George W. Bush Presidential Library

Collection: Executive Clerk, Office of The

Series: Saunders, G. Timothy (Tim) – Bill Files

Folder Title: 03/20/2001 [S.J.R. 6]

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
002	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
003	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
004	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
005	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
007	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
008	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
009	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

COLLECTION TITLE:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
010	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
011	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
012	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
013	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
014	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
015	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
016	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
017	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

COLLECTION TITLE:
Executive Clerk, Office Of the
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
018	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
019	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
020	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
021	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
022	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
023	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
024	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

COLLECTION TITLE:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
025	Memorandum	[Memorandum re: S. J. R. 6] - To: Harriet E. Miers, Staff Secretary - From: Neil Patel, Staff Secretary OVP	1	03/19/2001	P5;
026	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
027	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
028	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
029	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	03/20/2001	P5;
030	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
031	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

COLLECTION TITLE:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawn/Redacted Material
The George W. Bush Library

DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
032	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
033	Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;
T006	Statement	[Re: S. J. R. 6]	1	03/20/2001	Transferred

COLLECTION TITLE:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001 01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

SECRETARY OF LABOR
WASHINGTON

MAR - 8 2001

The Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Daniels:

This letter provides you with the views of the Department of Labor on an enrolled joint resolution, S. J. Res. 6, which, pursuant to the Congressional Review Act, repeals the Occupational Safety and Health Administration (OSHA) ergonomics program standard. I recommend that the President approve S. J. Res. 6.

The ergonomics program standard would require employers, in all industries except construction, maritime, agriculture, and railroads, to establish programs to reduce workplace injuries caused by repetitive motion or overexertion. As part of such a program, employers would be required to provide their employees with basic information about musculoskeletal disorders (MSDs), to respond to reports of such injuries, and to provide training in this area, as well as medical evaluation of injuries and hazard analysis. OSHA estimated that the rule would prevent several million MSDs over the first ten years following implementation at an annualized cost of approximately $4.5 billion per year.

Concerns have been raised that this particular standard would cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions. Additional reservations have been cited that the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards. Although the Department believes that work-related musculoskeletal disorders are a significant problem, because of these concerns with the current standard, I recommend Presidential approval of S. J. Res. 6.

Sincerely,

E L. Chao

Elaine L. Chao

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

MAR 13 2001

OFFICE OF THE ADMINISTRATOR

Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Old Executive Office Building
Washington, DC 20530

Dear Mr. Daniels:

This is in response to your request for the views of the U.S. Small Business Administration (SBA) concerning the enrolled bill entitled "Joint Resolution of Disapproval of Ergonomics Regulation" (S.J. Res. 6).

The SBA supports enactment of S.J. Res. 6, which would overturn the recently issued "ergonomics" program standard, designed to address injuries caused by repetitive motion or overexertion. The regulation could cost small business employers billions of dollars annually while providing uncertain benefits. If an employee claimed a work related ergonomic injury, a small business owner could face an overwhelming challenge in complying with this costly standard, even if the primary cause of that injury was not job related. The fear of incurring enforcement penalties, coupled with the complicated provisions necessary to establish a required ergonomics program, could lead small business owners to establish burdensome, costly, and, possibly, unnecessary systems to track, prevent and provide compensation for injuries, the cause of which may be open to dispute.

It is important to note that the Occupational Safety and Health Administration (OSHA) is not without recourse to address work related ergonomic injuries. It has significant authority under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) to penalize employers who do not provide a safe workplace. Its own data shows that its industry consultation program, a voluntary education program, is highly successful in improving workplace safety and in preventing injuries. All of this demonstrates that OSHA has options to fulfill its mission without imposing such a costly mandate on small business.

Clearly, SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business employers. Unfortunately, the ergonomics standard does not meet this important criterion.

Sincerely,

John Whitmore

John Whitmore
Acting Administrator

OMB ENROLLED BILL [redacted] IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

<u>Provisions of S.J.Res. 6</u>

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

<u>Agency Views</u>

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one

Joint Resolution

Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Department of Labor relating to ergonomics (published at 65 Fed. Reg. 68261 (2000)), and such rule shall have no force or effect.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

445205

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15

APPROVED
MAR 20 2001

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

JG

Document No. ______________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Clark –

OK. see minor edit.

Thx, JB 3/16

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐	______	☐	☐
CALIO	☑	☐	______	☐	☐
FLEISCHER	☐	☑	______	☐	☐
GONZALES	☑	☐	______	☐	☐
HAWKINS	☑	☐	______	☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1:03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, J

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

STATEMENT BY THE PRESIDENT

Today I have signed into law S.J. Res. 6, a measure that repeals an unduly burdensome and overly broad regulation dealing with ergonomics. This is the first time the Congressional Review Act has been put to use. This resolution is a good and proper use of the Act because the different branches of our Government need to be held accountable.

There needs to be a balance between and an understanding of the costs and benefits associated with Federal regulations. In this instance, though, in exchange for uncertain benefits, the ergonomics rule would have cost both large and small employers billions of dollars and presented employers with overwhelming compliance challenges. Also, the rule would have applied a bureaucratic one-size-fits-all solution to a broad range of employers and workers -- not good government at work.

