transmitting, pursuant to law, the report of a rule entitled ''Amendments to the International Traffic in Arms Regulations''; to the Committee on Foreign Relations.

EC–1947. A communication from the Director of the Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, a rule affecting representation and appearances by law students and law graduates (RIN1125–AA16) received on May 14, 1997; to the Committee on the Judiciary.

EC–1948. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, a rule entitled ''Postsecondary Education Programs for Inmates'' (RIN1120–AA35) received on May 7, 1997; to the Committee on the Judiciary.

EC–1949. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1996; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ENZI (for himself, Mr. ALLARD, Mr. BURNS, Mr. CRAIG, Mr. HAGEL, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS, and Mr. HUTCHINSON):

S. 765. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Ms. MIKULSKI, Mr. CHAFEE, Mr. DURBIN, Ms. COLLINS, Mrs. MURRAY, and Mr. JEFFORDS):

S. 766. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans; to the Committee on Labor and Human Resources.

By Mr. GREGG (for himself and Mr. GRAMM):

S. 767. A bill to clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexuality Violent Offender Registration Act; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. DODD, Mr. ABRAHAM, Mr. TORRICELLI, Mrs. BOXER, Mr. BIDEN, and Mr. DEWINE):

S. 768. A bill for the relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. TORRICELLI, Mr. KERRY, Mrs. BOXER, Mr. GRAHAM, Mr. WELLSTONE, and Mr. KENNEDY):

S. 769. A bill to amend the provisions of the Emergency Planning and Community Right-To-Know Act of 1986 to expand the public's right to know about toxic chemical use and release, to promote pollution prevention, and for other purposes; to the Committee on Environment and Public Works.

By Mr. NICKLES:

S. 770. A bill to encourage production of oil and gas within the United States by providing tax incentives, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAGEL (for himself, Mr. KERRY, Mr. CLELAND, Mr. KERRY, Mr. MCCAIN, Mr. ROBB, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DASCHLE, Mr. DEWINE, Mr. DODD, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KEMPTHORNE, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SESSIONS, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. TORRICELLI, and Mr. WARNER):

S. Res. 87. A resolution commemorating the 15th anniversary of the construction and dedication of the Vietnam Veterans Memorial; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ENZI (for himself, Mr. ALLARD, Mr. BURNS, Mr. CRAIG, Mr. HAGEL, Mr. MCCONNELL, Mr. ROBERTS, Mr. SESSIONS, Mr. THOMAS and Mr. HUTCHINSON):

S. 765. A bill to amend the Occupational Safety and Health Act of 1970 to further improve the safety and health of working environments, and for other purposes; to the Committee on Labor and Human Resources.

THE SAFETY AND HEALTH ADVANCEMENT ACT

Mr. ENZI. Mr. President, I am very pleased and proud to rise and speak in support of S. 765, the Safety and Health Advancement Act that I have sponsored.

I thank all of the people who have been involved in the process of coming up with an OSHA modernization bill. You notice I mentioned modernization, not reform.

There have been a lot of people involved in this. My colleagues, my staff members, and over 50 organizations have been involved in reviewing suggestions that we have had for modernizing the OSHA process.

Over the last 6 years, there have been bills introduced by both Republicans and Democrats that wound up on the great scrap heap of unfinished business because they have been put in to make a statement, a political statement.

For every time that a bill is put into committee, there is a committee report, an 8½ by 5½ inch booklet that lists a paragraph-by-paragraph analysis of the bill, the majority opinion, the minority opinion, every amendment that has been suggested for the bill, and how people voted on it.

We have gone back through the last 6 years of those bills, and we found on the issues that there seem to be common ground, and we have put those in the bill. We have looked for the issues that were conscientious that were dividing, and we found some new approaches for some of those things.

We have not been able to address everything. But we have a bill that will help to move small business forward, that will give small business a better chance to have safety in the workplace for their workers.

That is the main point of this bill.

Again, I thank all of the people who have helped me on it, and I look forward to working with everybody on what I think will be a very reasonable approach that can go through both bodies and help out the workers in the workplace.

For 6 year's Members on both sides of the aisle have seen the need for modernization. Unfortunately, its been approached each year as reform—and often as drastic reform. Big business and big union have seen the bills as an opportunity to make a statement—a political statement. The workers and small business have needed some clarification and a lot of help that has gotten lost in the statements. The issue of workplace safety and health is extremely important to a healthy America. Advancing safety and health in the American workplace is a matter of great importance and it must be considered in a serious and rational manner by Congress, by the Occupational Safety and Health Administration, by employers, and yes, by employees too. This bill is overdue, common sense legislation.

When I began my service on the Senate Labor and Human Resources Committee, I was surprised to discover the volume of documentation and resources available to us and our staffs. Each time a bill is reported out of committee, a 5½- by -8½ booklet is made available to us that lists every detail about that bill—a luxury I never had when I served in the Wyoming State Legislature. Included in that booklet is a paragraph by paragraph analysis of the bill, with a majority and a minority opinion on each section. It shows every amendment, discusses them at length and reports who voted for and against them in committee. With this abundance of committee reports, I felt like a kid in a candy store. I just picked up 6 year's worth of OSHA bills and began reading. Surprisingly enough, I found that the things that business and labor needed to have done were pretty commonly agreed upon as necessary. Just the politicized statements separated the two sides.

