 percent over the next 20 year period, saving 150,000 to 225,000 lives each year. Other areas that could be enhanced are bringing new cancer drugs from the laboratory to clinical trials; continuing to identify genes involved in cancer; improving our understanding of the interaction between genes and environmental exposures; finding new ways to detect cancers earlier when they are small, not invasive and more easily treated.

We must also improve participation in cancer clinical trials. Medicare beneficiaries account for more than 50 percent of all cancer diagnoses and 60 percent of all cancer deaths, but only three to four percent participate in clinical trials. Hopefully, with the increases in this bill, NIH can improve recruitment into clinical trials to advance science toward more cures.

I am disappointed that the bill moves FY 1998 funds for the Children's Health Insurance Program to 2003. Unfortunately, 37 states, including mine, have not been able to enroll children as quickly as they had hope and have not used all the funds we provided. Without this bill, California's unspent CHIP funds would be redistributed to other states. Under this bill, states will have until October 1 to spend their 1998 CHIP funds and funds allotted to my state to insure children will not go to other states, as they would without this bill.

We must do more to ensure that all children are fully-immunized by the age of 2. While the bill has $524 million for CDC's program, a 14 percent increase over last year, it falls $75 million short of providing the resources necessary to conduct adequate community outreach in under-served areas, parental and provider education about new vaccines, and the development and operation of state-based immunization registries, and $10 million short of providing adequate funding for the purchase of vaccines.

Do we really want our children to get polio, measles, mumps, chicken pox, rubella, and whooping cough—diseases for which we have effective vaccines, diseases which we have practically eradicated by widespread immunization? My State ranks 37th overall among States having children fully immunized by the age of 18 to 24 months. According to an Annie E. Casey Foundation report, 28 percent of California's two-year old children are not immunized.

Every parent knows that vaccines are fundamental to a child's good health. However, some families do not have access to vaccines through health insurance. Congress must make certain there is adequate funding for immunization programs so that all children are immunized against disease.

The bill increases funds for the Ryan White CARE Act by $55 million, for a total of $1.6 billion. This is important to thousands of Americans with HIV/AIDS. Since 1990, the CARE Act has helped establish a comprehensive, community-based continuum of care for uninsured and under-insured people living with HIV and AIDS. People who would not otherwise have access to care are able to receive medical care, drugs, and support services.

The CARE Act is particularly important to communities of color. AIDS is the leading cause of death among African American men and the second leading cause of death among African American women between the ages of 25 and 44. By comparison, AIDS is the fifth leading cause of death among all Americans in this age group.

A disproportionate number of African Americans and Hispanic/Latinos are also living with AIDS. Whereas African Americans represent only 13 percent of the total U.S. population, they represent 36 percent of reported AIDS cases. Likewise, Latinos represent 9 percent of the population but 17 percent all of AIDS cases. We must do more to target prevention efforts and funding for CARE Act services to the communities most heavily impacted; minority and under-served communities.

Two of California's largest cities, Los Angeles and San Francisco, are among the top four metropolitan cites with the highest number of AIDS cases in the United States. Through the CARE Act, Los Angeles has provided services

to over 43,160 clients since 1996. San Francisco has provided services to 47,440 since 1996. I am disappointed that the Committee's recommendation provides for $70 million less for Ryan White AIDS programs than requested by the administration. We should fully fund the CARE Act. The CARE Act is more important now than ever. The epidemic is not over. In fact, it is reaching into lower-income communities, affecting more women and minorities than previously. HIV/AIDS remains a health emergency in the United States. The Centers for Disease Control estimates that 40,000 new cases are reported annually. According to the Centers for Disease Control, between 650,000 and 900,000 Americans are currently infected with HIV while the number of AIDS cases has nearly doubled over the past five years.

Community health center programs are the ''medical home'' to millions of uninsured and low-income individuals. Current resources only allow health centers to serve 10 percent of the Nation's 44 million uninsured. This is troubling given that the number of our Nation's uninsured continues to grow at a rate of 100,000 per month. At this rate, by 2008 we can expect our nation's uninsured to reach 58 million. As the number of uninsured continues to grow, community health centers will become even more important as more people will rely on these centers to access health care.

