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Paul
Shimkus
Tanner
Westmoreland

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1228

So (two-thirds being in the affirmative) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2768.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SUPPLEMENTAL MINE IMPROVEMENT AND NEW EMERGENCY RESPONSE ACT OF 2007

The SPEAKER pro tempore. Pursuant to House Resolution 918 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 2768.

□ 1230

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 2768) to establish improved mandatory standards to protect miners during emergencies, and for other purposes, with Mr. GUTIERREZ in the chair.

The Clerk read the title of the bill.

□ 1230

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from California (Mr. GEORGE MILLER) and the gentleman

from California (Mr. McKEON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, today I rise in strong support of legislation that would greatly enhance the health and safety protections in the Nation's coal mines.

Despite significant progress over the last several decades, mining remains one of the most dangerous jobs in America. Mining fatalities occur at a rate more than seven times the average of all private industries; and we are reminded of how dangerous mining can be by the tragedies like the one in Utah in August of this last year, where six miners and three rescuers died in what appears to have been a preventable disaster, and the tragedies of Kentucky and West Virginia in 2006.

Accidents every year claim the lives of one or two miners at a time. In 2007, according to the Mine Safety and Health Administration, 32 coal miners and 31 metal and nonmetal miners died on the job. Miners also face serious health risks, including a resurgence of black lung disease.

The legislation we are considering today, the S-MINER Act, builds on the work of the last Congress when it passed the MINER Act of 2006. The S-MINER Act represents a comprehensive approach to minimize the health and safety risks facing miners. It is critical that Congress take this action, because one of the things that is clear is that we cannot leave mine safety and health to the Bush administration.

When the Sago Mine disaster occurred, we learned that the Bush administration had withdrawn or delayed more than a dozen health and safety proposals that would have benefited miners. The Bush administration filled top-level positions at MSHA with executives from the very industry that the agency was charged with regulating. Dangerous rules favored by the industry, which would leave miners vulnerable to aggressive "belt air" fires, became law under this administration.

From 2001 to 2006, the Bush administration gutted MSHA by cutting funding and staffing, and especially in coal mine enforcement, where the worst tragedies would strike in 2006 and 2007. Even as coal production increased around the country, the Bush administration cut the Mine Safety and Health Administration's coal enforcement personnel by 9 percent by 2006. And then came the Sago disaster, Aracoma Alma, Darby, and Crandall Canyon mines. Even after these recent tragedies, even after the MINER Act was enacted, we continue to see neglect from this administration.

The Inspector General found this past fall that MSHA was failing to conduct mandated inspections on time, leaving thousands of miners unprotected. In 2006 alone, MSHA failed to complete the required inspections of 107 mines, employing 7,500 miners. And,

Secretary Chao failed to meet a simple deadline under the MINER Act to produce regulations on rescue teams, fundamental regulations on rescue teams, at the end of this last year.

The track record of this administration on mine safety and health has been horrendous, and Congress needs to act. That is why we are here today, to make sure that our government fulfills its obligations to protect those brave men and women who risk their safety to keep this country running.

The S-MINER Act addresses three broad issues: disaster prevention; improved emergency response; and long-term health risks. And I will talk more about those areas in a moment.

Later today, in addition to the underlying bill, I will be offering a manager's amendment that makes modifications to the bill. Among other things, that amendment will address the troubling problems of substance abuse. Because of injuries, overwork, and stress that miners often suffer, we have heard reports of substance abuse among miners.

I want to be absolutely clear. None of the recent mine tragedies have been linked to drug use in any way, but we should nevertheless be proactive in heading off the dangers that drug use poses to the miners. A few States have already adopted drug testing requirements for miners. Most, if not all, of the large coal mining companies already utilize some form of drug testing program. It will take further study to determine what role, if any, the Federal Government should play here, but this issue should be dealt with. That is why the amendment I will offer later today will require the Secretary of Labor to conduct a study on best practices and will authorize her, within 6 months, to set up a drug testing and rehabilitation program for miners, in consultation with miners, their unions, operators, State agencies, and public health experts.

Two other amendments will be offered by Representatives BOUCHER and ELLSWORTH to build upon and modify this legislation, and I support those amendments.

I reserve the balance of my time.

Mr. McKEON. Mr. Chairman, I rise in support of mine safety and in opposition to this bill, and I yield myself such time as I may consume.

The men and women who work in and around our Nation's mines are often unrecognized for the integral role they play in powering our country. These individuals work hard, in difficult and often dangerous conditions, to unearth the raw materials that each of us relies upon in our day-to-day lives.

While mining is inherently dangerous, there are steps we can take to mitigate that risk. For that reason, mine safety has been an ongoing priority both legislatively and within the context of oversight.

Although our commitment to mine safety is constant, we also recognize that new mandates from Washington

translate into major changes within the operation of our Nation's mines. For that reason, we do not and we must not take a piecemeal approach to mine reform. Rather, we should develop thoughtful, comprehensive consensus reforms, and then give those reforms a chance to work. I am pleased to say that we did just that less than 2 years ago. In 2006, Congress passed the MINER Act which required MSHA to revise its penalties, increase penalties for major violations, undertake several studies regarding mining practices, and work to improve the technology for communications underground. The MINER Act received strong bipartisan, bicameral support. It was backed by both industry and labor, and its reforms were understood to be the most significant in a generation.

With the MINER Act, we called on the mining industry to overhaul itself, to develop and implement new technologies, and to comply with strong new protections that were to be developed by the experts. This type of transformation cannot take place overnight; but let there be no doubt, change is well under way.

Mr. Chairman, I fear that with this bill before us, we run a very real risk of derailing that progress and returning to square one on many critical mine safety issues. H.R. 2768 ignores the safety guidelines being developed through expert research and review, and replaces them with arbitrary new mandates established by Congress. This bill makes an end run around the regulatory process, shutting stakeholders out.

Simply put, the S-MINER Act abandons the mine safety momentum of the MINER Act and sends us back to the drawing board.

I appreciate Chairman MILLER's concern about the dangers faced by our Nation's miners, and I share his desire to see strong reforms in place that will promote safety. That is why Republicans will offer a substitute amendment that would accomplish exactly that.

The Wilson/Kline amendment will balance successful implementation of the 2006 MINER Act with a number of mine safety enhancements. I look forward to supporting that amendment when it is offered, because it provides a real opportunity to promote mine safety without backing away from the progress that has been made.

In addition to the Republican substitute, we will consider a number of other amendments today, including one to be offered by Chairman MILLER. I would be remiss, however, if I did not point out the rather transparent political expediency of one portion of that amendment.

Included in the Republican substitute is a proposal to implement mandatory drug testing within the mining industry. A similar proposal was offered by the late Charlie Norwood, our colleague from Georgia, who was a stalwart on this issue. The ravaging im-

pact of drug abuse among miners came into sharp focus this past weekend, when the front page of the Washington Post carried a story of miners who struggle with addiction to pain killers. We believe that mandatory drug testing is the most effective and, indeed, the only way to immediately address the prevalence of drug abuse that is putting miners' lives at risk.

Our colleagues on the other side of the aisle, however, appear to have discovered the devastation of drug abuse among miners only late yesterday afternoon. At that time, several hours after the deadline for submitting amendments, the chairman was permitted to resubmit a revised version of his manager's package that included a hastily drafted study of drug abuse among miners. While this amendment may offer a fig leaf now that the issue of drug abuse can no longer be ignored, it should not be mistaken for a legitimate attempt to deter drug abuse in the way that testing would.

Mr. Chairman, the S-MINER Act is fundamentally flawed. It brings the progress of the 2006 MINER Act to a jarring halt, creating instead a package of new prescriptive mandates from Washington. The bill imposes \$1 billion in unfunded mandates on the mining community, placing the jobs of miners in jeopardy. This bill is the wrong answer at the wrong time for our Nation's miners. There is a better way.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself 30 seconds.

My colleague from California said that we had a study in this. Yes, we have a study for the Secretary to determine the best way to implement a drug testing and treatment program after 6 months of talking to the States and local agencies and the companies and the miners. We don't impose this from Washington. And then the Secretary, if she determines that it is feasible, she is instructed to start the program.

We just thought it would be wise to consult the companies who have programs, States that have programs, the miners themselves, the local public health agencies.

I yield 1 minute to the gentleman from Iowa (Mr. BOSWELL).

(Mr. BOSWELL asked and was given permission to revise and extend his remarks.)

Mr. BOSWELL. Mr. Chairman, I think we all agree that, first and foremost, safety is the top priority for everyone involved in the mining industry. We, as a Congress, must ensure that legislation is heading in the right direction for the health and safety of American miners. Over the past several years, we have seen bad safety conditions and the devastating effects these conditions can have, not only on communities, but on human life.

We also must recognize the fact that not all mining operations are the same.

Repeat. Not all mining operations are the same. So I understand, Mr. Chairman, that you will continue to work with us Members, that you just said a moment ago, to address any concerns the bill raises as it moves through the process. And I want to thank Chairman MILLER for his leadership on this issue and his willingness to continue to work and listen to other Members on the issue. He in fact is a true champion of our Nation's workers.

Again, I would like to thank him for yielding this time.

Mr. GEORGE MILLER of California. I reserve the balance of my time.

Mr. MCKEON. I am happy now to yield to the gentleman from Minnesota (Mr. KLINE), the ranking member of the committee, such time as he may consume.

□ 1245

Mr. KLINE of Minnesota. Mr. Chairman, today I rise in favor of mine safety but in strong opposition to the S-MINER Act.

Unfortunately, the bill as written does little to improve safety in our Nation's mines. As someone who voted for the MINER Act, I am concerned that this legislation derails much of what has already been achieved. I appreciate that there is concern about the speed of implementation, but the answer is not to call a halt to the work that has already been done and completely turn direction.

We have heard from mine engineering academics that this bill is flawed. We have heard from over 28 industry groups that this bill interrupts the progress being made in mine safety, while the Mine Safety and Health Administration's opinion has been dismissed by the other side, apparently until today, when we are going to turn over to MSHA the issue of drug testing. The President has issued a veto threat citing safety concerns.

The statement of administration policy specifically states, "The requirement to use boreholes to sample behind mine seals weakens existing safety standards since boreholes have metal casings that could introduce an ignition source, such as lightning, into an area of the mine that may contain explosive methane. The S-MINER bill would weaken current regulations requiring a mine operator to contact the Mine Safety and Health Administration within 15 minutes of a serious accident by creating a two-tiered notification system of 15 minutes or 1 hour depending on the severity of the incident."

I question how in good conscience we can be considering legislation that, according to the very people who enforce the law, weakens current regulations.

This bill is going to mandate the use of refuge chambers, examples of which were demonstrated on Capitol Hill. The National Institute for Occupational Safety and Health, NIOSH, tested several of these units and found serious deficiencies.

In a letter to the State of West Virginia, NIOSH expressed concerns stating, "Since findings from our field testing raise issues about the performance of such refuge chambers, NIOSH believes it is imperative to inform you of our findings as soon as possible before deployment of refuge chambers."

Mr. Chairman, later today I will join my committee colleague, Mr. WILSON, in offering an amendment in the nature of a substitute. This is a Republican substitute that does not upend the mine safety progress currently under way.

I urge my colleagues to vote "no" on the S-MINER Act.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself 30 seconds.

The gentleman should have finished reading the rest of the letter where NIOSH says that these technical modifications can be addressed quickly. And, in fact, the preliminary feedback is that manufacturers have already made many of these, and they have already been implemented. Read the whole letter. I suggest that the gentleman on the other side of the aisle read the legislation, and when they want to introduce evidence, read the complete evidence.

I yield 4 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I am proud to be an original cosponsor of H.R. 2768, the S-MINER Act. The health and safety of miners is too important to ignore or to delay, and it is vitally important that we act now, not tomorrow, not in another year, to pass this critical legislation.

I want to commend Chairman MILLER for putting together comprehensive legislation that actually tackles the problems plaguing mining for many, many years.

With this legislation, we can prevent the appalling loss of life that we have had in the past couple of years at Sago, at Darby, at Aracoma, and most recently at Crandall Canyon in Utah.

Since the year 2006, about 80 miners have been killed at their workplaces. And that is in the 21st century. Don't forget, this is the 21st century.

Now it is true that working conditions for miners have improved over the years, and we have come a long ways since the turn of the last century when thousands of miners died every year. But miners, who provide a valuable service to this country at great danger to themselves, are still dying as a result of incidents that were preventable had everyone been following the law.

And black lung, a disease we thought had pretty much been eradicated, is back with a vengeance. This is absolutely unacceptable.

I have heard on numerous occasions that miners love their jobs. So our job for them is to keep them as healthy and safe as possible so they will return home every night to their families at the end of the working day and that they will return safe and healthy.

The Subcommittee on Workforce Protection, which I chair, had a hearing on this legislation in July. And the S-MINER Act actually puts teeth in the MINER Act which Congress passed in 2006. Let me mention a few provisions which I think highlight why this legislation is so very important.

For example, while we know that true wireless communications systems are not yet fully developed, technologies do exist that greatly improve communications between miners below ground with those on the surface. The MINER Act requires that wireless communications systems be installed, but not until the year 2009. Miners can't wait until 2009. And the S-MINER Act mandates that miners have communication capabilities now instead of having to go without until the most perfect system has been developed.

One of the things that is so outrageous, as I said, in this day and age is that black lung is back, a disease everyone thought was eradicated. This legislation, the S-MINER Act, requires the use by each miner of a personal dust monitor so that exposure to coal dust can be cut in half. And because the committee recognizes it could be a burden for mine operators to provide this equipment to their employees, the manager's amendment authorizes \$30 million for MSHA to pay for those devices.

In addition, the Crandall Canyon disaster showed us once again that retreat mining is a perilous activity, and this legislation requires MSHA to closely review these plans.

Another thing the families of miners told us was that miners were afraid to come forward to report safety and health violations. So this legislation provides for a miner ombudsman to be appointed to process complaints and assist whistleblowers with their cases.

And finally, this legislation requires that physicians be created at MSHA to be in charge of communicating with families and the community while a rescue effort is going on.

In developing this legislation, we have done our utmost to reach out across the aisle and to all interest groups, including industry, to come up with a bipartisan bill.

While industry does not support this bill, and shame on them, many of their concerns are reflected in the current legislation and in Mr. MILLER's manager's amendment.

Mr. Chairman, this is the 21st century and we must have 21st century solutions to adequately protect miners in this country. Vote for the S-MINER Act.

Mr. MCKEON. Mr. Chairman, we have some speakers on their way to the floor and I would like to reserve our time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. HARE), a member of the committee.

Mr. HARE. Mr. Chairman, I rise today in strong support of this critical piece of legislation.

Mining remains one of the most dangerous occupations in the United States, and our laws have not kept up with the changes in the industry. As a member of the House Education and Labor Committee, I participated in several hearings on this issue. At one in particular, I was touched by the little boy whose father had just been killed in the Crandall Canyon tragedy. It is for him and the countless other children who will grow up without a mom or a dad that I believe, as Members of Congress, we have the responsibility to do all we can to ensure that our miners are safe and come home to their families safely every night.

The recent tragedies at Sago, Darby and Crandall Canyon mines have made it apparent that the MINER Act of 2006 has fallen short in some areas. The legislation we are considering today addresses these areas. I am particularly pleased that the bill grants MSHA the authority to shut down mines that have neglected to pay fines for safety violations. Additionally, the retreat mining and whistleblower protections are much-needed improvements in the bill.

While the MINER Act of 2006 was a very good first step towards improving mine safety, it is clear that more work must be done. I believe today's bill will take us that one step further in making mining a little safer. I urge my colleagues to vote "yes" on this important legislation.

Mr. GEORGE MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. HARE. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. I thank the gentleman for his support of this legislation, and more importantly, to thank him for all of his support on behalf of workers during our first session of Congress. I thank you for your attendance at the hearings and advocacy and questions on behalf of workers. I know of your very strong interest in miners, and I want to thank you for your advocacy on behalf of all workers.

Mr. HARE. I thank the chairman for your comments and for your work. There is not a more stand-up Member in this Congress for the working men and women of this Nation.

Mr. GEORGE MILLER of California. I yield 3½ minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, I thank the distinguished chairman of the Education and Labor Committee for yielding me this time, and commend him for his career, lifelong service of dedication to our working men and women of this country. Chairman GEORGE MILLER has certainly shown over his career in this body that there is no person that will take a second seat to him as far as protecting the health, safety, and well-being of our working men and women.

Mr. Chairman, there are those who have argued on the other side that this

measure, coming on the heels of major mine safety legislation in 2006, is too much too soon. They argue that the Mine Safety and Health Administration is struggling to fix numerous problems and must be allowed to implement one bill before additional legislative mandates are hefted upon them.

Now, that argument has a valid point. And yes, the industry is making strides to improve safety, especially in my home State of West Virginia.

But an equally valid argument can be made that the Congress should not simply sit back and hope that MSHA follows through on needed improvements. To do so would be to neglect our duty to serve as a check, and we must not return to the hands-off mentality that allowed MSHA to slip into its recent dismal state of decline.

This legislation seeks to return to MSHA the business of protecting our Nation's miners, plain and simple. This should be our overall goal. MSHA has strayed too far from its mission, and the MINER Act did not touch some challenges that most agree need to be addressed. This bill supports a course correction that now is taking place. It sets a high bar because its purpose is the highest: the protection of the lives of our coal miners. And in this regard, we can never be too vigilant when it comes to protecting the health and safety and well-being of our Nation's coal miners.

Most coal companies in my State work hard to ensure improved workplace safety, and they are making significant investment, for which they deserve commendation. Likewise, most of the employees of MSHA, including those in my home State, are well-intentioned, dedicated and hardworking. These individuals put their lives on the line to save other lives, and they should be recognized for that.

As well, my home State of West Virginia, above all others, has taken the challenge of improving mine conditions seriously. But none of this excuses the management of MSHA from doing its job, and it certainly does not excuse the Federal legislative branch from its responsibility to ensure that the senior Federal agency charged with the safety of our coal miners fulfills its statutory mission.

First and foremost, MSHA is supposed to inspect mines to ensure that they are abiding by the law to operate as safely as possible. That is its most fundamental job, its reason for existence. But yet, we found that MSHA last year failed to complete more than 40 percent of its required quarterly inspections in my own congressional district alone. That fact speaks most compellingly for the need for this legislation.

This bill would address that deadly lack of inspections at mines in southern West Virginia. It aims to provide for badly needed increases in the ranks of highly trained inspectors, including bringing experienced retirees back into service and directing limited resources

into the field where they are needed most.

So given these conditions, Mr. Chairman, again I commend Chairman MILLER and urge passage of this legislation.

Mr. McKEON. Mr. Chairman, I am happy to yield at this time to the ranking member on the Resources Committee, the senior Republican from Alaska, Mr. YOUNG, such time as he may consume.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, here we go again; another nail in the coffin of energy independence. Another nail, in fact, adding to the unemployment rate.

□ 1300

If this bill was to become law, mines will be shut down. They will be shut down. And what bothers me the most is we had a bipartisan bill, actually it was passed in 2006, I believe, or 2007, that improved the 1977 Mine Safety Health Act. It was supported by everybody, that side and this side, the administration. And we have not given the time, that's less than a year and a half, given the time for the operators of these mines to even reach that requirement that we said was the right thing to do.

Now, it always amazes me. I don't think there's much coal mining in Vallejo or in the Bay Area or in Point Reyes. And I do respect the gentleman from West Virginia because he does have mining. And I've heard from his operators in that area that there's a very difficult thought process going forth with this bill. Can they operate? Because in this bill, they stop the ability for belt air, which, in fact, was put in for safety purposes, supported by the people who understand this, for diluting methane and dust levels, and this bill prohibits that. How is that improving the life of our miners? It is not.

And more than that, I want to remind people. As bad as it may appear, as very much, you know, heart wrenching when there is a death in a mine, we still have the safest mining industry in the world. China lost 6,000 people, that we know of last year in their coal mines; building one new coal fired plant a week.

And here we are, with this bill, if it was to become law, again, adding another nail in our coffin for energy independence. Coal is a solution to this terrible dependence that we have on foreign oil.

I was a little disappointed today when I saw the President ask the OPEC countries to produce more oil so we can lower the price.

Our fault in this country is we're not producing oil on our lands, which we have, and we're not producing the coal, which we have an abundance of. And I believe, when saying this under the guise of helping the miner out, we are jeopardizing their jobs, jeopardizing

the economy in this country, and driving us further into the depression which may occur.

If that does happen, I want to compliment that side of the aisle, because you haven't addressed the issue of energy. And I'm a little bit disappointed. I watched all the Presidential debates. Not even on my side, let alone that side, has anybody talked about solving the energy problem in this country. We must address that issue because our economy is based on energy that can move product. Every ship is fossilly driven. Every train is fossilly driven. Every truck is fossilly driven. Every car, everything you eat and everything you consume is delivered to you by fossil fuels.

Now, we can improve nuclear power to give us fixed power, and we can burn coal, and we can use solar, and we can use hydro. We can do all these things. But there's fixed power. And we, as a Nation, and this Congress have not got to the point where we understand if we don't do something, we keep sending the dollars abroad, there's a great possibility that this whole economy we have will implode.

I'm saying, wake up, Mr. and Mrs. America. Start asking your Members of Congress, let's do something about energy. You can't conserve yourself into a prosperity position. You've got to have new energy, new production. Yes, drilling. Offshore in California, shame on you. Offshore in Florida, shame on Florida. Offshore in Alaska, shame on Alaska. We must start developing our fossil fuels in the Rocky Mountains. We must start at the Roan Plateau, which you took off the table. The Roan Plateau, have that developed. We have to start doing what is necessary to make sure we're no longer dependent on those foreign countries that are not our friends.

So I urge a "no" on this bill because it's another nail in the coffin that creates in this country more weaknesses and not the ability to provide for the future generations.

Mr. GEORGE MILLER of California. I yield myself 30 seconds.

The gentleman from Alaska is quite correct. It's a pathetic sight to see the President of the United States begging the Saudi prince to release more oil 8 years after that President has been in office; several energy bills passed by the Republican Congress, and the President is left going hat in hand begging the Saudi prince for more oil. It just shows the opportunity cost of this administration, of that Republican Congress and the pathetic energy policy that we were left with.

The new energy bill, however, reverses that trend. I'm very proud to be part of it.

Mr. McKEON. I yield the gentleman 30 seconds to respond.

Mr. YOUNG of Alaska. My good friend from California, he is my good friend, you have to recognize that we have not done anything. When you were in the majority you did nothing.

You in fact had President Clinton veto opening of new oil discoveries in Alaska.

Mr. GEORGE MILLER of California. That's 10 years ago.

Mr. YOUNG of Alaska. Ten years ago. Again, everybody tells me we can do it at a later date. And what we're doing is nothing. I ask each one of you in this room that's sitting here today, I'm asking you, are we going to sit until this whole country comes to a collapse because we're not addressing the energy policy? The energy bill we passed here has produced no energy at all.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Chairman, I rise today in strong support of H.R. 2768, the S-MINER Act.

Over the past year the Education and Labor Committee, of which I am a member, has held several hearings on the topic of mine safety. During those hearings, witness after witness asked that the Federal Government take stronger actions to protect the health and safety of miners. Hearing their call to action, we are here today to pass landmark legislation that will save the lives of countless miners.

H.R. 2768 builds upon the MINER Act to boost prevention efforts, improve emergency response and reduce health risks. The MINER Act, which passed during the last session of Congress in response to the Sago mining disaster, made important steps in protecting miners, but implementation has been slow, and more needs to be done. Sadly, since H.R. 2768 was introduced, miners have been seriously injured or killed while on the job. That is why it is crucial for this Congress to act now and pass this legislation.

This Congress has been entrusted with the responsibility to make sure that all workers are protected at their workplace. We take that responsibility seriously. And I am proud to support this bill which will take the necessary steps in safeguarding the health and safety of America's miners.

I want to thank and commend Chairman MILLER for introducing this legislation and moving it so quickly to the floor. And I urge my colleagues to vote "yes" on H.R. 2768.

Mr. McKEON. I am happy to yield to the gentlelady from West Virginia (Mrs. CAPITO) such time as she may consume.

Mrs. CAPITO. I'd like to thank the ranking member for his recognition.

Over the past several years, this country has witnessed a series of tragic mining disasters, starting with the 12 miners killed on January 3, 2006 at the Sago Mine in my district. I know the families, I know the communities, and this is a wound that will never heal. This tragedy was followed by more deaths in accidents around the country, and each of these disasters has identified and highlighted deficiencies in the protection afforded miners.

In response to Sago and the other mine disasters, Congress enacted the

MINER Act. We did it in a bipartisan way. It was a very proud day for me, as a West Virginian, to stand with my fellow West Virginians, several Governors, the President of the United States. Members of my own community, from the Sago community, came to the signing to sign the MINER Act. I'm proud of that effort, and I'm proud of the efforts that the companies have moved forward to improve the safety since the enactment of the MINER Act. It has substantially tightened regulations and enforcement procedures, and the mining industry has made significant changes in operations and equipment to comply with the strengthened requirements.

A number of Federal agencies and several State agencies, West Virginia has been very aggressive in this regard, has pushed reforms to better respond to incidents that occur and how we can improve the chances of miners to survive a serious accident. Today more self-contained self-rescuers are being stored underground than in the past, and that is a good positive first step.

With the success of the original MINER Act in mind, I do hold some reservations that additional legislation could complicate the safety improvements currently under way, and I am not alone in my concern. I encourage my colleagues to keep this in mind if this legislation moves forward.

Unfortunately, the events of Sago serve as a reminder that we must always strive to make America's mines as safe as they can possibly be.

