

I want to thank the gentleman from the Northern Mariana Islands for managing this very important piece of legislation on behalf of the committee.

Mr. STARK. Mr. Speaker, I rise to support the reauthorization of the Child-Abuse Prevention and Treatment Act. This bill strengthens our ability to identify, treat, and prevent the abuse and neglect of children and will open more good homes to foster children. This legislation also includes the Family Violence Prevention and Services Act, which recognizes the common co-occurrence of child abuse and domestic violence and provides resources to states to address both.

The Adoption Opportunities Act included in this bill focuses on the needs of older youth and minority youth in our child welfare system. More than 400,000 youth are in foster care in America. About 115,000 are awaiting adoption. More than one-quarter of those waiting for a family are over the age of twelve. However, the vast majority of those adopted are children under the age of nine. Older youth wait in the child welfare system for a long time, with the chance of being adopted decreasing every day. Many of these youth—over 25,000 each year—age out of the system without a permanent family to support their transition to young adulthood. Too often, these youth end up homeless, unemployed, or incarcerated.

I applaud the focus on these older youth. This bill authorizes national recruitment efforts to reach prospective adoptive parents, establishes an Internet-based national adoption information exchange system to bring together children up for adoption and qualified adoptive parents, and connects agencies and families to resources that will reduce barriers to adoption.

We must do all we can to increase adoption. Earlier this year, I introduced a bill, the Every Child Deserves a Family Act (H.R. 3827), which would further reduce barriers to adoption by preventing discrimination against prospective adoptive parents or foster parents solely on the basis of their sexual orientation, gender identification, or marital status. I look forward to continuing to work on reforming our child welfare system in the next Congress and I urge my colleagues to support S. 3817 and to stand with me to protect children.

Mr. FALOMAVEGA. Mr. Speaker, I rise today in strong support of the Child Abuse Prevention and Treatment Act (CAPTA) of 2010, a bill that will make significant improvements for a range of programs, initiatives, and grants to support our mission to combat and remedy child abuse in America.

I want to thank the Chairman of the Committee on Education and Labor, my good friend, Mr. GEORGE MILLER, and all the members of the Committee for their work on this comprehensive legislation, and to my colleagues for their work in advocating for the needs of our young constituents who do not have the opportunity to advocate for themselves.

This bill reauthorizes—through FY2015—the current CAPTA legislation as well as the Family Violence Prevention and Services Act (FVPSA), the Adoption Reform Act of 1978, and the Abandoned Infants Assistance Act of 1988, and covers a range of programs that address child abuse and neglect, family, domestic, and dating violence, as well as adoption.

As we all know, child abuse is an epidemic that has far-reaching effects past the incidence of abuse or neglect. Without the proper support, victims of abuse are at high risk for depression, anxiety, being arrested as juveniles, among other negative outcomes. Unfortunately, while prevention efforts have led to a decrease in reported incidents over the past decade, we still know that for every report of child abuse, there are far more unreported incidents and children without help.

Originally enacted in 1974, CAPTA is the key federal legislation addressing child abuse and neglect. Since enactment, CAPTA has played a vital role in assisting state and local governments in their efforts to not only treat, but also prevent child abuse. CAPTA has provided grants to states to support community-based programs and child protective services (CPS), and has boosted efforts in evaluating these programs through data collection, research, analysis, and training.

Through reauthorization, this legislation will improve how child abuse prevention and treatment programs are administered. To help ensure that the needs of America's children are being met, this bill will revise requirements for the child abuse prevention and treatment advisory board, the national clearinghouse for information relating to child abuse, research and assistance activities, as well as specified grants to States, Indian tribes or tribal organizations, public and private agencies and organizations.

Under the CAPTA Act, this bill will also strengthen state laws in terms of reporting; require increased efforts in research and studies to ensure that state laws are properly serving the needs of victims of abuse; and address challenging issues such as protecting children from cross-jurisdictional complication. Regarding FVPSA programs and activities, this bill will also expand grant opportunities, including programs for teen dating violence hotlines to further address the call for more support for young victims of abuse across the nation. Concerning adoption regulations, this bill also improves the focus on finding qualified families for adoption of children with special needs.

The scars of child abuse can be long-lasting, affecting not only the child and family, but also society as a whole. Therefore, it is essential that we pass this crucial legislation to improve the services, information, research, and resources that are deeply needed to better serve America's children.

The CAPTA Reauthorization Act of 2010 is a step towards improving and strengthening prevention efforts and support for victims of abuse. Through this bill, we will improve the ongoing efforts of the Federal Government to combat this issue, and we will also continue to strengthen and support the vital State, local, and community-based efforts that serve America's children day by day. I urge my colleagues to vote "yes" and support this important legislation.

Mr. GUTHRIE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SABLAN. Mr. Speaker, I urge my colleagues to support Senate bill 3817, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HODES). The question is on the motion offered by the gentleman from the Northern Mariana Islands (Mr. SABLAN)

that the House suspend the rules and pass the bill, S. 3817, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ROBERT C. BYRD MINE SAFETY PROTECTION ACT OF 2010

Mr. GEORGE MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6495) to improve compliance with mine safety and health laws, empower miners to raise safety concerns, prevent future mine tragedies, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6495

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 "Robert C. Byrd Mine Safety Protection Act of 2010".

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

Sec. 1. Short title; table of contents.

Sec. 2. References.

TITLE I—ADDITIONAL INSPECTION AND INVESTIGATION AUTHORITY

Sec. 101. Independent accident investigations.