The fate of each bill was determined when such statements reared their ugly heads and squelched any chance of improving the safety and health of

America's workplaces. Each year, legislators in the House and Senate introduce bills that appeal to a wide variety of special interests—setting the stage for a lot of mudslinging. These bills contained good ideas, but they eventually toppled from a barrage of political attacks—tossing them all onto the great scrap heap of Congress' unfinished business. It just goes to show that people who sling mud, lose ground. I found that both big businesses and big unions have made a lot of statements over the years, but statements don't become law and they certainly don't change things. Good legislation becomes law. It is time that we tuck the statements back into our coat pockets and start passing some common sense legislation that advances the safety and health of the American workplace.

We all want a healthy and safe workplace. Legislation should therefore revolve around not what we want, but how to get there in a manner that is fair and equitable to all. There is no room for politics in the arena of human life. For this reason, I spent the last 14 weeks pouring the foundation for a new, comprehensive OSHA bill. This foundation does not consist of cement, but something stronger—the thoughts, suggestions and good ideas of employees, employers, and the individuals that govern them. I want to be clear that this bill does not include all the concerns of every interested party, but I do believe that it constitutes an important first step.

This bill sticks to a theme— ''the advancement of safety and health in the workplace.'' I am proud to say that it has been crafted to promote and enhance workplace safety and health—rather than dismantle it. We are addressing an issue that affects people from all walks of life. It is essential that we take each step with care.

To be successful and effective, a well-crafted bill must provide incentives for employers and employees to act more responsibly. We need to make the profit motive work for worker safety, not against it. This spirit of cooperation must overpower political polarization if true improvements are to be achieved. OSHA must recognize that the vast majority of employers are not heartless and cruel. Having played the wage payer role for over 26 years, I take great offense when employers are characterized as Ebenezer Scrooges or Simon Legrees. The majority of employers cherish their most valuable assets—their employees. It is truly misleading and deceptive for anyone to say otherwise. For without the employee, management will ultimately have no staff, no profits—and no business. Watching out for employees is just good business

When the Occupational Safety and Health Act was enacted 27 years ago, its intended purpose was to make the workplace free from ''recognized hazards that are causing, or likely to cause death or serious physical harm to . . . employees.'' As is the case with many programs established by Congress over the years, OSHA strayed from its original mission of protecting people from occupational safety and health hazards through preventative measures. The focus has instead been heavily weighted toward and concentrating on penalties and enforcement. OSHA should retain the ability to punish employers who don't embrace workplace safety and health, but it should reward those who do. The carrot and stick approach has always worked before, but OSHA prefers using the stick by itself—and they rarely walk softly. I want to be clear that this bill does not dismantle OSHA's enforcement capabilities. That approach has been tried time and time again. But, enforcement alone cannot ensure the safety of our Nation's workplaces and the health of our working population. America would be better served by an OSHA that places a greater emphasis on promoting employers and employees working together and this bill would strike that balance.

To continue the course set by Congress' original intent back in 1970, consultative services must be drastically expanded. My bill calls for that. Studies have shown that many sites where serious workplace accidents have occurred were not inspected by Federal OSHA inspectors for several years prior to the accident. This lack of attention to potential problem areas is due in part to an overemphasis on enforcement. If just the inspectors are working on safety, you can't possibly have enough inspectors. Everyone has to be involved. My legislation will allow OSHA greater flexibility in allocating its resources so it can give the most serious workplace problems its highest priority and most careful attention.

This bill advances safety and health by allowing employers to actively promote employee/employer discussions concerning occupational safety and health hazards. Voluntary compliance by employers would be encouraged as part of the solution, not as part of the problem—as part of the prevention, not as part of the penalty. Employers would have the option of implementing an alcohol and substance abuse testing program in order to ensure a safe workplace. I have had the opportunity to see first hand the benefits of this type of program. I have been tested and given tests and I know about validity and dignity. Employees would be held accountable for misconduct in a site that has been determined by OSHA to be in compliance with existing regulations. Employees have the ultimate control as to whether safety toes, hard hats or safety goggles are worn. Employers would receive incentives from OSHA for utilizing the services of third party consultants. Moreover, continuing education and professional certification for OSHA consultants and inspectors would be required to ensure that the rapid advancement of technology doesn't surpass OSHA's ability to identify occupational safety and health hazards in the workplace.

Not only have 6 years of OSHA proposals been reviewed, Meetings have been held with over 50 interested groups from the National Federation of Independent Businesses to the AFL-CIO. Contact has been made and some explanation given to every member of the Labor Committee. All suggestions received have been considered. Those that meet the goal of safety and health improvement without appearing contentious have been included. I am looking forward to a bipartisan effort to create the kind of workplace we want and need in America. This bill doesn't call for radical change, but it does start the progress and the process to safety. It makes changes small business can't wait any longer for.