The safety and health of our Nation's workforce is a priority for my Administration. Together we will pursue a comprehensive approach to ergonomics that addresses the concerns surrounding the ergonomics rule repealed today. We will work with the Congress, the business community, and our Nation's workers to address this important issue.

THE WHITE HOUSE,

March 20, 2001.

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Dianne M. Wells 03/16/2001 09:49:47 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: James J. Jukes/OMB/EOP@EOP, Ingrid M. Schroeder/OMB/EOP@EOP

Subject: Attached is the OMB approved Signing Statement for S.J.Res. 6 - Disapproval of Ergonomics Regulation

sjr6ss.wpd

Message Sent To:

G. Timothy Saunders/WHO/EOP@EOP
David E. Kalbaugh/WHO/EOP@EOP
William W. McCathran/WHO/EOP@EOP
Sherman A. Williams/WHO/EOP@EOP
Edwin R. Thomas III/WHO/EOP@EOP
Wanda M. Evans/WHO/EOP@EOP
Harriet Miers/WHO/EOP@EOP
John Gardner/WHO/EOP@EOP

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD N/C	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE ok	☑	☐
ROVE	☑	☐	LINDSEY (concur per Jeannie)	☑	☐
BOLTEN ok	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES (see comments)	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1: 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

<u>Provisions of S.J.Res. 6</u>

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

<u>Agency Views</u>

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐	____	☐	☐
CALIO	☑	☐	____	☐	☐
FLEISCHER	☐	☑	____	☐	☐
GONZALES	☑	☐	____	☐	☐
HAWKINS	☑	☐	____	☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCERNENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐	____	☐	☐
CALIO	☑	☐	____	☐	☐
FLEISCHER	☐	☑	____	☐	☐
GONZALES	☑	☐	____	☐	☐
HAWKINS	☑	☐	____	☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED BILL [illegible] IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1:03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

JG

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐	________	☐	☐
CALIO	☑	☐	________	☐	☐
FLEISCHER	☐	☑	________	☐	☐
GONZALES	☑	☐	________	☐	☐
HAWKINS	☑	☐	________	☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Clark–
OK. see minor edit.
Thx, [illegible] 3/16

3/16/01
copies sent
to Clerk

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PH : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, J

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3100
CONNECTION TEL	66212
CONNECTION ID	
ST. TIME	03/16 10:35
USAGE T	02'09
PGS. SENT	5
RESULT	OK

Document No. ________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐	______	☐	☐
CALIO	☑	☐	______	☐	☐
FLEISCHER	☐	☑	______	☐	☐
GONZALES	☑	☐	______	☐	☐
HAWKINS	☑	☐	______	☐	☐

REMARKS:

Please forward your comments directly to this office

Document No. ________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

03/16/01 FRI 10:21 FAX 001

****
*** TX REPORT ***
****

TRANSMISSION OK

TX/RX NO	3099
CONNECTION TEL	53174
CONNECTION ID	
ST. TIME	03/16 10:18
USAGE T	03'11
PGS. SENT	5
RESULT	OK

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCERNCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED BILL [redacted] IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1:03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ______________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

01 MAR 16 P1:41

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	✓	☐	IRASTORZA	☐	☐
CARD	✓	☐	JOHNSON	☐	☐
HUGHES	✓	☐	LA MONTAGNE	✓	☐
ROVE	✓	☐	LINDSEY	✓	☐
BOLTEN	✓	☐	MIERS	☐	✓
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	✓	CLERK	☐	✓
BLAKEMAN	☐	☐		☐	☐
CALIO	✓	☐		☐	☐
FLEISCHER	☐	✓		☐	☐
GONZALES	✓	☐		☐	☐
HAWKINS	✓	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED BILL [redacted] IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1: 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

ID#
PAGE 1

DATE RECEIVED: 3/16/01

NAME OF CORRESPONDENT: Staff Secretary   01 MAR 16 P2:40

SUBJECT: S.J. Res. 6 - Disapproving the Dept. of Labor's Ergonomics Regulation and Draft Signing Statement

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION CODE	ACTION DATE YY/MM/DD	DISPOSITION TYPE RESP	C D	COMPLETED YY/MM/DD
CUGONZ	A	3/16/01		~~B~~	3/19/01
ACTION COMMENTS:					NOON
CUATO7	A	3/16/01			/ /
ACTION COMMENTS:					
		/ /			/ /
ACTION COMMENTS:					
		/ /			/ /
ACTION COMMENTS:					

COMMENTS As marked. Helg Waller 6/3/01

ADDITIONAL CORRESPONDENTS: **MEDIA:**

ACTION CODES:
A - APPROPRIATE ACTION
C - COMMENT/RECOMMENDATION
D - DRAFT RESPONSE
F - FURNISH FACT SHEET
I - INFO COPY/NO ACT NECESSARY
R - DIRECT REPLY W/ COPY
S - FOR SIGNATURE

DISPOSITION CODES:
A - ANSWERED
B - NON-SEPC-REFERRAL
C - COMPLETED
S - SUSPENDED

OUTGOING CORRESPONDENCE:
TYPE RESP = INITIALS OF SIGNER
CODE = A
COMPLETED = DATE OF OUTGOING

REFER QUESTIONS AND ROUTING UPDATES TO RECORDS MANAGEMENT (ROOM 72, OEOB) EXT 6-2590.
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS MANAGEMENT.