This bill is flawed in many ways. The junior Senator from West Virginia has publicly expressed his concern, and I have concern that this bill will hold up some of the progress as it has moved forward.

But at the end of the day, for me, this is about those Sago miners, and their tragedies stay with me. My hope is that we can continue the good work that has moved forward as a result of the MINER Act. It is crucial that Congress continue to highlight mine safety so that the tragedies we've seen in West Virginia and across the Nation are not repeated.

Mr. GEORGE MILLER of California. May I inquire of the Chair how much time each side has remaining.

The CHAIRMAN. The gentleman has 13 minutes, and 15½ on the other side.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT), a member of the committee.

Mr. HOLT. Mr. Chairman, there's no question that mining has been a dangerous job. And today coal mining is rated among the most dangerous occupations in America. It does not have to be that way.

As a scientist, I've paid some attention to mine safety technology, but I also feel strongly about the concerns of those working in mines because I was born and raised in West Virginia, where my father, many years ago, as a member of the House of Delegates, and later

in the Senate, was known as one of the best friends the miner ever had.

As an original cosponsor of the S-MINER Act, I want to thank Chairman MILLER and our staff for recognizing the importance of getting communications technology, currently existing, and that being developed, into the mines as quickly as possible.

This bill improves the work of the previous Congress by requiring that enhanced communications and miner tracking systems be installed immediately upon enactment.

I remain troubled that the Mine Safety and Health Administration and mine operators have delayed getting promising technology into the mines. It is really heartrending to share in the terror and tragedy of miners stranded without communication.

A year ago, NIOSH reached an agreement with the U.S. Army Communications and Electronics Research Center at Fort Monmouth in New Jersey to test and develop the KUTTA communications system because communications on the battlefield and in noisy environments subject to disruptions have lessons for communications in the mines.

Mr. Chairman, MSHA has not acted with the urgency needed to prevent future miner fatalities. Today Congress is acting.

I urge my colleagues to support this legislation because, in the wake of the Sago and Darby and Crandall Canyon mine tragedies, we should not have to face more families who have faced these tragedies, and we should do everything we can to prevent such tragedies in the future.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from Kentucky (Mr. YARMUTH), a member of the committee.

Mr. YARMUTH. Mr. Chairman, I rise today in strong support of the S-MINER Act because it will quite simply and without doubt save the lives of innocent Americans. It could have saved the life of my fellow Kentuckian, Jimmy Lee, whose widow Melissa I met this past year. She courageously came to us for help because, though it was too late to save her Jimmy, we still had the chance to prevent more loving spouses from becoming courageous widows.

Yesterday, Melissa and 27 other Kentuckians sent me a letter. Each has lost a father, son or husband in a preventable mine disaster, and each urges the implementation of this legislation.

I found it very interesting to listen to my colleague from across the aisle, the gentleman from Alaska. And he used the term on a number of occasions, a nail in the coffin: And this is what we're talking about.

In my case, today, I'm talking about a letter from 28 Kentuckians who had to put their relatives, their loved ones in coffins and bury them because this government has not done what it can and should do to protect them.

In any event, the White House threatens a veto, not so much because

it disagrees, but because the Department of Labor still hasn't implemented the last law. Congress is here to act when bureaucracies drag their feet. And here the consequences of the administration stonewalling are disastrous.

This is one of those choices we face in this era. We face the decision between money and lives. And as I said during the hearing when we looked into the Darby disaster and Sago and Crandall Canyon, we need to have a country and a government that value the lives of the miners as much as what they bring out of the ground. That's what this legislation is all about. That's what we stand here to do. And that's why I congratulate the chairman for his courageous act and his passion for this cause.

So with that, I urge my colleagues and the President to join me in supporting the Supplemental Mining Improvement and New Emergency Response Act. And I urge them to begin saving lives today.

Mr. GEORGE MILLER of California. I yield myself 30 seconds.

I want to thank the gentleman. I've had an opportunity to read the letter from his constituents, and I want to thank him for entering it into the RECORD. It's on behalf of those families and the families of the other mining tragedies who have also written to us that we made a pledge in our committee, as the gentleman knows, that this committee was going to be very diligent about pursuing mine safety.

□ 1315

It had been ignored for too long. The families had been closed out of the process. They were not allowed to testify. They were not allowed to go to the investigations. They were not allowed to attend the hearings, and this legislation changes much of that.

And you're quite correct and I want to thank him and his constituents for the support of this legislation.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Members are reminded to refrain from wearing communicative badges while under recognition.

Mr. McKEON. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. WILSON). He's the senior ranking member on the subcommittee.

Mr. WILSON of South Carolina. Mr. Chairman, I thank Congressman McKEON very much for the introduction. I appreciate his leadership on the committee.

I speak in opposition to the bill and in favor of mine safety, as fully explained by the Statement of Administration Policy dated January 15, 2008, from the Office of Management and Budget.

In 2006, the President signed the Mine Improvement and New Emergency Response, MINER, Act, the most significant mine safety legislation in nearly 30 years. The administration has

worked with miners, mine owners, miners' representatives, and other stakeholders in the mining industry to meet the safety improvement goals set forth in the original MINER Act, including issuing regulations to strengthen emergency mine evacuation practices, improve the strength requirements for seals, and increase civil penalties. In addition, on December 26, 2007, the President signed the Omnibus Appropriations Act, which mandates additional rulemaking on belt air and refuge chambers on rigorous timetables.

H.R. 2768, the Supplemental Mine Improvement New Emergency Response Act, the S-MINER bill, would place in jeopardy meaningful achievements and efforts currently under way as a result of these measures. In particular, several of the regulatory mandates in the S-MINER bill would weaken several existing regulations and overturn regulatory processes that were required by the MINER Act and are ongoing.

These changes would provide no opportunity for stakeholder participation in the regulatory process and would impose burdensome and unrealistic time requirements. The S-MINER bill would also fundamentally change the investigation of mining accidents and jeopardize the ability to hold mine operators accountable for violations of mine safety regulations.

For these reasons, the administration strongly opposes House passage of the bill. If H.R. 2768 were presented to the President in its current form, the President's senior advisers would recommend he veto the bill.

The S-MINER bill requires new regulations on the strength of mine seals, even though a new emergency temporary standard on mine seals was issued in May 2007 and a final regulation will be issued in February 2008. To reopen this process would cause confusion within the industry and put on hold improvements already being made to underground mine seals.

The S-MINER bill would weaken current regulations requiring a mine operator to contact the Mine Safety and Health Administration, MSHA, within 15 minutes of a serious accident by creating a new two-tiered notification system of 15 minutes or 1 hour, depending on the severity of the incident.

Of particular concern is a provision requiring the MSHA to adopt the recommended exposure limits issued by the National Institute for Occupational Safety and Health as permissible exposure limits, PELs. This provision overturns a Federal court decision that requires agencies like the MSHA to perform a risk assessment prior to issuing a PEL. This provision would mandate the adoption of potentially hundreds of PELs without any input from stakeholders and without determination of whether the PEL is economically and technologically feasible.

The S-MINER bill would allow a stakeholder to challenge a PEL only after its issuance. This process undermines the rigor of the normal rule-making process and places the burden

of proof of technological and economic feasibility on stakeholders instead of the Department of Labor.

The S-MINER bill would potentially quadruple the number of investigations into multi-injury or multifatality accidents by adding a requirement for another investigation by an independent investigative team and by giving the Chemical Safety Board, as well as the Office of the Inspector General within the Department of Labor, the right to investigate mine accidents. These provisions undermine the government's ability to hold accountable mine operators who violate mine safety and health regulations since multiple investigations potentially using different methodologies and reaching different conclusions could prejudice the government's ability to prosecute civil or criminal investigations of mine safety and health standards that contributed to or exacerbated an accident.

Current law gives MSHA the sole authority to investigate mine accidents, and when MSHA investigators uncover possible criminal violations, they identify the necessary enforcement action to take against a mine operator and make an appropriate referral to the Department of Justice.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LOEBSACK).

Mr. LOEBSACK. Mr. Chairman, in recent years we have seen several mine tragedies that cost the lives of hard-working individuals. Our first thought should always be the safety of mine workers. We must ensure there are adequate regulations in place to provide the safest working environments possible.

Iowa is a proud home to many limestone producers. While they share our goal of protecting mine workers, we must also recognize the differences between limestone mining and coal mining. These local producers are concerned that some provisions in this bill may harm small businesses. These businesses provide jobs in our local communities and are critical to Iowa's continued economic development.

I want to thank the chairman for his work on this bill and for his willingness to continue a dialogue on this issue. As this bill continues to move through the legislative process, I hope we can reach a compromise supported by workers, industry, Congress, and the administration.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS), a member of the committee.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank the chairman for yielding.

In the spring of 2007 at the Crandall Canyon Mine, retreat mining began, and when they started the retreat mining on the north side of the mountain, there were indications that there could be trouble. There were literally noises,

sounds, that say there could be trouble. So they stopped.

In June of 2007, the company conducting that mining went to the mine safety regulators, the Federal Government, and said we want to now do on the south side of the mountain what we stopped doing on the north side of the mountain. In just over a week, 9 days as I recall, the Federal regulators said go ahead and do it. How much care could they have taken in that analysis in that short period of time? Tragically, in August of 2007, nine people lost their lives.

Here's what this bill would change. It would say that the next time a mining company submits a retreat mining plan, they've got to have a computer model of what might happen when they start. They've got to send people from the mine safety agency to the mine to watch that it's being done the right way, and they've got to look at every possible technology that could be used to protect and save people's lives.

Tonight, nine families have an empty chair at the dinner table because of the tragedy that occurred at Crandall Canyon. I can't assure any of those people that we would avoid a future tragedy, but we have to try, and this bill is an intelligent, good-faith effort in that regard. It deserves the vote of every Democrat and every Republican. It deserves to become law.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy, as I appreciate his leadership.

I voted against the last mining reform on the floor of the House, even though it represented some progress, because, frankly, it didn't go far enough and it didn't do it quickly enough. The treatment of our miners compared to what is going on in other developed countries who take mine safety seriously is a national disgrace. I am pleased to see a comprehensive piece moving forward. This is going to help reverse that course.

I heard some say that this administration would veto the legislation. I would consider a veto of mining legislation by this administration a badge of honor, an administration that has put the wrong people in charge, has been not zealous in dealing with the problems that have come forward, that have taken tragedies to at least seemingly get their attention.

I hope that each Member of the House spends a little time looking at this legislation comparing it to what's going on in the rest of the world. I'm confident that they will then support the legislation, and if by some reason the administration chooses to override it, I'm confident that people of good conscience can override it to give the miners the safety they deserve.

Mr. McKEON. May I ask about the remaining time?

The CHAIRMAN. The gentleman from California (Mr. McKEON) has 10½

minutes remaining. The gentleman from California (Mr. GEORGE MILLER) has 4½ minutes remaining.

Mr. GEORGE MILLER of California. I'm the only speaker. We were looking for a gentlewoman to do a colloquy, but she's not here. If she shows up, I would do the colloquy with her, but I wouldn't take additional time. So you can go ahead and use your time.

Mr. McKEON. Mr. Chairman, I yield myself the balance of my time.

Today we've heard a great deal about how to keep miners safe. It should go without saying that mine safety is the proposition to which we're all committed. However, we're not here today debating whether to protect miners. Instead, we're here considering a bill that would actually derail the most comprehensive mine safety overhaul in decades.

All of us are for mine safety. You know, during this campaign, I have been listening to some of the candidates running, and I think the feeling amongst many people is that Washington is broken and that we don't seem to attack things that are really important.

Well, in 2006, we passed a miner safety bill, the first one in 30 years. That was passed with the support of 381 Members to 37 Members here in the House and unanimously in the Senate.

Now here we are less than 2 years later talking about another bill that's going to, after a 30-year hiatus, we pass a bill, we're doing what we can to implement that bill. By the time regulations are written, by the time people are trained on enforcing those regulations, by the time the mine owners put those regulations into effect, it takes some time, and then here we're stepping on that bill with a new approach to change some things.

And we heard from Mr. WILSON the President's response and why he says we should give the time to fully implement the bill that was just passed less than 2 years ago. It makes sense. We live in a large country, and to try to disseminate this information and get it all into effect takes some time, and we're just saying that's why people think Washington's broke. We're stepping on something that we haven't even implemented yet.

And I don't question any motives because I think the motives are good. We should be out to protect miners. It's just which way will protect them best: implementing the bill that was already passed overwhelmingly or trying to pass a bill that will step on some of those concerns.

This law was only given 1½ years to take hold, as mentioned. It's already having an impact on our Nation's mines. Stringent safety standards are being put in place and they're being enforced. A recent article in a mining industry publication explored the impact on the mines as seen from the eyes of a miner.

He says, "As you can imagine, the regulatory environment for safety has

evolved a lot in the last few months, and we're seeing as much as a 50 percent increase in underground mine inspections on an annualized basis." That's the words of a miner to an analyst.

□ 1330

With all the progress that has been made, it seems to me that the last thing we should be considering is the disruption of that momentum, yet that's exactly what will happen if the S-MINER Act becomes law. This bill discards the expert studies already under way, replacing the wisdom and recommendations of professionals with arbitrary mandates from Washington.

Although the bill purports to protect miners, in reality it threatens the jobs we rely on. That's another thing that I'm learning, that people are very interested in the economy and jobs, and here we have an effort that probably will cut jobs. With \$1 billion in unfunded mandates in the underlying bill, the majority's attempt to mask these burdensome costs by extending the implementation timeline is a weak attempt to divert attention from the toll that will be taken on the mining community.

Mr. Chairman, as a strong supporter of mine safety, I want to be clear that there is a better way to protect the interests of the Nation's miners. We can stand for strong safety protections without diverting attention and resources from the work already under way. Later today, Representatives WILSON and KLINE will offer an amendment to do exactly that. The Wilson/Kline amendment incorporates a strong drug testing requirement that will protect miners from the dangers of illegal substance abuse in the already dangerous mining environment.

I am pleased to see our colleagues on the other side of the aisle joining us in our concern about the danger and devastation of drug use among miners. I am saddened, however, by the appearance of cynicism in the last-minute addition of this issue to the manager's package. I hope they will join us in supporting a real solution in the form of drug testing, something that our colleague, Charlie Norwood, who passed away last year, had been working on for years before, rather than a mere study that provides more political cover than genuine safety protections.

Despite the best intentions of its sponsors, this bill will do much more harm than good. It will layer new rules and requirements on top of the critical mine safety reforms already in place. With this bill, we are abandoning the bipartisan reforms of the 2006 MINER Act and abandoning all the progress that has been made.

Members on both sides of the aisle have expressed concern that this legislation is premature. A group of seven respected Democrats representing districts with a history of underground and surface mining wrote to the chairman of the Education and Labor Com-

mittee to urge us to proceed with caution. From them I quote: "We believe that before moving forward on new mine safety legislation, it would be prudent for the committee to wait for the conclusion of the studies called for in the MINER Act and the implementation of all the major requirements of the MINER Act." They were right. The academic experts are right. The Federal Mine Safety and Health Review Commission is right. The National Mining Association is right. Each of these stakeholders understands that the S-MINER Act is the wrong bill at the wrong time.

As a strong supporter of mine safety, I have no choice but to oppose this bill. I urge my colleagues to do the same.

Mr. Chairman, I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, may I inquire as to how much time is remaining.

The CHAIRMAN. The gentleman has 4½ minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. First, let me congratulate you for a fine piece of legislation for the safety of our coal miners and others who need to make sure that our people working in the mines across this country are safe and that they have a working atmosphere that is safe for them and for their families. I congratulate you on that act.

In Michigan, in my district specifically, we have salt mines; no explosions, they aren't dangerous, and this act also covers our salt mines. I live under some of the salt mines. I live over the salt mines, I might add. They are a hundred years old. We've never had a collapse. They don't have the same requirements. They provide critical infrastructure needs that we have in our community, and have been very, very good business partners in our community for over 100 years. I worry that, with this legislation, they may be penalized and have to come under some of the limits, air limits, the larger fines, and the impact of those. So, I am asking, can you assure us that our salt mines in Michigan and my constituents, that this S-MINER will not be unfairly applied to them?

Mr. GEORGE MILLER of California. If the gentlewoman would yield.

Ms. KILPATRICK. I will yield.

Mr. GEORGE MILLER of California. I want to thank you for your support of this legislation. I would note that the manager's amendment will slow down the required schedule of underground mines to convert to the new more fire-resistant conveyor belts. These belts will help prevent deaths in all kinds of underground mines. And the amendment will ensure that mine operators have a chance to use up the perfectly good belts that they have in their inventory.

Also, the S-MINER Act will not adopt new safety standards for under-

ground non-coal mines, except for the conveyor belt, and in this case, the mines which regularly emit methane gas, new rules for explosion-proof seals. It certainly does not treat these mines like coal mines.

The current air quality standards for underground salt mines are based on 1973 rules established by a private organization and incorporated by reference into the MSHA regulations. It is hard to even locate a copy of these old standards. It is the intent of S-MINER to adopt air standards that are justified by the unbiased scientific evidence as preventing health risks to miners and are feasible for the mines to achieve. If mine operators object to the new mine health limits based upon concerns of technological or economic feasibility, the bill requires them to fully analyze these concerns before adopting new standards. By speeding up the rulemaking process, we want to accelerate MSHA to address real hazards, but do not intend to adopt unsupported standards that do not create significant benefits or are not feasible for compliance.

The S-MINER Act does increase minimum and maximum penalties for violation of requirements that specifically protect the health and safety in underground metal and non-metal mines. However, it leaves in place the requirements in the law that small mines get a break, that a mine operator's history is a factor in assessment, and that the degree of negligence and seriousness of the hazard is to be considered.

Also, I want to note that our colleague, Congressman ELLSWORTH, has an amendment which would eliminate the requirement from the bill that concerns many of your constituents with respect to escrowing proposed penalties before contest.

Ms. KILPATRICK. Thank you, Mr. Chairman.

Ms. HERSETH SANDLIN. Mr. Chairman, I rise today to thank Chairman GEORGE MILLER and his colleagues on the House Education & Labor Committee for their work on H.R. 2768: Supplemental Mine Improvement and New Emergency Response Act of 2007 or S-MINER. The efforts of the Committee further address the dangers associated with mining, particularly the threats to coal miners we have seen all too frequently, most recently with the Crandall Canyon Mine disaster in 2007.

While I supported the MINER Act in 2006 and believe that Congress has a responsibility to continue to strengthen mine health and safety regulations, I am not able to support H.R. 2768 because of the unintended consequences it may have on mining operations outside of the coal industry.

While I acknowledge the Education and Labor Committee's efforts to engage industry in this debate, I feel the concerns of the surface mining industry are not adequately addressed in this legislation. As such, S-MINER may unnecessarily harm many small mining operations with new burdensome compliance requirements.

In South Dakota, aggregate mining operations create good paying jobs and provide products essential to the construction industry.

They are an important part of numerous local economies in the state. Therefore, I cannot discount the concerns of aggregate mining operations over the process by which "permissible exposure limits" (PELs) will be adopted under S-MINER. With the cost of road construction and maintenance skyrocketing, South Dakota and other states are often forced to make tough decisions. If aggregate miners are required to adopt additional regulations under S-MINER, we may see the cost of this construction component rise even higher.

I believe it is imperative that we continue to closely monitor the progress of MINER implementation, and I will continue to look for ways to support regulation reform that protect the health and safety of mine workers.

Ms. SLAUGHTER. Mr. Chairman, I submit the following articles supporting H.R. 2768 from Lexington, Kentucky and Salt Lake City, Utah.

[From Lexington Herald-Leader, Dec. 10, 2007]

UNADDRESSED RISKS: ADDITIONAL MINE-SAFETY MEASURE NEEDED

Congress and President Bush nearly broke their arms patting themselves on the back last year when a new mine-safety act became law.

The measure had the coal industry's blessings and was about all that could get through the Republican-controlled Congress, even in a year when 47 miners were killed in accidents, including underground explosions in Kentucky and West Virginia.

The MINER Act was a decent start. But it was also riddled with weaknesses, including no provisions that directly addressed the conditions leading to the deaths of 12 men at the Sago, W.Va., mine.

There were no requirements that mines have rescue chambers or that miners' emergency breathing devices be subject to random checks to be sure they work.

Now it's time to do better.

The Supplementary Mine Improvement and New Emergency Response Act, known as S-MINER, is awaiting action by the House.

In addition to filling the previously listed gaps, the measure includes a range of health and safety improvements that have long been needed, including new limits on:

Retreat mining, in which coal pillars supporting the mine's roof are removed and which led to the deaths of six miners and three rescuers at the Crandall Canyon mine in Utah this year.

The use of coal conveyor-belt tunnels to ventilate mines, a practice that carries flames and poison gases to where miners are working when a fire occurs on a conveyor belt and that contributed to the deaths of two miners at the Aracoma mine in West Virginia last year.

Also, at long last, the measure requires more advanced technology for measuring dust levels in mines to prevent black lung, the smothering disease that is making a resurgence among American miners.

And, in a major advance for mine safety, the bill provides for independent panels to investigate mine accidents causing multiple deaths, injuries or entrapments.

Under the current law, the U.S. Mine Safety and Health Administration is responsible for investigating itself, an obvious conflict of interest.

The coal industry argues that it would be unfair to impose new safety requirements while it's still struggling to put last year's law into place. But that's a lame excuse when the proposed changes are so obviously needed.

Of course, no law will keep miners safe until Congress and a new president rebuild MSHA.

An inspector general recently found that while underground mining increased 9 per-

cent from 2002 to 2006, the number of federal mining inspectors had decreased by 18 percent, from 605 to 496.

As a result, MSHA failed to conduct required inspections last year at 107 of the nation's 731 underground coal mines.

[From the Lexington Herald-Leader, Jan. 16, 2008]

TOUGHEN MINE SAFETY: BILL ADDS SCRUTINY TO ACCIDENT INVESTIGATIONS

President Bush says he would veto a strong mine-safety law because it would interfere with a weak mine-safety law and confuse the coal industry.

Bush's logic will produce more widows and orphans in the coal fields.

Kentucky's House delegation—the Republicans and the Democrats—should support S-MINER, the Supplementary Mine Improvement and New Emergency Response Act.

The MINER Act, enacted in 2006, was the best that could be gotten from a Republican-controlled Congress. Now with the Democrats in charge it's time to fix the weaknesses in that law.

The bill awaiting House action directly addresses the causes of mine fatalities at Darby in Kentucky, Sago and Aracoma in West Virginia and Crandall Canyon in Utah.

Of all the objections to S-MINER raised by Bush, the silliest is his claim that independent investigations would dilute accountability for mine accidents. Just the opposite is true.

In Kentucky, we've seen firsthand the folly of requiring the U.S. Mine Safety and Health Administration to investigate itself.

After the Darby explosion in Harlan County, in which five miners died, MSHA appeared to be more interested in covering its backside than uncovering all the facts.

An MSHA inspector had spent three days in the mine during the week before the explosion. But MSHA refused to let Kentucky investigators or anyone outside MSHA question him.

Such conduct puts miners at risk and damages the public's confidence in government.

The bill before the House would provide for independent panels to investigate mine accidents that cause multiple deaths, injuries or entrapments.

Congress should approve it and Bush should sign it.

[From the Salt Lake Tribune, Nov. 15, 2007]

MINE SAFETY: CONGRESS CONSIDERS OVERHAUL OF RULES AND REGS

It's a simple, noble, attainable goal, one Utah's underground miners can live with. "We want to do everything we can to ensure that miners are able to return home safely at the end of their shifts."

That from U.S. Rep. George Miller, D-Calif., the chairman of the House Education and Labor Committee and sponsor of the Supplementary Mine Improvement and New Emergency Response Act of 2007.

The bill was drafted in response to another deadly year in U.S. deep mines—25 coal miners and 28 other miners have died to date. It enhances and hastens many of the safety provisions contained in the Miner Act of 2006 and provides for additional rules and regulations in an industry where safety is sometimes sacrificed in the quest for profit.

There's a lot to like about Miller's bill, which is co-sponsored by U.S. Rep. Jim Matheson, D-Utah, and was inspired in part by the tragic accidents at Utah's Crandall Canyon coal mine in Emery County, where six miners and three rescue workers were killed in mine collapses in August.

The legislation would establish the Office of Miner Ombudsman, which would receive and track anonymous complaints from miners who are aware of dangerous mining conditions or safety violations, but are afraid to speak up for fear of losing their jobs. It would give the federal Mine Safety and

Health Administration absolute authority to supervise and direct rescue and recovery efforts after mine accidents, negating the need for voluntary cooperation of mine owners.

And it would provide for more oversight of retreat mining—a dangerous mining method in which coal is scavenged from mine support walls—in mines more than 1,500 feet underground, which are common in the West.

The committee forwarded the bill to the full House in a 26-18 vote that fell along partisan lines, with Republicans, including Rep. Rob Bishop of Utah, siding with the mine industry and MSHA in opposition.

Bishop, who argued that the Miner Act of 2006 is not yet fully-implemented and probes of the Crandall Canyon tragedies are still under way, says the bill is premature and takes "everything to an extreme." But it's obvious that immediate and extreme measures are needed, because miners are still dying by the dozens. Congress should approve this bill.

Mr. PETRI. Mr. Chairman, workers in this country should be able to go to work each day secure in the knowledge that all measures are being taken to ensure their safety. The tragedies at Sago, Aracoma, and Darby demonstrated that this was not the case in the mining industry.