The Safety and Health Advancement Act represents a clean, fresh start to addressing the problems that affect OSHA, employers and employees. I am quite eager to work with each of my distinguished colleagues as this issue winds its way through the legislative process. By working together, we can return OSHA to its original course as envisioned by Congress when it crafted the Occupational Safety and Health Act of 1970. I urge my colleagues to give fair consideration to this bill and I welcome your support.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the ''Safety and Health Advancement Act''.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C 651 et seq.).

SEC. 2. PURPOSE.

Section 2(b) (29 U.S.C. 651(b)) is amended—

(1) in paragraph (13), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(14) by increasing the joint cooperation of employers, employees, and the Secretary in the effort to ensure safe and healthful working conditions for employees.''.

SEC. 3. EMPLOYEE AND EMPLOYER PARTICIPATION PROGRAMS.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following:

''(c)(1) In order to further carry out the purpose of this Act to encourage employers and employees in their efforts to reduce occupational safety and health hazards, employers may establish employer and employee participation programs which exist for the sole purpose of addressing safe and healthful working conditions.

''(2) An entity created under a program described in paragraph (1) shall not constitute a labor organization for purposes of section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) or a representative for

purposes of sections 1 and 2 of the Railway Labor Act (45 U.S.C. 151 and 151a).

''(3) Nothing in this subsection shall be construed to affect employer obligations under section 8(a)(5) of the National Labor Relations Act (29 U.S.C. 158(a)(5)) to deal with a certified or recognized employee representative with respect to health and safety matters to the extent otherwise required by law.''.

SEC. 4. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE.

Section 7 (29 U.S.C. 656) is amended by adding at the end the following:

''(d)(1) Not later than 6 months after the date of enactment of this section, the Secretary shall establish an advisory committee (pursuant to the Federal Advisory Committee Act (5 U.S.C. App)) to carry the duties described in paragraph (3).

''(2) The advisory committee shall be composed of—

''(A) 3 members who are employees;

''(B) 3 members who are employers;

''(C) 2 members who are members of the general public; and

''(D) 1 member who is a State official from a State plan State.

Each member of the advisory committee shall have expertise in workplace safety and health as demonstrated by the educational background of the member.

''(3) The advisory committee shall advise and make recommendations to the Secretary with respect to the establishment and implementation of a consultation services program under section 8A.''.

SEC. 5. THIRD PARTY CONSULTATION SERVICES PROGRAM.

(a) PROGRAM.—The Act (29 U.S.C. 651 et seq.) is amended by inserting after section 8 the following:

''SEC. 8A. THIRD PARTY CONSULTATION SERVICES PROGRAM.

''(a) ESTABLISHMENT OF PROGRAM.—

''(1) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Secretary shall establish and implement, by regulation, a program that certifies individuals to provide consultation services to employers to assist employers in the identification and correction of safety and health hazards in the workplaces of employers.

''(2) ELIGIBILITY.—Each of the following individuals shall be eligible to be qualified under the program:

''(A) An individual licensed by a State authority as a physician, industrial hygienist, professional engineer, safety engineer, safety professional, or occupational nurse.

''(B) An individual who has been employed as an inspector for a State plan State or as a Federal occupational safety and health inspector for not less than a 5-year period.

''(C) An individual qualified in an occupational health or safety field by an organization whose program has been accredited by a nationally recognized private accreditation organization or by the Secretary;

''(3) GEOGRAPHICAL SCOPE OF CONSULTATION SERVICES.—An individual certified under the program may provide consultation services in any State.

''(b) SAFETY AND HEALTH REGISTRY.—The Secretary shall develop and maintain a registry that includes all individuals that are certified under the program to provide the consultation services described in subsection (a) and shall publish and make such registry readily available to the general public.

''(c) DISCIPLINARY ACTIONS.—

''(1) IN GENERAL.—The Secretary may revoke the status of an individual certified under subsection (a) if the Secretary determines that the individual—

''(A) has failed to meet the requirements of the program; or

''(B) has committed malfeasance, gross negligence, or fraud in connection with any consultation services provided by the certified individual.

''(d) CONSULTATION SERVICES.—

''(1) SCOPE OF CONSULTATION SERVICES.—

''(A) IN GENERAL.—The consultation services described in subsection (a), and provided by an individual certified under the program, shall include an evaluation of the workplace of an employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated pursuant to this Act.

''(B) NON-FIXED WORK SITES.—With respect to the employees of an employer who do not work at a fixed site, the consultation services described in subsection (a), and provided by an individual certified under the program, shall include an evaluation of the safety and health program of the employer to determine if the employer is in compliance with the requirements of this Act, including any regulations promulgated under this Act.

''(2) CONSULTATION REPORT.—Not later than 10 business days after an individual certified under the program provides the consultation services described in subsection (a) to an employer, the individual shall prepare and submit a written report to the employer that includes an identification of any violations of this Act and requirements with respect to corrective measures the employer needs to carry out in order for the workplace of the employer to be in compliance with the requirements of this Act.