Sec. 102. Subpoena authority and miner rights during inspections and investigations.

Sec. 103. Designation of miner representative.

Sec. 104. Additional amendments relating to inspections and investigations.

TITLE II—ENHANCED ENFORCEMENT AUTHORITY

Sec. 201. Technical amendment.

Sec. 202. A pattern of recurring noncompliance or accidents.

Sec. 203. Injunctive authority.

Sec. 204. Revocation of approval of plans.

Sec. 205. Challenging a decision to approve, modify, or revoke a coal or other mine plan.

Sec. 206. GAO Study on MSHA Mine Plan Approval.

TITLE III—PENALTIES

Sec. 301. Civil penalties.

Sec. 302. Civil and criminal liability of officers, directors, and agents.

Sec. 303. Criminal penalties.

Sec. 304. Commission review of penalty assessments.

Sec. 305. Delinquent payments and prejudgment interest.

TITLE IV—WORKER RIGHTS AND PROTECTIONS

Sec. 401. Protection from retaliation.

Sec. 402. Protection from loss of pay.

Sec. 403. Underground coal miner employment standard for mines placed in pattern status.

TITLE V—MODERNIZING HEALTH AND SAFETY STANDARDS

Sec. 501. Pre-shift review of mine conditions.

Sec. 502. Rock dust standards.

Sec. 503. Atmospheric monitoring systems.

Sec. 504. Technology related to respirable dust.

Sec. 505. Refresher training on miner rights and responsibilities.

Sec. 506. Authority to mandate additional training.

Sec. 507. Certification of personnel.

TITLE VI—ADDITIONAL MINE SAFETY PROVISIONS

Sec. 601. Definitions.

Sec. 602. Assistance to States.

Sec. 603. Black lung medical reports.

Sec. 604. Rules of application to certain mines.

Sec. 605. Paygo compliance.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed as an amendment to 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.).

TITLE I—ADDITIONAL INSPECTION AND INVESTIGATION AUTHORITY

SEC. 101. INDEPENDENT ACCIDENT INVESTIGATIONS.

(a) IN GENERAL.—Section 103(b) (30 U.S.C. 813(b)) is amended by striking “(b) For the purpose” and inserting the following:

“(b) ACCIDENT INVESTIGATIONS.—

“(1) IN GENERAL.—For all accident investigations under this Act, the Secretary shall—

“(A) determine why the accident occurred;

“(B) determine whether there were violations of law, mandatory health and safety standards, or other requirements, and if there is evidence of conduct that may constitute a violation of Federal criminal law, the Secretary may refer such evidence to the Attorney General; and

“(C) make recommendations to avoid any recurrence.

“(2) INDEPENDENT ACCIDENT INVESTIGATIONS.—

“(A) IN GENERAL.—There shall be, in addition to an accident investigation under paragraph (1), an independent investigation by an independent investigation panel (referred to in this subsection as the ‘Panel’) appointed under subparagraph (B) for—

“(i) any accident involving 3 or more deaths; or

“(ii) any accident that is of such severity or scale for potential or actual harm that, in the opinion of the Secretary of Health and Human Services, the accident merits an independent investigation.

“(B) APPOINTMENT.—

“(i) IN GENERAL.—As soon as practicable after an accident described in subparagraph (A), the Secretary of Health and Human Services shall appoint 5 members for the Panel required under this paragraph from among individuals who have expertise in accident investigations, mine engineering, or mine safety and health that is relevant to the particular investigation.

“(ii) CHAIRPERSON.—The Panel shall include, and be chaired by, a representative from the Office of Mine Safety and Health Research, of the National Institute for Occupational Safety and Health (referred to in this subsection as NIOSH).

“(iii) CONFLICTS OF INTEREST.—Panel members, and staff and consultants assisting the Panel with an investigation, shall be free from conflicts of interest with regard to the investigation, and be subject to the same standards of ethical conduct for persons employed by the Secretary.

“(iv) COMPOSITION.—The Secretary of Health and Human Services shall appoint as members of the Panel—

“(I) 1 operator of a mine or individual representing mine operators, and

“(II) 1 representative of a labor organization that represents miners,

and may not appoint more than 1 of either such individuals as members of the Panel.

“(v) STAFF AND EXPENSES.—The Director of NIOSH shall designate NIOSH staff to facilitate the work of the Panel. The Director may accept as staff personnel on detail from other Federal agencies or re-employ annuitants. The detail of personnel under this paragraph may be on a non-reimbursable basis, and such detail shall be without interruption or loss of civil service status or privilege. The Director of NIOSH shall have the authority to procure on behalf of the Panel such materials, supplies or services, including technical experts, as requested in writing by a majority of the Panel.

“(vi) COMPENSATION AND TRAVEL.—All members of the Panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States. Each Panel member who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of duties of the Panel. The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter 1 of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Panel.

“(C) DUTIES.—The Panel shall—

“(i) assess and identify any factors that caused the accident, including deficiencies in safety management systems, regulations, enforcement, industry practices or guidelines, or organizational failures;

“(ii) identify and evaluate any contributing actions or inactions of—

“(I) the operator;

“(II) any contractors or other persons engaged in mining-related functions at the site;

“(III) any State agency with oversight responsibilities;

“(IV) any agency or office within the Department of Labor; or

“(V) any other person or entity (including equipment manufacturers);

“(iii) review the determinations and recommendations by the Secretary under paragraph (1);

“(iv) prepare a report that—

“(I) includes the findings regarding the causal factors described in clauses (i) and (ii);

“(II) identifies any strengths and weaknesses in the Secretary’s investigation; and

“(III) includes recommendations, including interim recommendations where appropriate, to industry, labor organizations, State and Federal agencies, or Congress, regarding policy, regulatory, enforcement, administrative, or other changes, which in the judgment of the Panel, would prevent a recurrence at other mines; and

“(v) publish such findings and recommendations (excluding any portions which the Attorney General requests that the Secretary withhold in relation to a criminal referral) and hold public meetings to inform the mining community and families of affected miners of the Panel’s findings and recommendations.