That is why Republicans and Democrats came together during the last Congress in a bipartisan manner to enact the first significant mine safety reform legislation in generations. I believe that the requirements and studies in the MINER Act are making great strides in putting in place regulations and standards and in developing technology to protect mine workers.

Today, we are considering the Supplementary Mine Improvement and New Emergency Response Act (S-MINER). I believe that this legislation is flawed in many ways and could, in fact, undermine many of the needed reforms put in place by the MINER Act.

In my own State of Wisconsin, aggregate (stone, sand, and gravel) mining is a dominant industry. The safety hazards and appropriate safety procedures and equipment for this industry vary greatly from that of coal mining. In many instances, the condition of a stone, sand, or gravel operation is more similar to that of an earth-moving construction site than that of an underground coal mine.

However, the S-MINER Act takes a "one size fits all" approach and fails to take into account these differences. Many of the regulations and penalties mandated in the S-MINER Act will fail to improve safety in aggregate mines, while putting an undue financial burden on the industry.

It is important that Congress continues strict oversight of Mine Safety and Health Administration (MSHA) and related agencies as the MINER Act is fully implemented. As the recent Crandall Canyon disaster demonstrates, these reforms are vitally needed in the industry. However, today I am voting against the S-MINER Act because the bill is premature and overbroad.

Mr. MATHESON. Mr. Chairman, I would like to compliment Chairman MILLER. He has been a tireless advocate for America's mine workers and has worked hard to improve mine safety. I appreciate working with the Chairman to include language in H.R. 2768 that will allow for the appropriate use of belt-air in mines.

This legislation is very near to my heart and is something that I have been working on in the aftermath of the disaster at Crandall Canyon Mine which is in my district.

On August 6, six miners were trapped when rocks and debris exploded off the walls of the tunnels where they were working, more than eighteen hundred feet underground. During the rescue attempt that followed, further disaster struck when underground activity caused a burst of rubble to explode off the cavern wall, killing three rescuers.

One of the most difficult aspects of the Crandall Canyon mine collapse was not knowing where the trapped miners were when the cave-in occurred. It made for an excruciating ordeal for the families, the mine owner and the mine rescuers. The lack of communications left the rescuers with the frustrating scenario of trying to drill blindly through hundreds of feet of rock with the hope of reaching survivors.

While mines generally have reliable communications systems in place, most mines have properties that make implementation of current technology difficult. For example, the open air pathway required for radio signals and WiFi do not exist and less than ten percent of the radio spectrum used above ground can be used underground. Because of the challenges of the mine environment and the limited nature of the market, much needed technology has not yet been developed or is not commercially available.

H.R. 2768 contains a provision that accelerates the deployment of current mine communications technology in mines, which is very important. I would also like to add that the House recently passed legislation that I wrote, H.R. 3877, the Mine Communications Technology Innovation Act.

That bill, if enacted, would accelerate the development of innovative, next generation mine tracking and communications technology. Communications issues are critical and must be addressed as soon as possible in order to better protect our miners.

I thank you Mr. Chairman for your leadership on mine safety issues.

Mr. BLUMENAUER. Mr. Chairman, today I will vote in favor of H.R. 2768, the Supplemental Mine Improvement and New Emergency Response Act. This comprehensive legislation addresses the many short-comings of the MINER Act of 2006, which Congress passed in the wake of several fatal coal mining accidents.

I voted against the 2006 legislation because it did not go far enough to prevent these tragic, avoidable accidents, instead focusing exclusively on emergency response and rescue. It is a national disgrace that S-MINER is the first legislation in over 30 years that addresses preventing mining accidents and illness. We have witnessed far too many needless disasters and I am proud to support this comprehensive legislation which will not only further improve emergency response, but also reduce health risks to workers and enhance prevention efforts.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an origi-

nal bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment is as follows:

H.R. 2768

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Supplemental Mine Improvement and New Emergency Response Act of 2007” or the “S-MINER Act”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Definitions; references.

Sec. 4. Supplementing emergency response plans.

Sec. 5. Supplementing enforcement authority.

Sec. 6. Supplementing rescue, recovery, and incident investigation authority.

Sec. 7. Respirable dust standards.

Sec. 8. Other health requirements.

SEC. 2. FINDINGS.

Congress finds that—

(1) while the MINER Act of 2006 (Public Law 109–236) was an essential first step in addressing the many health and safety hazards that miners still face, supplemental action is necessary and feasible to better protect miners in coal and other mines;

(2) essential standards to protect miner health established by the Federal Mine Safety and Health Act of 1977 are out of date after 40 years, posing a significant threat to miner health; and

(3) the Secretary of Labor has failed in recent years to adequately fulfill the Secretary’s obligations under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), additional Congressional intervention is needed.

SEC. 3. DEFINITIONS; REFERENCES.

(a) *DEFINITIONS.*—As used in this Act—

(1) the term “Secretary” refers to the Secretary of Labor; and

(2) any other term used in this Act that is defined in section 3 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 802) shall have the meaning given the term in such section.

(b) *REFERENCES.*—Except as otherwise expressly provided, 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 Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

SEC. 4. SUPPLEMENTING EMERGENCY RESPONSE PLANS.

(a) *POST ACCIDENT COMMUNICATIONS.*—Section 316(b)(2)(F)(ii) (30 U.S.C. 876(b)(2)(F)(ii)) is amended—

(1) by striking “Not later than” and inserting the following:

“(11) Not later than”; and

(2) by inserting after the clause designation the following:

“(1) Not later than 120 days after the enactment of the S-MINER Act, a plan shall, to be in approved status, provide for a post accident communication system between underground and surface personnel, and for an electronic tracking system permitting surface personnel to determine the location of any persons trapped underground, that utilizes a system at least as effective as a ‘leaky feeder’ or wireless mesh type communication and tracking system currently in use in the industry. These systems shall be enhanced physically, electronically, or redundantly, to improve their survivability in the event of a mine disaster. In addition, to be in approved status, an emergency response plan

must be revised promptly to incorporate new technology which the National Institute for Occupational Safety and Health certifies can be added to the existing system to improve its ability to facilitate post-accident communication with or tracking of miners. No miner shall be disciplined based on information obtained from an electronic communications and tracking system.”.

(b) *UNDERGROUND REFUGES.*—Section 316(b)(2)(E) (30 U.S.C. 876(b)(2)(E)) is amended by adding at the end the following:

“(vi) Not later than June 15, 2008, the Secretary shall issue interim final regulations, consistent with the design criteria recommended by National Institute for Occupational Safety and Health in its report pursuant to section 13(b)(1) of the MINER Act, and subject to the requirements of the next sentence, requiring each emergency response plan to provide for the installation of portable rescue chambers meeting National Institute for Occupational Safety and Health design criteria, or refuge shelters carved out of the mine workings and sealed with bulkheads meeting National Institute for Occupational Safety and Health design criteria, or other refuge designs recommended by National Institute for Occupational Safety and Health that provide miners with equivalent or better protection, in the working areas of underground coal mines within 60 days following plan approval. In addition, a plan shall provide for the maintenance of a mobile emergency shelter within 500 feet of the nearest working face in each working section of an underground coal mine.”.

(c) *IMPROVEMENTS TO SEALS, VENTILATION CONTROLS, AND ROCK DUSTING TO LIMIT THE DAMAGE FROM EXPLOSIONS.*—

(1) *REPEAL.*—The MINER Act (30 U.S.C. 801 note) is amended by striking section 10 (concerning sealing of abandoned areas).

(2) *SEALS.*—Section 303(z) (30 U.S.C. 863(z)) is amended by adding at the end the following:

“(4)(A) The Secretary shall inspect all seals under construction after the date of enactment of the S-MINER Act, during at least part of their construction, to ensure the mine operator is complying with the approved seal plan, and shall develop an inspection protocol for this purpose.

“(B) Not later than 3 months of the date of enactment of the S-MINER Act, the Secretary shall issue final rules regarding approval, design, construction, inspection, maintenance and monitoring of underground coal mine seals which shall meet the requirements of this paragraph. Except as otherwise provided by this paragraph, these regulations shall implement the most recent recommendations of the National Institute of Occupational Safety and Health concerning seal design, construction, inspection, maintenance and monitoring. The regulations shall also provide that all seals in a mine shall be monitored if they are not designed or installed to withstand a constant total pressure of 240 pounds per square inch, using a static structural analysis. Monitoring of seals shall be done by continuous monitoring devices within one year of the date of enactment of this Act, and prior thereto by qualified personnel at such intervals as the Secretary determines are adequate to ensure safety. The Secretary shall require mine operators to utilize a tamper-resistant method to retain records of all such monitoring and ensure they are available for examination and verification by the agency. Monitoring of seals shall be done both by—

“(i) sampling through at least 1 seal in each bank of seals; and

“(ii) for new seals, unless infeasible due to property rights, sampling through a sufficient number of boreholes from the surface to the sealed areas underground to effectively determine the gas concentrations within the area.

“(C) In addition, the regulations shall provide that—

“(i) seal sampling pipes shall be composed of materials that minimize the risk of transmitting

any electrical charge, and no conductive materials may be used to line boreholes within three feet of the surface;

“(ii) an action plan for sealing and repair be established that will, among any other requirements, include specific actions the mine operator will take to protect miners during the critical time period immediately after sealing or repair takes place, and which shall be reviewed by personnel from the Mine Safety and Health Administration who have the required expertise prior to approval; and

“(iii) methane pressures behind any seal required to be monitored shall be maintained in such a manner as ensure that normal pressure variations that can be reasonably anticipated in the area of the seal do not bring the methane-air mixture into an appropriate safety range surrounding the known explosive range of such mixtures.”.

(3) VENTILATION CONTROLS.—Section 303(c) (30 U.S.C. 863) is amended by inserting at the end the following new paragraph:

“(4) Not later than 1 year after the date of enactment of the S-MINER Act, the Secretary shall publish interim final regulations to enhance the survivability of underground mine ventilation controls. The Secretary shall require that stoppings be constructed using solid concrete blocks laid wet and sealed with an appropriate bonding agent on at least the side subjected to the velocity of the intake air coursing through the entry, except that in the case of stoppings constructed during barrier reduction and pillar removal operations, such stoppings may be constructed using hollow block and an appropriate bonding agent.”.

(4) ROCK DUSTING.—Section 304(d) (30 U.S.C. 864) is amended by adding at the end the following: “Not later than June 15, 2009, the National Institute for Occupational Safety and Health shall issue recommendations as to whether changes to these requirements are necessary to ensure an equivalent level of protection in light of any changes to the size and composition of coal dust since these requirements were established, and the Secretary of Labor shall take appropriate action, including the issuance of an emergency temporary standard if warranted, to respond to these recommendations.”.

(d) LIMITING CONVEYOR BELT RISKS.—

(1) FLAME RESISTANT CONVEYOR BELTS.—Section 311(h) is amended by adding at the end the following: “Not later than January 31, 2008, the Secretary shall publish interim final regulations to ensure that all conveyor belts in use in underground coal mines are replaced no later than December 31, 2012, with belts that can meet the flame resistance requirements recommended by the National Institute for Occupational Safety and Health, and which limit smoke and toxic emissions. Any conveyor belt installed in a coal mine after the date of enactment of the S-MINER Act shall meet such requirements.”.

(2) BELT AIR.—Section 303(y) (30 U.S.C. 863) is amended by adding at the end the following:

“(3) Not later than June 20, 2008, the Secretary shall revise the regulations prescribed pursuant to this section to require, in any coal mine, regardless of the date on which it was opened, that belt haulage entries not be used to ventilate active working places. The Secretary may agree to a modification of this requirement, pursuant to the procedures of section 101(c), if and only if—

“(A) the mine operator establishes to the satisfaction of the Secretary that significant safety constraints require such usage; and

“(B) the mine operator agrees to comply with criteria established by the Secretary which shall, at a minimum, include the conditions recommended by the Technical Study Panel established under section 514.

“(4) Plans that have been approved by the Secretary prior to the date of enactment of the S-MINER Act that permit the use of belt-air to ventilate active working places in a mine are

permitted to remain in use to complete current mining up until the date of issuance of the regulation required pursuant to paragraph (3).”.

(e) PRE-SHIFT REVIEW OF MINE CONDITIONS.—Section 303(d) (30 U.S.C. 863(d)) is amended by adding at the end the following new paragraph:

“(3) Not later than 90 days after the date of enactment of the S-MINER Act, all mine operators shall be required to implement a communication program at each of such operators' facilities to ensure that each person entering the operation is made aware at the start of that person's shift of the current conditions of the mine in general and of that person's specific worksite in particular. In an effort to facilitate these communications, all agents of the operator who are responsible for ensuring the safe and healthful working conditions at the mine, including mine foremen, assistant mine foremen, and mine examiners, shall, upon exiting the mine or workplace, communicate with those replacing them on duty to verbally update them on the conditions they observed during their shift, including any conditions that are abnormal or hazardous. Prior to entering the mine or other workplace the on-coming agent of the operator shall meet with all members of the crew they are responsible for and inform them of the general conditions at the operation and in their specific work area. This process shall be completed prior to the start of each shift at the operation and recorded in a book designated for that purpose and available for inspection by all interested parties. In the event the operation is idle prior to the start of any shift the agent of the operator shall meet with the individual or individuals who were responsible for examining the mine to obtain the necessary information.”.

(f) ATMOSPHERIC MONITORING SYSTEMS.—Section 317 (30 U.S.C. 877) is amended by adding at the end the following:

“(u) Not later than May 1, 2008, an operator of an underground mine shall install atmospheric monitoring systems in all underground areas where miners normally work and travel that provide real-time information regarding carbon monoxide levels, and that can, to the maximum extent possible, withstand explosions and fires.”.

(g) METHANE MONITORS.—Section 303(h) (30 U.S.C. 863(h)) is amended by redesignating paragraph (2) as paragraph (3), and inserting after paragraph (1) the following new paragraph:

“(2) Each miner who is working alone for part of a shift shall be equipped with a multi-gas detector that measures current levels of methane, oxygen, and carbon monoxide.”.

(h) LIGHTNING STUDY BY NATIONAL ACADEMY OF SCIENCES.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary and to Congress recommendations on—

(1) actions that need to be taken to strengthen existing requirements in law or regulations to ensure that miners are protected, to the fullest extent permitted, from the risks of lightning strikes near a mine;

(2) recommendations for adopting any existing technology to the mining environment to minimize any such risks; and

(3) research needed for improved technology.

(i) ROOF AND RIB SUPPORT, BARRIER REDUCTION AND PILLAR EXTRACTION, SPECIAL ATTENTION TO DEEP MINING.—

(1) AMENDMENTS TO EXISTING LAW.—Section 302 is amended—

(A) by amending the section heading to read “ROOF AND RIB SUPPORT, BARRIER REDUCTION AND PILLAR EXTRACTION, SPECIAL ATTENTION TO DEEP MINING”;;

(B) in subsection (a), by inserting after the second sentence the following: “The Secretary shall by regulation ensure the appropriate use of roof screen in belt entries, travelroads, and designated intake and return escapeways in accordance with the requirements of subsection (g).”; and

(C) by inserting at the end the following:

“(g) Where screening is required, at least forty percent of the width of the exposed roof shall be screened. Screening to meet the requirements of this section must have a load bearing capacity at least equivalent to a load of 2.5 tones between bolts on a 4 foot pattern.

“(h)(1) An operator shall be required to have a current and approved barrier reduction or pillar extraction plan, or both, before performing such activities. The Secretary shall only approve a barrier reduction or pillar extraction plan if it provides adequate protection and minimizes the risks for miners engaged in the activity, reflecting appropriate engineering analysis, computer simulations, and consultations with technical experts in the agency, in the National Institute for Occupational Safety and Health, and in the Bureau of Land Management for any mines leasing Federal coal resources, and only if the plan complies with any specific requirements that may be adopted by the Secretary for barrier reduction or pillar extraction activities including requirements related to the depth of the mine, geology of the mine, mine height and methods, and emergency response capabilities.

“(2) A copy of a proposed barrier reduction or pillar extraction plan, or both, shall be provided to the authorized representative of miners at least 10 days prior to submission to the Secretary for approval. The authorized representative of miners may provide comments to the Secretary who shall respond thereto.

“(3) The Secretary shall establish a special internal review process for operator plans to protect miners from the risks addressed by this section when working at depths of more than 1500 feet and in other mines with a history of mountain bumps.

“(i) Not later than 1 week before the commencement of any barrier reduction or pillar extraction operations, the mine operator shall notify the appropriate representative of the Secretary of his intention to begin or resume barrier reduction or pillar extraction. The Secretary shall document such notification in writing, and shall, before barrier reduction or pillar extraction operations begin, take action to ensure that every person who will be participating in such operations is trained in the operator's barrier reduction and/or pillar extraction plan. The Secretary shall observe the barrier reduction or pillar extraction operations for a sufficient period of time to ensure that the mine operator is fully complying with the barrier reduction or pillar extraction plan. The Secretary may preclude the commencement of such operations or halt such operations at any time the safety of miners comes into question.”.

(2) STUDY.—Not later than 1 year after the date of enactment of this Act, the National Academy of Sciences shall, in consultation with the National Institute for Occupational Safety and Health, submit to the Secretary and to Congress recommendations for—

(A) actions that need to be taken to strengthen existing requirements in law or regulations to ensure that miners are protected, to the fullest extent permitted, from ground control hazards, including the special hazards associated with barrier reduction and pillar extraction;

(B) adopting any existing technology to the mining environment to improve miner protections during barrier reduction and pillar extraction, and on research needed for improved technology to improve miner protections during such operations;

(C) adopting any existing technology to the mining environment to improve miner protections during mining at depths below 1000 feet, and on research needed for improved technology to improve miner protections during such operations; and

(D) adopting any existing technology to the mining environment to improve miner protections during secondary mining of coal resources, and on research needed for improved technology

to improve miner protections during such operations.

(j) SCSR INSPECTION PROGRAM.—

(1) IN GENERAL.—The Secretary shall—

(A) establish a program to randomly remove and have tested by the National Institute for Occupational Safety and Health field samples of each model of self-rescue device used in an underground coal mine in order to ensure that the self-rescue devices in coal mine inventories are working in accordance with the approval criteria for such devices;

(B) require a manufacturer of a self-rescue device and the mine operator who owns a device to contact the Secretary immediately upon notification of any potential problem with any such device, and provide a copy of such notice to the representative of miners at the affected operation; and

(C) notify immediately all operators of underground coal mines if the Secretary detects or is advised of any problems with the self-rescue devices.

(2) DETERMINATION.—For the purposes of paragraph (1)(A), the National Institute for Occupational Safety and Health shall determine the number of field samples of each device to be removed for testing, and the mines from which the samples are to be drawn to ensure a random sample is obtained, and shall provide mine operators with self-rescue devices to replace any removed for random testing. Should this testing reveal a potential problem with a device that requires additional testing, the Secretary shall remove such additional samples from such mines as may be requested by the National Institute for Occupational Safety and Health, and it shall be the obligation of mine operators to provide self-rescue devices to promptly replace any removed as a result of such additional testing.

(k) APPLICATION TO UNDERGROUND METAL AND NONMETAL MINES.—Title II is amended by adding at the end the following new section:

“SEC. 207. APPLICATION TO UNDERGROUND METAL AND NONMETAL MINES.

“(a) CONVEYOR BELTS.—The regulations to be issued pursuant to section 311(h) concerning conveyor belts shall also provide that all conveyor belts in use in underground metal and nonmetal mines are to be replaced, on the same schedule, with belts that can meet the flame resistance requirements recommended by the National Institute for Occupational Safety and Health, and which limit smoke and toxic emissions. Any conveyor belt installed in an underground metal or nonmetal mine after the date of enactment of the S-MINER Act shall meet such requirements.

“(b) SEALS.—The regulations to be issued pursuant to section 303(z)(2) concerning the approval, design, construction, inspection, maintenance and monitoring of underground coal mine seals shall make the same rules applicable to seals in underground metal and nonmetal mines which have been classified by the Secretary as a category I, III, or V mine pursuant to section 57.22003 of title 30, Code of Federal Regulations, because they naturally emit defined quantities of methane.

“(c) ADVISORY COMMITTEE.—Promptly after the date of enactment of the S-MINER Act the Secretary shall establish an advisory committee to provide recommendations as to the need to revise the regulations applicable to underground metal and nonmetal mines to ensure that miners in such mines are as protected in emergency situations as will be underground coal miners following the full implementation of the MINER Act, the provisions of the S-MINER Act, and related actions by the Secretary. The advisory committee shall be established pursuant to the Advisory Committee Act, and shall provide recommendations to the Secretary and to Congress not later than 21 months after the date of enactment of this Act, including recommendations as to any action by Congress that could facilitate the goal of providing equivalent protections to miners in underground metal and nonmetal mines.”.

(1) APPROVAL CENTER PRIORITIES.—The Secretary shall expedite the process for approving any—

(1) self-rescue device that permits the replenishment of oxygen without requiring the device user to remove the device; and

(2) underground communication device that provides for communication between underground and surface personnel via a wireless two-way medium.

(m) TECHNOLOGY AND MINE EMERGENCY HEALTH AND SAFETY RESEARCH PRIORITIES.—In implementing its research activities in the 5-year period beginning on the date of enactment of this Act, the National Institute for Occupational Safety and Health shall give due consideration to new technologies, and existing technologies that could be adapted for use in underground coal or other mines, that could facilitate the survival of miners in a mining emergency. Such technologies include—

(1) self-contained self-rescue devices capable of delivering enhanced performance;

(2) improved battery capacity and common connection specifications to enable emergency communication devices for miners to be run from the same portable power source as a headlamp, continuous dust monitor, or other device carried by a miner;

(3) improved technology for assisting mine rescue teams, including devices to enhance vision during rescue or recovery operations;

(4) improved technology, and improved protocols for the use of existing technologies, to enable conditions underground to be assessed promptly and continuously in emergencies, so as to facilitate the determination by appropriate officials of the instructions to provide both to miners trapped underground and to mine rescue teams and others engaged in rescue efforts;

(5) improvements to underground mine ventilation controls separating mine entries to be more resistant to mine fires and explosions, particularly in those entries used for miner escapeways;

(6) mine-wide monitoring systems and strategies that can monitor mine gases, oxygen, air flows, and air quantities at strategic locations throughout the mine that would be functional during normal mining operations and following mine fires, explosions, roof falls, and mine bursts, including systems utilizing monitoring sensors that transfer data to the mine surface and the installation of tubing to draw mine gas samples that are distributed throughout the mine and can quickly deliver samples to the mine surface; and

(7) protective strategies for the placement of equipment, cables, and devices that are to be utilized during mine emergencies such as communication systems, oxygen supplies, and mine atmosphere monitoring systems, to protect them from mine fires, roof falls, explosions, and other damage.

SEC. 5. SUPPLEMENTING ENFORCEMENT AUTHORITY.

(a) AUTHORITY OF INSPECTORS.—Section 103(a) (30 U.S.C. 813(a)) is amended by adding at the end the following: “No person shall limit or otherwise prevent the Secretary from entry on a coal or other mine, or interfere with the Secretary’s inspection activities, investigative activities, or rescue or recovery activities.”.

(b) TRANSITION TO A NEW GENERATION OF INSPECTORS.—Section 505 (30 U.S.C. 954) is amended—

(1) by striking “The Secretary” the first place it appears and inserting “(a) The Secretary”; and

(2) by adding at the end the following:

“(b) Within 270 days of the enactment of the S-MINER Act, the Secretary shall establish a Master Inspector program to ensure that the most experienced and skilled employees in the Nation have the incentive, in terms of responsibilities and pay, to serve as mine safety and health inspectors in this Nation’s mines.

“(c) In order to ensure that the Secretary has adequate time to provide that a sufficient num-

ber of qualified and properly trained inspectors of the Mine Safety and Health Administration are in place before any inspectors employed as of the date of enactment of the S-MINER Act retire, any ceilings on the number of personnel that may be employed by the Administration with respect to mine inspectors are abolished for the 5-year period beginning on the date of enactment of such Act.

“(d) In the event that, notwithstanding the actions taken by the Secretary to hire and train qualified inspectors, the Secretary is temporarily unable, at any time during the 5-year period beginning on the date of enactment of the S-MINER Act, to employ the number of inspectors required to staff all district offices devoted to coal mines at the offices’ highest historical levels without transferring personnel from supervisory or plan review activities or diminishing current inspection resources devoted to other types of mines, the Administration is authorized to hire retired inspectors on a contractual basis to conduct mine inspections, and the retirement benefits of such retired inspectors shall not be reduced as a result of such temporary contractual employment.

“(e) During the 5-year period beginning on the date of enactment of the S-MINER Act, the Secretary shall issue a special report to the appropriate committees of Congress each year, or at such more frequent intervals as the Secretary or any such committee may consider appropriate, providing information about the actions being taken under this section, the size and training of the inspector workforce at the Mine Safety and Health Administration, the level of enforcement activities, and the number of requests by individual operators of mines for compliance assistance.”.

(c) OFFICE OF MINER OMBUDSMAN.—Title V is amended by adding at the end the following:

“SEC. 516. OFFICE OF MINER OMBUDSMAN.

“(a) ESTABLISHMENT OF MINER OMBUDSMAN.—There shall be established, within the Office of the Inspector General of the Department of Labor, the position of Miner Ombudsman. The President, by and with the advice and consent of the Senate, shall appoint an individual with expertise in mine safety and health to serve as the Miner Ombudsman. The Ombudsman shall have authority to hire such personnel as are required to administer his duties in accordance with applicable law, provided they meet any general requirements for employment within the Office of the Inspector General.