''(3) REINSPECTION.—Not later than 30 days after an individual certified under the program submits a report to an employer under paragraph (2), or on a date agreed on by the individual and the employer, the individual shall reinspect the workplace of the employer to verify that any occupational safety or health violations identified in the report have been corrected and the workplace of the employer is in compliance with this Act. If, after such reinspection, the individual determines that the workplace is in compliance with the requirements of this Act, the individual shall provide the employer a declaration of compliance.

''(4) GUIDELINES.—The Secretary, in consultation with an advisory committee established in section (7)(d), shall develop model guidelines for use in evaluating a workplace under paragraph (1).

''(e) ACCESS TO RECORDS.—Any records relating to consultation services (as described in subsection (a)) provided by an individual qualified under the program shall not be admissible in a court of law or administrative proceeding against the employer except that such records may be used as evidence for purposes of a disciplinary action under subsection (c).

''(f) EXEMPTION.—

''(1) IN GENERAL.—If an employer enters into a contract with an individual certified under the program, to provide consultation services described in subsection (a), and receives a declaration of compliance under subsection (d)(3), the employer shall be exempt from the assessment of any civil penalty under section 17 for a period of 2 years after the date the employer receives the declaration.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply—

''(A) if the employer involved has not made a good faith effort to remain in compliance as required under the declaration of compliance; or

''(B) to the extent that there has been a fundamental change in the hazards of the workplace.

''(g) DEFINITION.—In this section, the term 'program' means the program established by the Secretary under subsection (a).''.

SEC. 6. INDEPENDENT SCIENTIFIC PEER REVIEW.

Section 6(b) (29 U.S.C. 655(b)(1)) is amended—

(1) by striking: ''(4) Within'' and inserting: ''(4)(A) Within''; and

(2) by adding at the end the following:

''(B)(i) Prior to issuing a final standard under this paragraph, the Secretary shall submit the draft final standard and a copy of the administrative record to the National Academy of Sciences for review in accordance with clause (ii).

''(ii)(I) The National Academy of Sciences shall appoint an independent Scientific Review Committee.

''(II) The Scientific Review Committee shall conduct an independent review of the draft final standard and the scientific literature and make written recommendations with respect to the draft final standard to the Secretary, including recommendations relating to the appropriateness and adequacy of the scientific data, scientific methodology, and scientific conclusions, adopted by the Secretary.

''(III) If the Secretary decides to modify the draft final standard in response to the recommendations provided by the Scientific Review Committee, the Scientific Review Committee shall be given an opportunity to review and comment on the modifications before the final standard is issued.

''(IV) The recommendations of the Scientific Review Committee shall be published with the final standard in the Federal Register.''.

SEC. 7. CONTINUING EDUCATION AND PROFESSIONAL CERTIFICATION FOR CERTAIN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION PERSONNEL.

Section 8 (29 U.S.C. 657) is amended by adding at the end the following:

''(i) Any Federal employee responsible for enforcing this Act shall (not later than 2 years after the date of enactment of this subsection or 2 years after the initial employment of the employee) meet the eligibility requirements prescribed under subsection (a)(2) or (c).

''(j) The Secretary shall ensure that any Federal employee responsible for enforcing this Act who carries out inspections or investigations under this section, receive professional education and training at least every 5 years as prescribed by the Secretary.''.

SEC. 8. THE USE OF ALTERNATIVE METHODS AS AN AFFIRMATIVE DEFENSE.

Section 9 (29 U.S.C. 658) is amended by adding at the end the following:

''(d) A citation issued under subsection (a) to an employer who violates section 5, or any standard, rule, or order promulgated pursuant to section 6, or any other regulation promulgated under this Act shall be vacated if such employer demonstrates that the employees of such employer were protected by alternative methods that are equally or more protective of the safety and health of the employees than the methods required by such standard, rule, order, or regulation in the factual circumstances underlying the citation.''.

SEC. 9. EMPLOYEE RESPONSIBILITY.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended by inserting after section 10 the following:

''EMPLOYEE RESPONSIBILITY

''SEC. 10A. (a) Notwithstanding any other provision of this Act, an employee who willfully violates any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, may be assessed a civil penalty of up to $500, but not less than $50 for each violation.

''(b) If, upon inspection and investigation, the Secretary or the authorized representative of the Secretary believes that an employee of an employer has violated any requirement of section 5 or any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, the Secretary shall within 60 days issue a citation to the employee. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of this Act, standard, rule, regulation, or order alleged to have been violated. No citation may be issued under this section after the expiration of 6 months following the occurrence of any violation.

''(c) The Secretary shall notify the employee by certified mail of the citation and proposed penalty and that the employee has 15 working days within which to notify the Secretary that the employee wishes to contest the citation or penalty. If no notice is filed by the employee within 15 working days, the citation and the penalty, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

''(d) If the employee notifies the Secretary that the employee intends to contest the citation or proposed penalty, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance section 554 of title 5, United States Code). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 30 days after issuance of the order.''.