“(D) HEARINGS; APPLICABILITY OF CERTAIN FEDERAL LAW.—The Panel shall have the authority to conduct public hearings or meetings, but shall not be subject to the Federal Advisory Committee Act. All public hearings of the Panel shall be subject to the require-

ments under section 552b of title 5, United States Code.

“(E) MEMORANDUM OF UNDERSTANDING.—Not later than 90 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary of Labor and the Secretary of Health and Human Services shall conclude and publically issue a memorandum of understanding that—

“(i) outlines administrative arrangements which will facilitate a coordination of efforts between the Secretary of Labor and the Panel, ensures that the Secretary’s investigation under paragraph (1) is not delayed or otherwise compromised by the activities of the Panel, and establishes a process to resolve any conflicts between such investigations;

“(ii) ensures that Panel members or staff will be able to participate in investigation activities (such as mine inspections and interviews) related to the Secretary of Labor’s investigation and will have full access to documents that are assembled or produced in such investigation, and ensures that the Secretary of Labor will make all of the authority available to such Secretary under this section, including subpoena authority, to obtain information and witnesses which may be requested by such Panel; and

“(iii) establishes such other arrangements as are necessary to implement this paragraph.

“(F) PROCEDURES.—Not later than 90 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary of Health and Human Services shall establish procedures to ensure the consistency and effectiveness of Panel investigations. In establishing such procedures, such Secretary shall consult with independent safety investigation agencies, sectors of the mining industry, representatives of miners, families of miners involved in fatal accidents, State mine safety agencies, and mine rescue organizations. Such procedures shall include—

“(i) authority for the Panel to use evidence, samples, interviews, data, analyses, findings, or other information gathered by the Secretary of Labor, as the Panel determines valid;

“(ii) provisions to ensure confidentiality if requested by any witness, to the extent permitted by law, and prevent conflicts of interest in witness representation; and

“(iii) provisions for preservation of public access to the Panel’s records through the Secretary of Health and Human Services.

“(G) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection such sums as may be necessary.

“(3) POWERS AND PROCESSES.—For the purpose”.

(b) REPORTING REQUIREMENTS.—Section 511(a) (30 U.S.C. 958(a)) is amended by inserting after “501,” the following: “the status of implementation of recommendations from each independent investigation panel under section 103(b) received in the preceding 5 years”.

SEC. 102. SUBPOENA AUTHORITY AND MINER RIGHTS DURING INSPECTIONS AND INVESTIGATIONS.

Section 103(b) (as amended by section 101) (30 U.S.C. 813(b)) is further amended by adding at the end the following:

“(4) ADDITIONAL POWERS.—For purposes of making inspections and investigations, the Secretary or the Secretary’s designee, may sign and issue subpoenas for the attendance and testimony of witnesses and the production of information, including all relevant data, papers, books, documents, and items of physical evidence, and administer oaths. Witnesses summoned shall be paid the same

fees that are paid witnesses in the courts of the United States. In carrying out inspections and investigations under this subsection, authorized representatives of the Secretary and attorneys representing the Secretary are authorized to question any individual privately. Under this section, any individual who is willing to speak with or provide a statement to such authorized representatives or attorneys representing the Secretary may do so without the presence, involvement, or knowledge of the operator or the operator's agents or attorneys. The Secretary shall keep the identity of an individual providing such a statement confidential to the extent permitted by law. Nothing in this paragraph prevents any individual from being represented by that individual's personal attorney."

SEC. 103. DESIGNATION OF MINER REPRESENTATIVE.

Section 103(f) (30 U.S.C. 813(f)) is amended by inserting before the last sentence the following: "If any miner is entrapped or otherwise prevented as the result of an accident in such mine from designating such a representative directly, such miner's closest relative may act on behalf of such miner in designating such a representative. If any miner is not currently working in such mine as the result of an accident in such mine, but would be currently working in such mine but for such accident, such miner may designate such a representative. A representative of miners shall have the right to participate in any accident investigation the Secretary initiates pursuant to subsection (b), including the right to participate in investigative interviews and to review all relevant papers, books, documents and records produced in connection with the accident investigation, unless the Secretary in consultation with the Attorney General excludes such representatives from the investigation on the grounds that inclusion would interfere with or adversely impact a criminal investigation that is pending or under consideration."

SEC. 104. ADDITIONAL AMENDMENTS RELATING TO INSPECTIONS AND INVESTIGATIONS.

(a) **HOURS OF INSPECTIONS.**—Section 103(a) (30 U.S.C. 813(a)) is amended by inserting after the third sentence the following: "Such inspections shall be conducted during the various shifts and days of the week during which miners are normally present in the mine to ensure that the protections of this Act are afforded to all miners working all shifts."

