THE WHITE HOUSE

Jen: 7/27/95

Per your request

Steve

cc: Mitty

*CHECK RESPONSE

UNITED STATES DEPARTMENT OF COMMERCE
Office of the Secretary
Washington, D.C. 20230

JUL 26 1995

Mr. Steve Silverman
Deputy Assistant to the President
Office of Cabinet Affairs
The White House
Washington, D.C. 20500

Dear Mr. Silverman:

Enclosed is a draft response to Theodore Adams, Jr., President of Unified Industries Inc. for Harold Ickes' signature. If I can be of any additional service on this subject, please do not hesitate to contact me.

Sincerely,

William W. Ginsberg
Chief of Staff

Enclosure

Mr. Theodore A. Adams, Jr.
United Industries Incorporated
6551 Loisdale Court
Springfield, Virginia 22150

Dear Mr. Adams:

I am responding to your request to Vice President Gore seeking support from the U.S. Department of Commerce on your power generation plant project in the Republic of Guinea. Commerce is eager to offer its assistance and guidance on your project.

As you may be aware, the Department, under the leadership of Secretary Brown, has established the Advocacy Center whose primary goal is to assist U.S. exporters win foreign contracts. I understand that a member of the Advocacy Center staff has been in touch with you regarding the current status of your project, and that the Center stands ready to assist you as appropriate.

Please feel free to contact Mr. T.S. Chung, Director of the Advocacy Center, directly. Mr. Chung's telephone number is (202) 482-3896. His facsimile number is (202) 482-3508.

Thank you for your interest in the Department of Commerce.

Sincerely,

FAX TRANSMITTAL SHEET

File

DEPARTMENT OF LABOR • UNITED STATES OF AMERICA •

RECEIVER TELECOPIER NUMBER: 456 5820

TO: Shama Tesler

FROM: Bill Samuel

DATE: ______________ **TIME:** ______________

PAGE NUMBER ONE OF ________ **PAGES**

TRANSMITTER TELECOPIER: (202) 219-7971

ADDITIONAL COMMENTS:

Ergo Fact Sheet

Susan King sent to McCurry

IF YOU HAVE QUESTIONS REGARDING THIS FAX CALL: ______________

Pelosi

VOTE YES ON THE PELOSI AMENDMENT TO DELETE THE ERGONOMICS RIDER

- VOTE "YES" TO ALLOW OSHA TO ADDRESS THE FASTEST-GROWING WORKPLACE HEALTH PROBLEM
- A "NO" VOTE WILL CAUSE HUNDREDS OF THOUSANDS MORE INJURIES TO WORKING AMERICANS
- A "NO" VOTE WILL COST EMPLOYERS BILLIONS OF DOLLARS IN WORKERS' COMPENSATION COSTS

Summary. The Pelosi Amendment would delete a rider that bans OSHA from protecting workers from musculoskeletal disorders, which represent America's fastest growing workplace health problem. If enacted, this rider will cause hundreds of thousands of hardworking Americans to suffer work-related injuries that could have been prevented, and cost employers billions of dollars in workers compensation.

The Rider. As reported by the House Appropriations Committee, the FY97 Labor/HHS appropriations measure prohibits OSHA from using FY97 funds "for the development, promulgation, or issuance of any proposed or final standard or guideline regarding ergonomic protection or recording or reporting occupational injuries and illnesses directly related thereto." This language goes beyond the FY96 rider to ban OSHA from *developing* protections or even *collecting data* on this problem.

A Burgeoning Health Crisis. Musculoskeletal disorders represent the fastest growing workplace health problem, having multiplied more than seven-fold in the past 10 years. Current estimates range from over 700,000 lost workday injuries to 2.7 million accepted workers' comp claims annually, affecting meatpacking and poultry workers, computer programmers, auto workers, and supermarket employees among others. Affected workers suffer pain, restricted life activities, lost work time and often permanent disability.

A Heavy--But Often Unrecognized-- Burden on Business. Workers compensation costs arising from musculoskeletal disorders amount to an estimated ***$20 billion*** annually-- accounting for roughly ***$1 out of every $3*** employers spend on such claims. Indirect costs (such as hiring and training replacement workers) add billions of dollars more. Unfortunately, though, many thousands of U.S. employers are unaware of the extent of this problem.