SEC. 10. INSPECTION QUOTAS.

Section 9 (29 U.S.C. 658), as amended by section 8, is further amended by adding at the end the following:

''(e) The Secretary shall not establish for any employee within the Occupational Safety and Health Administration (including any regional director, area director, supervisor, or inspector) a quota with respect to the number of inspections conducted, the number of citations issued, or the amount of penalties collected, in accordance with this Act.

''(f) Not later than 12 months after the date of enactment of this subsection and annually thereafter, the Secretary shall report on the number of employers that are inspected under this Act and determined to be in compliance with the requirements prescribed under this Act.''.

SEC. 11. REVIEW BY THE COMMISSION.

Section 17 (29 U.S.C. 666) is amended by striking subsection (j) and inserting the following:

''(j)(1) The Commission shall have the authority to assess all civil penalties under this section. In assessing a penalty under this section, the Commission shall give due consideration to the appropriateness of the penalty with respect to—

''(A) the size of the employer;

''(B) the number of employees exposed to a violation;

''(C) the likely severity of any injuries directly resulting from the violation;

''(D) the probability that the violation could result in injury or illness;

''(E) the good faith of the employer in correcting the violation after the violation has been identified;

''(F) the history of previous violations by an employer; and

''(G) whether the violation is the sole result of the failure of the employer to meet a requirement, under this Act or prescribed by regulation, with respect to—

''(i) the posting of notices;

''(ii) the preparation or maintenance of occupational safety and health records; or

''(iii) the preparation, maintenance, or submission of any written information.''.

SEC. 12. TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 21(c) (29 U.S.C. 670(c)) is amended—

(1) by striking ''(c) The'' and inserting ''(c)(1) The'';

(2) by striking ''(1) provide'' and inserting ''(A) provide'';

(3) by striking ''(2) consult'' and inserting ''(B) consult''; and

(4) by adding at the end the following:

''(2)(A) The Secretary shall, through the authority granted under section 7(c) and paragraph (1), enter into cooperative agreements with States for the provision of consultation services by such States to employers concerning the provision of safe and healthful working conditions. A State that has a plan approved under section 18 shall be eligible to enter into a cooperative agreement under this paragraph only if such plan does not include provisions for federally funded consultation to employers.

''(B)(i) Except as provided in clause (ii), the Secretary shall reimburse a State that enters into a cooperative agreement under subparagraph (A) in an amount that equals 90 percent of the costs incurred by the State for the provision of consultation services under such agreement.

''(ii) A State shall be fully reimbursed by the Secretary for—

''(I) training approved by the Secretary for State personnel operating under a cooperative agreement; and

''(II) specified out-of-State travel expenses incurred by such personnel.

''(iii) A reimbursement paid to a State under this subparagraph shall be limited to costs incurred by such State for the provision of consultation services under this paragraph and the costs described in clause (ii).

''(C) Notwithstanding any other provisions of law, not less than 15 percent of the total amount of funds appropriated for the Occupational Safety and Health Administration for a fiscal year shall be used for education, consultation, and outreach efforts.''.

(b) PILOT PROGRAM.—Section 21 (29 U.S.C. 670) is amended by adding at the end the following:

''(d)(1) Not later than 90 days after the date of enactment of this subsection, the Secretary shall establish and carry out a pilot program in 3 States to provide expedited consultation services with respect to the provision of safe and healthful working conditions to employers that are small businesses, as defined by the Small Business Administration,. The Secretary shall carry out the program for a period not to exceed 2 years.

''(2) The Secretary shall provide consultation services under paragraph (1) not later than 4 weeks after the date on which the Secretary receives a request from an employer.

''(3) The Secretary may impose a nominal fee to an employer requesting consultation services under paragraph (1). The fee shall be in an amount determined by the Secretary. Employers paying a fee shall receive priority consultation services by the Secretary.

''(4) In lieu of issuing a citation under section 9 to an employer for a violation found by the Secretary during a consultation under paragraph (1), the Secretary shall permit the employer to carry out corrective measures to correct the conditions causing the violation. The Secretary shall conduct not more than 2 visits to the workplace of the employer to determine if the employer has carried out the corrective measures. The Secretary shall issue a citation as prescribed under section 5 if, after such visits, the employee has failed to carry out the corrective measures.

''(5) Not later than 90 days after the termination of the program under paragraph (1), the Secretary shall prepare and submit a report to the appropriate committees of Congress that contains an evaluation of the implementation of the pilot program.''.

SEC. 13. PREVENTION OF ALCOHOL AND SUBSTANCE ABUSE.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) is amended—

(1) by striking sections 29, 30, and 31;

(2) by redesignating sections 32, 33, and 34 as sections 30, 31, and 32, respectively; and

(3) by inserting after section 28 (29 U.S.C. 676) the following:

''SEC. 29. ALCOHOL AND SUBSTANCE ABUSE TESTING.