“(b) DUTIES.—The Miner Ombudsman shall—

“(1) recommend to the Secretary appropriate practices to ensure the confidentiality of the identity of miners, and the families or personal representatives of the miners, who contact mine operators, authorized representatives of the miners, the Mine Safety and Health Administration, the Department of Labor, or others with information about mine accidents, incidents, injuries, illnesses, possible violations of mandatory health or safety standard violations or plans or other mine safety and health concerns;

“(2) establish a toll-free telephone number and appropriate Internet website to permit individuals to confidentially report mine accidents, incidents, injuries, illnesses, possible violations of mandatory health or safety standard violations or plans or other mine safety and health concerns, and provide plastic wallet cards, refrigerator magnets, or similar devices to all mine operators, which mine operators shall distribute to all current and new miners, with contact information for such confidential reports, and also provide supplies of these devices to miner communities;

“(3) collect and forward information concerning accidents, incidents, injuries, illnesses, possible violations of mandatory health or safety standard violations or plans or other mine safety and health concerns to the appropriate officials of the Mine Safety and Health Administration for investigation, or to appropriate officials within the Office of Inspector General for

investigation or audit, or both, while establishing practices to protect the confidentiality of the identity of those who provide such information to the Ombudsman; and

"(4) monitor the Secretary of Labor's efforts to promptly act upon complaints filed by miners under section 105(c) of the Act or pursuant to other programs administered by the Department to protect whistleblowers, and report to Congress any recommendations that would enhance such rights or protections.

"(c) **AUTHORITY.**—All complaints of operator violations of any section of this Act or regulations prescribed under this Act that are reported to the Secretary shall be forwarded to the Ombudsman for logging and appropriate action, except that this requirement shall be implemented in such a way as to avoid interference in any way with the ability of the Assistant Secretary for Mine Safety and Health to take prompt actions that may be required in such situations. This shall include complaints submitted in writing, via any phone system, or orally, along with all relevant information available regarding the complainant. All such information shall be retained in a confidential manner pursuant to the Privacy Act of 1974. The Ombudsman shall use such information to monitor the actions taken to ensure that miners' complaints are addressed in a timely manner and in compliance with the appropriate statutes and regulations. The Ombudsman shall refer to appropriate personnel within the Office of the Inspector General for further review any case which he determines was not handled in such fashion.

"(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are hereby authorized to be appropriated to the Ombudsman such sums as may be required for the implementation of his duties out of the sums otherwise made available to the Mine Safety and Health Administration for its activities."

(d) **PATTERN OF VIOLATIONS.**—

(1) **PROMPT IDENTIFICATION OF PATTERN.**—Not later than 3 months after the date of enactment of this Act, the Secretary shall revise the regulations issued by the Secretary under section 104(e) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 814(e)) as in effect on the day before such date of enactment, so that the regulations provide that—

(A) when a potential pattern of violations is identified by any inspector or district manager of the Mine Safety and Health Administration, the operator of the coal or other mine and the authorized representative of miners for the mine shall be notified by the inspector or district manager not later than 10 days after such identification; and

(B) after receiving the notification described in subparagraph (A), the appropriate official of the Mine Safety and Health Administration shall promptly review any such potential pattern of violations and, not later than 45 days after receiving such notification, make a final decision as to whether a citation for a violation of section 104(e) of such Act should be issued in light of the gravity of the violations and the operator's conduct in connection therewith.

(2) **IDENTIFICATION OF PATTERN.**—Section 104(e)(1) (30 U.S.C. 814(e)(1)) is amended by inserting after the first sentence the following: "In determining whether a pattern of violations exists, the Secretary shall give due consideration to all relevant information, such as the gravity of the violations, operator negligence, history of violations, the number of inspection shifts the Secretary or her agents have spent at the operation, and the frequency of violations per number of inspection days spent at the operation."

(3) **TERMINATION OF PATTERN.**—Section 104(e)(3) (30 U.S.C. 814(e)(3)) is amended by adding at the end the following: "In addition, if an operator subject to paragraphs (1) and (2) demonstrates objective evidence that they are correcting the problems that gave rise to the pattern of violations, and the violation frequency rate for such operator declines significantly for

a period of 180 days, the withdrawal order provisions of paragraphs (1) and (2) shall no longer apply."

(4) **FINE FOR A PATTERN OF VIOLATIONS.**—Section 110 (30 U.S.C. 820) is amended—

(A) by redesignating subsections (i) through (l) as subsections (j) through (m), respectively; and

(B) by inserting after subsection (h) the following:

"(i)(1) If the Secretary determines that a pattern of violations under section 104(e) exists, the Secretary shall assess a penalty, in addition to any other penalty authorized in this Act for a violation of such section, of not less than \$50,000 nor more than \$250,000. All operators of the mine, including any corporate owners, shall be jointly and severally liable for such penalty. The amount of the assessment under this paragraph shall be designed to ensure a change in the future conduct of the operators and corporate owners of such mine with respect to mine safety and health, given the overall resources of such operators. Notwithstanding subsection (k) or section 113, a penalty assessed by the Secretary under this paragraph may not be reduced by the Commission.

"(2) In addition to the authority to withdraw miners from an area of a coal or other mine pursuant to section 104(e), the Secretary shall withdraw all miners from the entire mine when any pattern of violations has been determined to exist until such time as the Secretary certifies that all identified violations have been corrected and the operator has agreed to abide by a written plan approved by the Mine Safety and Health Administration to ensure that such a pattern of conduct will not recur."

(e) **NOTIFICATION OF ABATEMENT.**—Section 104(b) (30 U.S.C. 814(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "If," and inserting:

"(2) If,"; and

(3) by inserting after the subsection designation the following:

"(1) An operator issued a citation pursuant to subsection (a) shall notify the Secretary that the operator has abated the violation involved. If such operator fails to provide such a notice to the Secretary within the abatement time as provided for in the citation, the Secretary shall issue an order that requires the operator (or the agent of the operator) to immediately cause all persons, except those persons referred to in subsection (c), to be withdrawn from, and to be prohibited from entering, such area as the Secretary determines until an authorized representative of the Secretary determines that such violation has been abated. Notwithstanding any operator notice, no violation shall be determined to be abated until an authorized representative of the Secretary visits the site and determines such violation has been fully abated."

(f) **FAILURE TO TIMELY PAY PENALTY ASSESSMENTS.**—Section 105(a) (30 U.S.C. 815(a)) is amended by striking the third sentence and inserting the following: "The operator shall, not later than 30 days from the receipt of the notification of a citation issued by the Secretary, notify the Secretary that the operator intends to contest the citation or proposed assessment of a penalty, and the operator shall place in escrow with the Secretary the amount of the proposed assessment. The Secretary shall place any escrow submitted by a mine operator for this purpose into an interest bearing account and shall release the funds to the operator, including interest accrued, upon the payment of any final assessment determination. If notification and proof of escrow is not provided to the Secretary, the citation and the proposed assessment of penalty shall be deemed a final order of the Commission and not subject to review by any court or agency. In the event that a mine operator refuses to comply with a final order of the Commission to pay civil monetary penalties and statutory interest, the Secretary shall have the au-

thority to issue an order requiring the mine operator to cease production under such final orders of the Commission have been paid in full."

(g) **MAXIMUM AND MINIMUM PENALTIES.**—Section 110(a)(1) (30 U.S.C. 820(a)(1)) is amended by striking "more than \$50,000 for each such violation." and inserting "less than \$500 or more than \$100,000 for each such violation, except that, in the case of a violation of a mandatory health or safety standard that could significantly and substantially contribute to the cause and effect of a coal or other mine health or safety hazard, the penalty shall not be less than \$1,000 or more than \$150,000, for each such violation."

(h) **FACTORS IN ASSESSING PENALTIES.**—The Federal Mine Safety and Health Act of 1977 is amended—

(1) in section 105(b)(1)(B)—

(A) by striking: "the size of the business of the operator charged"; and inserting "the combined size of the business of the operator and any controlling entity";

(B) by striking "the effect on the operator's ability to continue in business,"; and

(C) by adding at the end the following: "In settling cases, the Secretary shall utilize the same point system as that utilized to propose penalties, so as to ensure consistency in operator penalty assessments."; and

(2) in section 110(j) (as redesignated by subsection (a)(4))—

(A) by striking: "the size of the business of the operator charged" and inserting "the combined size of the business of the operator and any controlling entity";

(B) by striking "the effect on the operator's ability to continue in business,"; and

(C) by adding at the end the following: "In any review requested by a mine operator, or in settling cases, the Commission shall utilize the same point system as that developed by the Secretary for proposed assessments so as to ensure consistency in operator penalty assessments."

(i) **CIVIL PENALTY FOR INTERFERENCE OR DISCRIMINATION.**—Section 110 (30 U.S.C. 820) is further amended by adding at the end the following:

"(n) **CIVIL PENALTY FOR INTERFERENCE OR DISCRIMINATION.**—Any operator who is found to be in violation of section 105(c), or in violation of section 103(a) (as amended by this Act) shall be subject to a civil penalty of not less than \$10,000 nor more than \$100,000 for each occurrence of such violation."

(j) **WITHDRAWAL ORDER.**—Section 107(a) (30 U.S.C. 817(a)) is amended by inserting after the first sentence the following: "In addition, in the event of any violation of section 315 or section 316, or regulations issued pursuant to such sections, such representative shall determine the extent of the area of such mine throughout which the danger exists and issue an order requiring the operator of such mine to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violations have been abated."

(k) **CLARIFICATIONS OF INTENT IN THE 1977 ACT.**—The Federal Mine Safety and Health Act of 1977 is amended—

(1) in section 3(d) (30 U.S.C. 802)—

(A) by inserting "mineral" before "owner";

(B) by inserting "mineral" before "lessee";

(C) by striking "or any independent" and inserting "and any independent"; and

(D) by inserting before the semicolon the following: "and no operator may, by contract or other agreement, limit any liability under this Act through transfer of any responsibilities to another person";

(2) in section 103 (30 U.S.C. 813)—

(A) in subsection (b)—

(i) by striking the first sentence and inserting the following: "For the purpose of enabling the Secretary to perform the functions under this Act, the Secretary may, after notice, hold public

hearings and sign and issue subpoenas for the attendance and testimony of witnesses and the production of information, including but not limited to relevant data, papers, books, documents and items of physical evidence, and administer oaths, whether or not in connection with a public hearing.”; and

(ii) in the last sentence by striking “documents” and inserting “information, including data, papers, books, documents, and items of physical evidence”;

(B) in subsection (h), in the first sentence, by striking “information” and inserting “data, papers, books, documents, and items of physical evidence”;

(3) in section 104 (30 U.S.C. 814)—

(A) in subsections (d)(1), (e)(1), (e)(2), (e)(3), and (e)(4), as amended by this Act, by inserting “or any provision of this Act” after “standard” or “standards” each place either such term appears; and

(B) in subsection (d)(1), as amended by this Act, by striking “while the conditions created by such violation do not cause imminent danger,”;

(4) in section 105 (30 U.S.C. 815)—

(A) in subsection (a), in the first sentence, by striking “, within a reasonable time after the termination of such inspection or investigation,”;

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by inserting “or an injury or illness in a coal or other mine or that may be associated with mine employment,” after “of an alleged danger or safety or health violation in a coal or other mine,”; and

(II) by inserting at the end the following: “No miner shall be required to work under conditions he has reasonable grounds to believe to be abnormally and immediately dangerous to himself beyond the normal hazards inherent in the operation which could reasonably be expected to cause death of serious physical harm before such condition or practice can be abated.”; and

(ii) in paragraph (2), by inserting after the fifth sentence the following: “No investigation or hearing authorized by this paragraph may be stayed to await resolution of a related grievance proceeding.”; and

(C) by adding at the end the following:

“(e) Attorneys representing the Secretary are authorized to contact any miner or non-managerial employee of a mine operator for the purposes of carrying out the Secretary’s functions under this Act and no attorney representing the Secretary shall be disbarred or disciplined by any State bar or State court for making such contacts. No attorney representing a mine operator in a matter under this Act may concurrently represent individual miners in the same matter.”; and

(5) in section 110 (30 U.S.C. 820)—

(A) in subsection (b)(2), by striking “under” and inserting “of subsections (a) through (h) of”;

(B) in subsection (c)—

(i) by striking “Whenever a corporate operator” and inserting “Whenever a mine operator”;

(ii) by striking “safety standard” and inserting “safety standard or requirement of this Act”;

(iii) by inserting “partner, owner,” after “director,”; and

(iv) by striking “such corporation” and inserting “such mine operator”.

(I) **FEDERAL LICENSING.**—The Secretary shall promptly establish an advisory committee to provide recommendations as to whether the Federal Mine Safety and Health Act of 1977 should provide for Federal licensing of mines, mine operators, mine controllers, or various mine personnel in order to ensure that those engaged in mining activities are not frequent violators of safety and health requirements, and establish a national registry in connection therewith. The advisory committee shall be established pursuant

to the Advisory Committee Act, and shall conduct a review of existing State licensing requirements and registries, assess their effectiveness, and shall provide its recommendations to Congress not later than 2 years after the date of enactment of this Act.

SEC. 6. SUPPLEMENTING RESCUE, RECOVERY, AND INCIDENT INVESTIGATION AUTHORITY.

(a) **EMERGENCY CALL CENTER.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish, within the Mine Safety and Health Administration, a central communications emergency call center for all coal or other mine operations that shall be staffed and operated 24 hours per day, 7 days per week, by 1 or more employees of the Mine Safety and Health Administration. All calls placed to the emergency call center shall be answered by an individual with adequate experience and training to handle emergency mine situations. A single national phone number shall be provided for this purpose and the Secretary shall ensure that all miners and mine operators are issued laminated cards with emergency call center information.

(b) **CONTACT INFORMATION.**—The Secretary shall provide the emergency call center with a contact list, updated not less often than quarterly, that contains—

(1) the contact phone numbers, including the home phone numbers, for the members of each mine rescue team responsible for each coal or other mine;

(2) the phone numbers for the local emergency and rescue services unit that is located nearest to each mine;

(3) the contact phone numbers, including the home phone number, for the operator of each mine;

(4) the contact phone numbers, including the home phone numbers, for the national and district officials of the Mine Safety and Health Administration;

(5) the contact phone numbers, including the home phone numbers, for the State officials in each State who should be contacted in the event of a mine emergency in such State; and

(6) the contact phone numbers, including the home phone number, for the authorized representative of the miners at each mine.

Each mine operator shall ensure that the Secretary is provided with completely current information required to be maintained by the Secretary pursuant to paragraphs (1), (3), and (6). The Secretary shall give due consideration to the information collected by the joint government-industry Mine Emergency Operations database.

(c) **MINE LOCATIONS; REPOSITORY OF MINING MAPS.**—

(I) **MINE LOCATIONS.**—The Secretary shall establish, maintain, and keep current, on the Department of Labor’s website, a detailed map or set of maps showing the exact geographic location of each operating or abandoned mine in the United States, as determined by a global positioning system. Such map or maps shall—

(A) be presented, through links within the website, in such a way as to make the location of a mine instantly available to the emergency personnel responding to the mine;

(B) be available to members of the public;

(C) allow a user to find the geographic location of a particular mine, or the geographic locations of all mines of a particular type in a county, congressional district, State, or other commonly used geographic region; and

(D) provide the geographic location of any mining waste impoundments with links to associated emergency contact information and available emergency response plans.

(2) **REPOSITORY OF MINING MAPS.**—The Secretary shall establish a national repository for preserving a digital archive of mining maps to be accessible directly and without delay from the Department’s web site. The mining maps

shall include copies of all historic maps that can be obtained, as well as copies of currently approved mining maps, which the Secretary shall arrange to copy and preserve in digital form. The Secretary may coordinate the operation of such repository with the Secretary of the Interior provided the other requirements of this paragraph are observed. In addition, the Secretary shall include in this repository copies of the most currently available mine emergency response plan, roof plans, ventilation plans, and such other plans required for any type of mine, following any required approval, so that they may be immediately accessed in an emergency, in a manner consistent with the requirements of section 312(b) of the Act.

(d) **REQUIRED NOTIFICATION OF EMERGENCIES AND SERIOUS INCIDENTS.**—Section 103(j) (30 U.S.C. 813(j)) is amended—

(1) in the first sentence, by inserting “or reportable event” after “accident”;

(2) in the second sentence—

(A) by inserting “of accidents” after “the notification”;

(B) by inserting “, or in the case of a reportable event that is not required to be reported as an accident, within 1 hour of the time at which the operator realizes that the event has occurred” before the period; and

(3) by inserting at the end the following: “For the purposes of this subsection, a reportable event shall include—

“(1) a fire not required to be reported more promptly;

“(2) a sudden change in mine atmospheric conditions in a sealed area;

“(3) a coal or rock outburst that causes the withdrawal of miners; or

“(4) any other event, as determined in regulations promulgated by the Secretary, that needs to be reported within 1 hour in order for the Secretary to determine if the working conditions in the mine are safe.”.

(e) **ENHANCING THE CAPABILITIES OF MINE RESCUE TEAMS.**—

(I) **AMENDMENT TO FMSHA.**—Section 115(e)(2)(B) (30 U.S.C. 825(e)(2)(B)) is amended by adding at the end the following:

“(v) The provision of uniform credentials to mine rescue team members, support personnel, or vehicles for immediate access to any mine site.

“(vi) The plans required at each mine to ensure coordination with local emergency response personnel and to ensure that such personnel receive adequate training to offer necessary assistance to mine rescue teams in the event such assistance is requested. Such local emergency response personnel shall not perform the duties of any mine rescue team.

“(vii) Requirements to ensure that operators are prepared to facilitate the work of mine rescue teams during an emergency by—

“(I) storing necessary equipment not brought on site by mine rescue teams in locations readily accessible to mine rescue teams;

“(II) providing mine rescue teams with a parking and staging area adequate for their needs;

“(III) identifying a space appropriate for coordinating emergency communications with the mine rescue team; and

“(IV) identifying and maintaining separate spaces for family members, community members, and press to assemble during an emergency so as to facilitate communications with these groups while ensuring the efforts of the mine rescue teams are not hindered.”.

(2) **RESEARCH.**—Section 22(h)(5)(A) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 671(h)(5)(A)) is amended by adding before the period at the end thereof: “including advanced drilling technologies, and any special technologies required for safety or rescue in mining more than 1,500 feet in depth”.

(f) Title I of the Act is amended by adding at the end thereof a new section:

“SEC. 117. EMERGENCY PREPAREDNESS PLAN.

“Not later than 6 months of the enactment of the S-MINER Act, the Secretary shall establish

and disseminate guidelines for rescue operations that will: (1) establish clear lines of authority within the agency for such operations; (2) establish clear lines of demarcation so private sector and State responders can properly implement their responsibilities; (3) be appropriate for rescue in various types of conditions reasonably likely to be encountered in the United States, including such factors as the depth of the mining, ground stability, ground slope, remoteness from major roads, surface ownership and access problems, and the availability of necessary communications linkages. The Secretary shall consult with States, rescue teams and other responders in developing such guidelines, and shall update them from time to time based upon experience.”

(g) **AUTHORITY OF SECRETARY DURING RESCUE OPERATIONS.**—Section 103 (30 U.S.C. 813) is further amended—

(1) in subsection (j), by adding at the end thereof:

“If the representative of the Secretary supervises and directs the rescue and recovery activities in such mine, the operator shall comply with the requests of the authorized representative of the Secretary to facilitate rescue and recovery activities including the provision of all equipment, personnel, and other resources required to perform such activities in accordance with the schedule and requirements established by the representative of the Secretary for this purpose, and failure of the operator to comply in this regard shall be considered an egregious violation of this Act.”; and

(2) in subsection (k), by striking “, when present.”.

(h) **RESCUE COMMUNICATIONS.**—

(1) **REPEAL.**—The MINER Act (30 U.S.C. 801 note) is amended by striking section 7, redesignating sections 8 and 9 as sections 7 and 8, and sections 11 through 14 as sections 9 through 12, respectively.

(2) **AMENDMENT TO FMSHA.**—Title I of the Act is further amended by adding at the end the following:

“SEC. 118. FAMILY LIAISONS REQUIREMENT.

“The Secretary shall—

“(1) designate a full-time permanent employee of the Mine Safety and Health Administration to serve as a Family Liaison, who shall, at least in instances where multiple miners are trapped, severely injured or killed, act as the primary communication with the families of the miners concerning all aspects of the rescue operations, including the location or condition of miners, and assist the families in getting answers to their questions, and otherwise serve as a liaison to the families, and provide for the temporary reassignment of other personnel who may be required to assist the Family Liaison in connection with a particular incident;

“(2) require the Mine Safety and Health Administration to be as responsive as possible to requests from the families of such miners for information relating to the mine accident, and waive any fees required for the production of documents pursuant to 5 U.S.C. 552(a)(3) in connection with a request from a family member, or authorized representative of miners, for documents relating to a mine fatality, notwithstanding any conditions for fee waivers law that may otherwise be imposed by law; and

“(3) designate a highly qualified representative of the Secretary with experience in public communications to be present at mine accident sites where rescues are in progress during the entire duration of such rescues, to serve as the primary communicator with the press and the public concerning all aspects of the rescue operations, including the location or condition of miners.”.

(3) **CONFORMING AMENDMENTS.**—The Act is amended—

(A) in section 103(f), by inserting before the period at the end of the first sentence the following: “, and to participate in any accident in-

vestigation pursuant to the requirements of this Act. Any family member of a miner trapped or otherwise unable to execute a designation of a miner representative on his or her own behalf may do so on behalf of the miner for any and all purposes”; and

(B) in section 316(b)(2)(E)(vi) (as added by this Act), by adding at the end the following: “The plan shall also set forth the operator’s plans for assisting the Secretary in the implementation of section 118.”.

(i) **RECOVERY.**—Section 103 is amended by adding at the end thereof—

“(1) Rescue efforts for trapped miners shall not cease as long as there is any possibility that miners are alive, unless such efforts pose a serious danger to rescue or other workers, and the decision to cease a rescue shall be made by the Secretary’s representative. Thereafter, efforts to recover the remains of miners shall continue unless such efforts pose a serious danger to recovery workers, and the decision to cease such recovery efforts shall be made by the Secretary’s representative.”.

(j) **ACCIDENT AND INCIDENT INVESTIGATIONS.**—Section 103(b) (30 U.S.C. 813(b), as amended by section 5(k)(2) of this Act, is further amended—

(1) by striking “For the purpose” and inserting the following:

“(3) For the purpose”;

(2) by inserting after the subsection designation the following:

“(1) For all accident and incident investigations under this Act, the Secretary shall determine why the accident or incident occurred; determine whether civil or criminal requirements were violated and, if so, issue citations and penalties, and make recommendations to avoid any recurrence. The Secretary shall also determine whether the conduct or lack thereof by Agency personnel contributed to the accident or incident.

“(2)(A) For any accidents or incidents involving multiple serious injuries or deaths, or multiple entrapments, there shall also be an independent investigation to consider why the accident or incident occurred, make recommendations to avoid a recurrence, and determine whether the conduct or lack thereof by agency personnel contributed to the accident or incident.

“(B) Not later than 30 days after the date of enactment of the S-MINER Act, the Secretary shall initiate rulemaking activity to establish rules on the procedures that will be used to investigate accidents and incidents involving multiple serious injuries or deaths, or multiple entrapments, and shall directly contact and solicit the participation of

“(i) individuals identified by the Secretary as family members of miners who perished in mining accidents of any type during the preceding 10-year period;

“(ii) organizations representing miners;

“(iii) mine rescue teams;

“(iv) Federal, State, and local investigation and prosecutorial authorities; and

“(v) others whom the Secretary determines may have information relevant to this rulemaking.

Such rulemaking shall be completed by October 1, 2008.

“(C) The rules for the investigation of accidents or incidents involving multiple serious injuries or deaths, or multiple entrapments, shall provide for the appointment and operations of any such independent investigation team in accordance with the requirements of this paragraph. An independent investigation team shall be appointed by the Director of the National Institute for Occupational Safety and Health as soon as possible after a qualifying accident or incident. The members shall consist of:

“(i) a representative from the National Institute for Occupational Safety and Health who shall serve as the Chairman;

“(ii) a representative of mine operators with familiarity with the type of mining involved;

“(iii) a representative of mine workers with familiarity with the type of mining involved, who shall be the workers’ certified bargaining representative at the mine or, if there is no certified representative at the mine, then a workers’ representative jointly selected by organized labor organizations;

“(iv) an academic with expertise in mining; and

“(v) a representative of the State in which the accident or incident occurred to be selected by the Governor.

“(D) Such rules shall include procedures to ensure that the Secretary will be able to cooperate fully with the independent investigation team and will use the powers of the Secretary under this section to help obtain information and witnesses required by the independent investigation team, procedures to ensure witnesses are not coerced and to avoid conflicts of interest in witness representation, procedures to ensure confidentiality if requested by any witness, and procedures to enable the independent investigation team to conduct such public hearings as it deems appropriate. Such rules shall also require that upon completion of any accident or incident investigation of accidents or incidents involving multiple serious injuries or deaths, or multiple entrapments, the independent investigation team shall—

“(i) issue findings as to the actions or inactions which resulted in the accident or incident;

“(ii) make recommendations as to policy, regulatory, enforcement or other changes, including statutory changes, which in the judgment of the independent investigation team would best prevent a recurrence of such actions or inactions at other mines; and

“(iii) promptly make all such findings and recommendations public (except findings and recommendations that must be temporarily withheld in connection with a criminal referral), including appropriate public hearings to inform the mining community of their respective findings and recommendations.

