

Nebraska contributed to the well being of countless military and civilian families in the area. As an active member of the Salvation Army Advisory Board, her efforts touched thousands through dollars raised during the Tree of Lights and Bell Ringers programs. Her work with the Nebraska Council for Drug and Alcohol Abuse Prevention and the Western Heritage Museum helped ensure the effectiveness and success of these vital organizations. The Henry Doorly Zoo benefitted from Barbara's volunteerism, as she led efforts to help raise nearly one million dollars for the care and feeding of the zoo's animals.

General and Mrs. Habiger leave the military after a distinguished 39 year career serving their nation. The people of the United States salute General and Mrs. Habiger and wish them well as they begin their lives after military service.●

#### THE 150TH ANNIVERSARY OF THE CHURCH OF ST. JOSEPH-ST. THOMAS

● Mr. MOYNIHAN. Mr. President, I rise to offer my congratulations on the occasion of the 150th Anniversary of the oldest Catholic church in continuous existence on Staten Island, the Church of St. Joseph-St. Thomas. Evolving out of a small Catholic community in Rossville, the church has improved New York's quality of life for generations and is an integral part of the Staten Island community.

The impact this parish has had on its community is remarkable. Both in times of prosperity and in times of despair, the contributions of the pastors and congregants of St. Joseph-St. Thomas have profoundly affected the residents of Staten Island. The parish has provided education for children, held community gatherings and helped the disadvantaged.

The leaders of St. Joseph-St. Thomas have been responsible for much of this tradition of community involvement. Though I will not name all of the former pastors here, I would like to mention two. Father Edward A. Dunphy's established child-care programs for immigrants during the 19th century. These first Catholic child-care facilities helped maintain the devotion to Catholicism within Staten Island's immigrant community. During the Great Depression, Father Thomas S. Magrath cut church expenses to relieve parishioners' financial burdens. All the while, he developed projects and programs to feed and shelter the suffering.

Today this spirit of helping those in need lives on with Monsignor Peter G. Finn and the church's involvement in such programs as Project Hospitality and the St. Vincent De Paul Society.

With appreciation and admiration I extend my best wishes to the Church of St. Joseph-St. Thomas. Its 150th Anniversary is cause for much celebration and anticipation of even greater accomplishments to come.●

#### PRIVILEGE OF THE FLOOR

Mr. ENZI. Mr. President, I ask unanimous consent that my legislative assistant, Mr. Spear, be granted the privilege of the floor for the remainder of the evening.

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

#### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION COMPLIANCE ASSISTANCE AUTHORIZATION ACT

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2864, which is at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2864) to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

The Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2864) was read the third time and passed.

#### OCCUPATIONAL SAFETY AND HEALTH ACT

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2877, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2877) to amend the Occupational Safety and Health Act of 1970.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I would like to ask my colleague from Wyoming to help me clarify the intent of H.R. 2877 as it relates to evaluating the performance of employees. Several States with OSHA-approved State plans have expressed concern that the language regarding "the results of enforcement activities" could prevent them from considering the quality of an enforcement officer's reports or recommendations; the percentage of cases which are upheld or overturned in legal proceedings; the timeliness of case completion; the comprehensiveness of evaluations; and other legitimate means of evaluating employee performance.

Contrary to this very broad interpretation, it is important to point out that the authors of the bill read much more narrowly the language prohibiting OSHA from evaluating employees based on "the results of enforcement activities, such as the number of citations issued or penalties assessed." When H.R. 2877 was originally introduced, it prohibited the Secretary of labor from establishing "any performance measures for any subordinate" within OSHA "with respect to the number of inspections conducted, citations issued, or penalties assessed." After the administration expressed concerns that the language could adversely impact the ability of OSHA supervisors to assign inspection work and ensure employee productivity and accountability, new language was negotiated. The intent of that language, which is contained in the version of H.R. 2877 that we are about to pass, was intended to prevent OSHA from establishing any quota or goal requiring OSHA inspectors to assess a specific number or amount of penalties. Clearly, Congress would not want to prevent OSHA from ensuring that the penalties actually assessed by its inspectors are legally valid, based on true and accurate information, and issued in a timely, professional manner.