Community health centers are the backbone of our Nation's safety-net. I am committed to doubling funding for these centers over the next five years. This requires an increase of at least 15 percent in each of the next five years, including an increase of $150 million in 2001. Although the $100 million increase in the bill is a good step, it is not enough. We need to add $50 million to the program to meet this goal.

Community health centers are vital to California's 7.3 million uninsured. Over 80 of California's clinics are located in under served areas and provide primary and preventive services to 10 percent of the uninsured people in the state. With a much needed increase in funding, these clinics could provide care to more of my State's uninsured. The care provided by health centers reduces hospitalizations and emergency room use, reduce annual Medicaid costs, and help prevent more expensive chronic disease and disability. Increasing appropriations to health centers makes good sense.

I am disappointed in the cuts in the bill to train health professionals. Almost one in five Californians lives in a health professions shortage area. We are facing a nursing shortage and will need 43,000 more nurses by 2010, which is a conservative estimate based on a projected 23 percent increase in the state's population. I hope these cuts will be restored.

The bill reported by the Committee funds the Social Services Block Grant at $600 million or 75 percent less than the authorized level of $1.7 billion. This drastic reduction in funding for SSBG will result in cuts to vital human services for our most vulnerable citizens. I hope we can restore these funds.

If the program were fully funded, California would receive $203.8 million in SSBG funds. If funding is cut to $600 million nationwide, California will receive $71.9 million. This is a reduction of $131.9 million.

California uses this money to fund its developmental disabilities program, which provides services and support to people with developmental disabilities and their families. The State also uses the funds to provide support for in-home care givers to the elderly, blind, and disabled. SSBG is a major source of funding for child protective services and for child care in every state.

This is a good bill, addressing many of the nation's critical human needs. The bill can be improved in several areas.

I hope the leadership and the bill's managers will work hard to restore the cuts I have cited and to send to the President a bill that addresses the nation's many critical health, education and human services needs.

Mr. FEINGOLD. Mr. President, I rise today to join a number of our colleagues in opposition to the amendment offered by the Senator from Wyoming [Mr. ENZI].

I strongly support the efforts of the Occupational Safety and Health Administration (OSHA) to promulgate fair and responsible ergonomics standards and regulations. I believe that such standards are instrumental in helping to reduce the occurrence of preventable workplace injuries.

More than 600,000 American workers suffer from workplace injuries caused by repetitive motions including typing, heavy lifting, and sewing. These injuries have an impact on every sector of our economy, and are particularly prevalent among women because many of the jobs held predominately by women require repetitive motions or heavy lifting. And these preventable injuries, including the painful and often debilitating carpal tunnel syndrome, cost more than $60 billion annually, $20 billion of which is from workers' compensation costs.

I want to say this again, Mr. President, repetitive stress injuries are particularly prevalent among women.

According to the Department of Labor, almost 230,000 women miss at least some time at work each year because of ergonomics injuries related to their jobs. To further emphasize the impact that these injuries have on women, let me cite the following statistics from the Department of Labor:

In 1997, women experienced 33 percent of all serious workplace injuries that required time off from work;

But women experienced 63 percent of all repetitive motion injuries, including 91 percent of injuries cause by repetitive typing or keying and 61 percent from repetitive placing;

These injuries include 62 percent of all work-related tendinitis cases and 70 percent of carpal tunnel syndrome cases; and

Recuperation from carpal tunnel syndrome, an often debilitating condition, requires an average of 25 days away from work.

The proponents of this amendment argue that further study is required before OSHA can promulgate its final ergonomics standard. I disagree. It is clear that more needs to be done to prevent these needless injuries, and that there is already a significant body of research outlining the need for national ergonomics standards from sources including the National Academy of Sciences, the National Institute for Occupational Safety and Health, and the General Accounting Office.