“(E) As part of the Secretary’s annual report to Congress pursuant to section 511(a), the Secretary shall report on implementation of recommendations issued by any independent investigation teams in the preceding 5 years.”; and

(3) by adding at the end the following:

“(4) Nothing in this Act shall be construed to limit the authority of the Chemical Safety and Hazard Investigation Board to conduct an independent investigation of the accident or incident or the events or factors resulting therein, nor with the authority of the Office of the Inspector General to conduct an investigation of the conduct of DOL personnel in connection with an accident or incident or the events or factors resulting therein, and the Secretary shall cooperate in full with any such investigation. Such investigation shall be in addition to any investigation authorized by section 103(b).”.

SEC. 7. RESPIRABLE DUST STANDARDS.

(a) **RESPIRABLE DUST; RESPIRABLE SILICA DUST.**—Section 202 (30 U.S.C. 842) is amended to read as follows:

“SEC. 202. DUST STANDARD AND RESPIRATORY EQUIPMENT.

“(a)(1) Effective on the date of enactment of the S-MINER Act, each coal mine operator shall continuously maintain the concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below a time-weighted average of 1.00 milligrams of respirable dust per cubic meter of air averaged over 10 hours or its dose-equivalent for shorter or longer period of time. For purposes of this paragraph, ‘a dose-equivalent’ means the amount of dust that a miner would inhale during his work shift as if he were working for 10 hours, and the term ‘shift’ means portal-to-portal for underground coal mines and ‘bank to bank’ for other coal mines.

“(2) At regular intervals to be prescribed by the Secretary and the Secretary of Health and

Human Services, the Secretary will take accurate samples of the amount of respirable dust in the coal mine atmosphere to which each miner in the active workings of such mine is exposed in order to determine compliance with the requirements of paragraph (a)(1) of this section. In addition, the Secretary shall cause to be made such frequent spot inspections as he deems appropriate of the active workings of coal mines for the purpose of obtaining compliance with the provisions of this title. All samples by the Secretary shall be taken by a personal dust monitor that measures, records and displays in real time the concentration of respirable dust to which the miner wearing the device is exposed, and shall include the sampling of areas, occupations or persons. For the purposes of determining compliance with the exposure limit for respirable dust, only a single sample shall be required to determine non-compliance, and there shall be no adjustment for measurement error in the measured level of respirable dust.

“(3) At intervals established by the Secretary, each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed to identify sources of exposure so that the operator can take corrective action and assure that the exposure of each mine is below the exposure limit. Under the provisions of this Act, all such samples shall be taken by a personal dust monitor that measures, records and displays the concentration of respirable dust to which the miner wearing the device is exposed, and may include samples of less than a full shift. The results of such sampling shall be transmitted to the Secretary in a manner established by him, and recorded by him in a manner that will assure application of the provisions of this section of the Act.

“(4) Each miner shall be equipped with a personal dust monitor that measures, records and displays in real time the concentration of respirable dust to which the miner wearing the device is exposed. Each miner shall be permitted to adjust his work activities whenever necessary to keep his exposure to respirable coal dust, as measured, recorded and displayed by such device, at all times at or below the permitted concentration.

“(b) Effective on the date of enactment of the S-MINER Act, each operator of a coal or other mine shall continuously maintain the concentration of respirable silica dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below a time-weighted average of 0.05 milligrams of respirable silica dust per cubic meter of air averaged over ten hours or its dose-equivalent for shorter or longer period of time. For the purposes of this paragraph, compliance shall be determined by the sampling of areas, occupations or persons, only a single sample shall be required to determine non-compliance, and there shall be no adjustment for measurement error in the measured level of respirable silica dust. For the purposes of this paragraph, a ‘dose-equivalent’ means the amount of dust that a miner would inhale during his work shift as if he were working for 10 hours, and the term ‘shift’ means portal-to-portal for underground mines and ‘bank to bank’ for other mines.

“(c) Respiratory equipment approved by the Secretary and the Secretary of Health and Human Services shall be made available to all persons whenever exposed to concentrations of respirable dust or silica in excess of the levels required to be maintained under this section. Use of respirators shall not be substituted for environmental control measures in the active workings. Each operator shall maintain a supply of respiratory equipment adequate to deal with occurrences of concentrations of respirable dust and silica in the mine atmosphere in excess of the levels required to be maintained under this section.

“(d) Each operator shall report and certify to the Secretary at such intervals as the Secretary may require as to the conditions in the active workings of a coal mine, including, the average number of working hours worked during each shift, the quantity and velocity of air regularly reaching the working faces, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.”.

(b) CONFORMING AMENDMENT.—Section 205 (30 U.S.C. 845) is repealed.

(c) ASSESSMENT ON PROGRAM OPERATIONS OF CUMULATIVE IMPACT OF EXTERNAL REQUIREMENTS ADDED SINCE 1977.—The Secretary shall request the National Academy of Sciences to conduct a study of the impact on the mine safety and health responsibilities of the Department of Labor of various statutes, executive orders, and memoranda applicable to the issuance of rulemaking and guidance and to enforcement. The study shall include an assessment of the Equal Access to Justice Act, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, the Data Quality Act, the Paperwork Reduction Act, the Unfunded Mandates Reform Act, the Federal Advisory Committee Act, the Congressional Review Act, Executive Order 12866, Executive Order 13422, and memoranda from the Office of Management and Budget on guidance, risk assessment and cost analysis. The Secretary shall request that the National Academy of Sciences consult widely with experts in administrative law and other disciplines knowledgeable about such requirements, and to quantify to the extent possible the costs to miners of the aforementioned requirements. The Secretary shall further request that recommendations be included in the report, and that such report and recommendations be completed, and forwarded to the Congress, no later than 21 months after the date of enactment of this Act.

SEC. 8. OTHER HEALTH REQUIREMENTS.

(a) AIR CONTAMINANTS.—Section 101 of (30 U.S.C. 811) is amended by adding at the end the following:

“(f) Notwithstanding the other requirements of this section, not later than 30 days of the enactment of the S-MINER Act, the National Institute for Occupational Safety and Health shall forward to the Secretary its Recommended Exposure Limits (RELs) for chemical and other hazards to which miners may be exposed, along with the research data and other necessary information. Within 30 days of receipt of this information, the Secretary shall to adopt such recommended exposure limits as the Permissible Exposure Limits (PELs) for application in the mining industry. The National Institute of Occupational Safety and Health shall annually submit to the Secretary any additional or revised recommended exposure limits for all chemicals and other hazards to which miners may be exposed, and the Secretary shall be obligated to adopt such exposure limits as PELs for application in the mining industry within 30 days of receipt of such information. Upon petition from miners or mine operators providing credible evidence that feasibility may be an issue for the industry as a whole, the Secretary may review the feasibility of any PEL established pursuant to this paragraph before placing it into effect and, following public notice and comment, make necessary adjustments thereto, provided that the adjusted standard is as protective as is feasible, and that the PEL shall go into effect as required by the other provisions of this paragraph if such action is not completed within one year. Moreover, upon petition from miners or mine operators providing credible evidence that a REL issued by the National Institute of Occupational Safety and Health lacks the specificity required to serve as a PEL pursuant to this Act, the Secretary may defer implementation of the requirements of this paragraph and shall promptly request National Institute of Occupational Safety

and Health to recommend a sufficiently detailed REL, at which time the provisions of this paragraph shall be implemented. Nothing in this subsection shall limit the ability of the National Institute of Occupational Safety and Health to make such recommendations more frequently than 1 time per year, nor limit the Secretary from establishing requirements for chemical and other substances or health hazards in the mining industry that are more comprehensive and protective than those established pursuant to this subsection and in accordance with the other requirements of this section.”.

(b) ASBESTOS.—Section 101 (30 U.S.C. 811) is further amended by adding at the end the following:

“(g) The health standard for asbestos established by the Occupational Safety and Health Administration that is set forth in section 1910.1001 of title 29, Code of Federal Regulations, or any subsequent revision of that regulation, shall be adopted by the Secretary for application in the mining industry not later than 30 days of the enactment of the S-MINER Act. Nothing in this paragraph shall preclude the Secretary from adopting regulations to address asbestos hazards to miners not covered by the regulations of the Occupational Safety and Health Administration.”.

(c) HAZARD COMMUNICATION.—Section 101 (30 U.S.C. 811) is further amended by adding at the end the following:

“(h) Unless and until there is additional rulemaking pursuant to the requirements of this section, the Secretary shall apply the provisions of the interim final rule of October 3, 2000, concerning hazard communication, in lieu of the final rule of June 21, 2002, concerning hazard communication.”.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 110-508. Each amendment may be offered only in the order printed in the report; by a Member designated in the report; shall be considered read; shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment; shall not be subject to amendment; and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110-508.

Mr. GEORGE MILLER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. GEORGE MILLER of California:

Page 5, beginning on line 6, strike “amended by adding at the end the following:” and insert “amended—

(1) in clause (iii)(I), by inserting before the semicolon the following: “and such requirement may not be satisfied by placement of an order with any company for future delivery of a portable refuge chamber or other means of providing such emergency supplies of breathable air”; and

(2) by adding at the end the following:

Page 5, line 8, strike “(vi)” and insert “(vii)”.

Page 5, line 19, strike “, or” and insert a semicolon.

Page 5, line 23, strike “, or” and insert “; or”.

Page 6, beginning on line 4, strike “In addition” and all that follows through “emergency shelter” and insert “The regulations

shall further provide that in all cases a portable refuge chamber shall be installed and maintained”.

Strike section 4(d)(1) and insert the following:

(1) **FLAME RESISTANT CONVEYOR BELTS.**—Section 311(h) is amended by adding at the end the following: “Not later than 90 days after the date of enactment of the S-MINER Act, the Secretary shall publish interim final rules to revise the requirements for flame resistant conveyor belts to ensure that they meet the most recent recommendations from the National Institute for Occupational Safety and Health, and to ensure such belts are designed to limit smoke and toxic emissions. A conveyor belt need not meet the requirements of the preceding sentence if—

“(A) it was ordered, in a mine’s inventory, or installed prior to the date of enactment of the S-MINER Act, or it was ordered after the date of enactment of the S-MINER Act and the Secretary certifies that the mine operator was unable to obtain a belt meeting the requirements of the preceding sentence; or

“(B) in the case of any such belt that has been in use for more than 5 years in any capacity in any mine, such belt has received an annual inspection by a certified professional to ensure that the belt is free from visible defects that could cause failure or possible ignition.”.

Page 19, strike lines 6 through 15 and insert the following:

“(a) **CONVEYOR BELTS.**—The requirements of section 311(h) concerning conveyor belts in underground coal mines, including the exceptions and limitations in connection therewith, shall also apply to conveyor belts in underground metal and nonmetal mines.”.

Page 55, line 24, insert after the period the following: “There is authorized to be appropriated to Secretary \$30,000,000 to purchase personal dust monitors for the purposes of the preceding sentence.”.

At the end of the bill, insert the following:

(d) **STUDY ON MINER SUBSTANCE ABUSE ISSUES THAT POSE SAFETY RISKS.**—

(1) **STUDY.**—The Secretary of Labor shall conduct a study providing expert review and recommendations of policies designed to deal with substance abuse by miners, including the causes, nature, and extent of such abuse, its impact on mine safety and health, best practices for treatment, rehabilitation, and substance abuse testing policies, and the adequacy of State laws and approaches. In conducting such study, the Secretary shall solicit the views of and consult with all interested parties, including miners, miners’ representatives, mine operators, appropriate State agencies, and public health and substance abuse experts.

(2) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall report the findings and recommendations of the study to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate

(3) **ADDITIONAL AUTHORITY.**—If, as a result of the study, the Secretary determines it to be feasible and effective, the Secretary shall be authorized to establish a program, in consultation with the parties described in paragraph (1), within the Mine Safety and Health Administration to provide for substance abuse testing of miners as well as rehabilitation and treatment of miners suffering from substance abuse.

The CHAIRMAN. Pursuant to House Resolution 918, the gentleman from California (Mr. GEORGE MILLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. GEORGE MILLER of California. This amendment, Mr. Chairman and members of the committee, does four things. First, it will authorize \$30 million for the Department of Labor to buy a new generation of personal dust monitors required by the builder and provide them to miners. These dust monitors greatly enhance the accuracy in measuring the concentration of coal dust in underground coal mines. Both miner and industry representatives have expressed support for this initiative. It will go a long way in helping us reverse the rise in black lung and save untold amounts of costs in dealing with such debilitating disease.

Second, the amendment will increase the time permitted for the mining industry to install a new generation of fire-resistant conveyor belts, significantly cutting industry compliance costs with the underlying bill. This amendment takes into account the industry concerns about significant amounts of old-style conveyor belts already purchased and in reserve. Under this provision, miners can use up the reserved belts before purchasing new fire-resistant belts so long as after 5 years of use they pass a proper annual inspection.

Third, the amendment would eliminate delays by some mine operators in providing supplies of breathable air in underground coal mines for miners who may become trapped as required under the MINER Act of 2006. We recently learned that some miner operators are putting refuge chambers on order, with a wait of several years in some cases, and MSHA has been treating these purchase orders as sufficient to comply with the MINER Act’s breathable air requirement. In the meantime, miners are underground without the breathable air that this Congress intended them to have. At least 11 of the 12 miners of the Sago explosion, for example, did not die because of the explosion. They died because, after many hours of awaiting rescue, they ran out of air. So this provision closes an apparent loophole in the MINER Act and ensures that breathable air is readily available to miners underground today while operators await the delivery of refuge chambers. Such air supplies can be provided via air cylinders or through boreholes to the surface pursuant to MSHA instructions.

Finally, this amendment deals with the potential safety problems posed by substance abuse in a direct and responsible fashion. Many of us have seen the recent reports about the rise of substance abuse problems in mines and mining communities. There is no doubt that the injuries, overwork and stress that miners experience can leave some of them vulnerable to abusing substances like painkillers. Now, none of the recent tragedies have been linked in any way to drug use, but we should be proactive in this area.

The amendment directs the Secretary of Labor to study the problem in consultation with all parties and to im-

pose the program if she determines it to be feasible.

I urge my colleagues to pass the manager’s amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. MCKEON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. MCKEON. Mr. Chairman, the S-MINER Act was first introduced nearly 7 months ago. It was voted on in the Education Committee more than 2 months ago. Yet in all this time this bill has been under consideration, the critical issue of drug testing was not inserted until the second try on the manager’s amendment, submitted after yesterday’s deadline. Forgive me if I am skeptical that we would have been given the same opportunity to revise our amendment at the last minute if we had sought to do so. Nevertheless, the amendment now before us replaces the previous version of the legislation, and it deserves our thorough review.

I want to thank Chairman MILLER for recognizing some of the flaws in the S-MINER Act and attempting to address them. The amendment includes some modest improvements, including an extension in the timeline for installation of the new generation of fire-resistant conveyor belts. At the same time, I am troubled by the proposal to limit the ability of mine operators to comply with breathable air requirements. With the ongoing backlog of the SCSRs, the breathing device required in mines, today we demand mine operators to, at a minimum, offer a purchase order to demonstrate their effort to comply with the requirement.

By preventing mine operators from producing proof of SCSR purchases as evidence of compliance, this amendment could push mines across the country out of compliance, despite their proven effort to comply with the requirement in the only way possible. What would the penalty be for the Nation’s mines being deemed noncompliant? Would these mines be shut down, leaving miners without work? What possible rationale could there be for threatening mine workers’ jobs as they struggle with today’s economic pressures just because there aren’t companies that have the ability to produce these required instruments?

Similarly, but perhaps even more troubling, the amendment imposes the same backwards logic on the new requirement for possible refuge chambers. On the one hand, it mandates that mines have these refuge chambers in order to operate. On the other hand, it makes clear that mines which purchase the chambers but through no fault of their own must wait for them to be manufactured, will be unable to operate without this very specific and widely unavailable product.

The majority knows that portable refuge chambers will have a production backlog of years. They also know that

in being so specific as to mandate portable refuge chambers with no alternative, this provision guarantees that mines will be shut down while waiting for the product to be manufactured. I don't know if that is the goal, to shut down mines, but that will be the net result.

On the issue of drug testing, while I question the last-minute addition of this proposal, I appreciate the belated acknowledgment that drug abuse in the mining community is a significant problem that demands action. Unfortunately, this amendment offers little in the way of action. Instead of immediately implementing a drug testing program, this amendment calls for a study. We don't need a study to tell us whether drug abuse is a problem in the mines. All you need to do is pick up the front page of *The Washington Post* Sunday edition and read about it.

At this time I would like to submit this article, written by Nick Miroff, into the RECORD. You will see the pervasiveness of this problem.

[From the Washington Post, Jan. 13, 2008]

A DARK ADDICTION

(By Nick Miroff)

TAZEWELL COUNTY, VA.—The crowd is gathering early in the dirt parking lot outside the Clinch Valley Treatment Center, the only methadone clinic within 80 miles. Third in line, Jeff Trapp smokes Winstons in his pickup, watching the cars turn off the highway and settle behind him, tires crunching on cold gravel, headlights glaring. It is 2:45 a.m., and Trapp has been awake for two hours. The clinic does not start dosing until 5.

Like Trapp, many of the patients who filled the lot one recent morning have jobs at far-off mines that start at 6 or 7. They sleep upright in their vehicles, slumped against the steering wheel, dressed for work in steel-toed black boots and coveralls lined with orange reflective strips. Dark rings circle their eyes where the previous day's coal dust didn't wash off.

"Everybody you see here works," says Trapp, his smoke-cured voice a low rumble. A \$14 plug-in heater from "Wally" (Wal-Mart) whirs on the dash. "Ain't no spongers. No loafers," he says.

Work in the mines hasn't been as good as it is now in a generation. With per-ton prices doubling in the past six years, Virginia unearthed about \$1.6 billion worth of coal in 2006, much of it to feed the growing energy demands of the Washington region.

Wages are up, bosses are hiring and rookie miners can start at \$18 an hour—a small fortune in a region where, as Trapp says, "if you ain't working in the mines or in the prisons, you don't make money."

But it is a boom clouded by drugs. Nearly a decade after OxyContin slammed into southwestern Virginia and much of Appalachia, the abuse of prescription painkillers in the region is worse than ever, police and public health officials say.

Publicized efforts to crack down on drug dealers and manufacturers through tougher street-level enforcement and tighter prescription regulations have failed to curb the crisis, and the result is a quiet catastrophe unfolding largely out of sight, in private bedrooms and isolated trailers far from the drug war's urban front lines.

A record 248 people died of overdoses in Virginia's western region in 2006, more than those who died from homicides, house fires

and alcohol-related car accidents combined. That was an 18 percent increase from 2005 and a 270 percent increase from a decade ago, state medical examiner records show.

The problem is most acute in Virginia's poorest rural areas, and it is not limited to miners. In 2006, accidental pain pill overdoses killed more people in Tazewell County (pop. 44,000) than in Fairfax County (pop. 1.1 million). In Wise County, where Trapp lives and the per capita income is \$14,000 a year, the fatal overdose rate for pain pills was 13 times those of Loudoun and Fairfax counties.

"The abuse and misuse of painkillers is the worst I have seen it in the 16 years I have worked narcotics in this area," said Lt. Richard Stallard of the Big Stone Gap police department. He is director of the Southwest Virginia Drug Task Force, which operates in Dickinson, Lee, Scott and Wise counties. His officers made 442 arrests through the first nine months of last year, an 86 percent increase from the same period in 2006.

In what is perhaps the most troubling sign of the problem's intractability, the single deadliest drug in the region in 2006 was the same one being legally distributed to addicts through treatment clinics such as the one Trapp visits: methadone.

A large black market has emerged for the drug, which is supposed to treat addiction or chronic pain with less risk than OxyContin and other oxycodone-based opioids. But methadone was linked to 78 deaths in western Virginia in 2006, and experts say that whatever ground was gained against the illegal use of OxyContin is being lost, engulfed in a widening circle of abuse that extends to painkillers, antidepressants and other prescription drugs.

Round-the-clock security is posted at Clinch Valley Treatment Center, a two-story cement building along Route 19 that was once a hamburger restaurant. It serves almost 1,000 patients, drawing them from steep-sided mountain "hollers" and tiny coal towns such as Dante, Dungannon, Honaker and other places where the winter sun casts long shadows but little light.

Every morning before sunup, Trapp drives 120 miles—from his home in Coeburn to the clinic and back—stopping once for coffee and gas at the Double Kwik in Lebanon. He has been going for two years, trading this dependency for the \$600-a-day oxycodone habit that made his nose bleed and his wife cry. He is 54, with a pale moustache, a four-pack-a-day wheeze and the drained, sallow expression of someone who has not slept in a long time.

When the clinic doors open at 5, the crowd streams into the warm hallway, squinting in the indoor light. Trapp hands over \$12.50 at a payment window, then lines up at another window for his dose: 80 milligrams of liquid methadone, mixed with juice in a little white cup. He must gulp it down quickly and get back on the road. His boss expects him at 6:30.

"This methadone makes you feel like a human being again," Trapp says.

With disability rates as high as 37 percent in coal-mining areas such as Buchanan County, the region has many people with long-term pain management needs. As is the case with lots of aging miners, Trapp's addiction to pills began in a doctor's office, not a back-alley drug deal.

"Busted-up" from 30 years working as a heavy-equipment operator and mechanic on the massive excavators used for strip mining and mountaintop removal, Trapp needed multiple surgeries to fix seven ruptured and herniated discs. Doctors wanted to implant a magnesium rod to stabilize his spine, but Trapp refused.

"I've known too many people who've done it, and they can't tie their shoes," he said.

So Trapp loaded up on painkillers, first Percocet and later OxyContin. When the prescribed dose no longer did the job, Trapp took more. Then more. He began "doctor shopping," driving to Roanoke and Richmond to find physicians who would give him prescriptions.

When the pharmacies couldn't provide enough pills, Trapp found dealers who would. Friends were melting oxycodone tablets and injecting themselves—"bangin' OCs"—but Trapp was too squeamish to mess with needles. He crushed the tablets and snorted them like cocaine off his kitchen table. He didn't feel high, just "good." The relief was instant.

"I got hooked on those bad boys real bad," he says.

But when Trapp didn't have pills, the withdrawal symptoms left him "sick as a dog" and bedridden. "Every muscle in your body craves it," he says. "You can't sleep, can't eat. It's like the flu, but 10 times worse."

In two years, Trapp put \$60,000 of his retirement savings, maybe more, up his nose. His daughter begged him to get help, as did his wife, Sue, who works as a shift manager at a Hardee's and as a guard at Red Onion State Prison, the supermax facility where sniper Lee Boyd Malvo is being held.

Trapp was "wormed over" after three days into involuntary withdrawal when his wife took him to a clinic to get help in 2005. He couldn't walk, and he couldn't hold up his head. He began taking methadone that week.

Foreman Gary Boyd steers through the tunnels of Pioneer Coal No. 1 in a low-rise electric cart, sloshing across channels of cold, muddy water. His nickname, Stork, is stenciled on his scuffed plastic helmet, and a slug of dipping tobacco bulges in his lower lip.

"The good Lord put me on this Earth to be a coal miner," he says, "and I can't think of nothing I'd rather do." He ducks slightly when the ceiling height drops to 40 inches.

A bearish man with a soot-streaked beard, Boyd stands well over 6 feet tall outside the mine. But underground, in a 3½-foot "low coal" operation such as this one in the mountains near Vansant, VA, Boyd mostly works on his hands and knees, crawling like an infant. He and the other men spend the entire shift, sometimes 12 hours or more, without ever standing up.

Compared with the large, corporate-owned mines that use the latest technology and enforce tighter safety codes, Pioneer No. 1, the company's only mine, is a mom-and-pop affair, run by a single operator and a 10-man crew. It extends horizontally into the mountain through a maze-like network of wide, low tunnels, and a red plastic sign along the access road outside reads "AMBULANCE ENTRANCE."

With narrower profit margins, small-scale outfits such as Pioneer, often known as "dog holes," typically pay less and don't offer benefits such as health insurance. But for miners who have been fired from corporate mines for drug violations or other infractions, smaller mines, which must still meet state safety standards, are a good fallback.

The "face," where Boyd's crew was working that day, was a half-mile into the mountain. A massive grinding machine called a continuous miner chewed at the coal seam with a spinning, snaggle-toothed steel cylinder. Water seeped from its mouth and trickled from its sides to cool the metal teeth and keep the dust down. The greasy, jet-black rock came off in chunks onto a conveyor belt.

As the machine worked, the tunnel walls cracked and groaned under the shifting pressure of the mountain. Crew members scrambled to stabilize the roof with wooden posts, wedging them into place with hammers.

"You're as safe as you would be in your mommy's arms—if you watch what you're doing," Boyd said. He checked a hand-held meter every few minutes to measure carbon dioxide, which is poisonous, and methane, which can explode. Flecks of coal dust swirled in the yellow beams of the miners' headlamps.

Drug use by miners who snort or shoot up underground has been a growing cause for concern among state regulators, and a law approved last year in the General Assembly imposed stringent drug-testing policies. All newly hired miners must be screened, and random testing requirements have increased. Those who fail risk losing their miner's license.

The impact of the new policies was immediate. "I can't find nobody to work," said Noah Vandyke, 60, a lifelong miner who runs Pioneer Coal. "The younger generation, you can't hardly find one that will pass a drug test."

Since the new testing policy went into effect in July, Vandyke has lost eight crew members who were fired because of drugs or quit, possibly to avoid having their miner's license revoked for a "dirty" urine sample.

"Every family in the area has been affected by drug abuse," Vandyke said, "and it ain't just coal miners." In recent years, two of his sisters have died because of drugs, and two brothers, both injured miners, are deep in the grip of addiction.