(b) **REVIEW OF MINE PATTERN STATUS.**—Section 103(a) is further amended by inserting before the last sentence the following: "The Secretary shall, upon request by an operator, review with the appropriate mine officials the Secretary's most recent evaluation for pattern status (as provided in section 104(e)) for that mine during the course of a mine's regular quarterly inspection of an underground mine or a biannual inspection of a surface mine, or, at the discretion of the Secretary, during the pre-inspection conference."

(c) **INJURY AND ILLNESS REPORTING.**—Section 103(d) (30 U.S.C. 813(d)) is amended by striking the last sentence and inserting the following: "The records to be kept and made available by the operator of the mine shall include man-hours worked and occupational injuries and illnesses with respect to the miners in their employ or under their direction or authority, and shall be maintained separately for each mine and be reported at a frequency determined by the Secretary, but at least annually. Independent contractors (within the meaning of section 3(d)) shall be responsible for reporting accidents, occupational injuries and illnesses, and man-hours worked for each mine with respect to

the miners in their employ or under their direction or authority, and shall be reported at a frequency determined by the Secretary, but at least annually. Reports or records of operators and contractors required and submitted to the Secretary under this subsection shall be signed and certified as accurate and complete by a knowledgeable and responsible person possessing a certification, registration, qualification, or other approval, as provided for under section 118. Knowingly falsifying such records or reports shall be grounds for revoking such certification, registration, qualification, or other approval under the standards established under subsection (b)(1) of such section."

(d) **ORDERS FOLLOWING AN ACCIDENT.**—Section 103(k) (30 U.S.C. 813(k)) is amended by striking "when present,".

(e) **CONFLICT OF INTEREST IN THE REPRESENTATION OF MINERS.**—Section 103(a) (30 U.S.C. 813(a)) is amended by adding at the end the following: "During inspections and investigations under this section, and during any litigation under this Act, no attorney shall represent or purport to represent both the operator of a coal or other mine and any other individual, unless such individual has knowingly and voluntarily waived all actual and reasonably foreseeable conflicts of interest resulting from such representation. The Secretary is authorized to take such actions as the Secretary considers appropriate to ascertain whether such individual has knowingly and voluntarily waived all such conflicts of interest. If the Secretary finds that such an individual cannot be represented adequately by such an attorney due to such conflicts of interest, the Secretary may petition the appropriate United States District Court which shall have jurisdiction to disqualify such attorney as counsel to such individual in the matter. The Secretary may make such a motion as part of an ongoing related civil action or as a miscellaneous action."

TITLE II—ENHANCED ENFORCEMENT AUTHORITY

SEC. 201. TECHNICAL AMENDMENT.

Section 104(d)(1) (30 U.S.C. 814(d)(1)) is amended—

(1) in the first sentence—

(A) by striking "any mandatory health or safety standard" and inserting "any provision of this Act, including any mandatory health or safety standard or regulation promulgated under this Act"; and

(B) by striking "such mandatory health or safety standards" and inserting "such provisions, regulations, or mandatory health or safety standards"; and

(2) in the second sentence, by striking "any mandatory health or safety standard" and inserting "any provision of this Act, including any mandatory health or safety standard or regulation promulgated under this Act,".

SEC. 202. A PATTERN OF RECURRING NON-COMPLIANCE OR ACCIDENTS.

Section 104(e) (30 U.S.C. 814(e)) is amended to read as follows:

"(e) **PATTERN OF RECURRING NONCOMPLIANCE OR ACCIDENTS.**—

"(1) **PATTERN STATUS.**—

"(A) **IN GENERAL.**—For purposes of this subsection, a coal or other mine shall be placed in pattern status if such mine has, as determined based on the regulations promulgated under paragraph (8)—

"(i) a pattern of—

"(I) citations for significant and substantial violations;

"(II) citations and withdrawal orders issued for unwarrantable failure to comply with mandatory health and safety standards under section 104(d);

"(III) citations for flagrant violations within the meaning of section 110(b);

"(IV) withdrawal orders issued under any other section of this Act (other than orders issued under subsections (j) or (k) of section 103); and

"(V) accidents and injuries; or

"(ii) a pattern consisting of any combination of citations, orders, accidents, or injuries described in subclauses (I) through (V).

"(B) **MITIGATING CIRCUMSTANCES.**—Notwithstanding subparagraph (A), if the Secretary, after conducting an assessment of a coal or other mine that otherwise qualifies for pattern status, certifies that there are mitigating circumstances wherein the operator has already implemented remedial measures that have reduced risks to the health and safety of miners to the point that such risks are no longer elevated and has taken sufficient measures to ensure such elevated risk will not recur, the Secretary may deem such mine to not be in pattern status under this subsection. The Secretary shall issue any such certification of such mitigating circumstances that would preclude the placement of a mine in pattern status as a written finding, which shall, not later than 10 days after the certification is made, be—

"(i) made available on the public Web site of the Mine Safety and Health Administration; and

"(ii) transmitted to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

"(C) **FREQUENCY.**—Not less frequently than every 6 months, the Secretary shall identify any mines which meet the criteria set forth in paragraph (8).

"(2) **ACTIONS FOLLOWING PLACEMENT OF MINE IN PATTERN STATUS.**—For any coal or other mine that is in pattern status, the Secretary shall—

"(A) notify the operator of such mine that the mine is being placed in pattern status;

"(B) issue an order requiring such operator to cause all persons to be withdrawn from such mine, except those persons referred to in subsection (c) or authorized by an order of the Secretary issued under this subsection;

"(C) issue a remediation order described in paragraph (3) to such operator within 3 days; and

"(D) require that the number of regular inspections of such mine required under section 103 be increased to 8 per year while the mine is in pattern status.