Helgi

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	✓	☐	IRASTORZA	☐	☐
CARD	✓	☐	JOHNSON	☐	☐
HUGHES	✓	☐	LA MONTAGNE	✓	☐
ROVE	✓	☐	LINDSEY	✓	☐
BOLTEN	✓	☐	MIERS	☐	✓
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	✓	CLERK	☐	✓
BLAKEMAN	☐	☐		☐	☐
CALIO	✓	☐		☐	☐
FLEISCHER	☐	✓		☐	☐
GONZALES	✓	☐		☐	☐
HAWKINS	✓	☐		☐	☐

REMARKS:
Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

01 MAR 16 P3:51

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1: 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

<u>Provisions of S.J.Res. 6</u>

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

<u>Agency Views</u>

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, J

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 **ACTION / CONCURRENCE / COMMENT DUE BY:** 3/19/01 NOON

01 MAR 19 A10:52

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

OK - jic

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1: 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ______________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

01 MAR 19 AM 10: 52

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE: okay

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	[Memorandum re: S. J. R. 6] - To: Harriet E. Miers, Staff Secretary - From: Neil Patel, Staff Secretary OVP	1	03/19/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCERNING / COMMENT DUE BY: 3/19/01 NOON

01 MAR 19 AM 11:35

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

No comment

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM 1: 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, J

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

S.J.Res.6

OFFICE OF THE EXECUTIVE CLERK
TRACKING SHEET FOR PRESIDENTIAL DOCUMENTS

TITLE: Disapproval of Department of Labor Ergonomics Regulation LDA 3/21/2001

TYPE DOCUMENT:

PROCLAMATION	LETTER(S)
EXECUTIVE ORDER	MESSAGE TO THE CONGRESS/SENATE
MEMORANDUM	STATEMENT BY THE PRESIDENT
DECISION MEMORANDUM	SIGNING STATEMENT
DETERMINATION (numbered)	TREATY/CONVENTION/AGREEMENT, etc.

OTHER: ______

RECEIVED:
(Advance: __/__/01 Time: ____ a.m./p.m.)
In final: 3/16/01 3/20 Time: 9:44 8 a.m./p.m. a.m.

SENT TO CORRESPONDENCE FOR TYPING IN FINAL:
(Advance: __/__/01 Time: ____ a.m./p.m.)
In final: 3/16/01 3/20 Time: 10:00 8 a.m./p.m. a.m.

TO HARRIET MIERS' OFFICE:
(For staffing: __/__/01 Time: ____ a.m./p.m.)
In final: __/__/01 Time: ____ a.m./p.m.

*INFO, INCLUDING STENCIL AND DISC, TO PRESS OFFICE:
Date: 3/20/01 Time: 4:10 a.m./p.m.
POSTED: __/__/01 Time: 4:33 a.m./p.m.

NOTIFICATIONS:

______ (Person/time) NSC (#____), when appropriate -- Desk Officer; W.H. Situation Room -- x6-9425.

______ (Person/time) ______ (Other)

______ (Person/time) ______ (Other)

______ (Person/time) ______ (Other)

OTHER INFORMATION:

One Hundred Seventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Wednesday, the third day of January, two thousand and one

Joint Resolution

Providing for congressional disapproval of the rule submitted by the Department of Labor under chapter 8 of title 5, United States Code, relating to ergonomics.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Department of Labor relating to ergonomics (published at 65 Fed. Reg. 68261 (2000)), and such rule shall have no force or effect.

Dennis Hastert

Speaker of the House of Representatives.

Strom Thurmond

~~*Vice President of the United States and*~~
President of the Senate. pro Tempore

APPROVED
MAR 2 0 2001

George Bush

THE WHITE HOUSE
WASHINGTON

Harriet,

I wouldn't worry about this at this point. OMB is just trying to do an interagency clearance of a signing statement on this bill. Their final version will come over with the enrolled bill memo, and then we can staff to WH staff.

JB.
3/13

3-19-01
Harriet Miers
has seen
Carol.

Transmission via Facsimile

OFFICE OF THE VICE PRESIDENT

Phone: (202) 456-9000 **Fax: (202) 456-6212**

Date: 3/13/01 **Time:** 7:15 pm

To: Harriet Meyers

Fax Number: 62215

From: Jenny Mayfield

Number of Pages, Including Cover Sheet: 5

Message:

This came via Scooter's email. I am not sure what to do with it. Did it already go through staffing?

JM
69000

From: P. Thaddeus Messenger on 03/13/2001 05:44:21 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: See the distribution list at the bottom of this message

Subject: LRM PTM6 - - LABOR Signing Statement on SJR6 Joint Resolution of Disapproval of Ergonomics Regulation

The following is LRM ID PTM6 regarding the **signing statement for S.J.Res. 6**.

The signing statement is attached below, in WordPerfect format, and contains one (1) page.

Please provide comments on the signing statement by **1100, TOMORROW, Wednesday 14 March 2001**.

If we do not hear from you by the deadline, we will assume you have no objection to the signing statement as presented.

AGENCIES: This email follows the faxed version received earlier today.