And further proof can be found in the existing ergonomics programs. Companies across the country have reduced the instances of preventable workplace injuries by designing and implementing their own ergonomics programs. In my home state of Wisconsin, the popular maker of children's clothing, OshKosh B'Gosh, redesigned its workstations. This common sense action cut the company's workers' compensation costs by one-third, which resulted in a savings of approximately $2.7 million.

Another Wisconsin company, Harley-Davidson, cut workplace ergonomics injuries by more than half after implementing an ergonomics program.

An employee of a health care facility in my hometown of Janesville, Wisconsin, said the following about the joint efforts between her management and fellow employees to design a program to combat injuries that are all too common among health care workers:

Quote—''I am here today to tell OSHA that working in a nursing home is demanding and hazardous work. Those hazards include back injuries as well as problems in the hands, arms, shoulders, and other parts of the body. . . . I am also here to testify that the injuries and pain do not have to be part of the job . . . Together [management and labor] have identified jobs where there are risks of back injuries. After getting input from employees, the employer has selected equipment that has improved the comfort [and] the safety of patients as well as the employees.

. . . What we are doing at the [nursing home] is proof that it is possible to prevent injuries with a commitment from management and the involvement of employees. Our injury prevention program is win-win for everybody: Management, labor, the patients, and their families. I urge OSHA to issue an ergonomics rule so that nursing home workers across the country will have the same protection that we have at the health care center.''—End of quote.

And there are many other success stories in Wisconsin and around the United States.

I commend the efforts of those companies which have proven that responsible ergonomics programs can—and do—prevent injuries resulting from repetitive motions. Unfortunately, not all American workers are protected by ergonomics programs like those I have described.

For example, one of my constituents who testified at an ergonomics event in my state has endured three surgeries over a ten year period to repair damage to his spine caused by repetitive motions at his job. In his testimony, this man said, quote—''Pain is my constant companion and I still need pain medication to get through the day. It is an effort just to put my socks on in the morning. I will never be healthy and pain free.''—End of quote.

Another one of my constituents described the impact that an injury he sustained at work while lifting a 60–80 pound basket of auto parts has had on his once active lifestyle. Quote—''This pain has limited me in many ways. . . . I used to teach soccer to kids. Now I can't walk more than half an hour without pain in my legs and spine. I have to prepare myself for fifteen minutes in the morning just to get out of bed.''—End of quote.

Mr. President, injuries such as those suffered by my constituents—and indeed by workers in each one of our states—can be prevented through sensible and responsible national ergonomics standards.

Repetitive stress injuries are costing American businesses millions of dollars and are costing American workers their health and, in some cases, their mobility. This means that some workers will lose the ability to do certain activities—activities ranging from simple tasks like fastening buttons to more meaningful things including picking up a child or participating in sports.

These are real people, Mr. President. They are our constituents, our family, our friends, our neighbors. We should not block a regulation that will help to stop these preventable injuries from forever changing the lives of countless Americans who are working to provide their families and themselves with a decent standard of living.

I recognize that some industries and small businesses are concerned about the impact, financial and otherwise, that this proposed standard will have on them. I have written to OSHA on behalf of a number of my constituents to communicate their concerns. I hope that the public comment and hearing phases of this rule-making process have adequately brought these concerns to light. I also hope that OSHA will take these concerns into account as that agency continues the process of finalizing this important rule, taking seriously the concerns of employers who fear the new rule will be too burdensome. We need a new rule that protects workers and is fair to all.

Mr. President, repetitive motion injuries can and should be prevented. And I strongly believe that we should have a national standard that affords all workers the same protections from these debilitating injuries. We should not delay these efforts. The health and mobility of countless American workers is at stake.

I again urge my colleagues to defeat this amendment and allow OSHA to move forward in its efforts to promulgate fair and responsible ergonomics standards.

Thank you, Mr. President. I yield the floor.

Mr. INHOFE. Mr President, I am pleased to come to the floor of the Senate today to speak in support of the Enzi amendment to the Labor-HHS Appropriations bill. As my colleagues know, the Enzi amendment is necessary to prevent the Occupational Safety and Hazard Administration from enacting a costly regulation without adequate scientific understanding of the very problem they hope to prevent.