''(a) PROGRAM PURPOSE.—In order to secure a safe workplace, employers may establish and carry out an alcohol and substance abuse testing program in accordance with subsection (b).

''(b) FEDERAL GUIDELINES.—An alcohol and substance abuse testing program described in subsection (a) shall meet the following requirements:

''(1) SUBSTANCE ABUSE.—A substance abuse testing program shall permit the use of an onsite or offsite urine screening or other recognized screening methods, so long as the confirmation tests are performed in accordance with the mandatory guidelines for Federal workplace testing programs published by the Secretary of Health and Human Services on April 11, 1988, at section 11979 of title 53, Code of Federal Regulations (including any amendments to such guidelines), in a lab that is subject to the requirements of subpart B of such mandatory guidelines.

''(2) ALCOHOL.—The alcohol testing component of the program shall take the form of alcohol breath analysis and shall conform to any guidelines developed by the Secretary of Transportation for alcohol testing of mass transit employees under the Department of Transportation and Related Agencies Appropriations Act, 1992.

''(c) TEST REQUIREMENTS.—This section shall not be construed to prohibit an employer from requiring—

''(1) an applicant for employment to submit to and pass an alcohol or substance abuse test before employment by the employer; or

''(2) an employee, including managerial personnel, to submit to and pass an alcohol or substance abuse test—

''(A) on a for-cause basis or where the employer has reasonable suspicion to believe that such employee is using or is under the influence of alcohol or a controlled substance;

''(B) where such test is administered as part of a scheduled medical examination;

''(C) in the case of an accident or incident, involving the actual or potential loss of human life, bodily injury, or property damage;

''(D) during the participation of an employee in an alcohol or substance abuse treatment program, and for a reasonable period of time (not to exceed 5 years) after the conclusion of such program; or

''(E) on a random selection basis in work units, locations, or facilities.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to require an employer to establish an alcohol and substance abuse testing program for applicants or employees or make employment decisions based on such test results.

''(e) PREEMPTION.—The provisions of this section shall preempt any provision of State

law to the extent that such State law is inconsistent with this section.

''(f) INVESTIGATIONS.—The Secretary is authorized to conduct testing of employees (including managerial personnel) of an employer for use of alcohol or controlled substances during any investigations of a work-related fatality or serious injury.''.

SEC. 14. VOLUNTARY PROTECTION PROGRAMS.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Labor shall establish cooperative agreements with employers to encourage the establishment of comprehensive safety and health management systems that include—

(1) requirements for systematic assessment of hazards;

(2) comprehensive hazard prevention, mitigation, and control programs;

(3) active and meaningful management and employee participation in the voluntary program described in subsection (b); and

(4) employee safety and health training.

(b) VOLUNTARY PROTECTION PROGRAM.—

(1) IN GENERAL.—The Secretary of Labor shall establish and carry out a voluntary protection program (consistent with subsection (a)) to encourage and recognize the achievement of excellence in both the technical and managerial protection of employees from occupational hazards. The Secretary of Labor shall encourage small businesses (as the term is defined by the Administrator of the Small Business Administration) to participate in the voluntary protection program by carrying out outreach and assistance initiatives and developing program requirements that address the needs of small businesses.

(2) PROGRAM REQUIREMENT.—The voluntary protection program shall include the following:

(A) APPLICATION.—Employers who volunteer under the program shall be required to submit an application to the Secretary of Labor demonstrating that the worksite with respect to which the application is made meets such requirements as the Secretary of Labor may require for participation in the program.

(B) ONSITE EVALUATIONS.—There shall be onsite evaluations by representatives of the Secretary of Labor to ensure a high level of protection of employees. The onsite visits shall not result in enforcement of citations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), unless representatives of the Secretary of Labor observe hazards for which no agreement can be made to abate the hazards in a reasonable amount of time.

(C) INFORMATION.—Volunteers who are approved by the Secretary of Labor for participation in the program shall assure the Secretary of Labor that information about the safety and health program of the volunteers shall be made readily available to the Secretary of Labor to share with employees.

(D) REEVALUATIONS.—Periodic reevaluations by the Secretary of Labor of the volunteers shall be required for continued participation in the program.

(3) EXEMPTIONS.—A site with respect to which a program has been approved shall, during participation in the program be exempt from inspections or investigations and certain paperwork requirements to be determined by the Secretary of Labor, except that this paragraph shall not apply to inspections or investigations arising from employee complaints, fatalities, catastrophes, or significant toxic releases.

Mr. HAGEL. Mr. President, I want to compliment my distinguished colleague from Wyoming, Senator ENZI, for introducing this important piece of legislation. This bill addresses an issue that is critical to small businessowners across America. I am proud to be an original cosponsor.

The Safety and Health Advancement Act is a commonsense approach to reining in an overreaching Federal agency.

I worked in Congress when the Occupational Safety and Health Administration [OSHA] was created in the 1970's. Many people today would find it hard to believe that OSHA was created to assist business—especially small businesses. In its original intent, OSHA existed not just to help enforce workplace safety laws, but to help small businessowners understand those laws and advise them on how to comply.