Regards,
Thad Messenger
Legislative Analyst
202-395-7754

Ergosigning.wp

==

LRM ID: PTM6

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, March 13, 2001

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Ingrid M. Schroeder (for) Assistant Director for Legislative Reference

OMB CONTACT: P. Thaddeus Messenger
E-Mail: P._Thaddeus_Messenger@omb.eop.gov
PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: **LABOR Signing Statement on SJR6 Joint Resolution of Disapproval of Ergonomics Regulation**

DEADLINE: **1100 Wednesday, March 14, 2001**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS:

DISTRIBUTION LIST

AGENCIES:
062-LABOR - Robert A. Shapiro - (202) 693-5500
025-COMMERCE - Michael A. Levitt - (202) 482-3151
052-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7773
061-JUSTICE - Sheryl Walter - (202) 514-2141
107-Small Business Administration - Karen Hontz - (202) 205-6700
076-National Economic Council - John Ackerly - (202) 456-2800

EOP:
Cesar Conda
Nancy P. Dorn
Lewis Libby
Carlos E. Bonilla
Lewis Libby
Ansley C. Tillman
James C. Capretta
Augustine T. Smythe
Jay P. Lefkowitz
Steven D. Aitken
Eric C. Pelletier
Donald R. Arbuckle
Larry R. Matlack
John F. Morrall III
Maureen Walsh
Stuart Shapiro
Katrina A. McDonald
Melissa N. Benton
Thomas Reilly
Frank J. Seidl III
Melany Nakagiri-Yeung
David J. Haun
Randolph M. Lyon
Yvette M. Dennis
Ziad S. Ojakli
Anne E. Phelps
Jennifer J. Wood
Danielle M. Simonetta

LRM ID: PTM6 **SUBJECT:** LABOR Signing Statement on SJR6 Joint Resolution of Disapproval of Ergonomics Regulation

==

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: **P. Thaddeus Messenger Phone: 395-7754 Fax: 395-6148**
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________________ **(Date)**

______________________________ **(Name)**

______________________________ **(Agency)**

______________________________ **(Telephone)**

The following is the response of our agency to your request for views on the above-captioned subject:

______ **Concur**

______ **No Objection**

______ **No Comment**

______ **See proposed edits on pages** __________

______ **Other:** ______________________________

______ **FAX RETURN of** _____ **pages, attached to this response sheet**

Message Sent To:

dol-sol-leg@dol.gov @ inet
clrm@osec.doc.gov @ inet
lrm@os.dhhs.gov @ inet
justice.lrm@usdoj.gov @ inet
cla@sba.gov @ inet
NEC LRM

Message Copied To:

Cesar Conda/OVP/EOP@EOP
Nancy P. Dorn/WHO/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Carlos E. Bonilla/OPD/EOP@EOP
Lewis Libby/OVP/EOP@EOP
Ansley C. Tillman/WHO/EOP@EOP
James C. Capretta/OMB/EOP@EOP
Augustine T. Smythe/OMB/EOP@EOP
Jay P. Lefkowitz/OMB/EOP@EOP
Steven D. Aitken/OMB/EOP@EOP
Eric C. Pelletier/OMB/EOP@EOP
Donald R. Arbuckle/OMB/EOP@EOP
Larry R. Matlack/OMB/EOP@EOP
John F. Morrall III/OMB/EOP@EOP
Maureen Walsh/OMB/EOP@EOP
Stuart Shapiro/OMB/EOP@EOP
Katrina A. McDonald/OMB/EOP@EOP
Melissa N. Benton/OMB/EOP@EOP
Thomas Reilly/OMB/EOP@EOP
Frank J. Seidl III/OMB/EOP@EOP
Melany Nakagiri-Yeung/OMB/EOP@EOP
David J. Haun/OMB/EOP@EOP
Randolph M. Lyon/OMB/EOP@EOP
Yvette M. Dennis/OMB/EOP@EOP
Ziad S. Ojakli/WHO/EOP@EOP
Anne E. Phelps/OPD/EOP@EOP
Jennifer J. Wood/OMB/EOP@EOP
Danielle M. Simonetta/OMB/EOP@EOP

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release March 20, 2001

STATEMENT BY THE PRESIDENT

Today I have signed into law S.J. Res. 6, a measure that repeals an unduly burdensome and overly broad regulation dealing with ergonomics. This is the first time the Congressional Review Act has been put to use. This resolution is a good and proper use of the Act because the different branches of our Government need to be held accountable.

There needs to be a balance between and an understanding of the costs and benefits associated with Federal regulations. In this instance, though, in exchange for uncertain benefits, the ergonomics rule would have cost both large and small employers billions of dollars and presented employers with overwhelming compliance challenges. Also, the rule would have applied a bureaucratic one-size-fits-all solution to a broad range of employers and workers -- not good government at work.

The safety and health of our Nation=s workforce is a priority for my Administration. Together we will pursue a comprehensive approach to ergonomics that addresses the concerns surrounding the ergonomics rule repealed today. We will work with the Congress, the business community, and our Nation=s workers to address this important issue.

GEORGE W. BUSH

THE WHITE HOUSE,
March 20, 2001.