Notice advising operators that they face potential placement in pattern status shall not be a requirement for issuing a withdrawal order to operators under this subsection.

"(3) **REMEDIATION ORDER.**—

"(A) **IN GENERAL.**—A remediation order issued to an operator under paragraph (2)(C) may require the operator to carry out one or more of the following requirements, pursuant to a timetable for commencing and completing such actions or as a condition of miners reentering the mine:

"(i) Provide specified training, including training not otherwise required under this Act.

"(ii) Institute and implement an effective health and safety management program approved by the Secretary, including—

"(I) the employment of safety professionals, certified persons, and adequate numbers of personnel for the mine, as may be required by the Secretary;

"(II) specific inspection, recordkeeping, reporting and other requirements for the mine as the Secretary may establish; and

"(III) other requirements to ensure compliance and to protect the health and safety of miners or prevent accidents or injuries as the Secretary may determine are necessary.

"(iii) Facilitate any effort by the Secretary to communicate directly with miners

employed at the mine outside the presence of the mine operators or its agents, for the purpose of obtaining information about mine conditions, health and safety practices, or advising miners of their rights under this Act.

“(B) MODIFICATION OF AND FAILURE TO COMPLY WITH REMEDIATION ORDER.—The Secretary may modify the remediation order, as necessary, to protect the health and safety of miners. If the mine operator fails to fully comply with the remediation order during the time a mine is in pattern status, the Secretary shall reinstate the withdrawal order under paragraph (2)(B).

“(C) EXTENSION OF DEADLINES.—An extension of a deadline under the remediation order may be granted on a temporary basis and only upon a showing that the operator took all feasible measures to comply with the order and only to the extent that the operator's failure to comply is beyond the control of the operator.

“(4) CONDITIONS FOR LIFTING A WITHDRAWAL ORDER.—A withdrawal order issued under paragraph (2)(B) shall not be lifted until the Secretary verifies that—

“(A) any and all violations or other conditions in the mine identified in the remediation order have been or are being fully abated or corrected as outlined in the remediation order; and

“(B) the operator has completed any other actions under the remediation order that are required for reopening the mine.

“(5) PERFORMANCE EVALUATION.—

“(A) PERFORMANCE BENCHMARKS.—The Secretary shall evaluate the performance of each mine in pattern status every 90 days during which the mine is producing and determine if, for such 90-day period—

“(i) the rate of citations at such mine for significant and substantial violations—

“(I) is in the top performing 35th percentile of such rates, respectively, for all mines of similar size and type; or

“(II) has been reduced by 70 percent from the date on which such mine was placed in pattern status, provided that the rate of such violations is not greater than the mean for all mines of similar size and type;

“(ii) the accident and injury rates at such mine are in the top performing 35th percentile of such rates, respectively, for all mines of similar size and type; and

“(iii) no citations or withdrawal orders for a violation under section 104(d), no withdrawal orders for imminent danger under section 107 (issued in connection with a citation), and no flagrant violations within the meaning of section 110(b), were issued for such mine.

“(B) REISSUANCE OF WITHDRAWAL ORDERS.—If an operator being evaluated fails to achieve the performance benchmarks described in subparagraph (A), the Secretary may reissue a withdrawal order under paragraph (2)(B) to remedy any recurring conditions that led to pattern status under this subsection, and may modify the remediation order, as necessary, to protect the health and safety of miners.

“(6) TERMINATION OF PATTERN STATUS.—

“(A) PERFORMANCE BENCHMARKS.—The Secretary shall remove a coal or other mine from pattern status if, for a 1-year period during which the mine is producing—

“(i) the rate of citations at such mine for significant and substantial violations—

“(I) is in the top performing 25th percentile of such rates, respectively, for all mines of similar size and type; or

“(II) has been reduced by 80 percent from the date on which such mine was placed in pattern status, provided that the rate of such violations is not greater than the mean for all mines of similar size and type;

“(ii) the accident and injury rates at such mine are in the top performing 25th percentile of such rates, respectively, for all mines of similar size and type; and

“(iii) no citations or withdrawal orders for violations under section 104(d), no withdrawal orders for imminent danger under section 107 (issued in connection with a citation), and no flagrant violations within the meaning of section 110(b), were issued for such mine.

“(B) CONTINUATION OF PATTERN STATUS.—Should the mine operator fail to meet the performance benchmarks described in subparagraph (A), the Secretary shall extend the mine's placement in pattern status until such benchmarks are achieved.

“(C) CONSTRUCTION.—A withdrawal order issued as the result of a condition that was entirely beyond the operator's ability to prevent or control shall not preclude the operator from being removed from pattern status, provided the operator did not cause or allow miners to be exposed to the condition in violation of any provision of this Act or a mandatory health or safety standard or regulation promulgated under this Act.

“(7) EXPEDITED REVIEW.—If any order under this subsection is contested, the review of such order shall be conducted on an expedited basis, in accordance with section 105(d).

“(8) REGULATIONS.—

“(A) IN GENERAL.—Not later than 120 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall issue interim final regulations that shall define—

“(i) the threshold benchmarks to trigger pattern status under paragraph (1) and cause a withdrawal order to be issued or reissued; and

“(ii) the performance benchmarks described in paragraphs (5)(A) and (6)(A).