Let the Regulated Community Resolve the Problem in An Open Debate. The Pelosi Amendment would allow OSHA to issue a *proposed* ergonomics standard in order to trigger OSHA's open rulemaking process. This process includes both lengthy comment periods and administrative hearings (at which witnesses can cross-examine each other), designed to facilitate a tho ough, public debate to improve the standard and strengthen its scientific basis. If enacted, the rider would ban OSHA from even *developing* such a proposed standard to permit this debate to begin.

Turning Our Backs on American Workers. A "no" vote on the Pelosi Amendment would even preclude OSHA from gathering data on musculoskeletal disorders. But ignoring the fastest-growing workplace health problem will not make it go away. Ironically, the rider's sponsors claim that OSHA needs to improve the science upon which ergonomic protections would be based, but the rider would ban OSHA from gathering the data necessary to meet that need. A "no" vote on the Pelosi Amendment would fly in the face of congressional efforts to reform the regulatory process to ensure that regulations are premised on sound science.

Allow OSHA to Provide Assistance to Employers. Even those employers who have recognized the problem are often unaware of the broad range of cost-effective solutions currently available. Smaller businesses are at a particular disadvantage, since they typically cannot afford to hire a safety and health consultant. *These employers need help.* The Pelosi Amendment would allow OSHA to issue guidelines to assist employers in controlling the soaring costs associated with musculoskeletal disorders.

More Paperwork for Employers. OSHA issued proposed recordkeeping revisions earlier this year to significantly reduce and simplify employer recordkeeping obligations. The agency expects to issue the final, revised Recordkeeping Regulation in the near future. Needless to say, many employers support this effort. *But a "no" vote on the Pelosi Amendment would exclude ergonomics-related data on musculoskeletal disorders from this new regulation, and might preclude the agency from issuing the reg at all.*

The Pelosi Amendment Allows A Careful Congressional Review. Recently enacted legislation gives Congress a mechanism for modifying or disapproving of federal regulations through an expedited legislative process. The Pelosi Amendment would allow OSHA to move forward on ergonomics, but would retain this effective means of reviewing OSHA's protective standards before they ever take effect.

Why Ignore Cost-Effective Solutions? Countless employers have already cut injury rates and saved millions of dollars in workers compensation costs through simple measures that quickly pay for themselves. These include small businesses (such as the Maine nursing home that cut lost workdays due to injury by 95% over four years) to large employers (like the meatpacking plant that cut disability costs from $200,000 to $6,000 annually). *A "no" vote on the Pelosi Amendment would preclude OSHA from developing a protective standard or even guidelines based on such cost-effective solutions-- at the expense of thousands of employers struggling with soaring workers compensation costs, and to the detriment of millions of American workers.*

7/3/96

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fax 65820

Steve Marshall OSHA

THE WASHINGTON POST
THURSDAY, JULY 11, 1996

House to Consider 'Ergo Rider' Restraints on OSHA

Provision Would Bar Federal Rules, Guidelines or Data Collection on Repetitive Stress Injuries

By Curt Suplee
Washington Post Staff Writer

The House of Representatives is slated to vote today on legislation that would forbid the federal government to issue standards or guidelines on the common work-related illness known as repetitive stress injury, or even to collect data on the problem.

RSI is, by all accounts, the fastest-growing health hazard in the American workplace, reportedly afflicting about 1,000 keyboard operators, assembly-line workers, meat processors, grocery checkout clerks, secretaries and other employees every day.

The provision, in the form of a sentence included in the 1997 appropriations bill for the Labor, Health and Human Services and Education departments, prohibits the Occupational Safety and Health Administration from developing any rules on "ergonomic protection or recording and reporting occupational injuries and illnesses directly related thereto."

The 59-word passage—known as the "ergo rider"—has provoked one of the most vituperative disputes in the history of federal regulation. It also epitomizes the furious debate over the future and scope of regulatory programs since the Republican congressional takeover of 1994.

Joseph A. Dear, assistant secretary of labor for OSHA, called the rider an "outrageous interference" with the agency's mandate to protect American workers. So far, OSHA has done nothing more than produce an unpublished draft proposal, now a year old, that might eventually affect about 2.6 million workers. Dear said it was "totally unreasonable" to forbid the government to gather information on RSI. "Are we going to watch the numbers [of ergonomic injuries] rise and let the agency whose job is to protect workers stand idly by?"