# # #

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	03/20/2001	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3/16/01 ACTION / CONCURRENCE / COMMENT DUE BY: 3/19/01 NOON

Subject: S.J. RES. 6 -- DISAPPROVING THE DEPARTMENT OF LABOR'S ERGONOMICS REGULATION AND DRAFT SIGNING STATEMENT

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☐	☑	CLERK	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☐	☑		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:

Please forward your comments directly to this office no later than noon, Monday, March 19. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

OMB ENROLLED
BILL [redacted]
IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 PM : 03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

<u>Last Day for Action</u>

March 21, 2001 - Wednesday

<u>Purpose</u>

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

<u>Agency Recommendation</u>

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

<u>Discussion</u>

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

<u>Provisions of S.J.Res. 6</u>

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

<u>Agency Views</u>

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, Jr.

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3-16-01 ACTION / CONCERNMENT / COMMENT DUE BY: 3-16-01 2:00 PM

Subject: TALKING POINTS FOR THE PRINCIPALS FOR MEETING WITH THE NATIONAL ENERGY POLICY DEVELOPOMENT GROUP

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☑	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☑	☐	RICE	☐	☐
DANIELS	☑	☐	____________	☐	☐
BLAKEMAN	☐	☐	____________	☐	☐
CALIO	☑	☐	____________	☐	☐
FLEISCHER	☑	☐	____________	☐	☐
GONZALES	☑	☐	____________	☐	☐
HAWKINS	☑	☐	____________	☐	☐

REMARKS:
PLEASE FORWARD YOUR COMMENTS DIRECTLY TO MARY MATALIN, EXTENSION 69042, AND SEND A COPY TO THE STAFF SECRETARY. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

LEADERSHIP

01 MAR 16 A 9:49

"America must have an energy policy that plans for the future, but meets the needs of today. I believe that we can develop our natural resources and protect our environment. We are paying a steep price for seven and a half years without an energy policy."
George W. Bush

- **We inherited this problem that can't be solved overnight.** Almost a decade of neglect has taken its toll and we are paying the price for having taken our energy supply for granted.

- President Bush understands that ensuring **US energy security requires presidential leadership** and a comprehensive energy policy.

- The President's policy will **protect American families, act responsibly toward the environment and give businesses the certainty** they need to help spur economic growth.

- The President established the **National Policy Development Group** to make realistic recommendations for a comprehensive energy policy to **promote dependable, affordable and environmentally sound production and distribution of energy** in the future.

- The President knows the energy situation presents significant challenges but will work with the public and private sectors on realistic solutions to a problem that is finding it's way into every home. **Complacency about our national energy policy must yield to action and make it an urgent priority.**

THE COMING ENERGY CRISIS: A LEGACY OF NEGLECT

In recent years, the federal government has failed to develop a comprehensive energy policy. The prior Administration followed a policy of taxing demand, limiting supply and ignoring the rapidly expanding needs of the future.

Nearly a decade of neglect has taken its toll.

- **In the coming years, America will face a major energy supply crisis.**

  Supply crisis is not due to a lack of resources but rather a result of governmental policies that prohibited exploration, constrained development and restricted access.

- **Three main facts define the challenge of our energy needs:**

  Demand for energy is rising rapidly – particularly for natural gas and electricity.

  Supplies are limited by a regulatory structure that has not kept pace with technology.

  Our energy infrastructure (electric generators, transmission lines, pipelines, and refineries) is antiquated and fails to meet our needs.

- **Demand for energy resources could outstrip supply by 2020 unless action is taken.**

  <u>**Oil**</u>

  Demand for oil will grow by 1/3 in 2020. While demand is surging, domestic production of oil continues to drop precipitously. We produce 39% less today than we did in 1970. By 2020, we will only produce approximately ½ of what we produced in 1970.

  The United States is reliant on foreign imports of oil. In 1973, we imported 36% of our oil. Today, we import 57% of our oil by 2020, imports will grow to 64%.

  Not one new refinery has been built in the United States in over 25 years. Since 1980, the number of refineries has been cut in half.

Natural Gas

Given present trends, **demand for natural gas is expected to rise 62% by 2020.** Nine out of ten new generating plants will use natural gas.

Dramatic increases in demand for natural gas will require an additional 38,000 miles of pipelines, and 225,000 miles of distribution lines at extraordinary cost.

Electricity

Over the next 20 years, **electricity demand will grow by 43%.** This surge in demand will require the addition of 1,300 to 1,900 new power plants just to keep pace with our growing demand.

We have an inadequate and antiquated transmission grid. Our transmission grid was not designed for a highly competitive market. Uncertainty in the industry, including regulatory uncertainty, has contributed to the lack of investment in new transmission lines.

Coal

Coal is our number one source of affordable energy. Over 52 percent of our electricity was generated by coal in 2000.

Coal is expected to remain the dominant fuel for electricity generation through 2020.

Ongoing regulatory uncertainty has discouraged the building of new coal-fired generators. In fact, there are none under construction today.

Nuclear

Nuclear is one of the cleanest sources of energy. However, there hasn't been a single new nuclear power permit granted since 1975. Many existing plants are not expected to file for renewals in the coming years.

Hydroelectric

This resource has also been declining. Relicensing of hydro facilities can take a decade and cost millions of dollars. The poor planning that has lead to energy shortages will result in overuse of hyrdoelectric facilities. Lower water in the reservoirs will wreck havoc on the summer salmon season and impact future returns for years to come.