Unlike some operators, Vandyke is known as a boss who will not turn a man away for trying to get help at the methadone clinic. One of those is his on-again, off-again "scoop man," Jeff Vandyke, who shuttles coal inside the mine in a huge, spoon-shaped electric cart. The two men are not directly related—Vandyke is a common name in the area—but their lives have been intertwined since the elder miner gave the younger his first job underground 15 years ago.

Like Noah, Jeff Vandyke, 34, grew up in Buchanan County near the town of Grundy. With his horizons blocked by the mountainsides, he found a new world underground. "There's nothing like coal mining," he said. "You know that nobody else will ever go where you're going. Just the people in that mine, that day."

The mines led Jeff Vandyke to another love: drugs. He got his first prescription for OxyContin after a rock fall accident that left him with broken ribs, shoulder damage and spinal injuries. Disabled and addicted, he thought he could get away from drugs by leaving, so he moved with his brother to Arizona and got a job as a trucker. Soon they were buying pills along the Mexican border, 1,000 at a time, he said. Methamphetamine kept them awake, and OxyContin kept them high.

By 2003, Jeff Vandyke was back home and drifting deeper into addiction. He lived for more than a year in a broken-down trailer with the electricity, water and heat cut off. He spent most of his days on a couch in the dark, stirring every few hours to warm the air under his blankets with a propane camping stove.

The crippling pain and nausea of withdrawal pushed him to get help. He drives to a Kentucky clinic for a two-week supply of liquid methadone and says he has been clean for three years. He and his girlfriend, Daisy Ratliff, live with her two sons in a trailer with a thick coal seam visible on the hillside in their back yard. She has brightened the black lockbox where Vandyke stores his methadone with stickers of hearts, stars and red letters that spell "I L V U."

"My truck's paid off," Vandyke says, his long, blond hair tucked under a camouflage cap. "I've got four bows, three shotguns." He takes time off from the mines in the fall to

hunt deer, grouse and squirrel for winter meat.

And yet, some of the damage from his drug years can't be undone. Vandyke's father no longer speaks to him, and he and his brother haven't said a word to each other in nearly two years, ever since he said his brother shot at him with a .38 and tried to steal Ratliff's car.

"I'll probably never get off methadone because of the shape I'm in," said Mick Wampler, a disabled coal miner who lives in a small room at the end of a narrow hallway in his sister's house.

Wampler, 47, started working in the mines four days after his 18th birthday. His mother needed the money after floods wiped out the family's home in Haysi, VA. But he never had the nerves for it, he said, and the sight of accidents sent him over the edge. He watched one friend lose an arm to a rock hauler and saw another electrocuted by a 900-volt mining cable. Wampler began taking Valium just to go underground.

"A lot of people are scared on the job," he said. "They'll use alcohol, anything." After falling off a loader and breaking his leg, Wampler got a prescription for oxycodone. A diabetic, he had needles, and shooting up was easy. Soon he was hooked on high-potency Fentanyl patches, ripping them in two to wring out the drug, which he would cook up with vinegar and inject through the veins in his feet. "It was as good as heroin," he said. He dabbled in that, too.

Years of negative publicity about OxyContin have made doctors wary of it and other oxycodone-based drugs, local health officials say, but records show that sales of the drug have increased. In 2006, 746,901 grams of oxycodone were distributed for retail sale in Virginia, nearly triple the amount sold in 1999, according to the Virginia Department of Health Professions. Although sales have slowed since 2001, they increased 9 percent from 2005 to 2006.

Police in the region say pain pills are entering Virginia from other states, even Mexico, where they can be casually bought along the border. They can also be ordered on the Internet through shady online pharmacies. The familiar schemes remain popular, too.

We can't stop people from going doctor shopping," Tazewell Sheriff H.S. Caudill said. "We need a nationwide program to check if John Doe has already been to another pharmacy."

Doctors, meanwhile, have been giving out more methadone than ever. From 1999 to 2006, the amount of methadone distributed for retail sale in Virginia jumped from 30,531 grams to 146,479. An underground market for illegally diverted tablets and liquid doses is thriving.

"When we had problems with OxyContin being diverted, doctors started prescribing methadone," said Martha Wunsch, a researcher who has a grant from the National Institutes of Health to study southwestern Virginia's drug deaths.

Wunsch says that methadone in pill form, not the liquid version legally distributed through addiction clinics, is to blame for the bulk of fatal overdoses. In one study, she found that more than half of all fatal overdose victims had legitimate prescriptions for methadone tablets.

On its own, methadone can't deliver a "high" like oxycodone or other opiates, so users combine it with anti-anxiety drugs such as Xanax to intensify the effect, creating a toxic, often fatal, cocktail. Prescription pills have surpassed marijuana as the top drug of choice for new drug users nationwide, according to the White House's Office of National Drug Control Policy.

"There's not much to do around here," said Jeremy Lowe, 22, a miner who got hooked on

Lortab (hydrocodone) after breaking his hand in an accident a year ago. Now he is one of the patients who wait in line at the methadone clinic every morning.

"A lot of my friends who went off to universities ended up coming back home and getting hooked," he said. "It's like it's fashionable to do drugs."

To many, the growing traffic at the Clinch Valley Treatment Center has made it a shameful symbol of the region's drug problem. Several Tazewell officials want to shut the center down or force it to move, seeing its for-profit business model and treatment mission as a conflict of interest. According to the clinic's policy, patients can buy methadone as long as they want; detoxification is voluntary.

The clinic's counseling staff members say that many patients need to be on some sort of drug to cope with severe, long-term pain and that methadone has made them functional. And for those who lack insurance or access to more personalized care, it is often the only affordable option.

"We need to change the way people look at successful drug addiction treatment," said the clinic's director, Sterlyn Lineberry. "Are we reducing harm to the individual? Is the person working? Taking care of their family?"

Wunsch, who used to run a methadone clinic in the region, says the biggest problem is the lack of state and federal support for more comprehensive treatment programs. And powerful stigmas persist. "A lot of people in southwest Virginia believe this is a moral weakness, not a public health problem," she said.

Jeff Trapp knows people who have died from methadone but no one who has gotten off it the hard way. He has tried to decrease his dose, but the cravings come back every time. So instead, he drives.

Trapp sets his alarm for 12:30 a.m., waking after a few hours of sleep, and gets dressed in a dark room. His boss does not like that he goes to the clinic, and even less that it has made him late to work, and has threatened to fire him.

In the kitchen, Trapp makes coffee with the light low. There is a plastic bin above the cabinets to catch the rainwater where the roof leaks, and a picture of his wife at her high school graduation hangs on the wall. He carries another photo of her riding a motorcycle. She weighs 95 pounds, but she's a tough lady, he says.

When Trapp starts the pickup down the driveway at 1 a.m., the dogs stand on the doorstep and watch him go. Last year, he put 60,000 miles on the pickup, a 1993 Chevy. The road signs say his route is a designated scenic byway, the Trail of the Lonesome Pine, but Trapp drives it in the dark, and there is nothing to see.

"I don't want to be dependent on doing this every day," Trapp says. He could get permission for a two-week take-home supply of methadone, if he wanted it. He hasn't had a dirty test yet. But does he trust himself? No.

So instead, he drives.

"I don't want that temptation on me," he says. "I'd probably drink two bottles just to see how it felt."

He opens the window a crack to light another Winston, watching the shoulder for deer. When a car passes him on the left, Trapp recognizes the vehicle. He has seen it before, parked outside the clinic.

There seems to be no hesitation in this body about implementing mandatory drug testing for Major League Baseball. Yesterday, Members on both sides of the aisle spent more than 4 hours examining the question of drug abuse among baseball players. I don't

know what the danger is there. I hate to see records broken by somebody because he's taken drugs, but the danger underground in mines of somebody using drugs is really a real live danger. One area on which everyone seemed to agree was on the need for mandatory drug testing for the ballplayers. Yet for our Nation's mine workers who risk their lives by entering the mines, we propose only a study.

□ 1345

We need to protect these miners now. That means testing and nothing less.

Mr. Chairman, this amendment includes some modest improvements. It makes other changes that are ill defined that create new unanswered questions, and it makes some changes that could actually worsen the bill. On the whole, this amendment, like the S-MINER Act itself, remains an unnecessary diversion from the bipartisan, widely supported mine safety reforms enacted in 2006 through the MINER Act. I oppose this amendment because I continue to oppose the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I would just say that, first of all, on the question, I'm sure we had both the same reaction when we read the story in The Washington Post that we had an opportunity in this legislation to address, the issue of substance abuse by those in the mining industry. You drafted your amendment and we drafted our amendment. Ours is, in fact, a study and then the implementation of the program.

The gentleman from the other side of the aisle and his colleagues are always saying they don't want a solution made in Washington. They want to consult other parties. We thought we should consult the companies. We thought we should consult the States that have experience in this, the public health agencies that have some experience in this, and have the Secretary develop the best program and then enact that program with drug testing. That's what we thought we should do, and I think it makes the most sense. There are States that have extensive experience, and rather than just somehow creating a program sent from Washington, whether those programs have drug testing or not, didn't make any sense to us.

With the rest of the criticisms of the amendment, I think it's sort of like maybe the "Abbey Road" album, where you guys play it backwards and it says "Paul is dead" or something. You're reading the amendments upside down or something because that's not what the amendments do. These are good amendments. They address some concerns that the industry has raised with us. And the fact of the matter is miners are entitled to have breathable air, to have 96 hours of air underground today. When the chambers come, they will come, but in the meantime they

should not be unprotected given the history of the accidents that we have witnessed in this country and the problems that the miners have reaching those breathable supplies after the explosions.

So I would encourage all of my colleagues to support this amendment, the manager's amendment, by voting for it.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GEORGE MILLER).

The question was taken; and the Chairman announced that the yeas appeared to have it.

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. BOUCHER

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-508.

Mr. BOUCHER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. BOUCHER: At the end of the bill, insert the following: (d) GRANTS FOR REHABILITATION.—

(1) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Health and Human Services, is authorized to award grants to appropriate entities and programs for the purpose of providing rehabilitation services to current and former miners suffering from mental health impairments, including drug addiction and substance abuse issues, which may have been caused or exacerbated by their work as miners. The Secretary shall ensure such funds are directed to those regions of the country most in need of such assistance.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Labor \$10,000,000 to carry out the grant program authorized by this subsection.

The CHAIRMAN. Pursuant to House Resolution 918, the gentleman from Virginia (Mr. BOUCHER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

(Mr. BOUCHER asked and was given permission to revise and extend his remarks.)

Mr. BOUCHER. Mr. Chairman, I yield myself such time as I may consume.

As the gentleman from California pointed out in his recent comments, there was a compelling article on the front page of The Washington Post on Sunday that details the level of drug dependency and drug addiction that takes place among coal miners who have, because of their work, become injured, received medications, and then that has led to drug dependency, often-times to drug addiction, and it is a

major and a growing problem. And in the Central Appalachians, where much of our Nation's coal is mined, that problem is one of the largest affecting our communities.

Among the major victims of the epidemic we are experiencing are, in fact, coal miners. But the problems in our communities are not limited just to coal miners. As the article published on Sunday indicated, the toll that this sometimes unseen epidemic is taking is worse now than ever before, and it is growing year by year. In 2006, a record 248 people died from drug overdoses in the region that I have the privilege of representing. In that year, accidental pain pill overdoses killed more people in one of the coal mining counties in my congressional district that has a population of 44,000 than died from drug overdoses in Virginia's largest county, Fairfax County, that has a population of 1.1 million. So obviously this problem is disproportionately affecting the coal-producing counties not only in Virginia, but it is happening throughout the Central Appalachian region where coal is mined.

The devastation to families and communities in the district that I represent is graphic, and that devastation was so well portrayed in the article that the gentleman from California referenced that was published in The Washington Post on Sunday. And for those who have not read that article, let me commend it because it points out the severity that this problem is imposing on our rural areas. Methadone has now replaced OxyContin as the most abused and the deadliest drug, but the epidemic spans a wide range of pain medications.

So the amendment that I'm putting forward really is the action that Mr. McKEON called for just a moment ago in his comments. It is an important step in addressing the mental health needs of the miners who suffer from work-related drug dependency. They are not the sole victims of the epidemic, but they are disproportionately affected by it.

The amendment authorizes the expenditure of \$10 million in grant awards in regions of the Nation most affected by prescription drug abuse among coal miners in order to provide drug counseling and drug rehabilitation services to them. And that article pointed out the severe lack of those very services that exist in the coal-producing regions of Virginia, and the authorities who are responsible for delivering those kinds of services talked about the inadequacy of resources with which they are currently having to contend. And we take with this amendment one small step in making sure that those resources are enhanced so they can do their jobs better.

I urge adoption of the amendment as one important step in addressing an urgent need that we have in the coal mining communities of the Eastern United States.

Mr. Chairman, I reserve the balance of my time.

Mr. McKEON. Mr. Chairman, I rise to claim the time in opposition to the amendment, but I will not oppose its passage.

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. McKEON. Mr. Chairman, I really want to thank Congressman BOUCHER for his effort to address this problem of drug use among miners. I think it's very, very important. I would even go so far as to say if this bill doesn't show much progress, if you brought this up as a separate bill, I'd be happy to work with you on it.

This amendment takes an important first step by acknowledging the problem and establishing opportunities for treatment. This amendment is a positive first step, but it does not go far enough.

To complement the Boucher amendment, Republicans are proposing a strong framework for mandatory drug testing. We want to ensure that miners are tested and those who are under the influence are prevented from entering the mines and putting their own lives and the lives of their coworkers at risk.

Drug abuse among miners is a serious problem, and according to recent media accounts, it is also a widespread problem. Already States are taking the lead on stringent testing initiatives to protect miners from the hazards that come from combining substance abuse and the dangerous work environment. The Federal Government needs to catch up on what is being done in the States.

I urge my colleagues to support the Republican proposal to implement drug testing. At this time I also urge passage of the Boucher amendment as an acknowledgment of the problem and an important first step toward resolving it.

Mr. BOUCHER. Mr. Chairman, at this time I am pleased to yield 30 seconds to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I rise in very strong support of his amendment. I think it's well thought out. It recognizes the problems that were described in the article and experienced among his constituents to provide the kinds of resources for what clearly, from the narrative in the story, is a very difficult problem, encountering numerous substances, of people who are caught in very difficult situations, many of whom are struggling to stay employed. And I think the kinds of services that the gentleman provides in his amendment are absolutely necessary, and I rise in strong support of the amendment.

Mr. McKEON. Mr. Chairman, I likewise support the amendment, and I thank the gentleman for presenting it.

Mr. Chairman, I yield back the balance of my time.

Mr. BOUCHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to say thank you to the gentleman from California for his kind remarks and for the strong support he has stated for this measure, and I want to thank the gentleman from California (Mr. GEORGE MILLER) and his outstanding staff for their leadership on the overall issue and also their strong support of this undertaking.

It is critically important that we empower the individuals who are delivering services to miners who are affected by drug abuse, who are affected by drug addiction, so that they can become productive once again, remain in the mines working, and that their families can benefit from their productive existence. This amendment takes that important step, and I urge adoption of it.

The Acting CHAIRMAN (Mr. PAS-TOR). The question is on the amendment offered by the gentleman from Virginia (Mr. BOUCHER).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. ELLSWORTH

The Acting CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110-508.

Mr. ELLSWORTH. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. ELLSWORTH:

Page 32, beginning on line 9, strike "amended by striking" and all that follows through "The operator shall," and insert "amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by inserting at the end the following:

"(2)(A) The Secretary shall maintain a list of delinquent operators who fail to timely pay final assessments. Any operator placed on that list for the first time shall be subject to the requirements of this paragraph only until such time as the Secretary determines that the operator is no longer in arrears. Any operator placed on that list for a subsequent time shall remain on the list until such time as the Secretary determines the operator is committed to timely payment of final assessments. Any operator who believes he or she has been placed or retained on the list in error may file with the Commission a request for consideration of decision.

"(B) An operator on the list maintained pursuant to paragraph (A) shall."

Page 32, line 24, strike "In the event" and insert

"(C) In the event".

At the end of the bill, insert the following:

SEC. 9. MINE SAFETY PROGRAM FUND.

Title I is further amended by adding at the end the following:

"SEC. 117. MINE SAFETY PROGRAM FUND.

"(a) ESTABLISHMENT.—There is established in the Treasury a separate account to be known as the 'Mine Safety Program Fund' (in this section referred to as the 'Fund').

"(b) TRANSFERS TO THE FUND.—There shall be deposited in the Fund—

"(1) all penalties collected under section 110; and

"(2) any gifts, bequests, or donations to the Fund from private entities or individuals, which the Secretary of the Treasury is authorized to accept for deposit into the Fund, except that the Secretary is not authorized to accept any such gift, bequest, or donation that—

"(A) attaches conditions inconsistent with applicable laws or regulations; or

"(B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Secretary of Labor.

"(c) EXPENDITURES.—Amounts in the Fund shall be available, as provided in appropriations Acts, only for inspections and investigations conducted pursuant to section 103."

Amend the table of contents in section 1(b) by adding at the end the following:

Sec. 9. Mine safety program fund.

The Acting CHAIRMAN. Pursuant to House Resolution 918, the gentleman from Indiana (Mr. ELLSWORTH) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. ELLSWORTH. Mr. Chairman, my staff and I worked hard with Chairman MILLER and his staff to address some important issues with this amendment.

My amendment would strike from the bill a requirement that penalizes mine operators who have been assessed penalties and pay them in a timely fashion. In its place, the amendment provides the Secretary of Labor with a mechanism to hold accountable those businesses that have a history of delinquent fine payments, while ensuring that honest businesses can contest fines without paying them up front.

As written, the underlying bill would require all mines to place the amount of an assessed fine into escrow if they choose to contest that fine. This is intended to ensure that mine operators cannot evade their responsibility to pay fines if they lose that appeal. While I support this important new collection tool, I do not think the bill takes into full account the financial burden that it could create for small businesses that do not have the means to leave funds in escrow while they contest a citation.

In Indiana and across the country, there are numerous mine operations that don't have the operating budget to cover such large and unforeseen costs. The small quarry mines in the Midwest and the sand and gravel operations in the South might not have the overhead to freeze thousands of dollars while they appeal the citation. I would hate to see those mines forced to miss a payroll or lay off their hardworking employees because of this provision.

My amendment addresses this concern by directing the Secretary to maintain a list of mine operators with a history of delinquent payments. Only

those operators who are on this list would be required to prepay their fines into escrow. The amendment would also provide businesses with an opportunity to contest their placement on this delinquency list if they believe that placement list was a mistake.

Ultimately, my amendment would relieve undue financial burden for all mines, but particularly the small mines that are acting in good faith to properly appeal and, when necessary, pay their fines.

□ 1400

This amendment also addresses an important issue affecting mine safety in recent years, the lack of comprehensive safety inspections in every mine. In November of 2007, the Department of Labor's Inspector General reported that 15 percent of mines were not fully inspected in fiscal year 2006, due mainly to lack of inspection resources. As we know, we can pass all the mine safety laws we want in this House, but if inspections of mines aren't being held, and they aren't held accountable to our standards, we haven't made any progress at all.

As the Inspector General points out in his report, and I quote: "Incomplete or missed inspections place miners at risk because hazardous conditions in the mines may not be identified and corrected. In fiscal year 2006, approximately 7,500 miners were employed at 107 mines which did not receive at least one required inspection."

In response to the failure outlined in that report, this amendment creates the Mine Safety Programs Fund to guarantee that all MSHA fines are reinvested in mine safety, which allows us to make sure every mine is living up to our standards and providing a safe working environment for working American miners. Last year, safety violations resulted in about \$40 million of MSHA fines. If that money was reinvested in mine safety, it would have meant an estimated 20 percent increase in the inspection resources. We can pass all the mine safety laws we want, but if we don't give the Department of Labor resources to fund them, we haven't made progress for the American miners and what they expect of us.

Again, I would like to thank Chairman MILLER and his staff, as well as my staff, for working with us for what I think is an important amendment to this bill.

I reserve the balance of my time.

Mr. McKEON. Mr. Chairman, I claim time in opposition to the amendment, but I will not oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. McKEON. Mr. Chairman, the Ellsworth amendment, as it has been explained, would modify the collection of fines to provide relief to those mine operators who pay their fines in a timely fashion. At the same time, it es-

tablishes a trust fund so that fines collected will be used for inspections and investigations. The amendment also creates a list of those mine operators who do not pay their fines, shining a spotlight to help promote payment in a timely fashion.

Unlike the underlying bill, this amendment would not do anything to inhibit implementation of the bipartisan MINER Act of 2006. Because this amendment offers positive reforms without dismantling the mine safety improvements under way, I am pleased to support its passage.

Mr. Chairman, I yield back the balance of my time.

Mr. ELLSWORTH. Mr. Chairman, I would like to yield 30 seconds to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Chairman, I want to rise in strong support of the gentleman from Indiana's amendment and commend him for his very thoughtful work and his diligence on putting this amendment together to make sure that we in fact attack the problem at hand, which was those few irresponsible miners who refused to pay their fines and that have a history of not paying. Then, also the creative use of these fines to provide better enforcement, better safety for our mine workers. I rise in strong support and ask all of our colleagues to vote "yes" on the Ellsworth amendment.

Mr. ELLSWORTH. Mr. Chairman, I would like to thank the chairman again and the ranking member for his understanding and patience on this matter.

I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. ELLSWORTH).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. WILSON OF SOUTH CAROLINA

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110-508.

Mr. WILSON of South Carolina. Mr. Chairman, I have an amendment made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WILSON of South Carolina:

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF CONGRESS.

It is the Sense of Congress that the Mine Safety and Health Administration should

continue the full and timely implementation of the Mine Improvement and New Emergency Response Act of 2006, P.L. No. 109-236, and that the provisions of that law should be implemented by the Administration as robustly, safely, and expeditiously as possible.

SEC. 2. SAFETY COMMITTEES.

Title II of the Federal Mine Safety and Health Act of 1977 is amended by adding at the end the following new section:

"SEC. 208. SAFETY COMMITTEES.

"Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations pursuant to section 101(a) providing that a mine operator may establish, assist, maintain, and participate in workplace safety committees, on which committees miners shall participate to address issues of mine safety and to deal with the mine operator regarding emergency response, communication, rescue, recovery, inspection and other terms and conditions of employment relating to mine safety."

SEC. 3. SUBSTANCE ABUSE TESTING.

Title II of such Act is further amended by adding at the end the following:

"SEC. 209. SUBSTANCE ABUSE TESTING.

"(a) TESTING PROGRAM.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations pursuant to section 101(a) to require the operator of each mine to institute a program to conduct mandatory, random substance abuse testing of mine employees. Such regulations shall be no less restrictive than regulations issued by other Federal and State agencies which impose mandatory substance abuse testing and shall provide for—

"(1) mandatory substance abuse testing procedures;

"(2) a process for the random selection of those employees to be tested;

"(3) the protection of individuals' rights and privacy;

"(4) the establishment of an Employee Assistance Program; and

"(5) for purposes of subsection (b), a process for mine operators to notify the Administration of the names of individuals who test positive for substance abuse.

"(b) REGISTRY.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations creating a registry of those found to have tested positive for substance abuse for the sole purpose of sharing, on a confidential basis, with State authorities responsible for issuance of licenses, certification, permits, or other documents required to seek employment in the mining industry."

SEC. 4. IMPROVING MINE SAFETY.

(a) COORDINATION WITH BUREAU OF LAND MANAGEMENT.—The Mine Safety and Health Administration shall regularly consult with the Bureau of Land Management concerning the safety status of mines in order for the Administration to maintain an awareness of any safety concerns observed by Bureau of Land Management personnel.

(b) STUDY OF DEEP MINE CONDITIONS BY TECHNICAL STUDY PANEL.—

(1) ESTABLISHMENT OF TECHNICAL STUDY PANEL.—There is established a Technical Study Panel (hereafter referred to as "the Panel") which shall provide independent scientific and engineering review and provide recommendations to the Mine Safety and Health Administration to evaluate the risk assessment procedures of deep mine conditions.

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Panel shall be composed of—

(i) two individuals to be appointed by the Secretary of Health and Human Services, in

consultation with the Director of the National Institute for Occupational Safety and Health and the Associate Director of the Office of Mine Safety;

(ii) two individuals to be appointed by the Secretary of Labor, in consultation with the Assistant Secretary for Mine Safety and Health;

(iii) one individual appointed jointly by the majority leaders of the Senate and House of Representatives; and

(iv) one individual to be appointed jointly by the minority leader of the Senate and House of Representatives.

(B) QUALIFICATIONS.—Four of the 6 individuals appointed to the Panel under paragraph (A) shall possess a masters or doctoral level degree in mining engineering or another scientific field demonstrably related to the subject of the report. No individual appointed to the Panel shall be an employee of any coal or other mine, or of any labor organization, or of any State or Federal agency primarily responsible for regulating the mining industry.

(3) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date on which all members of the Panel are appointed under paragraph (2), the Panel shall prepare and submit a report concerning deep mine conditions to the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) RESPONSE BY THE SECRETARY.—Not later than 180 days after the receipt of the report, the Secretary of Labor shall provide a response to the report and submit such response to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate. Such response shall contain a description of the actions, if any, that the Secretary intends to take based upon the report, including proposing regulatory changes, and the reasons for such actions.

(4) COMPENSATION.—Members appointed to the Panel, while carrying out the duties of the Panel, shall be entitled to receive compensation, per diem in lieu of subsistence, and travel expenses in the same manner and under the same conditions as that prescribed under section 208(c) of the Public Health Service Act.