“(B) THRESHOLD BENCHMARKS.—In establishing threshold benchmarks to trigger pattern status for mines with significantly poor compliance that contributes to unsafe or unhealthy conditions, the Secretary—

“(i) shall—

“(I) consider rates of citations and orders described in paragraph (1)(A) and rates of reportable accidents and injuries within the preceding 180-day period; and

“(II) assign appropriate weight to various types of citations, orders, accidents, injuries, or other factors; and

“(ii) may include—

“(I) factors such as mine type, production levels, number of miners, hours worked by miners, number of mechanized mining units (or similar production characteristics), and the presence of a representative of miners at the mine for purposes of collective bargaining;

“(II) the mine's history of citations, violations, orders, and other enforcement actions, or rates of reportable accidents and injuries, over any period determined relevant by the Secretary; and

“(III) other factors the Secretary may determine appropriate to protect the safety and health of miners.

“(C) FINAL REGULATION.—Not later than 2 years after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall promulgate a final regulation implementing this paragraph.

“(9) PUBLIC DATABASE AND INFORMATION.—The Secretary shall establish and maintain a publicly available electronic database containing the data used to determine pattern status for all coal or other mines which shall be updated as frequently as practicable. Such database shall be searchable and have the capacity to provide comparative data about the health and safety at mines of similar sizes and types. The Secretary shall also make publicly available—

“(A) a list of all mines the Secretary places in pattern status, updated within 7 days of placing an additional mine in pattern status;

“(B) the metrics, including percentile information, used for the purposes of the performance benchmarks and threshold benchmarks described in paragraphs (5), (6), and (8); and

“(C) guidance for the use of such metrics and benchmarks to assist operators in determining the performance their mines under criteria established by the Secretary.

“(10) OPERATOR FEES FOR ADDITIONAL INSPECTIONS.—

“(A) ASSESSMENT AND COLLECTION.—Beginning 120 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall assess and collect fees, in accordance with this paragraph, from each coal or other mine in pattern status for the costs of additional inspections under this subsection. The Secretary shall issue, by rule, a schedule of fees to be assessed against coal or other mines of varying types and sizes, and shall collect and assess amounts under this paragraph based on the schedule.

“(B) USE.—Amounts collected as provided in subparagraph (A) shall only be available to the Secretary for making expenditures to carry out the additional inspections required under paragraph (2)(D).

“(C) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated under this Act, there is authorized to be appropriated to the Assistant Secretary for Mine Safety and Health for each fiscal year in which fees are collected under subparagraph (A) an amount equal to the total amount of fees collected under such subparagraph during that fiscal year. Such amounts are authorized to remain available until expended. If on the first day of a fiscal year a regular appropriation to the Commission has not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such regular appropriation is enacted.

“(D) COLLECTION AND CREDITING OF FEES.—Fees authorized and collected under this paragraph shall be deposited and credited as offsetting collections to the account providing appropriations to the Mine Safety and Health Administration and shall not be collected for any fiscal year except to the extent and in the amount provided in advance in appropriation Acts.”

SEC. 203. INJUNCTIVE AUTHORITY.

Section 108(a)(2) (30 U.S.C. 818(a)(2)) is amended by striking “a pattern of violation of” and all that follows and inserting “a course of conduct that in the judgment of the Secretary constitutes a continuing hazard to the health or safety of miners, including violations of this Act or of mandatory health and safety standards or regulations under this Act.”

SEC. 204. REVOCATION OF APPROVAL OF PLANS.

Section 105 (30 U.S.C. 815) is amended—

(1) by redesignating subsection (d) as subsection (e); and

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

“(d) REVOCATION OF APPROVAL OF PLANS.—

“(1) REVOCATION.—If the Secretary finds that any program or plan of an operator, or part thereof, that was approved by the Secretary under this Act is based on inaccurate information or that circumstances that existed when such plan was approved have materially changed and that continued operation of such mine under such plan constitutes a hazard to the safety or health of miners, the Secretary shall revoke the approval of such program or plan.

“(2) WITHDRAWAL ORDERS.—Upon revocation of the approval of a program or plan under subsection (a), the Secretary may immediately issue an order requiring the operator to cause all persons, except those persons referred to in section 104(c), to be withdrawn from such mine or an area of such mine, and to be prohibited from entering such mine or such area, until the operator has submitted and the Secretary has approved a new plan.”

SEC. 205. CHALLENGING A DECISION TO APPROVE, MODIFY, OR REVOKE A COAL OR OTHER MINE PLAN.

Section 105(e) (as redesignated by section 204(1)) (30 U.S.C. 815(e)) is amended by adding at the end the following: “In any proceeding in which a party challenges the Secretary’s decision whether to approve, modify, or revoke a coal or other mine plan under this Act, the Commission shall affirm the Secretary’s decision unless the challenging party establishes that such decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

SEC. 206. GAO STUDY ON MSHA MINE PLAN APPROVAL.

Not later than 1 year after the date of enactment of this Act, the Comptroller General shall provide a report to Congress on the timeliness of the Mine Safety and Health Administration’s approval of underground coal mines’ required plans and plan amendments, including—

(1) factors that contribute to any delays in the approval of these plans; and

(2) as appropriate, recommendations for improving timeliness of plan review and for achieving prompt decisions.

TITLE III—PENALTIES

SEC. 301. CIVIL PENALTIES.

(a) **TECHNICAL CORRECTION.**—Section 110(a)(1) (30 U.S.C. 820(a)(1)) is amended by inserting “including any regulation promulgated under this Act,” after “this Act.”