ECONOMIC IMPACT

- **The lack of a national energy plan has escalated energy costs, hurting American families and businesses.**

  - **Natural gas prices are higher than they have ever been.** Gas wellhead prices were higher in 2000 at about $3.60 per thousand cubic feet (mcf) than anytime in our history and are expected to average between $4.00 and $5.00 per mcf in 2001.
  - **Gasoline is expected to rise** to $1.50/gallon and could peak at over $2/gallon in some regions of the country.

- **Higher energy prices are felt in every sector of the economy.**

  - **American families are hurt.** The high cost of energy is squeezing budgets as families are paying more to heat their homes in winter and cool them in summer, to drive their cars, and put food on the table.
  - **American business is hurt.** Businesses are deciding between making a profit or paying their utility bill.

    Soaring fuel prices in 1999 cost the economy more than $115 billion. Nearly 25% of the National Association of Manufacturer's 5,500 members indicated they had to curtail operations because of high fuel prices last winter. Almost 600 of their members reported laying off workers because of the energy situation.

    Disruptions in the delivery of electricity to Silicon Valley cause significant economic impacts. For Hewlett-Packard, a 20 minute outage in electrical service at one of their facilities costs a days production worth $30 million. Oracle Corporation reported that disruptions in electricity delivery cost them "millions of dollars an hour."

  - **America's farmers feel the brunt of an inadequate energy policy.** Higher energy prices translate into higher fertilizer costs, higher costs for irrigation and transportation. Farmers are likely to see their income drop 20% over the next 2 decades due to higher fuel and fuel-produced fertilizers. Some farmers will be faced with the difficult choice of prohibitively high-cost farming or letting their fields lie fallow.

- **The California Energy Crisis is destabilizing the regional economy.** Companies are moving to places with a more reliable source of energy or shutting down all together.

  - **Utility bills are rising by double digits in the Pacific Northwest** – 50 percent in Tacoma, up 28 percent in Seattle. Driven by California's impact on the interconnected grid, Idaho households are facing a 24 percent rate hike this Spring, with even greater increases if dry weather continues.

  - Power prices have forced aluminum smelters to shut down in Washington and Oregon.

  - Copper miner Phelps Dodge announced possible layoffs of 2,350 employees, citing rising energy costs.

  - Jet fuel supplies to Las Vegas and Phoenix from Los Angeles have been disrupted.

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3-15-01 ACTION / CONCURRENCE / COMMENT DUE BY: 3-19-01 10:00 AM

Subject: POPE JOHN PAUL II CULTURAL CENTER - MARCH 22, 2001

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☑	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☑	RICE	☑	☐
DANIELS	☑	☐	GERSON	☐	☑
BLAKEMAN	☐	☐		☐	☐
CALIO	☑	☐		☐	☐
FLEISCHER	☑	☐		☐	☐
GONZALES	☑	☐		☐	☐
HAWKINS	☑	☐		☐	☐

REMARKS:
Please forward comments directly to Mike Gerson, x60170, by Monday, March 19, no later than 10:00 a.m., with a cc to us. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Pope John Paul II Cultural Center
March 22, 2001
Draft #3

01 MAR 15 P3:35

Your Eminence, thank you. And let me congratulate you on becoming a Cardinal last month. Though we're both new to our jobs, only one of us is term-limited. I may just be passing through, and I may not be a parishioner, but I'm proud to live in your archdiocese.

Cardinal Maida [MIDE-uh], Cardinal Szocha [SHOCK-uh], I thank you for joining us as well. With us also are two others recently received into the College of Cardinals, Avery Cardinal Dulles, and Edward Cardinal Egan, the archbishop of New York. I'm pleased to join with all of the church leaders here today, members of the Catholic University community, and special guests, in dedicating this cultural center.

This summer I will go to Italy, for the G-7 summit of industrialized nations. There I hope to meet with John Paul the Second for the first time. A president talks with many leaders, and it is privilege. In this case, I look forward to meeting a leader whose name will still be familiar and celebrated when the next millennium turns.

Karol Wojtyla [Voy-TEE-wah] spoke here at Catholic University as the archbishop of Krakow in 1976. Few could have imagined what was soon to happen. At first glimpse, the world knew him only as the Polish Pope. One journalist, however, saw something different from the start. Hearing the new Pope's first papal blessing in Saint Peter's Square, he wired back to his editors: "This is not a Pope from Poland; this is a Pope from Galilee."

What has followed, and continues to this day, is one of the great, inspiring stories of our time. For 23 years, Pope John Paul the Second has guided the souls of the faithful, and at times guided history itself.

In those years, there have been so many unforgettable acts and images of courage and conscience.

We remember the Pope's first visit to Poland in 1979, when an oppressed people regained its voice in words of prayer, and the dominoes of imperial communism began to fall. The gentle young seminarian, once forced into slave labor by Nazis, became the foe of tyranny and a witness to hope. In the end, even the last leader of the Soviet Union would call him "the highest moral authority on earth."

We remember his visit to a prison, comforting the man who shot him. A victim of violence himself, the Pope became a symbol of forgiveness and reconciliation everywhere.

We remember the Pope's visit to Manila in 1995, speaking to the largest crowd in history – more than 5 million men, women and children. As a priest fifty years ago, he traveled by horse-cart to teach the children of small villages. Now he has kissed the ground of one hundred and ten countries, and leads a flock of one trillion into the Third Millennium.