As chairman of the Environment and Public Works Subcommittee on Clean Air, I have seen first hand how this administration refuses to conduct the proper scientific study of regulations they propose to promulgate. The reason, I fear, its rather simple: the scientific evidence does not support their political agenda. Based on my observations, the rule of thumb with this administration is ''if the scientific evidence does not support the goal, ignore the evidence.'' In this instance, we've been asking OSHA to do due diligence concerning the science behind this rule for five years.

I am not necessarily opposed to an ergonomics rule, I am simply opposed to this rule because it is not backed by sound science. I find it very interesting that the National Academy of Sciences is set to release its findings on ergonomics early next year. Why then the rush. The answer is obvious, OSHA fears the science will not support its proposal and wants to rush this into effect before the NAS finishes its work.

The speed at which OSHA is moving on this regulation is unprecedented; this is the single largest regulatory effort to date and OSHA appears to be bending over backwards to avoid congressional scrutiny, which of course is not new for this administration. In addition to dodging congressional scrutiny, OSHA is ignoring the over 7,000 public comments concerning the rule.

In addition to the process related flaws with this rule, another problem is its unrealistic cost estimate. OSHA estimates the rule will cost approximately $4.2 billion per year which is dramatically lower than all other estimates. For instance, the Small Business Administration estimates the cost is $60 billion per year or 15 times that of OSHA's estimate. The disparity of these figures alone should give plenty of reason to rethink this rule.

Yet another reason to oppose this rule is the effect of the rule on Medicare/Medicaid patients. OSHA has repeatedly stated that business should simply pass on the cost of compliance to consumers. Now, as I mentioned above, conservatively that cost will be in excess of $4.2 billion annually. Some of these ''businesses'' OSHA believes should pass on the cost of the rule are hospitals, nursing homes, home health care agencies, and other Medicare/Medicaid dependent health care providers. No where in the rule, has OSHA mentioned how these health care providers should deal with the newly imposed costs. They cannot simply pass on the cost as OSHA has stated so cavalierly.

Medicare/Medicaid providers in my state have been very clear about the existing problems associated with recent cuts in Medicare/Medicaid. I can only image what this new burden will mean for our health care providers.

In all fairness, OSHA has apparently thought about the cost to Medicare/Medicaid because they have done an estimate on the first year compliance cost of the rule. They estimate it will cost about $526 million for nursing and personal care facilities. Now, I don't know about my colleagues, but from the stories I've heard from my constituents, that $526 million could be much better spent providing care to patients. If OSHA implements this rule, we are setting the stage for a greater health care crisis in the country. Are health care providers going to be forced to choose between complying with OSHA regulations or providing health care for patients? I, for one, hope this is not the case.

Another of the significant problems with this rule is its vagueness. In fact, the rule's lack of clarity has prompted the Washington Post, clearly not a mouthpiece of conservative thinking, to say, that the rule is too vague and will cause problems.

There are many unanswered questions that OSHA readily admits it cannot answer and in all probability will never be able to answer. Among these now unanswered questions are: What is a definable ergonomics hazard? How can these undefined hazards be fixed? How will these undefined hazards be enforced?

Since OSHA cannot determine what the potential hazards are or how they can be fixed, it admits that actions that employers take to remedy supposed problems may actually make those problems worse. Since OSHA itself does not know what the extent of the problems are, it should come as no surprise that this is the only rule OSHA has ever put forward that does not provide employers some guidance for implementing appropriate measures to prevent injuries. Instead, the rule, as drafted, only sets forth penalties for employers if they fail to remedy these undefinable dangers.

Given these uncertainties, it is clear that the rule is flawed and should be stopped as is our prerogative. We have no choice. We must reject this rule and demand that OSHA conduct its due diligence before promulgating another.

I hope my colleagues will join me in supporting the Enzi amendment.

Mr. KENNEDY. Mr. President, I strongly oppose this amendment to prohibit OSHA from moving forward with its ergonomics standard. OSHA has been attempting to implement an ergonomics standard for the past 10 years. But each year, Congress has delayed the standard.