(b) **INCREASED CIVIL PENALTIES DURING PATTERN STATUS.**—Section 110(b) (30 U.S.C. 820(b)) is amended by adding at the end the following:

“(3) Notwithstanding any other provision of this Act, an operator of a coal or other mine that is in pattern status under section 104(e) and that fails to meet the performance benchmarks set forth by the Secretary under section 104(e)(5)(A) during any performance review of the mine following the first performance review shall be assessed an increased civil penalty for any violation of this Act, including any mandatory health or safety standard or regulation promulgated under this Act. Such increased penalty shall be twice the amount that would otherwise be assessed for the violation under this Act, including the regulations promulgated under this Act, subject to the maximum civil penalty established for the violation under this Act. This paragraph shall apply to violations at such mine that occur during the time period after the operator fails to meet the performance benchmarks in this paragraph, and ending when the Secretary determines at a subsequent performance review that the mine meets the performance benchmarks under section 104(e)(5)(A).”

(c) **CIVIL PENALTY FOR RETALIATION.**—Section 110(a) (30 U.S.C. 820(a)) is further amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following:

“(4) If any person violates section 105(c), the Secretary shall propose, and the Commission shall assess, a civil penalty of not less than \$10,000 or more than \$100,000 for the first occurrence of such violation, and not less than \$20,000 or more than \$200,000 for any

subsequent violation, during any 3-year period.”

SEC. 302. CIVIL AND CRIMINAL LIABILITY OF OFFICERS, DIRECTORS, AND AGENTS.

Section 110(c) (30 U.S.C. 820(c)) is amended to read as follows:

“(c) **CIVIL AND CRIMINAL LIABILITY OF OFFICERS, DIRECTORS, AND AGENTS.**—

“(1) **CIVIL PENALTIES.**—Whenever an operator engages in conduct for which the operator is subject to civil penalties under this section, any director, officer, or agent of such operator who knowingly authorizes, orders, or carries out such conduct, or who knowingly authorizes, orders, or carries out any policy or practice that results in such conduct and having reason to believe it would so result, shall be subject to the same civil penalties under this section as if it were an operator engaging in such conduct.

“(2) **CRIMINAL PENALTIES.**—Whenever an operator engages in conduct for which the operator is subject to criminal penalties under subsection (d), any director, officer, or agent of such operator who knowingly authorizes, orders, or carries out such conduct, or who knowingly authorizes, orders, or carries out a policy or practice that results in such conduct, and knowing that it will so result, shall be subject to the same penalties under paragraphs (1) or (2) of subsection (d) as if such person were an operator engaging in such conduct.”

SEC. 303. CRIMINAL PENALTIES.

(a) **IN GENERAL.**—Section 110(d) (30 U.S.C. 820(d)) is amended to read as follows:

“(d) **CRIMINAL PENALTIES.**—

“(1) **IN GENERAL.**—Whoever, being an operator, knowingly—

“(A) violates a mandatory health or safety standard, or

“(B) violates or fails or refuses to comply with any order issued under section 104 or section 107, or any order incorporated in a final decision issued under this Act (except an order incorporated in a decision under subsection (a)(1) or section 105(c)),

shall, upon conviction, be fined not more than \$250,000, or imprisoned for not more than 1 year, or both, except that if the operator commits the violation after having been previously convicted of a violation under this paragraph and, if the operator knows or should know that such subsequent violation has the potential to expose a miner to risk of serious injury, serious illness, or death, the operator shall, upon conviction, be fined not more than \$1,000,000, or imprisoned for not more than 5 years, or both.

“(2) **SIGNIFICANT RISK OF SERIOUS INJURY, SERIOUS ILLNESS, OR DEATH.**—Whoever, being an operator, knowingly—

“(A) tampers with or disables a required safety device (except with express authorization from the Secretary),

“(B) violates a mandatory health or safety standard, or

“(C) violates or fails or refuses to comply with an order issued under section 104 or 107, or any order incorporated in a final decision issued under this Act (except an order incorporated in a decision under subsection (a)(1) or section 105(c)),

and thereby recklessly exposes a miner to significant risk of serious injury, serious illness, or death, shall, upon conviction, be fined not more than \$1,000,000, or imprisoned for not more than 5 years, or both, except that if the operator commits the violation after having been previously convicted of a violation under this paragraph, the operator shall, upon conviction, be fined not more than \$2,000,000, or imprisoned for not more than 10 years, or both.

“(3) **Whoever knowingly—**

“(A) with the intent to retaliate, interferes with the lawful employment or livelihood of

a person, or the spouse, sibling, child, or parent of a person, because any of them provides information to an authorized representative of the Secretary, a State or local mine safety or health officer or official, or other law enforcement officer, in reasonable belief that the information is true and related to an apparent health or safety violation, or unhealthful or unsafe condition, policy, or practice under this Act, or

“(B) interferes, or threatens to interfere, with the lawful employment or livelihood of a person, or the spouse, sibling, child, or parent of a person, with the intent to prevent any of them from so providing such information,

shall be fined under title 18 or imprisoned for not more than 5 years, or both.”