John Paul himself has often said, "In the designs of Providence, there are no coincidences." Things happen for a reason. And maybe the reason this man became Pope is that he bears a message our world needs to hear.

To the poor, sick, and dying, he carries a message of dignity and solidarity with their suffering. Even when they are forgotten of men, he reminds them that they are never forgotten by God. "Do not give in to despair," he said in the South Bronx. "God has your lives in his care, goes with you, calls you to better things, calls you to overcome."

To the wealthy, this Pope carries a message that wealth alone is a false comfort. The goods of the world, he teaches, are nothing without goodness. We are called, each one of us, not only to make our own way, but to ease the path of others.

To those with power, the Pope carries a message of justice. He champions labor against exploitation. He champions family bonds against selfishness. He champions human rights against oppression. And in his bold defense of human dignity, he shows a different kind of power. It is not the influence of armies or technology or wealth. It is the influence of unarmed truth and enduring hope. It is the unexpected power of a child in a stable, of a man on a cross, of a simple fisherman who carried a message of hope to Rome.

Pope John Paul II brings that message of liberation to every corner of the world. When he arrived in Cuba in 1998, he was greeted by signs that read: "Fidel is the Revolution!" But as the Pope's biographer put it, "For the next four days, Cuba belonged to another revolutionary." I am confident that the revolution of faith the Pope began in that nation will bear fruit in our time.

Yet we, in our country, must not ignore the words the Pope addresses to us. On his four pilgrimages to America, he has spoken with wisdom and feeling about our strengths and our flaws, our successes and our needs.

The Pope reminds us that while freedom defines our Nation, responsibility must define our lives. He reminds us that moral values make ordered liberty possible. He challenges us to live up to our aspirations – to be a fair and just society, where all are welcome, all are valued, and all are protected. And he is never more eloquent than when he speaks for a culture of life.

A culture of life is a welcoming culture – never excluding, never dividing, never despairing, and holding dear the goodness of life in all its seasons. In a culture of life we must make room for the stranger. We must comfort the sick. We must care for the aged. We must welcome the immigrant. We must teach our children to be gentle with one another. We must defend and love the young mother, and her blameless child waiting to be born.

The Center we dedicate today stands for the Pope's message – its comfort, and its challenge. This place stands for the dignity of the human person, the value of every life, and the splendor of truth. And, above all, it stands, in the Pope's words, for the "joy of faith in a troubled world." I am grateful that Pope John Paul the Second chose Washington as the site of this center. It brings an honor, and it fills a need.

We are thankful for the message. And we are thankful for the messenger: for his personal warmth and prophetic strength; for his good humor and his bracing honesty; for his spiritual and intellectual gifts; and for his moral courage – tested against tyranny, and against our own complacency.

Always, the Pope points us to the things that last, and the love that saves. We thank God for this rare man – a servant of God and a hero of history. And I thank all of you for building this center of conscience and reflection in our Nation's capital.

God bless you all.

Document No. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 3-15-01 ACTION / CONCURRENCE / COMMENT DUE BY: 2-15-01 6:00 PM

Subject: SUGGESTED SMALL BUSINESS NEWSMAKING ANNOUNCEMENT TOPPER

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	IRASTORZA	☐	☐
CARD	☑	☐	JOHNSON	☐	☐
HUGHES	☑	☐	LA MONTAGNE	☑	☐
ROVE	☑	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MIERS	☐	☑
HAGIN	☐	☐	RICE	☐	☐
DANIELS	☑	☐	GERSON	☐	☐
BLAKEMAN	☐	☐	____________	☐	☐
CALIO	☑	☐	____________	☐	☐
FLEISCHER	☐	☑	____________	☐	☐
GONZALES	☑	☐	____________	☐	☐
HAWKINS	☑	☐	____________	☐	☐

REMARKS:

Please forward comments directly to Mike Gerson, x60170, by 6:00 PM TONIGHT, with a cc to us. Thanks.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Suggested Small Business Newsmaking Announcement Topper
March 16, 2001
Draft #3

01 MAR 15 P3:48

The Treasury Department released a report earlier today on the impact of my economic plan. According to the Treasury Department, nationwide more than 17.4 million small business owners and entrepreneurs stand to benefit from the cut in marginal tax rates.

To appreciate the real-world impact my plan will have, let me cite just three states:

- Patsy Nathe, in your state of Florida, more than 1 million small businesses and entrepreneurs would benefit from my plan.
- Denise Fugo, in your state of Ohio, more than 630,000 small businesses and entrepreneurs would benefit from my plan.
- And Brad Drake, in your state of South Dakota, 55,000 small businesses and entrepreneurs would benefit from my plan.

This is very encouraging news. I've directed this information to be distributed throughout the federal government, to your organization, and across the country. It's been said that facts are stubborn things. Well, the economic facts are all stubbornly on our side -- and I want the American public to know about them.

All across America, creative people are opening new restaurants, starting specialty manufacturing firms, and leaving big accounting firms to strike out on their own. These are American risk-takers and entrepreneurs. I have tremendous admiration for what they're doing. And my Administration is standing with them and not against them. We are committed to making their lives easier, not harder.