What OSHA has grown into is an agency of confrontation and intimidation. The mere mention of OSHA strikes fear in the hearts of small businessowners everywhere.

The father of one of my staff members owns small heating and air-conditioning business in Nebraska. He's a good employer. He runs a safe workplace and treats his employees fairly. But he faces the constant threat that an unannounced visit by OSHA could shut him down because he doesn't have the resources to appeal the high fines frequently handed out by OSHA.

I hear stories like this from small businessowners throughout Nebraska. Businesses that are fined tens of thousands of dollars for a minor infraction of a regulation they frequently did not even know existed. They are forced to close their doors and lay off their employees because they can't afford to fight the fines that come through arbitrary process.

Mr. President, the safety of our workplaces must continue to be a top priority. Where there are those violating the law and creating unsafe working conditions, we should go after them and persecute to the fullest extent of the law. Those are the individuals OSHA should be going after. But the Government should not be killing jobs by intimidating honest, hard-working small businessowners. We need to focus on the real problems in the workplace.

The Safety and Health Advancement Act would help address this problem. It gives OSHA the flexibility to prioritize its resources in order to target the worst offenders. It encourages voluntary compliance by rewarding employers who use third-party consultants. It holds employees responsible for their misconduct at a site that is in compliance with OSHA regulations.

This bill returns OSHA to its original intent and expands its consultative services. Under this legislation, OSHA would actually work hand in hand with small businessowners to create safe workplaces, not merely hand down punitive fines. It moves OSHA away from confrontation and back toward cooperation.

I am proud to be an original cosponsor of the Safety and Health Advancement Act. Not only will this bill help make America's workplaces safer, it will go a long way in freeing America's small businessowners from the heavy burdens of Government regulation. I urge my colleagues to support this commonsense legislation.

By Mr. D'AMATO (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. DODD, Mr. ABRAHAM, Mr. TORRICELLI, Mrs. BOXER and Mr. BIDEN):

S. 768. A bill for the relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili, to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. D'AMATO. Mr. President, I rise today, along with Senators FEINSTEIN, HATCH, DODD, ABRAHAM, TORRICELLI, BIDEN, and BOXER to introduce a bill to provide protection to Christophe and his family so that they may stay in this country and that Christophe may be allowed to work and support his family.

Christophe Meili is the Swiss bank guard fired after he reported the destruction of Holocaust era bank records at the Union Bank of Switzerland, Zurich branch, on January 8, 1997. He is here along with his wife Guiseppina, and his two children, Miriam and David.

For his bravery in saving historically important documents from the shredder, Christophe was fired and today is under investigation for violating Swiss bank secrecy laws for disclosing the records, first to the Zurich Jewish Community and then to the Swiss police. He has faced persecution and penalties for a deed that ennobles him in the eyes of the world. Moreover, he and his family have faced hundreds of death threats, including kidnaping threats made against his children. He is truly a man without a country.

When we held a hearing on his plight in the Banking Committee, he made two remarkable statements. First, when asked why he felt the records he saved were important, he responded,

''A few months before, I had seen the movie 'Schindler's List.' And that's how, when I saw these documents, I realized I must take responsibility; I must do something.''

When I asked him at the end of the hearing if he had anything to add, he said,

Please protect me in the U.S.A. and in Switzerland. I think I become a great problem in Switzerland. I have a woman, two little children, and no future. I must see what goes on in the next days for me. Please protect me. That is all.

Mr. President, we owe Christophe Meili this much. He has asked to be protected and it is our duty to do so. We are in the presence of a very good man, a man who has made a difference and will be remembered for generations to come.

Christophe Meili should be viewed as a hero, not a criminal. His actions in preventing the destruction of evidence are courageous and serve the cause of justice for the victims and survivors of the Holocaust and their families. It is a stain upon the victims' memory that a

young man who saved records to help their cause is now being made a victim. It is unfortunate that the chairman of UBS, Robert Studer, has even made remarks questioning the motivation of Christophe for preventing the destruction of these records.

Moreover, while Christophe and his family have been persecuted for his noble deed, it is a disgrace that the bank's archivist who ordered the shredding at UBS, Erwin Haggenmuller, still has his job. I wrote to Peter Cosandey, the district attorney of Zurich who is investigating this case, and I asked him to end his harassment of Christophe. I also asked him why he is not investigating Erwin Hagenmuller for his role in ordering the shredding of the files.

Christophe has been unemployed since January and this hardship is taking its toll on this brave young man and his family. Thankfully, Edgar Bronfman has come to the rescue once again by offering Christophe a job. I am sure that this is a comfort to Christophe and his family.

Christophe Meili's story is one of a man dedicated to seeing that justice is achieved, yet persecuted because he tried to ensure it. His treatment by the security firm that employed him and the bank that wants him prosecuted, is unjust and unfair.

This is a tragedy. Because he did his job, Christophe Meili was fired. Because he showed courage and integrity, Christophe Meili was fired. And now, they are threatening him with prosecution. The people deserve better.