Does the Senator agree with me that the "results" referred to in the legislation refer to whether an OSHA inspector is evaluated on a specific quota or goal regarding the number of citations issued or penalties assessed, rather than the other means I have outlined?

Mr. ENZI. Yes, I agree with the analysis of my colleague from Massachusetts.

Mr. KENNEDY. I would like to present my colleague with three examples to illustrate the intent of H.R. 2877. First, assume an OSHA inspector uses falsified inspection results to justify and recommend the issuance of citations and penalties against one or more employers. Does the language in H.R. 2877 allow OSHA to negatively evaluate the inspector and proceed to dismiss him or her?

Mr. ENZI. Absolutely. OSHA must have the right to discipline such an employee and evaluate him or her accordingly.

Mr. KENNEDY. What about an inspector who, in the course of a year, conducts one tenth of the inspections conducted by the average inspector? The inspector finds no violations in any of the inspections he or she conducts, leading the inspector's supervisor to suspect that the inspector may be failing to identify serious hazards in at least some of those workplaces. Does H.R. 2877 allow OSHA to examine these circumstances to ascertain whether the employee is adequately performing his or her duties?

Mr. ENZI. Yes, it does. Such evaluations are fundamental to measuring employee performance.

Mr. KENNEDY. If an inspector's citations and penalties are consistently

being overturned in legal proceedings, would H.R. 2877 inhibit OSHA's ability to use that experience to evaluate how well that employee is doing his or her job?

Mr. ENZI. No, it would not, Senator.

Mr. KENNEDY. I thank the Senator.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2877) was read the third time and passed.

Mr. ENZI. Mr. President, the two bills just passed by the Senate were authored by my good friend, Congressman BALLENGER.

H.R. 2864, the Occupational Safety and Health Administration Compliance Assistance Authorization Act, and H.R. 2877, a bill to eliminate the imposition of quotas in the context of OSHA's enforcement activities, are intended to help increase the joint cooperation of employees, employers, and OSHA in the effort to ensure safe and healthful working conditions. These bills are the first in a series of efforts to modernize the Occupational Safety and Health Act of 1970, a law which has only been amended one time, in 1990, and that amendment was simply an effort to raise the amount of the fines. So this is the first substantial change in 27 years.

Since its inception, OSHA has consistently relied upon an adversarial approach rather than placing a greater emphasis on a collaborative strategy geared toward increasing worker safety and health. Agency officials have admitted that 95 percent of the employers in the country do their level best to try to voluntarily comply with the law. Unfortunately, OSHA inspectors still treat employers as adversaries, issuing them citations for what they haven't done and not assisting them in complying with regulations to make the workplace safer.

Positive changes in the relationship that exists between employers and OSHA are long overdue. It is not productive to threaten employers with fines for noncompliance when millions of safety-conscious employers don't know how they are supposed to comply. Nor is it effective to burden employers with more compliance materials than they can possibly digest or understand.

To achieve a new cooperative approach, the vast majority of employers who are concerned about worker safety and health must have compliance assistance programs made more accessible to them. Creating true partnerships between businesses and OSHA will ultimately empower the honest employers to improve worker safety while allowing OSHA to concentrate its enforcement efforts on the small number of employers who constitute the "bad actors." I firmly believe that

H.R. 2864 is a good first step in accomplishing just that.

H.R. 2877 would eliminate enforcement quotas for OSHA compliance inspectors. This language would prohibit OSHA from establishing a specific number of citations issued or the amount of penalties collected. I believe that inspectors must not face institutional pressure to issue citations or to collect fines but, rather, they should work to identify potential hazards and assist the employer in abating them. OSHA's success must depend upon whether the Nation's workforce is safer and healthier and not upon meeting or surpassing goals for inspection citations or penalties.