(C) STUDY OF RETREAT MINING AND PILLARING.—

(1) STUDY.—The National Institute for Occupational Safety and Health shall conduct a study of the recovery of coal pillars through retreat room and pillar mining practices in underground coal mines at depths greater than 1,500 feet. The study shall examine the safety implications of retreat room and pillar mining practices, with emphasis on the impact of full or partial pillar extraction mining. The study shall consider, among other things—

(A) seam thickness;

(B) depth of cover;

(C) strength of the mine roof, pillars, and floor;

(D) the susceptibility of the mine to seismic activity; and

(E) a sensitivity analysis on input parameters such as strength of the coal, the size the pillar core, the strength of roof and floor rock members, abutment pressure from caved areas, and the horizontal stress; and

(F) the procedures used to ensure miner safety during retreat mining.

(2) REPORT.—Not later than one year after the date of enactment of this Act, the National Institute for Occupational Safety and Health shall submit a report containing the results of the study to the Secretary of Labor and Committee on Education and

Labor of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(3) REPORT BY THE SECRETARY OF LABOR.—Not later than 180 days after receipt of the report required under paragraph 2, the Secretary of Labor shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate what actions, if any, that the Secretary intends to take based on the report.

(4) DISSEMINATION OF ACCIDENT INFORMATION.—Section 103 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 813) amended by adding at the end the following:

“(1)(1) All information concerning the accident or incident obtained by any person or organization participating in an investigation under this section shall be transmitted to the representative of the Administration coordinating the rescue effort or subsequent accident investigation. Parties to the investigation may relay to respective organizations information necessary for purposes of prevention or remedial action. No information concerning the accident or incident may be released to any person not a party to the investigation or representative of such party prior to the release of such information by the Administration without the prior consultation with and approval of the Administration.

“(2) For purposes of this subsection, parties to the investigation include the mine owner, mine operator, employees of that mine, first responders, mine rescue team members, or others participating in the rescue and recovery effort.”.

The Acting CHAIRMAN. Pursuant to House Resolution 918, the gentleman from South Carolina (Mr. WILSON) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from South Carolina.

Mr. WILSON of South Carolina. I yield myself such time as I may consume. Mr. Chairman, I rise in support of mine safety and in opposition to this bill.

The Wilson/Kline amendment combines the key elements of the Wilson amendment offered in committee with the important safety teams amendment also considered during markup. There is much that we do not know about the tragedy of Crandall Canyon. It would be premature to legislate on many of these issues until the Crandall Canyon investigation is complete. Once the investigation is complete, we can determine if any further initiatives are necessary. It also should be noted that few, if any, of the provisions in the underlying legislation would have had any impact in preventing the accident in Utah this summer.

Our amendment would require the Department of Labor to more regularly communicate with the Bureau of Land Management, BLM, regarding safety concerns. Given that personnel from the BLM inspect mines daily, the Mine Safety Health Administration, MSHA, should have the benefit of knowing what BLM is observing and what concerns the agency has regarding safety.

Our amendment would also require two studies: one to address deep mine safety, and another to address pillar re-

moval. Regarding deep mining, it is no secret that the mining industry is mining deeper underground. In order to assure that they have the most sophisticated science available to them, a study about the elements of deep mining should be undertaken. It is also important to recognize that deep mining and pillar removal are two separate issues, and our amendment was crafted accordingly to give each issue thorough consideration.

Finally, there is great concern about how information during a mine rescue and recovery effort is communicated to the public. Our amendment would create a public relations protocol similar to that used by the National Transportation Safety Board. In this way, all parties to the rescue and recovery effort must clear any information through MSHA before releasing it to the public.

This amendment takes the NTSB's well-regarded approach to communications. Before anyone associated with the rescue and recovery effort can make public comments, they must be approved by MSHA. In this way, we can ensure that the families have been fully briefed, that any information given to the media is factual, and that it does not interfere with the ongoing efforts of any future investigation.

The S-MINER Act may address some of these issues, but ultimately the underlying bill is not narrowly crafted to focus on the Crandall Canyon tragedy. Instead, it provides for a complete rewrite of a successful law. In addition to these four specific policy opportunities that respond to the tragedy that occurred at the Crandall Canyon mine, our substitute builds on the MINER Act by actively engaging miners in safety teams and implementing substance abuse testing. It is important to note that the MINER Act was the most significant piece of mining legislation passed in 30 years, which was signed into law in 2006.

The Wilson/Kline substitute ensures that the MINER Act is not derailed by excessive new regulations. The MINER Act has put in motion regulations, studies, and industry improvements that will be negatively impacted by H.R. 2768. I oppose the S-MINER Act and urge you to vote in favor of the Wilson/Kline substitute.

I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in strong opposition to this amendment.

The Acting CHAIRMAN. The gentleman from California is recognized for 15 minutes.

Mr. GEORGE MILLER of California. What this amendment would do would be to strike many of the very important provisions in the underlying bill that are there to protect the lives and the safety of those who mine coal in this country's coal mines. They would change the retreat mining where we just saw a disaster of a mine accident in Utah this last August. They would provide a provision of a study. Rather

than changing the regulations by which that happened, they would provide a study. A study was not going to save those miners.

They would also take out the provision that we have that miners should have 96 hours of air available to them in the mines until such time as we have the refuge chambers. They take that out. Those miners need that air today. The fact that a refuge chamber is on order, may not be delivered for six months, a year, a year and a half, does nothing for the miner who goes to work today and tomorrow, and that is why we did it. We did it so that we could provide that margin of safety for those individuals.

We also look at conveyor belts, a major ignition point of fires in the mine, and if not properly installed, if not properly taken care of, can take the fire and the gases directly to where the miners are working. So they take that provision out.

We say that MSHA cannot investigate itself. It cannot investigate itself. These must be independent investigations, because you have to look at whether or not MSHA properly did its job, properly enforced the requirements of the law, properly inspected the mines and all that that entails, and to have them redo that themselves is a disservice to the miners and to the families. It's the single most provided complaint to this committee by the families, that they just don't understand how the watch dog can investigate themselves when their family members died in these mines. They want somebody else to take a look at it. They want somebody else to see whether or not it was done properly or not, and that is out in this provision.

It also limits the family participation. Why is it that the victims aren't able to testify and to participate and understand the design of the investigation? They are excluded from this process today. These are family members, these are victims of the disaster, these are taxpayers, and they're told, Just stand on the side, we'll tell you what happened. In many instances, they know more about what happens because when their spouses come home from work, they talk to them about what is wrong in the mines, what's dangerous, about their fear of going to work. So we provided an ombudsman so that that could happen. They should also be part of that investigation.

We think it's very important that this amendment be defeated because it wipes out, it guts those provisions of the law that we envision in this legislation that are so important to those miners and to their families. We cannot do what we have done in the past and assume that we can just leave this to the Mine Safety Health Administration. They essentially did nothing for 8 years.

Now, tragically, year after year those mining families are paying the price for that. That must come to an end. That is what this legislation does. This

amendment destroys the ability of this legislation to provide that margin of safety to the miners and to their families, and I urge a "no" vote on the Wilson amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WILSON of South Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. KLINE), a ranking and valued member of the Education and Labor Committee.

Mr. KLINE of Minnesota. I thank the gentleman for yielding the time.

Mr. Chairman, like my colleague from South Carolina, I rise today in strong support of mine safety and in opposition to the base bill. Rather than supporting this flawed bill, I would ask Members to support the Wilson/Kline amendment. This amendment is a sensible alternative that will enhance mine safety without undoing the significant reforms already underway. During the numerous hearings we have held in the Education and Labor Committee on mining issues, one thing we have heard frequently from miners themselves and from their family members is that when it comes to mines and mine safety, it is the men and women who go into the mines every day that know best.

I would like to focus my comments today, first, on one particular aspect of our amendment, and that is to engage miners in their own safety. Our amendment recognizes that miners themselves do know best and seeks to ensure that mine owners and operators are allowed to avail themselves of the knowledge, experience, and talents of their employees. To that end, this amendment would allow mine operators to incorporate meaningful employee involvement in safety committees, which include representatives of workers and mine operators, and work together to ensure that the safest workplace conditions are possible.

Although cooperation between miners and mine operators seems obvious, if not imperative, it is, unfortunately, not always a reality. Under archaic provisions of Federal labor law, too often employer-employee safety committees that actually do something have been found to run afoul of Depression-era mandates.

Mr. Chairman, we are no longer living in the 1930s, and neither should our laws. Nearly 2 years ago, we began to bring the mining industry into the 21st century by considering and enacting the MINER Act. Though it is not yet fully implemented, that law is already working. Today, my colleague Mr. WILSON and I are offering an amendment that builds on the MINER Act, rather than tearing it down.

□ 1415

A key element of our plan is to ensure that antiquated laws don't get in the way of mine worker safety. In fact, our amendment is based on the emi-

nently sensible TEAM Act which was considered by this Congress some years ago and would have provided for safer workplaces for all employees, not just miners.

I don't know that anyone can argue that safety committees in mines should not make full use of their workers' wisdom and experience. For that reason, I urge my colleagues to support the Wilson/Kline amendment as a commonsense, pro-miner alternative. Use of miner-involved safety committees is just one element of our substitute, but I believe it accurately captures our goal of enhancing safety while maintaining momentum of the MINER Act.

I have been interested today to listen to the proponents of the bill and the opponents of our amendment talk about the importance of breathable air and getting these containers into the mines, but I don't understand if the chamber is not available, what is the mine supposed to do while we are waiting what is admittedly 6 months or 12 months for the chamber to arrive? The base bill is so prescriptive, it prevents any alternative to the prescribed chamber, and those chambers are simply not available. I really wish we had the answer to that question.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time I may consume.

Just in response to the question that was asked, the whole point is the chambers are not available. We are asking that they put 96 hours of air available in canisters until such time as the refuge chambers are available. Currently now, apparently if you order a chamber, you are considered to be in compliance. No new air has come into that mine. No new resources of air are available. Nothing is available to the miner, but you are in compliance with the law.

We saw miners lose their lives because they simply ran out of air. They weren't killed in the explosion. They weren't killed in a slide. They weren't killed in a roof collapse. They ran out of air.

So what we are saying is we appreciate that you have gone ahead and you have ordered the chambers because you have made the decision to put the chambers in. Until such time as they are there, we ought to provide that kind of margin of safety. One is not inconsistent with the other.

Mr. KLINE of Minnesota. If the gentleman will yield for just a minute, I think that they are. I don't understand where that air is supposed to come from. The SCSRs are not available. Those are on back order. Refuge chambers are not available. They are on back order. What are these miners supposed to do?

Mr. GEORGE MILLER of California. These are air cylinders that are readily available. These are not the individual-sized packs that we deal with here in terms of inspections that didn't work in the Sago Mine. Canisters of air are readily available all throughout American society. We just say you should

put some in the mines so people can use them.

Then let me just say the question that is raised here, currently the law allows for employer and employee involvement in safety issues. Many, many organizations and businesses have these committees. But we want those committees to remain independent.

This suggests that somehow the employer should select those employees to engage in those discussions. We think that the workers ought to be able to do that and do it independently so that, in fact, they can have a true discussion about the conditions and the safety of the mines and not be establishing unilateral committees to make those determinations.

The fact of the matter is, where people have these employer-employee safety committees, very often the efficiency of the mines improves, the productivity of the mines improves and the safety improves, and we think that that is the model that ought to be continued.

Mr. Chairman, I reserve the balance of my time.

Mr. WILSON of South Carolina. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. McKEON), the distinguished ranking member of the Education and Labor Committee.

Mr. McKEON. Mr. Chairman, I thank the gentleman for yielding. I rise in strong support of the Wilson/Kline amendment to preserve bipartisan mine safety reforms.

The S-MINER Act is based on a flawed premise. It begins by abandoning the widely supported mine safety reforms enacted in 2006. Rather than building on the progress that has been made, the S-MINER Act brings those bipartisan reforms to a screeching halt.

Republicans have a better way. The Wilson/Kline amendment strikes the appropriate balance between strengthening mine safety and maintaining the widely supported reforms enacted less than 2 years ago.

First and foremost, the substitute underscores the importance of the MINER Act reforms and restates our commitment to seeing them implemented fully and forcefully. Our substitute builds on those reforms rather than tearing them down.

Among the most important steps taken in the Republican substitute is the effort to fully, more fully engage the miners in mine safety. During the Education and Labor Committee's consideration of this bill, Representative KLINE offered an amendment that, like our substitute, would empower miners by directly involving them in the development of safety policies and procedures through the formation of safety teams. Currently, nonunionized miners may be prohibited from working with management to promote safety through teams.

Mine safety is too important an issue to fall victim to the politics of union-

ization. Every miner should have the opportunity to work cooperatively with the mine operator to promote their own safety and the safety of those with them in the mines.

To further protect miners, the Republican substitute calls for a strong program of drug testing. In fact, the Republican plan is the only proposal that offers drug testing. Representative BOUCHER is proposing drug rehabilitation, an important first step, but one that will be incomplete without testing. Indeed, Representative BOUCHER's own State of Virginia has taken a leadership role on requiring drug testing in the mines, something the Federal Government should require as well.

Sadly, the proposal offered in the manager's package would do even less, calling for just a study of drug abuse among miners. No one here seems to object to drug testing for professional baseball players. An entire hearing was devoted to the topic of drug use in Major League Baseball just yesterday, yet not a single hearing has been held to explore the problem of drug abuse among miners. And when our friend, the late Representative Charlie Norwood, had the courage to call for drug testing in miners in years past, he was rebuked for daring to draw attention to this pervasive problem.

I am pleased we are finally acknowledging this problem among miners, but I want to be clear; anything short of the Republican plan for drug testing fails to fully protect miners.

Finally, our substitute recognizes some of the very specific issues brought to light with the tragic collapse of the Crandall Canyon Mine in August of 2007. To address those issues, it would improve communication between MSHA and the Bureau of Land Management, study the conditions the next generation of miners will face with deep mine conditions and retreat mining using pillar removal, and clarify how information is to be disseminated in the event of a tragedy.

I urge my colleagues to preserve bipartisan mine safety reforms by supporting the Wilson/Kline amendment.

Mr. GEORGE MILLER of California. I yield 2 minutes to the gentleman from West Virginia, Mr. RAHALL.

Mr. RAHALL. Mr. Chairman, I thank the distinguished chairman for yielding, and I rise in opposition to this Republican substitute.

Pure and simple, the substitute kills the bill. It guts all of the bill's health and safety protections that the committee has worked so long and hard on and upon which the committee has heard expert testimony and heard testimony from our Nation's coal miners. So the fact that this legislation has been developed as it has shows that the committee has utmost in its consideration the protection of the health, safety and well-being of our Nation's coal miners.

This Republican substitute requires a one-size-fits-all mandatory drug test-

ing program, for example, with a national blacklist of miners. It creates company dominated safety committees to stifle miners' voices; whereas, the committee bill, crafted as well as it has been, does allow for all sides to be represented in these safety committee deliberations. That is most important, because it is important that these committees have the involvement of coal miners that are on the job working, those who know the mines and the particular features of each mine, because, as we all know, not all coal mines are structured in the same fashion.

It is worthy to note as well that all of those that work in our Nation's mines, the United Mine Workers of America, the AFL, the Food and Commercial Workers, all of our Nation's unions that are concerned with the health and safety of our coal miners, oppose this Republican substitute amendment.

So, as I conclude, I say to my colleagues, just remember, this is an effort to gut the bill, pure and simple, and we all know that this bill still has a process through which it has to travel, including the other body. And if the administration cannot see in its wisdom and compassion to sign the bill, then certainly we have a basis upon which to proceed for further safety measures in the next Congress. I would urge rejection of this Republican substitute.

Mr. WILSON of South Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in conclusion, I urge the strongest consideration of the Wilson/Kline amendment. I would like to point out that it would provide for full implementation of the MINER Act of June 2006. Additionally, it has the provisions, as well explained by Congressman McKEON of California, the provisions and concerns of the late Congressman Charlie Norwood of Georgia, providing for drug testing are included.

As I conclude today, I would like to read and summarize an op-ed which was in the Lexington Herald Leader, a McClatchy newspaper. This op-ed was printed on November 26, 2007: "New mining bill premature." The author is Rick Honaker. Professor Honaker is the Mining Foundation's distinguished professor and chairman of the University of Kentucky Department of Mining Engineering.

Professor Honaker says, "Eliminating coal mine accidents is an achievable goal. In recent years we have seen a dramatic decline in fatalities at the Nation's 550 underground mines, though the tragic accident earlier this year at a mine in Utah underscores some of the serious problems we face."

"But Congress has gotten ahead of itself. However well-intentioned, it is considering new legislation before the industry has been able to implement and assess the effectiveness of a major mine safety law passed last year."

"It seems very strange, almost incomprehensible, that a move is afoot in

Congress to impose an entirely new set of requirements on coal mine operators and mine inspectors, even before there has been an opportunity to comply with the far-reaching provisions of the MINER Act. It threatens to disrupt the all-important emergency rescue provisions of the law.

“That process will require more work from the coal community, not more laws from Congress. Rather than leap into an abyss with new legislation, let's give mine safety and health experts an opportunity to implement the existing law.”

Mr. Chairman, I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to reiterate my strong opposition to this legislation. I believe that it does eliminate most of the very important provisions in the underlying bill and the manager's amendment to ensure that we increase the margins of safety for miners and for their families. We should not give up that opportunity to this substitute, and I urge my colleagues to vote “no” on the Wilson/Kline amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. WILSON).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. WILSON of South Carolina. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from South Carolina will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 110-508 on which further proceedings were postponed, in the following order: Amendment No. 1 by Mr. GEORGE MILLER of California;

Amendment No. 2 by Mr. BOUCHER of Virginia;

Amendment No. 3 by Mr. ELLSWORTH of Indiana;

Amendment No. 4 by Mr. WILSON of South Carolina.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 1 OFFERED BY MR. GEORGE MILLER OF CALIFORNIA

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. GEORGE MILLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 183, not voting 18, as follows:

[Roll No. 5]

AYES—234

Abercrombie	Grijalva	Oberstar
Ackerman	Gutierrez	Obey
Allen	Hall (NY)	Oliver
Altmire	Hare	Ortiz
Andrews	Harman	Pallone
Arcuri	Hastings (FL)	Pascarell
Baird	Hersteth Sandlin	Pastor
Baldwin	Higgins	Payne
Barrow	Hill	Perlmutter
Bean	Hinchee	Peterson (MN)
Becerra	Hinojosa	Pomeroy
Berman	Hirono	Price (NC)
Berry	Hodes	Rahall
Bishop (GA)	Holden	Rangel
Bishop (NY)	Holt	Reyes
Blumenauer	Hooley	Richardson
Bordallo	Hoyer	Rodriguez
Boren	Inslee	Ross
Boswell	Israel	Rothman
Boucher	Jackson (IL)	Roybal-Allard
Boyd (FL)	Jackson-Lee	Ruppersberger
Boyd (KS)	(TX)	Rush
Brady (PA)	Johnson (GA)	Ryan (OH)
Braley (IA)	Johnson, E.B.	Salazar
Brown, Corrine	Jones (NC)	Sanchez, Linda
Butterfield	Jones (OH)	T.
Capito	Kagen	Sanchez, Loretta
Capps	Kanjorski	Sarbanes
Capuano	Kaptur	Schakowsky
Cardoza	Kennedy	Schiff
Carnahan	Kildee	Schwartz
Carney	Kilpatrick	Scott (GA)
Castor	Kind	Scott (VA)
Chandler	Klein (FL)	Serrano
Clarke	Kucinich	Sestak
Clay	Lampson	Shays
Cleaver	Langevin	Shea-Porter
Clyburn	Larsen (WA)	Sherman
Cohen	Larson (CT)	Shuler
Conyers	Lee	Sires
Cooper	Levin	Skelton
Costa	Lewis (GA)	Slaughter
Costello	Lipinski	Smith (NJ)
Courtney	LoBiondo	Smith (WA)
Cramer	Loeb sack	Snyder
Crowley	Lofgren, Zoe	Solis
Cuellar	Lowe	Space
Cummings	Lynch	Spratt
Davis (AL)	Mahoney (FL)	Stark
Davis (CA)	Maloney (NY)	Stupak
Davis (IL)	Markey	Sutton
Davis, Lincoln	Marshall	Tauscher
DeFazio	Matheson	Taylor
DeGette	Matsui	Thompson (CA)
Delahunt	McCarthy (NY)	Thompson (MS)
DeLauro	McCollum (MN)	Tierney
Dicks	McDermott	Towns
Dingell	McGovern	Tsongas
Doggett	McIntyre	Udall (CO)
Donnelly	McNerney	Udall (NM)
Doyle	McNulty	Van Hollen
Edwards	Meek (FL)	Velázquez
Ellison	Melancon	Visclosky
Ellsworth	Michaud	Walz (MN)
Emanuel	Miller (NC)	Wasserman
Engel	Miller, George	Schultz
Eshoo	Mitchell	Waters
Etheridge	Mollohan	Watson
Farr	Moore (KS)	Watt
Fattah	Moore (WI)	Waxman
Filner	Moran (VA)	Weiner
Frank (MA)	Murphy (CT)	Welch (VT)
Giffords	Murphy, Patrick	Wexler
Gilchrest	Murphy, Tim	Whitfield (KY)
Gillibrand	Murtha	Wilson (OH)
Gonzalez	Nadler	Woolsey
Gordon	Napolitano	Wu
Green, Al	Neal (MA)	Wynn
Green, Gene	Norton	Yarmuth

NOES—183

Aderholt	Bartlett (MD)	Blackburn
Akin	Barton (TX)	Blunt
Alexander	Biggert	Boehner
Bachmann	Bilbray	Bonner
Bachus	Bilirakis	Bono Mack
Barrett (SC)	Bishop (UT)	Boozman

Boustany	Hastings (WA)	Pickering
Brady (TX)	Hayes	Pitts
Broun (GA)	Heller	Platts
Brown (SC)	Hensarling	Poe
Brown-Waite,	Herger	Porter
Ginny	Hobson	Price (GA)
Buchanan	Hoekstra	Pryce (OH)
Burgess	Hulshof	Putnam
Burton (IN)	Inglis (SC)	Radanovich
Buyer	Issa	Ramstad
Calvert	Johnson (IL)	Regula
Camp (MI)	Johnson, Sam	Rehberg
Campbell (CA)	Jordan	Reichert
Cannon	Keller	Renzi
Cantor	King (IA)	Reynolds
Carter	King (NY)	Rogers (AL)
Castle	Kingston	Rogers (KY)
Chabot	Kirk	Rogers (MI)
Coble	Kline (MN)	Rohrabacher
Cole (OK)	Knollenberg	Ros-Lehtinen
Conaway	Kuhl (NY)	Roskam
Crenshaw	LaHood	Royce
Cubin	Lamborn	Ryan (WI)
Davis (KY)	Latham	Sali
Davis, David	LaTourette	Saxton
Davis, Tom	Latta	Schmidt
Deal (GA)	Lewis (CA)	Sensenbrenner
Dent	Lewis (KY)	Sessions
Diaz-Balart, L.	Linder	Shadegg
Diaz-Balart, M.	Lucas	Shuster
Doolittle	Lungren, Daniel	Simpson
Drake	E.	Smith (NE)
Dreier	Mack	Smith (TX)
Duncan	Manzullo	Souder
Ehlers	Marchant	Stearns
Emerson	McCarthy (CA)	Sullivan
English (PA)	McCaul (TX)	Tancredo
Everett	McCotter	Terry
Fallin	McCrery	Thornberry
Feeney	McHenry	Tiahrt
Ferguson	McHugh	Tiberi
Flake	McKeon	Turner
Fortenberry	McMorris	Upton
Fox	Rodgers	Walberg
Franks (AZ)	Mica	Walden (OR)
Frelinghuysen	Miller (FL)	Walsh (NY)
Gallegly	Miller (MI)	Wamp
Garrett (NJ)	Moran (KS)	Weldon (FL)
Gerlach	Musgrave	Weller
Gingrey	Myrick	Westmoreland
Gohmert	Neugebauer	Wilson (NM)
Goode	Nunes	Wilson (SC)
Goodlatte	Pearce	Wittman (VA)
Granger	Pence	Wolf
Graves	Peterson (PA)	Young (AK)
Hall (TX)	Petri	Young (FL)

NOT VOTING—18

Baca	Forbes	Lantos
Baker	Fortuño	Meeks (NY)
Berkley	Fossella	Miller, Gary
Christensen	Honda	Paul
Culberson	Hunter	Shimkus
Faleomavaega	Jefferson	Tanner

□ 1455

Messrs. SOUDER, SENSEN-BRENNER, and CANTOR changed their vote from “aye” to “no.”

Messrs. LIPINSKI and JONES of North Carolina changed their vote from “no” to “aye.”