As long ago as 1990, the Secretary of Labor Elizabeth Dole in the Bush Administration called ergonomic injuries ''one of the nation's most debilitating across-the-board worker safety and health illnesses.'' Since that time, over 2,000 scientific studies have examined the issue, including a comprehensive review by the National Academy of Sciences.

All of these studies tell us the same thing—it's long past time to enact an ergonomics standard to protect the health of American workers and prevent these debilitating injuries in the workplace.

Each year, over 1.7 million workers suffer from ergonomic injuries and nearly 600,000 workers lose a day or more of work because of ergonomic injuries suffered on the job. Ergonomic injuries account for over one-third of all serious job-related injuries.

These injuries are painful and often crippling. They range from carpal tunnel syndrome, to severe back injuries, to disorders of the muscles and nerves.

Carpal tunnel syndrome keeps workers off the job longer than any other workplace injury. This injury alone causes workers to lose an average of more than 25 days, compared to 17 days for fractures and 20 days for amputations.

Ergonomics is also a women's issue, because women workers are disproportionately affected by these injuries. Women make up 46 percent of the overall workforce—but in 1998 they accounted for 64 percent of repetitive motion injuries and 71 percent of carpal tunnel cases.

The good news is that these injuries are preventable. The National Academy of Sciences and the National Institute of Occupational Safety and Health have both found that obvious adjustments in the workplace can prevent workers from suffering ergonomic injuries and illnesses.

Congress has a responsibility to ensure that the nation's worker protection laws keep pace with changes in the workforce. Early in this century, the industrial age created deadly new conditions for large numbers of the Nation's workers.

When miners were killed or maimed in explosion after explosion, we enacted the Federal Coal Mine Safety and Health Act. As workplace hazards became more subtle, but no less dangerous, we responded by passing the Occupational Safety and Health Act to address hazards such as asbestos and cotton dust. Now, as the workplace moves from the industrial to the information age, our laws must evolve again to address the emerging dangers to American workers. Ergonomic injuries are one of the principal hazards of the modern American workplace—and we owe it to the 600,000 workers who suffer serious ergonomic injuries each year to address this problem now.

Ergonomic injuries affect the lives of working men and women across the country. They injure nurses who regularly lift and move patients, and construction workers who lift heavy objects. They harm assembly line workers whose task consists of constant repetitive motions. They injure data entry workers who type on computer keyboards all day long. Even if we are not doing these jobs ourselves, we all know people who do. They are mothers and fathers, brothers and sisters, sons and daughters, and neighbors—and they deserve our help.

We need to help workers like Beth Piknick from Massachusetts, who was an intensive care nurse for 21 years before a preventable back injury required her to undergo a spinal fusion operation and spend two years in rehabilitation. Although she wants to work, she can no longer do so. In her own words, ''The loss of my ability to take care of patients led to a clinical depression. * * * My ability to take care of patients—the reason I became a nurse—is gone. My injury—and all the losses it has entailed—were preventable.''

We need to help workers like Elly Leary, an auto assembler at the now-closed General Motors Assembly plant in Framingham, Massachusetts. Like many, many of her co-workers, she received a series of ergonomic injuries—including carpal tunnel syndrome and tendinitis. Like others, she tried switching hands to do her job. She tried varying the sequence of the routine. She even bid on other jobs. But nothing helped. Today, years after her injury, when she wakes up in the morning, her hands are in a claw-like shape. To get them to open, she has to run hot water on them.

We need to help workers like Charley Richardson, a shipfitter at General Dynamics in Quincy, Massachusetts in the mid-1980's. He suffered a career-ending back injury when he was told to install a 75 pound piece of steel to reinforce a deck. Although he continued to try to work, he found that on many days, he could not endure the lifting and the use of heavy tools. For years afterwards, his injury prevented him from participating in basic activities. But the loss that hurt the most was having to tell his children that they couldn't sit on his lap for more than a few minutes, because it was too painful. To this day, he cannot sit for long without pain.