Because we have to edit these with others comments and in the process — creating these copies appears a big waste —

Is there a contra view?

Just trying to let you know what's in staffing.

OMB ENROLLED BILL [redacted] IS HERE

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 15, 2001

01 MAR 15 P11:03

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Resolution S.J.Res. 6 - Disapproving the Department of Labor's Ergonomics Regulation
Sponsors - Senator Nickles (R) Oklahoma and 3 cosponsors

Note the President will be in Orlando]
take to Staff Mtg

Last Day for Action

March 21, 2001 - Wednesday

Purpose

Overturns the Department of Labor's (DOL's) "ergonomics" regulation regarding injuries caused by repetitive motion and overexertion, and restricts DOL from issuing a substantially similar regulation in the future.

Agency Recommendation

Office of Management and Budget	Approval (Signing statement attached)
Department of Labor	Approval
Small Business Administration (SBA)	Approval
Department of Justice	No objection (Informally)
Department of Commerce	No comment (Informally)
Department of Health and Human Services	No comment (Informally)

Discussion

The Congressional Review Act of 1996 (P.L. 104-121) established a process by which Congress can disapprove an Executive Branch regulation. The disapproval process requires that Congress pass a Joint Resolution of Disapproval (JRD) through both houses, and it be signed by the President, or become law through a congressional override of a presidential veto. Enactment of a JRD also limits the subject agency's authority to issue a new regulation that is "substantially the same" unless such authority is expressly reinstated by a subsequent Act of Congress.

On November 14, 2000, the DOL's Occupational Safety and Health Administration (OSHA) issued a final ergonomics program standard, which took effect January 16, 2001. The standard requires employers to create programs to reduce work-related injuries arising from risk factors like repetitive motion or overexertion (technically called "musculoskeletal disorders", or MSDs). Beginning in October 2001, the regulation would require all employers to provide information to their employees on MSDs and how to report them.

Once an employee has reported a covered MSD, employers would have to establish an ergonomics program that includes: (1) management leadership and employee involvement; (2) identification and reduction of MSD hazards in the injured employee's job; (3) free access for the injured employee to a health care professional; (4) training for supervisors and employees in the injured employee's job; (5) periodic evaluation of the ergonomics program; and (6) a system to record injuries and steps taken to comply with the rule.

In cases where a health care professional recommends work restrictions for the injured employee, the rule would require the employer to maintain the worker's wages and benefits for up to 90 days. Employees who are on a restricted work schedule due to an MSD must be compensated at 100 percent of pay and benefits, while workers who cannot work at all due to a work-related MSD must be compensated at 90 percent of pay and full benefits. Employers with ergonomics programs in place before January 16, 2001, would be "grandfathered" into compliance with the standard only if their programs included the major required elements, including compensation for injured workers, as described above. The regulations would affect about 102 million workers at about 6 million work sites, notably excepting those in construction, maritime, railroad and agriculture. OSHA estimated that the rule would prevent several million MSDs over ten years following implementation, and would cost employers $4.5 billion per year. A number of outside analyses assert that the cost estimate was unrealistically low.

Provisions of S.J.Res. 6

S.J.Res. 6 would disapprove, and thereby nullify, DOL's ergonomics rule. In addition, enactment of this resolution would restrict DOL's authority to issue future ergonomics regulations that are "substantially the same" as the overturned regulation, unless Congress enacts a statute that expressly authorizes such a regulation. S.J.Res. 6 is the first disapproval resolution that Congress has passed under the Congressional Review Act.

Agency Views

DOL advises that "work-related musculoskeletal disorders are a significant problem," but recommends approval of S.J.Res. 6 because of concerns with the existing rule. Labor notes that the existing regulation could "cost employers significantly more than the OSHA estimate, provide uncertain benefits, and could pose overwhelming compliance challenges because of vague or cumbersome provisions." The Department also cites concerns that "the standard does more to address ergonomic injuries after they occur, rather than protecting employees from potential hazards."

SBA recommends approval of S.J.Res. 6 because the current regulation "could cost small business employers billions of dollars annually while providing uncertain benefits." However, "SBA would support regulations that protect employees but which do not impose unreasonable burdens on small business."

Conclusion and Recommendations

We join DOL and SBA in recommending approval of S.J.Res. 6, which passed the Senate by a vote of 56-44, and the House by a vote of 223-206. Attached for your consideration is a signing statement based on language provided by DOL. The signing statement notes that the enrolled bill invalidates an "unduly burdensome regulation" and saves large and small business owners from facing "overwhelming compliance challenges." The draft signing statement was reviewed by the Departments of Labor, HHS, Commerce, and Justice, and the SBA, National Economic Council staff, the White House Counsel's Office, and this Office.

M. E. Daniels, J

Mitchell E. Daniels, Jr.
Director

Enclosures

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
03/20/2001 [S. J. R. 6]

FRC ID:
778

OA Num.:
729

NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Statement	[Draft - Signing Statement re: S. J. R. 6]	1	N.D.	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of The
SERIES:
Saunders, G. Timothy (Tim) - Bill Files
FOLDER TITLE:
03/20/2001 [S. J. R. 6]
FRC ID:
778
OA Num.:
729
NARA Num.:
1455

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 5/14/2012 by TDF