Rep. Henry Bonilla (R-Tex.), author of this year's ergo rider and a similar prohibition that passed Congress last year, warned that the potential cost of industry compliance with contemplated OSHA measures would be "in the billions. The small business community is shaking in its boots at the prospect of having these regulations thrown at them."

Many delivery and trucking interests favor the rider, including United Parcel Service—a frequent target of OSHA action—and the American Trucking Associations. They and others argue that the agency's ergonomics draft contains overly broad hazard criteria and would be unbearably onerous. For example, the agency proposal calls for special scrutiny of jobs that entail one or more "signal risk factors" including: keyboard data entry for more than four hours a day; exposure to vibration, such as driving a truck on rough terrain, for more than one continuous hour; more than one continuous hour or four hours per day in "unsupported fixed or awkward work posture" such as bending the neck to paint a ceiling; and lifting 15 or more pounds two feet in front of the body more than 25 times per day.

No one knows what regulations based on such standards might cost the U.S. economy. UPS projected that compliance with less stringent criteria recently proposed by the state of California—if applied nationwide—would cost the company $3 billion, according to Dorothy Strunk, a consultant in Fort Washington who served as deputy and then head of OSHA in the last years of the Bush administration.

It was during Strunk's tenure that OSHA first began investigating RSI and other musculoskeletal complaints that presumably arise from frequently repeated motions, odd postures or vibrations. In 1994, the last year for which complete data are available, U.S. private industry reported 6.8 million cases of injury and illness, according to the Bureau of Labor Statistics. Of those, 6.3 million were injuries. About 515,000 were illnesses, two-thirds of which (332,000) were associated with repetitive motion, at an estimated cost to industry of $20 billion to $100 billion a year, depending on how the cost of lost work time is calculated.

RSI reports have increased tenfold in the past 10 years, and the trend shows no sign of abating.

What the Bill Says

This is the text of the "ergo rider" in the Labor-HHS-Education appropriations bill:

SEC 102. None of the funds made available in this Act may be used by the Occupational Safety and Health Administration directly or through section 23(g) of the Occupational Safety and Health Act for the development, promulgation or issuance of any proposed or final standard or guideline regarding ergonomic protection or recording and reporting occupational injuries and illnesses directly related thereto.

To office workers, RSI is most familiar as carpal tunnel syndrome, a disabling wrist condition afflicting some users of computer keyboards, calculators and the like. But according to OSHA, white-collar RSIs make up only about one-eighth of all such illnesses, also known as cumulative trauma disorders, repetitive strain injuries or ergonomic injuries.

Two years ago, OSHA began drafting a proposal for an "ergonomic protection standard" to cope with what it termed "the most important occupational safety and health problem in the United States today . . . that is causing untold pain and suffering and generating numerous workers' compensation claims." By May of 1995, the agency had revised the draft, narrowing the scope and refining the risk factors.

Before anything was published, however, Bonilla introduced a rider virtually identical to this year's. Compromise with the Senate removed the prohibition on information-gathering, but since mid-1995 OSHA has been forbidden to work on ergonomic rules or guidelines, though the agency has continued to study the issue.

This annoyed many powerful interests. Jane S. D'Zurilla, associate director for employee relations at the National Association of Manufacturers, said: "Typically we do not get involved in riders, but because of the agency's arrogance . . . we realized that the agency was not going to listen, first, to the industry groups who were going to have to comply with the regulations, and second, to Congress itself. So we have been a bit more involved" because of the "tremendous adverse effect it could have on industry."

OSHA officials argue that RSI is having a big adverse effect on workers. According to agency data, carpal tunnel problems lead the list of average time lost from work (at a median of 30 days per case), well above amputations (24 days) and fractures (20).

OSHA's critics insist that the agency has not demonstrated a scientifically defensible causal link between workplace practices and RSI. Physicians are divided on the question of whether job activities alone can cause RSI in the absence of contributing factors such as the individual's general health, muscle tone, degree of obesity or recreational activities.

All sides agree that identifying such a cause and effect relationship would loose legions of plaintiffs' attorneys into the court system. The absence of such proof, for example, has doomed most of the more than 1,000 liability suits brought by individuals against computer keyboard manufacturers for alleged injury.