We need to protect workers like Wendy Scheinfeld of Brighton, Massachusetts, a model employee in the insurance industry. Colleagues say she often put in extra hours at work to ''get the job done.'' She developed carpal tunnel syndrome from using the computer at work. As a result, Wendy has lost the use of her hands, and is now permanently unable to do her job, drive a car, play the cello, or shop for groceries.

Even though it may be too late to help Beth, Elly, Charley and Wendy, workers just like them deserve an ergonomics standard to protect them from such debilitating injuries.

Some in Congress argue that OSHA is rushing the process too much. But let's review the record. OSHA's rulemaking effort began ten years ago in the Bush Administration under Secretary of Labor Elizabeth Dole. Years of study and development have laid the groundwork for this proposed standard. OSHA held nine stakeholder meetings following its Advance Notice of Public Rulemaking in 1992. OSHA also held 11 best-practices conferences between 1997 and the end of 1999. Since November, 1999, there has been a 100-day pre-hearing comment period and nine weeks of public hearings.

The Agency is currently in the midst of a 30-day comment period on an economic analysis and a 60-day post-hearing comment period on the proposed standard. There will be another public hearing on July 7. All told, the public will have had over 8 months of opportunity for public comment since the publication of the proposed standard last November. After 10 years of attempting to address this serious problem, this amendment would delay OSHA's standard yet again.

Last fall, when we considered the Labor-HHS appropriations bill, opponents of an ergonomics standard wanted us to wait for the National Academy of Sciences to complete a further study before OSHA establishes a standard. But it was just another delaying tactic. As we said then, over 2,000 studies on ergonomics have already been carried out.

In 1997, the National Institute for Occupational Safety and Health reviewed 600 of the most important of those studies. In 1998, the National Academy of Sciences reviewed the studies again. Congress even asked the General Accounting Office to conduct its own study.

The National Academy of Sciences found that work clearly causes ergonomic injuries. They concluded that ''the positive relationship between the occurrence of musculoskeletal disorders and the conduct of work is clear.'' The National Institute for Occupational Safety and Health agreed. They found ''strong evidence of an association between MSDs and certain work-related physical factors.''

The Academy also found that ergonomics programs are effective. As the Academy found, ''Research clearly demonstrates that specific interventions can reduce the reported rate of musculoskeltal disorders for workers who perform high-risk tasks.''

Finally, the GAO concluded that ergonomics is good business. Its report declared, ''Officials at all the facilities

we visited believed their ergonomics programs yielded benefits, including reductions in workers' compensation costs.''

The truth is that the Labor Department's ergonomics rule is based on sound science. In addition to the National Academy of Sciences and the National Institute of Occupational Safety and Health, medical and scientific groups have expressed widespread support for moving forward with an ergonomics rule.

The American College of Occupational and Environmental Medicine, representing over 7,000 physicians, has stated that ''there is * * * no reason for OSHA to delay the rule-making process while the NAS panel conducts its review.'' The American Academy of Orthopedic Surgeons, representing 16,000 surgeons, the American Association of Occupational Health Nurses, representing 13,000 nurses, and the American Public Health Association, representing 50,000 members, all agree that an ergonomics rule is necessary and based on sound science.

Many members of the business community support ergonomics protections, because good ergononics is good business. Currently, businesses pay out $15 to 20 billion each year in workers' compensation costs related to these disorders. Ergonomic injuries account for one dollar in every three dollars spent for workers' compensation. If businesses reduce these injuries, they will reap the benefits of lower costs, greater productivity, and decreased absenteeism.

That's certainly true for Tom Albin of Minnesota Mining and Manufacturing, who said, ''Our experience has shown that incorporating good ergonomics into our manufacturing and administrative processes can be effective in reducing the number and severity of work-related musculoskeletal disorders, which not only benefits our employees, but also makes good business sense.''

Similarly, Peter Meyer of Sequins International Quality Braid has said, ''We have reduced our compensation claims for carpal tunnel syndrome through an effective ergonomics program. Our productivity has increased dramatically, and our absenteeism has decreased drastically.''

This ergonomics rule is necessary, because only one-third of employers currently have effective ergonomics programs.