Mr. President, I urge my colleagues to join me in granting this hero, this righteous man, the sanctuary that he has requested and that he and his family deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) The actions of Swiss banks and their relations with Nazi Germany before and during World War II and the banks' actions after the war concerning former Nazi loot and heirless assets placed in the banks before the war have been the subject of an extensive and ongoing inquiry by the Committee on Banking, Housing, and Urban Affairs of the Senate and a study by a United States interagency group.

(2) On January 8, 1997, Michel Christopher Meili, while performing his duties as a security guard at the Union Bank of Switzerland in Zurich, Switzerland, discovered that bank employees were shredding important Holocaust-era documents.

(3) Mr. Meili was able to save some of the documents from destruction and then turned them over to the Jewish community in Zurich and to the Swiss police.

(4) Following Mr. Meili's disclosure of the destruction of the Holocaust-era documents, Mr. Meili was suspended and then terminated from his job. He was also interrogated by the local Swiss authorities who tried to intimidate him by threatening prosecution for his heroic actions.

(5) Since this disclosure, Mr. Meili and his family have been threatened and harassed, and have received many death threats. Mr. Meili also received a hand-delivered note threatening the kidnapping of his children in return for the ''Jewish money'' he would receive for his actions, and urging him to emigrate to the United States or be killed.

(6) Because of his courageous actions, Mr. Meili and his family have suffered economic hardship, mental anguish, and have been forced to live in fear for their lives.

SEC. 2. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.

SEC. 3. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).

By Mr. LAUTENBERG (for himself, Mr. TORRICELLI, Mr. KERRY, Mrs. BOXER, Mr. GRAHAM, Mr. WELLSTONE, Mr. DEWINE, and Mr. KENNEDY):

S. 769. A bill to amend the provisions of the Emergency Planning and Community Right-To-Know Act of 1986 to expand the public's right to know about toxic chemical use and release, to promote pollution prevention, and for other purposes; to the Committee on Environment and Public Works.

THE RIGHT-TO-KNOW MORE AND POLLUTION PREVENTION ACT OF 1997

Mr. LAUTENBERG. Mr. President, today the Environmental Protection Agency is making public its annual inventory of toxic chemical releases. This information is made available to the public under the Emergency Planning and Community Right-to-Know Act which I authored in 1986.

EPA announced today a 45.6 percent decrease nationwide in the release of toxic chemicals since 1988, when these data were first collected. In my State of New Jersey, which has a large chemical industry, releases were reduced by a stunning 70 percent.

Mr. President, the right-to-know law has been an enormous success. Shedding the light of day on toxic pollution has encouraged industries to find ways to reduce the threat of these cancer causing materials to our communities. We should build on that success.

Today I am introducing with Senators TORRICELLI, BOXER, KERRY, GRAHAM, KENNEDY and WELLSTONE the Right-to-Know More and Pollution Prevention Act of 1997, which will significantly expand the public's right-to-know about toxic chemicals in their homes, workplaces, and communities.

The landmark 1986 Right-to-Know Act requires companies to list the amount of certain chemicals that leave their facilities as pollution and enter our air, water, or soil. It has often been cited as one of the most effective environmental laws on the books. By shining a public spotlight on pollution, the public is better informed, and many companies have taken voluntary steps to reduce pollution.

In fact, without using traditional ''command and control requirements,'' the publication of right-to-know data has led companies to voluntarily reduce their releases of toxic chemicals by almost 46 percent, or 1.6 billion pounds, between 1988 and 1994.

The bill I am introducing today significantly expands the community right-to-know reporting requirements by tracking toxic materials as they move through a facility—to tell us what comes in, what is transformed into product or waste, and what leaves a facility as pollution. This tracking system, known as chemical use or materials accounting, can further decrease the use of toxic chemicals and their release into the environment.

When my own State of New Jersey began collecting information on toxic chemicals used by industries, in addition to recording toxic chemical releases, the results were dramatic. Whereas the national decrease in toxic emissions reported is 45.6 percent since 1988, in New Jersey it has been 70 percent. The discrepancy between New Jersey and the rest of the country, I believe, is due to the State requirement for materials accounting.

The reason that materials accounting data is so valuable is that it provides information to industry and incentives to prevent pollution. With this data, industrial facilities have the information necessary to develop pollution prevention plans.

Pollution prevention is the highest priority in managing waste, and falls at the top of the ladder of steps industry can take to reduce pollution—starting with prevention, then recycling, and then treatment, with disposal or release into the environment the least desirable last step. This so-called hierarchy of waste management has been endorsed by the Environmental Protection Agency as well as many Fortune 500 companies and the armed services.

Materials accounting makes pollution prevention planning possible. You can't reduce toxic use if you don't know the quantity of toxics used and how they're used. That's why materials accounting data is so important. The bill requires companies which collect materials accounting data to prepare pollution prevention plans to decrease their use of toxics to protect those who might be exposed to them and can help companies improve their bottom line.