The ergo rider is opposed by many lawmakers, notably Rep. Nancy Pelosi (D-Calif.), who is scheduled to introduce an amendment eliminating it. Bonilla is unsure whether the complete text will survive action by both houses of Congress. "We'd have a majority if it ever came down to a vote in the House," he said. But "we have a very difficult time getting our friends in the Senate to go along."

Meanwhile, Dear is worried that the debate will lose track of the suffering of hundreds of thousands of workers. "We need to focus on the problem," he said, "and not the regulatory agency."

File
FLSA

July 9, 1996

QUESTIONS FOR CANDIDATES

The following question has been posed to both President Bill Clinton and Republican Presidential nominee, Senator Bob Dole. The responses will be published in the August/September issue of American Consulting Engineer magazine.

1. The service sector's single largest expense is labor. Do you favor the reform of the Fair Labor Standards Act to provide greater flexibility for salary employees, and to remove U.S. Department of Labor and court liability exposure for certain management practices (as proposed by Senator Nancy Kassebaum in S. 1354 in the 103rd Congress)?

Analysis of S. 1354

DRAFT ANSWER:

The Clinton Administration supports workplace policies that are flexible and family friendly. The first piece of landmark legislation enacted by this Administration, the Family and Medical Leave Act, provides just this kind of family friendly and flexible policy that helps America's working families better balance work and family needs. The implementation of this new law has been a resounding success and it has not imposed any significant burden on business. As another example, on June 24, the President announced new family-friendly workplace proposals to expand the Family and Medical Leave Act and provide for employee-choice flextime. His new proposals would allow workers to take additional unpaid hours off for parental involvement in their child's education and to attend to older relatives' health needs, and offer American workers more choice and flexibility in findings ways to both earn the wages they need to support their families and still find the time they need to be with them.

This Administration would not, however, support policies that would erode long-established worker rights and protections under the Fair Labor Standards Act. Flexibility and family friendliness are essential goals to be achieved in the development and reform of our work-place laws, but these important principles should not disguise efforts to reduce workplace protections and workers' earnings. The legislation proposed by Senator Kassebaum (S.1354) does not provide greater flexibility for salaried employees. In fact, it would take away essential worker protections by granting greater flexibility to employers of salaried workers. What this bill would actually do is allow employers to reduce workers' "guaranteed" salaries for work days when employees need to be away from work for a brief period. At the same time, the employer would not have to pay any more than the workers' guaranteed salary in weeks when the employee is required to work more than 40 hours. In effect, the employer would have it both ways -- reducing salaried workers' pay when they work less than 40 hours and not paying any overtime when they have to work more than 40 hours. How does this give greater flexibility to the employees? Greater flexibility for employees would be achieved by family-friendly management policies that maintained the guaranteed salaries of overtime-exempt employees (i.e., no salary reductions for partial-day absences) but allowed them the necessary time off to respond to their family and personal needs.

Gene

THE WHITE HOUSE

WASHINGTON

July 29, 1996

MEMORANDUM FOR JOHN HILLEY
JENNIFER O'CONNER

FROM: LAURA D'ANDREA TYSON

SUBJECT: MOTOR FUELS TAX SUGGESTION FROM HAROLD ICKES

Attached is a memo from Mark Mazur and Elgie Holstein on my staff. I thought you might find this useful.

file copy

THE WHITE HOUSE

WASHINGTON

July 24, 1996

TO: LAURA TYSON

FROM: MARK MAZUR Mark
ELGIE HOLSTEIN EH

SUBJECT: MOTOR FUELS TAX SUGGESTION FROM HAROLD ICKES

Harold Ickes forwarded a note from Richard Bloomingdale of the AFL-CIO (attached), who suggested that if 4.3 cents per gallon of the motor fuels tax is temporarily rolled back, oil companies should be required to pass the tax decrease on to consumers. Bloomingdale suggests that consumers be provided with a legal remedy in the event that retail gasoline prices do not reflect the entire 4.3 cents per gallon tax reduction.

Motor fuels excise taxes are imposed at the point where the fuel (e.g., gasoline) "breaks bulk", generally where it leaves the storage tank area. This can be at a refinery, but is more commonly at the wholesale distribution point. Therefore, it is unclear what is meant by requiring "the oil companies" to roll back the price, since a firm in the wholesale gasoline distribution business generally is not characterized as an "oil company".