So the amendment was agreed to. The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. BOUCHER

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. BOUCHER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 364, noes 53, not voting 18, as follows:

[Roll No. 6]

AYES—364

Abercrombie	Dicks	Latham
Ackerman	Dingell	LaTourette
Aderholt	Doggett	Latta
Alexander	Donnelly	Lee
Allen	Doolittle	Levin
Altmire	Doyle	Lewis (CA)
Andrews	Drake	Lewis (GA)
Arcuri	Dreier	Lewis (KY)
Bachmann	Edwards	Lipinski
Bachus	Ehlers	LoBiondo
Baird	Ellison	Loebsack
Baldwin	Ellsworth	Lofgren, Zoe
Barrow	Emanuel	Lowe
Bartlett (MD)	Emerson	Lucas
Barton (TX)	Engel	Lynch
Bean	English (PA)	Mahoney (FL)
Becerra	Eshoo	Maloney (NY)
Berman	Etheridge	Manzullo
Berry	Fallin	Markey
Biggert	Farr	Marshall
Billirakis	Fattah	Matheson
Bishop (GA)	Ferguson	Matsui
Bishop (NY)	Filner	McCarthy (CA)
Bishop (UT)	Fortenberry	McCarthy (NY)
Blackburn	Frank (MA)	McCaul (TX)
Blumenauer	Frelinghuysen	McCollum (MN)
Blunt	Gallely	McCotter
Boehner	Gerlach	McCrery
Bono Mack	Giffords	McDermott
Boozman	Gilchrest	McGovern
Bordallo	Gillibrand	McHugh
Boren	Gohmert	McIntyre
Boswell	Gonzalez	McKeon
Boucher	Goode	McMorris
Boustany	Goodlatte	Rodgers
Boyd (FL)	Gordon	McNerney
Boyd (KS)	Granger	McNulty
Brady (PA)	Graves	Meek (FL)
Brady (TX)	Green, Al	Melancon
Braley (IA)	Green, Gene	Mica
Brown (SC)	Grijalva	Michaud
Brown, Corrine	Gutierrez	Miller (MI)
Brown-Waite,	Hall (NY)	Miller (NC)
Ginny	Hare	Miller, George
Buchanan	Harman	Mitchell
Burgess	Hastings (FL)	Mollohan
Butterfield	Hastings (WA)	Moore (KS)
Buyer	Hayes	Moore (WI)
Calvert	Heller	Moran (KS)
Camp (MI)	Herseth Sandlin	Moran (VA)
Cantor	Higgins	Murphy (CT)
Capito	Hill	Murphy, Patrick
Capps	Hinchey	Murphy, Tim
Capuano	Hinojosa	Murtha
Cardoza	Hirono	Myrick
Carnahan	Hobson	Nadler
Carney	Hodes	Napolitano
Carter	Holden	Neal (MA)
Castle	Holt	Neugebauer
Castor	Hooley	Norton
Chandler	Hoyer	Nunes
Clarke	Hulshof	Oberstar
Clay	Inglis (SC)	Obey
Cleaver	Inslee	Olver
Clyburn	Israel	Ortiz
Cohen	Jackson (IL)	Pallone
Cole (OK)	Jackson-Lee	Pascarell
Conyers	(TX)	Pastor
Cooper	Johnson (GA)	Payne
Costa	Johnson (IL)	Pearce
Costello	Johnson, E. B.	Perlmutter
Courtney	Jones (OH)	Peterson (MN)
Cramer	Kagen	Peterson (PA)
Crenshaw	Kanjorski	Petri
Crowley	Kaptur	Pickering
Cubin	Keller	Pitts
Cuellar	Kennedy	Platts
Cummings	Kildee	Pomeroy
Davis (AL)	Kilpatrick	Porter
Davis (CA)	Kind	Price (NC)
Davis (IL)	King (NY)	Pryce (OH)
Davis (KY)	Kirk	Putnam
Davis, David	Klein (FL)	Rahall
Davis, Lincoln	Kline (MN)	Ramstad
Davis, Tom	Knollenberg	Rangel
DeFazio	Kucinich	Regula
DeGette	Kuhl (NY)	Rehberg
Delahunt	LaHood	Reichert
DeLauro	Lampson	Renzi
Dent	Langevin	Reyes
Diaz-Balart, L.	Larsen (WA)	Reynolds
Diaz-Balart, M.	Larson (CT)	Richardson

Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Roskam
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sessions
Sestak
Shays
Shea-Porter
Sherman

Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stupak
Sullivan
Sutton
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner

NOES—53

Akin
Barrett (SC)
Bilbray
Bonner
Broun (GA)
Burton (IN)
Campbell (CA)
Cannon
Chabot
Coble
Conaway
Deal (GA)
Duncan
Everett
Feeney
Flake
Flood
Flood
Franks (AZ)

Garrett (NJ)
Gingrey
Hall (TX)
Hensarling
Herger
Hoekstra
Issa
Johnson, Sam
Jones (NC)
Jordan
King (IA)
Kingston
Lamborn
Linder
Lungren, Daniel
E.
Mack
Marchant

Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walsh (NY)
Walz (MN)
Wamp
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weller
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

McHenry
Miller (FL)
Musgrave
Pence
Poe
Price (GA)
Radanovich
Rohrabacher
Royce
Sali
Sensenbrenner
Shadegg
Stearns
Tancredo
Walberg
Walden (OR)
Weldon (FL)
Westmoreland

NOT VOTING—18

Baca
Baker
Berkley
Christensen
Culberson
Faleomavaega

Forbes
Fortuño
Fossella
Honda
Hunter
Jefferson

Lantos
Meeks (NY)
Miller, Gary
Paul
Shimkus
Tanner

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised 2 minutes remain.

□ 1502

Mr. HALL of Texas and Mr. WELDON of Florida changed their vote from “aye” to “no.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. ELLSWORTH

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. ELLSWORTH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 416, noes 0, not voting 19, as follows:

[Roll No. 7]

AYES—416

Abercrombie	Davis (IL)	Jackson-Lee
Ackerman	Davis (KY)	(TX)
Aderholt	Davis, David	Johnson (GA)
Akin	Davis, Lincoln	Johnson (IL)
Alexander	Davis, Tom	Johnson, E. B.
Allen	Deal (GA)	Johnson, Sam
Altmire	DeFazio	Jones (NC)
Andrews	DeGette	Jones (OH)
Arcuri	Delahunt	Jordan
Bachmann	DeLauro	Kagen
Bachus	Dent	Kanjorski
Baird	Diaz-Balart, L.	Kaptur
Baldwin	Diaz-Balart, M.	Keller
Barrett (SC)	Dicks	Kennedy
Barrow	Dingell	Kildee
Bartlett (MD)	Doggett	Kilpatrick
Barton (TX)	Donnelly	Kind
Bean	Doolittle	King (IA)
Becerra	Doyle	King (NY)
Berman	Drake	Kingston
Berry	Dreier	Kirk
Biggert	Duncan	Klein (FL)
Bilbray	Edwards	Kline (MN)
Bilirakis	Ehlers	Knollenberg
Bishop (GA)	Ellison	Kucinich
Bishop (NY)	Ellsworth	Kuhl (NY)
Bishop (UT)	Emanuel	LaHood
Blackburn	Emerson	Lamborn
Blumenauer	Engel	Lampson
Blunt	English (PA)	Langevin
Boehner	Eshoo	Larsen (WA)
Bonner	Etheridge	Larson (CT)
Bono Mack	Everett	Latham
Boozman	Fallin	LaTourette
Bordallo	Farr	Latta
Boren	Fattah	Lee
Boswell	Feeney	Levin
Boucher	Ferguson	Lewis (GA)
Boustany	Filner	Lewis (KY)
Boyd (FL)	Flake	Linder
Boyd (KS)	Fortenberry	Lipinski
Brady (PA)	Flood	LoBiondo
Brady (TX)	Frank (MA)	Loebsack
Braley (IA)	Franks (AZ)	Lofgren, Zoe
Broun (GA)	Frelinghuysen	Lowe
Brown (SC)	Gallely	Lucas
Brown, Corrine	Garrett (NJ)	Lungren, Daniel
Brown-Waite,	Gerlach	E.
Ginny	Giffords	Lynch
Buchanan	Gilchrest	Mack
Burgess	Gillibrand	Mahoney (FL)
Burton (IN)	Gingrey	Maloney (NY)
Butterfield	Gohmert	Manzullo
Buyer	Gonzalez	Marchant
Calvert	Goode	Markey
Camp (MI)	Goodlatte	Marshall
Campbell (CA)	Gordon	Matheson
Cannon	Granger	Matsui
Cantor	Graves	McCarthy (CA)
Capito	Green, Al	McCarthy (NY)
Capps	Green, Gene	McCaul (TX)
Capuano	Grijalva	McCollum (MN)
Cardoza	Gutierrez	McCotter
Carnahan	Hall (NY)	McCrery
Carney	Hall (TX)	McDermott
Carter	Hare	McGovern
Castle	Harman	McHenry
Castor	Hastings (FL)	McHugh
Chabot	Hastings (WA)	McIntyre
Chandler	Hayes	McKeon
Christensen	Heller	McMorris
Clarke	Hensarling	Rodgers
Clay	Herger	McNerney
Cleaver	Herseth Sandlin	McNulty
Clyburn	Higgins	Meek (FL)
Coble	Hill	Melancon
Cohen	Hinchey	Mica
Cole (OK)	Hinojosa	Michaud
Conaway	Hirono	Miller (FL)
Conyers	Hobson	Miller (MI)
Cooper	Hodes	Miller (NC)
Costa	Hoekstra	Miller, George
Costello	Holden	Mitchell
Courtney	Holt	Mollohan
Cramer	Hooley	Moore (KS)
Crenshaw	Hoyer	Moore (WI)
Crowley	Hulshof	Moran (KS)
Cubin	Inglis (SC)	Moran (VA)
Cuellar	Inslee	Murphy (CT)
Cummings	Israel	Murphy, Patrick
Davis (AL)	Issa	Murphy, Tim
Davis (CA)	Jackson (IL)	Murtha

Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Norton
Nunes
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Richardson
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam

Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sali
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Saxton
Schakowsky
Schiff
Schmidt
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shays
Shea-Porter
Sherman
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton

Tancred
Tauscher
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Tsongas
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walberg
Walden (OR)
Walsh (NY)
Walz (MN)
Wamp
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch (VT)
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield (KY)
Wilson (NM)
Wilson (OH)
Wilson (SC)
Wittman (VA)
Wolf
Woolsey
Wu
Wynn
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—19

Baca
Baker
Berkley
Culberson
Faleomavaega
Forbes
Fortuño

Fossella
Honda
Hunter
Jefferson
Lantos
Lewis (CA)
Meeks (NY)

Miller, Gary
Paul
Reichert
Shimkus
Tanner

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1508

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. WILSON OF SOUTH CAROLINA

The Acting CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from South Carolina (Mr. WILSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 229, not voting 18, as follows:

[Roll No. 8]

AYES—188

Aderholt
Akin
Alexander
Bachmann
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggart
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Foxy
Franks (AZ)

Frelinghuysen
Gallely
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jordan
Keller
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel
E.
Mack
Manzullo
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Rodgers
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer

Nunes
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shuster
Simpson
Smith (NE)
Smith (TX)
Smith (WA)
Stearns
Sullivan
Tancred
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOES—229

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bordallo
Boren
Boswell
Boucher
Boyd (FL)
Boyd (KS)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan

Carney
Castor
Chandler
Christensen
Clarke
Clay
Clever
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly

Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinche
Hinojosa

Hirono
Hodes
Holden
Holt
Hooley
Hoyer
Inslie
Israel
Jackson (IL)
Jackson-Lee
(TX)
Johnson (GA)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Klein (FL)
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney

McNulty
Meek (FL)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Oliver
Ortiz
Pallone
Pascrell
Pastor
Payne
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rohrabacher
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shuster
Simpson
Smith (NE)
Smith (TX)
Smith (WA)
Stearns
Sullivan
Tancred
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOT VOTING—18

Baca
Baker
Berkley
Culberson
Faleomavaega
Forbes

Fortuño
Fossella
Honda
Hunter
Jefferson
Lantos

Meeks (NY)
Miller, Gary
Paul
Shimkus
Souder
Tanner

ANNOUNCEMENT BY THE ACTING CHAIRMAN

The Acting CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1516

Mr. MORAN of Virginia and Mr. GILCHREST changed their vote from “aye” to “no.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. SOUDER. Mr. Chairman, on rollcall No. 8, had I been present, I would have voted “aye.”

The Acting CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CAPUANO) having assumed the chair, Mr. PASTOR, Acting Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 2768) to establish improved mandatory standards to protect minders during emergencies, and

for other purposes, pursuant to House Resolution 918, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment reported from the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SOUDER. I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SOUDER moves to recommit the bill, H.R. 2768, to the Committee on Education and Labor with instructions to report the bill back to the House promptly with the following amendment:

Page 22, after line 22, insert the following:
(n) SUBSTANCE ABUSE TESTING.—Title II is further amended by adding at the end the following new section:

“SEC. 208. SUBSTANCE ABUSE TESTING.

“(a) TESTING PROGRAM.—Not later than 180 days after the date of enactment of the S-MINER Act, the Secretary shall promulgate regulations pursuant to section 101(a) to require the operator of each mine to institute a program to conduct mandatory, random substance abuse testing of mine employees. Such regulations shall be no less restrictive than regulations issued by other Federal and State agencies which impose mandatory substance abuse testing and shall provide for—

“(1) mandatory substance abuse testing procedures;

“(2) a process for the random selection of those employees to be tested;

“(3) the protection of individuals’ rights and privacy;

“(4) the establishment of an Employee Assistance Program; and

“(5) for purposes of subsection (b), a process for mine operators to notify the Administration of the names of individuals who test positive for substance abuse.

“(b) REGISTRY.—Not later than 180 days after the date of enactment of the S-MINER Act, the Secretary shall promulgate regulations creating a registry of those found to have tested positive for substance abuse for the sole purpose of sharing, on a confidential basis, with State authorities responsible for issuance of licenses, certification, permits, or other documents required to seek employment in the mining industry.”.

Mr. SOUDER (during the reading). Mr. Speaker, I ask unanimous consent to suspend with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The gentleman from Indiana is recognized for 5 minutes.

Mr. SOUDER. Mr. Speaker, in our discussion about how to achieve safety in our Nation’s mines, there’s one issue that, until today, has been conspicuously absent: drug testing. Our late colleague from Georgia, Charlie Norwood, had the courage to introduce mine safety legislation with a drug testing requirement, only to be criticized for “blaming the victim.” I would argue that drug testing prevents victims.

Now, claims have been made that the Federal Government is not moving fast enough to implement safety changes, that the States are more nimble. In this instance, the other side may have a point. On the issue of drug testing, I believe the Federal Government ought to be following the States’ lead.

The Commonwealth of Virginia initiated a drug testing requirement in April 2006. Since then, there have been no mining fatalities in Virginia last year, and just in southwest Virginia they had 278 the previous year, more than they’ve had homicides, not in coal mining but in drug overdoses.

The State of Kentucky passed a drug testing law last year, and coal mining deaths in that State are now at an all-time low. Some 433 miners were suspended for positive drug test results. It’s just been possible that a disaster has been averted because of the new drug testing law.

Yet inexplicably, the same Democrats who champion this misguided legislation because they want to move more quickly on some reforms are proposing that we stall action on drug testing until we can do a study. We don’t need a study. The evidence is right here, a front page article in The Washington Post detailing what has happened in Virginia and the problems in mining. The devastating impact of drug abuse was brought into sharp focus in that story.

Some may also claim in the response here that this would kill the bill. This obviously would not kill the bill. It would go back to committee. The committee would then pass an amendment, and it could be back on the floor later this week. It’s not like we’re busy. We’re adjourning again in mid-afternoon. This could easily go back to committee and come back later this week.

Drug and alcohol testing is a commonsense safety measure that protects both abusers of these substances and those around them. It has the noted benefits of reducing accidents, cutting sick leave, improving attendance, and increasing productivity.

The testing program in this motion to recommit is based on the Omnibus Transportation Employee Testing Act of 1991, which I helped draft when I was a staffer in the Senate, which requires drug and alcohol testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries.

Our Nation’s laws do not allow the people driving the trucks filled with

coal away from the mine to abuse drugs or alcohol. Why would we not ensure that the men driving heavy machinery in the mine are not impaired?

If this body has spent valuable time investigating Major League Baseball and its drug testing policy, and I serve on that committee and I support Congressman WAXMAN’s efforts to requiring testing of Major League Baseball players, why wouldn’t we do that in mining?

I helped draft the first legislation for drug testing in high school athletes. It’s been upheld by the courts, and we’ve passed that numerous times in this House and the Senate. Why wouldn’t we do it for mine safety if we do it for high school athletes?

I worked on the Small Business Committee with then-Chairman Jim Talent, where we passed the Drug Workplace Act and heard testimony over and over from unions and management about how this can help people who have drug abuse to get addiction treatment. And I voted for the amendment that put more money in for addiction treatment, which is very important, but you have to have drug testing. It’s part of getting people treated and to do prevention.

This will be a very clear vote. We have plenty of studies. We have mountains of studies. We have evidence that when we do this in schools it keeps people from falling victim to drug abuse and from having accidents. When we do it in the workplace, when we do it in transportation, drug testing works.

This is a clean vote. There aren’t any excuses. We can bring this back to the floor yet this week. We can pass this, and this will be as clean a vote as you can get on this motion to recommit.

I urge you to support drug testing, to support safety, to get people into treatment, to keep mine disasters from occurring, and I urge my colleagues to vote with me “yes” on the motion to recommit to ensure strong safety protections and mandatory drug testing.

Mr. Speaker, I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, over this weekend we were treated to a very sad and disturbing story in the Washington Post about drug use in the mining community in Virginia and other States, about miners who have been crushed by equipment in the mines, who have been crushed in roof falls in the mine, who had been run over by other equipment in the mine, whose bodies were wracked with pain, who got addicted to painkillers, to OxyContin, to other drugs such as that, prescription drugs, and then were struggling with their addiction.

There was also the story of a miner who got up every night at midnight,

fixed himself a quick meal, and drove 135 miles round trip before he went to work so he could get his methadone treatment at the clinic and get on his job, and do that with the knowledge of his employer, struggling with his addiction, struggling to stay employed.

In this bill, we had the opportunity to address this situation. RICK BOUCHER, our colleague, addressed it by authorizing with almost unanimous support \$10 million for treatment and to work with these miners, that the Secretary can use.

We have suggested an amendment in the manager's amendment, which you voted for, which says that the Secretary will spend 6 months to work with the industry, to work with the miners, to work with the States. Virginia has a program. Kentucky has a program. West Virginia does not. Pennsylvania apparently does not. Indiana does not. Illinois does not. The Secretary will work with them to see how they're doing it, the best way to do it, and at the end of that 6 months, after those consultations, after her study, to impose a drug program with drug testing and treatment and rehabilitation.

How is that different than what is being offered here by my colleagues on the other side? They impose drug testing, and then they impose a blacklist for those who test positive. You want to talk about baseball? You're being a hell of a lot harder on hardworking miners in this country than you are on the baseball stars because they use drugs, and they go to work every day and nobody says anything.

But a miner who's been crushed on the job, who's trying to provide for their families, tests positive, we don't know if it's a false positive. They don't make allowances for false positives. He gets on the blacklist and he may never work again.

RICK BOUCHER had a better idea. Our committee had a better idea. Have the Secretary work with the States and the companies and the mining industries and the miners and the unions and say how can we best do this because I'm going to do it. So what's the best way for us to do this.

So many of you from both sides of the aisle during the consideration of this bill have said to me one thing over and over again: Will you work with the companies? Will you work with the companies? Now, along comes drug testing, nobody says work with the companies. Nobody says work with the unions. Nobody says work with the community health facilities. They just say test them and list them.

What the hell kind of thing is that to do to hardworking people in one of the most dangerous industries? We've had spouses come to this committee and talk about the fear in their spouses at night when they come home from work and before they leave, the fear that these miners have of going into that workplace.

In that article, one of the miners said he takes drugs and he used to drink be-

cause he's fighting, he hates the job. Some of them love the job in that article. They said, This is my life, mining. Digging coal is what I do best, but my legs have been crushed, my arm has been crushed.

Let's give them testing. Let's give them treatment, and let's give them some understanding of the kind of industry that they're in. We benefit, we burn the coal, we run the economy, and these families live in fear.

□ 1530

This is a very good bill. This is a very good bill. We should not suggest for a moment that because there is no link between the tragedies of the mining accidents last year and the year before, that drugs were involved at all. We have a nutty owner in Utah, but we're not going to test him. We're not going to test that owner, who is running around giving all these false reasons to these poor victims and their families as to what happened.

So yes, you can talk about baseball. But at the end of the day, those baseball players, just as they did last season and next season, they'll be playing. And they'll get a warning, and they'll get treatment. And they'll get a second warning, and they'll get treatment. These guys get a test and a list. It's unfair. It's outrageous. And you should not support it.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOUDER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 197, noes 217, not voting 16, as follows:

[Roll No. 9]

AYES—197

Aderholt
Akin
Alexander
Altmire
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Biggart
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Boyd (KS)
Brady (TX)

Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carney
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Crenshaw
Cubin

Davis (KY)
Davis, David
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Foxy
Franks (AZ)

Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Hobson
Hoekstra
Hulshof
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas

Lungren, Daniel
E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Rodgers
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)

Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shays
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland
Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOES—217

Abercrombie
Ackerman
Allen
Andrews
Arcuri
Baird
Baldwin
Bean
Becerra
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd (FL)
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers
Cooper
Costa
Costello
Courtney
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Lincoln
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett

Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gillibrand
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Herseth Sandlin
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich
Langevin

Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Loebuck
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Melancon
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Oliver
Ortiz
Pallone
Pascarelli
Pastor
Payne
Perlmutter
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes

Richardson
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter

Sherman
Shuler
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Space
Spratt
Stark
Stupak
Sutton
Tancredo
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Tsongas
Udall (CO)

NOT VOTING—16

Baca
Baker
Berkley
Culberson
Forbes
Fossella

Honda
Hunter
Jefferson
Kingston
Lantos
Meeks (NY)

Miller, Gary
Paul
Shimkus
Tanner

□ 1548

Mr. RANGEL and Mrs. LOWEY changed their vote from “aye” to “no.”

Mr. TAYLOR changed his vote from “no” to “aye.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McKEON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 214, nays 199, not voting 17, as follows:

[Roll No. 10]

YEAS—214

Abercrombie
Ackerman
Allen
Altmire
Andrews
Arcuri
Bachus
Baird
Baldwin
Bean
Becerra
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Castor
Chandler
Clarke
Clay
Cleaver
Clyburn
Cohen
Conyers

Cooper
Costa
Costello
Courtney
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly
Doyle
Edwards
Ellison
Ellsworth
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Frank (MA)
Giffords
Gilchrest
Gillibrand
Gonzalez
Gordon
Graves

Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Hare
Harman
Hastings (FL)
Higgins
Hill
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Johnson (GA)
Johnson, E. B.
Jones (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind
Klein (FL)
Kucinich

Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Loeb sack
Lofgren, Zoe
Lowey
Lynch
Mahoney (FL)
Maloney (NY)
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum (MN)
McDermott
McGovern
McIntyre
McNerney
McNulty
Meek (FL)
Michaud
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murtha
Nadler

Napolitano
Neal (MA)
Oberstar
Obey
Ortiz
Pallone
Pascrell
Pastor
Payne
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Richardson
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shays
Shea-Porter
Sherman
Shuler
Sires
Skelton

NAYS—199

Aderholt
Akin
Alexander
Bachmann
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Berry
Biggett
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Boyd (FL)
Boyda (KS)
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Carter
Castle
Chabot
Coble
Cole (OK)
Conaway
Cramer
Crenshaw
Cubin
Cuellar
Davis (KY)
Davis, David
Davis, Lincoln
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan

Ehlers
Emerson
English (PA)
Everett
Fallin
Feeney
Ferguson
Flake
Fortenberry
Fox
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey
Gohmert
Goode
Goodlatte
Granger
Hall (TX)
Hastings (WA)
Hayes
Heller
Hensarling
Herger
Herseth Sandlin
Hobson
Hoekstra
Hulshof
Inglis (SC)
Issa
Johnson (IL)
Johnson, Sam
Jones (NC)
Jordan
Keller
King (IA)
King (NY)
Kirk
Kline (MN)
Knollenberg
Kuhl (NY)
LaHood
Lamborn
Lampson
Latham
LaTourette
Latta
Lewis (CA)
Lewis (KY)
Linder
Lucas
Lungren, Daniel
E.
Mack
Manzullo
Marchant
McCarthy (CA)

McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Musgrave
Myrick
Neugebauer
Nunes
Pearce
Pence
Perlmutter
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Royce
Ryan (WI)
Salazar
Sali
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shuster
Simpson
Smith (NE)
Smith (TX)

Souder
Stearns
Sullivan
Tancredo
Terry
Thornberry
Tiahrt
Tiberi
Turner

Udall (CO)
Upton
Walberg
Walden (OR)
Walsh (NY)
Wamp
Weldon (FL)
Weller
Westmoreland

Whitfield (KY)
Wilson (NM)
Wilson (SC)
Wittman (VA)
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Baca
Baker
Berkley
Culberson
Forbes
Fossella

Honda
Hunter
Jefferson
Kingston
Lantos
Meeks (NY)

Miller, Gary
Oliver
Paul
Shimkus
Tanner

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. DEGETTE) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1556

Mr. McCOTTER changed his vote from “yea” to “nay.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. GRAVES. Madam Speaker, on rollcall vote 10, the S-MINER Act, I voted “yea” when I intended to vote “nay.” I apologize for any confusion and ask that the RECORD reflect my true intention.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2768, SUPPLEMENTAL MINE IMPROVEMENT AND NEW EMERGENCY RESPONSE ACT OF 2007

Mr. KILDEE. Madam Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in the engrossment of H.R. 2768, to include corrections in spelling, the table of contents, punctuation, section numbering and cross-referencing, and the insertion of appropriate headings.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

Mr. SKELTON. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4986) to provide for the enactment of the National Defense Authorization Act for Fiscal Year 2008, as previously enrolled, with certain modifications to address the foreign sovereign immunities provisions of title 28, United States Code, with respect to the attachment of property in certain judgments against Iraq, the lapse of statutory authorities for the payment of bonuses, special pays, and similar