Congress' approach to OSHA is different this session. During my tenure in the Senate, I have committed much of my time to the advancement of workplace safety and health. This commitment is shared by my House colleagues, Representatives BALLENGER and TALENT, who are both authors of other commonsense incremental legislation. It is our belief that OSHA has operated since its inception as a reactionary regulator, inspecting work sites primarily after a fatality or injury has occurred. In 1994 and early 1995 alone, three-quarters of the work sites in the United States that were the scene of serious accidents had never—had never—been inspected by OSHA during the decade. Even more troubling is that OSHA officials acknowledge that their inspectors do not investigate most lethal work sites until after accidents occur. Thus, a worker essentially has to get hurt or killed in order for OSHA to act.

We all want prevention. We don't want accidents. We don't even want near misses. A near miss is an accident about to happen.

While it is important for OSHA to retain its ability to enforce law and to respond to employee complaints in a timely fashion, the agency must begin to broaden its preventive initiatives in an effort to bring more workplaces into compliance before accidents and fatalities occur. These bills are the first of several rational, incremental steps in making OSHA a preventive regulator, not a reactionary regulator.

As the Senate author of S. 1237, the Safety Advancement for Employees Act, or SAFE Act, it is my hope that this important legislation will also be considered in the same sensible light. This bill was derived from the thoughts, suggestions, and good ideas of employees, employee representatives, employers, and certified safety and health professionals prior to even its original draft—comments that helped us keep out a number of past contentious provisions.

I listened carefully to these concerns, and, as a result, the SAFE Act was crafted to promote and enhance workplace safety and health rather than dismantle it. What is left out of that bill may be as important as what is in the bill.

The contentious parts from the past are not there. The two provisions that we passed tonight are there. The spirit of cooperation must overpower polarization if true improvements in occupational safety and health are to be achieved. It is essential that stereotypical rhetoric be set aside, with the understanding that an overwhelming majority of employers cherish their most valuable assets: their employees. Without the employee, management would ultimately have no production, no profits, and no business. It is logical to surmise that by promoting cooperation, good business will ultimately prevail. We cannot rest as long as there are injuries or deaths on the job. We need everyone involved in safety.

I urge my Senate colleagues to continue along this path. Much remains to be done in the area of workplace safety and health. There are currently 6.2 million American work sites being inspected by 2,451 Federal and State OSHA inspectors. Under these conditions, it will take OSHA 167 years to visit every workplace before an accident or fatality occurs. That is entirely unacceptable. We must continue to advocate cooperative compliance initiatives, incentives to the employers to look at the job before an accident happens, initiatives that are strictly in line with preventive regulation.

We must see that OSHA does not get an IRS image. We must see that everyone goes home whole. I will continue to advocate this type of an approach in the coming weeks when additional measures will be considered. I urge my colleagues to both note the change in attitude on the House side and the Senate side on the work being done on OSHA, and I urge my Senate colleagues to help us work on these bills.

I thank Senator FRIST, who is the subcommittee chairman, and Senator WELLSTONE, who is the subcommittee ranking member. I thank the chairman of the Labor Committee, Senator JEFFORDS, and the ranking member of the committee, Senator KENNEDY. I, in fact, thank all of the Labor Committee members on both sides of the aisle for the time and care and interest that they have shown in the OSHA issue.

I give special mention, of course, to Congressman TALENT, who has taken the SAFE Act on the House side and worked diligently on it and held hearings and just been a great promoter of the new attitude on improving workplace safety. I also congratulate Chairman BALLENGER on the first change in the OSHA Act in 27 years.

I would be remiss if, last but not least, I did not thank my excellent staff for the diligence, care, and persistence that they have put into all of the research and all of the meetings we have had with any group that was willing to meet with us across the entire country. That is what has resulted in being able to take this first step and what will result in future steps.

Thank you, Mr. President.