Motor Fuels Tax Incidence. Who actually benefits from a rollback in the motor fuels excise tax is determined by supply and demand. In the long run, economists believe that consumer demand for motor fuel is less responsive to price changes than is supply, and so the tax rollback primarily will benefit consumers. In the short run, consumer demand is almost completely inelastic, and so suppliers will benefit from the tax rollback. There is no consensus about how long the short run lasts.

But even the short run incidence may differ on a firm-by-firm basis. Some integrated firms (which produce crude oil, refine it, and then sell products at retail) may be able to more easily pass on the tax rollback in lower prices than independent retailers (who purchase their refined product from integrated firms or in the wholesale market).

Analysis of proposal. Requiring wholesalers who pay the excise tax to roll back their prices will not ensure that retail prices reflect the reduced tax level, since retail prices are set by supply and demand in local gasoline markets. In addition, on the day the tax rollback goes into effect, retailers will have substantial inventories on which tax has previously been paid (assuming it was passed on by the distributor and that retailers cannot claim refunds on previously-paid tax). Retailers will thus be caught between their desire to recover the tax already paid and purchasers' ire if the retail price is not visibly reduced. Furthermore, because wholesale prices change daily (1 cent per gallon daily price swings are not uncommon), it is likely that the effects of a tax rollback will be muddied by other changes in the wholesale price. Finally, an audit structure would be required to ensure that wholesalers indeed did reduce their prices by the 4.3 cents per gallon tax rollback, even though motorists may not see it.

In sum, the Bloomingdale proposal would impose some real resource costs for little or no ultimate economic effect. It might be argued that the proposal could generate some political benefit for the Administration. However, this benefit is unlikely to be large, since the House of Representatives rejected an amendment along these lines without much public outcry.

Please let us know if you would like to discuss this further.

cc: TO'D

MAR ...

THE WHITE HOUSE

WASHINGTON

July 2, 1996

Memorandum to Laura D'Andrea Tyson
John Hilley

From: Harold Ickes

cc: Jennifer O'Connor

Subject: Gas tax suggestion

I recently received the attached note from Richard Bloomingdale, Secretary-Treasurer of the Pennsylvania AFL-CIO. He suggests a way for the Democrats to gain support in the gas tax debate and at the same time discredit the Republicans. Please include as appropriate in our strategy.

THE WHITE HOUSE

WASHINGTON

July 2, 1996

Mr. Richard W. Bloomingdale
Secretary-Treasurer
Pennsylvania AFL-CIO
230 State Street
Harrisburg, Pennsylvania 17101-1138

Dear Richard:

I write in response to your 22 May letter. Thank you for offering your idea on how to help the Democrats in the gas tax debate. I have forwarded the letter to Laura D'Andrea Tyson, Assistant to the President for Economic Policy, and John Hilley, Assistant to the President for Legislative Affairs, for inclusion as appropriate in our strategy.

Thank you again for your support and consideration.

Sincerely,

Harold Ickes
Assistant to the President and
Deputy Chief of Staff

cc: Laura D'Andrea Tyson
John Hilley

AMERICA WORKS BEST
WHEN WE SAY . . .
UNION YES

5/24 copy to Jen O'C for response

PENNSYLVANIA AFL-CIO

WILLIAM M. GEORGE
President

RICHARD W. BLOOMINGDALE
Secretary-Treasurer

May 22, 1996

Harold Ickes, Deputy Chief of Staff
White House
1600 Pennsylvania Ave., N.W.
Washington, D.C. 20502

Dear Harold:

I have been watching the gas tax debate and the Democrats try to scramble for a position that makes them look like they want to help the middle class. They have made some good points regarding the likelihood of the consumers ever seeing this decrease at the pumps. But after that they seem to be saying "me too."

However, I was struck by an idea that might make some sense for the President to use. If the idea is of no use just wad this up and toss it.

Could the Democrats offer an amendment to require that the oil companies roll back the four cents and build in some legal remedies for consumers to pursue if they refuse. If the Republicans vote against such an amendment it puts them squarely in the pockets of the oil companies and tears away the facade that they are trying to help the middle class. If they do allow it, and it is the President's suggestion, he gets a boost for protecting the consumers against the greed of the oil companies and their Republican lackies.

Hope this helps. If there is anything I can do please don't hesitate to call.

Sincerely,

Richard W. Bloomingdale
Secretary-Treasurer

RWB/dfm

cc: Eric Eve, Special Assistant to the President
for Political Affairs