Further delay is unacceptable, because it leaves workers unprotected and open to career-ending injuries. Since OSHA began working on this standard in 1990, more than 6.1 million workers have suffered serious injuries from workplace ergonomic hazards.

It is time to stop these injuries—and stop all the misinformation too. This year's attack on OSHA's ergonomics standard is just the latest in a long series of attacks against this important worker protection measure.

American employees deserve greater protection, not further delay. It's time to stop breaking the promise made to workers, and start supporting this long overdue ergonomics standard now.

The PRESIDING OFFICER. The Senator from Virginia.

MOTION TO COMMIT WITH AMENDMENT NO. 3598

(Purpose: To amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program)

Mr. ROBB. Mr. President, this past April when the Senate was debating its annual budget resolution, I offered an amendment which stated that if Congress was going to consider massive tax cuts this year, it must first pass legislation that modernizes Medicare through the creation of a prescription drug benefit. Fifty-one Senators voted in favor of this amendment, in favor of putting our Nation's seniors before massive tax cuts, including six of our colleagues from the other side of the aisle—Senators CHAFEE, SPECTER, ABRAHAM, DEWINE, BURNS, and the distinguished occupant of the chair.

I rise today to follow up on the vote that we took in April and to urge a majority of our colleagues to, once again, come together across party lines for our Nation's seniors. Putting seniors before tax cuts was the first step.

Now the Senate needs to take up and pass a comprehensive affordable prescription drug benefit for all Medicare beneficiaries. Unfortunately, it is now mid-June and neither the Senate Finance Committee nor the Senate itself has considered a Medicare prescription drug benefit. With so few legislative days left in the year and so much work to be done, it is crucial that we take this issue up now.

The amendment I am offering today will commit this bill back to the Appropriations Committee with instructions that they report out a new bill that provides a universal, comprehensive, dependable prescription drug benefit for Medicare beneficiaries.

The Medicare Outpatient Drug Act, a bill that I introduced this week with Senators GRAHAM, BRYAN, CONRAD, CHAFEE, BAUCUS, ROCKEFELLER, and LINCOLN, is a moderate bipartisan, commonsense piece of legislation. It combines the best elements of prescription drug proposals offered by Members on both sides of the aisle.

More important, the Medicare Outpatient Drug Act will help every senior better afford the prescription drugs which they so badly need, and the need is real.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Objection.

The PRESIDING OFFICER. Is the Senator sending a motion to the desk?

Mr. ROBB. A motion to commit with instructions.

The PRESIDING OFFICER. Will the Senator send the motion to the desk?

Mr. ENZI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. ROBB] moves to commit H.R. 4577, the Labor-HHS appropriations, to the Appropriations Committee with instructions to report forthwith with the following amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. ENZI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. REID. I object.

The assistant legislative clerk read as follows:

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2522, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2522) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2001, and for other purposes.

Pending:

HELMS amendment No. 3498, to require the United States to withhold assistance to Russia by an amount equal to the amount which Russia provides Serbia.

NICKLES amendment No. 3569, to provide that not less than $100,000,000 shall be made available by the Department of State to the Department of Justice for counternarcotic activity initiatives.

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin, Mr. FEINGOLD, is recognized to call up an amendment relative to Mozambique.

The Senator from Wisconsin.

AMENDMENT NO. 3520

(Purpose: To increase amounts appropriated for international disaster assistance for Mozambique and Southern Africa and to offset such increase)

Mr. FEINGOLD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 3520.

The amendment is as follows:

On page 17, lines 1 and 2, strike ''$220,000,000, to remain available until expended'' and insert ''$245,000,000, to remain available until expended: *Provided*, That, of the funds appropriated under this heading, $25,000,000 shall be available only for Mozambique and Southern Africa: *Provided further*, That, of the amounts that are appropriated under this Act (other than under this heading) and that are available without an earmark, $25,000,000 shall be withheld from obligation and expenditure''.

AMENDMENT NO. 3520, AS MODIFIED

Mr. FEINGOLD. Mr. President, I ask unanimous consent to modify my