(b) **ADVANCE NOTICE OF INSPECTIONS.**—

(1) **IN GENERAL.**—Section 110(e) (30 U.S.C. 820(e)) is amended to read as follows:

“(e) **Whoever knowingly, with intent to give advance notice of an inspection conducted or to be conducted under this Act, and thereby to impede, interfere with, or frustrate such inspection, engages in, or directs another person to engage in, conduct that a reasonable person would expect to result in such advance notice, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, except that a miner (other than a director, officer or agent of the operator involved) who commits the offense at the direction of a superior shall be fined under title 18, or imprisoned for not more than 1 year, or both.”**

(2) **POSTING OF ADVANCE NOTICE PENALTIES.**—Section 109 (30 U.S.C. 819) is amended by adding at the end the following:

“(e) **POSTING OF ADVANCE NOTICE PENALTIES.**—Each operator of a coal or other mine shall post, on the bulletin board described in subsection (a) and in a conspicuous place near each staffed entrance onto the mine property, a notice stating, in a form and manner to be prescribed by the Secretary—

“(1) that it is unlawful pursuant to section 110(e) for any person, with the intent to impede, interfere with, or frustrate an inspection conducted or to be conducted under this Act, to engage in, or direct another person to engage in, any conduct that a reasonable person would expect to result in advance notice of such inspection; and

“(2) the maximum penalties for a violation under such subsection.”

SEC. 304. COMMISSION REVIEW OF PENALTY ASSESSMENTS.

Section 110(i) (30 U.S.C. 820(i)) is amended by striking “In assessing civil monetary penalties, the Commission shall consider” and inserting the following: “In any review of a citation and proposed penalty assessment contested by an operator, the Commission shall assess not less than the penalty derived by using the same methodology (including any point system) prescribed in regulations under this Act, so as to ensure consistency in operator penalty assessments, except that the Commission may assess a penalty for less than the amount that would result from the utilization of such methodology if the Commission finds that there are extraordinary circumstances. If there is no such methodology prescribed for a citation or there are such extraordinary circumstances, the Commission shall assess the penalty by considering”

SEC. 305. DELINQUENT PAYMENTS AND PRE-JUDGMENT INTEREST.

(a) **PRE-FINAL ORDER INTEREST.**—Section 110(j) (30 U.S.C. 820(j)) is amended by striking the second and third sentences and inserting the following: “Pre-final order interest on such penalties shall begin to accrue on the date the operator contests a citation issued

under this Act, including any mandatory health or safety standard or regulation promulgated under this Act, and shall end upon the issuance of the final order. Such pre-final order interest shall be calculated at the current underpayment rate determined by the Secretary of the Treasury pursuant to section 6621 of the Internal Revenue Code of 1986, and shall be compounded daily. Post-final order interest shall begin to accrue 30 days after the date a final order of the Commission or the court is issued, and shall be charged at the rate of 8 percent per annum.”.

(b) ENSURING PAYMENT OF PENALTIES.—

(1) AMENDMENTS.—Section 110 (30 U.S.C. 820) is further amended—

(A) by redesignating subsection (l) as subsection (m); and

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

“(l) ENSURING PAYMENT OF PENALTIES.—

“(1) DELINQUENT PAYMENT LETTER.—If the operator of a coal or other mine fails to pay any civil penalty assessment that has become a final order of the Commission or a court within 45 days after such assessment became a final order, the Secretary shall send the operator a letter advising the operator of the consequences under this subsection of such failure to pay. The letter shall also advise the operator of the opportunity to enter into or modify a payment plan with the Secretary based upon a demonstrated inability to pay, the procedure for entering into such plan, and the consequences of not entering into or not complying with such plan.

“(2) WITHDRAWAL ORDERS FOLLOWING FAILURE TO PAY.—If an operator that receives a letter under paragraph (1) has not paid the assessment by the date that is 180 days after such assessment became a final order and has not entered into a payment plan with the Secretary, the Secretary shall issue an order requiring such operator to cause all persons, except those referred to in section 104(c), to be withdrawn from, and to be prohibited from entering, the mine that is covered by the final order described in paragraph (1), until the operator pays such assessment in full (including interest and administrative costs) or enters into a payment plan with the Secretary. If such operator enters into a payment plan with the Secretary and at any time fails to comply with the terms specified in such payment plan, the Secretary shall issue an order requiring such operator to cause all persons, except those referred to in section 104(c), to be withdrawn from the mine that is covered by such final order, and to be prohibited from entering such mine, until the operator rectifies the noncompliance with the payment plan in the manner specified in such payment plan.”.

(2) APPLICABILITY AND EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to all unpaid civil penalty assessments under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), except that, for any unpaid civil penalty assessment that became a final order of the Commission or a court before the date of enactment of this Act, the time periods under section 110(n) of the Federal Mine Safety and Health Act of 1977 (as amended) (30 U.S.C. 820(n)) shall be calculated as beginning on the date of enactment of this Act instead of on the date of the final order.

TITLE IV—WORKER RIGHTS AND PROTECTIONS

SEC. 401. PROTECTION FROM RETALIATION.

Section 105(c) (30 U.S.C. 815(c)) is amended to read as follows:

“(c) PROTECTION FROM RETALIATION.—

“(1) RETALIATION PROHIBITED.—

“(A) RETALIATION FOR COMPLAINT OR TESTIMONY.—No person shall discharge or in any

manner discriminate against or cause to be discharged or cause discrimination against or otherwise interfere with the exercise of the statutory rights of any miner or other employee of an operator, representative of miners, or applicant for employment, because—

“(i) such miner or other employee, representative, or applicant for employment—

“(I) has filed or made a complaint, or is about to file or make a complaint, including a complaint notifying the operator or the operator’s agent, or the representative of the miners at the coal or other mine of an alleged danger or safety or health violation in a coal or other mine;

“(II) instituted or caused to be instituted, or is about to institute or cause to be instituted, any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such miner or other employee, representative, or applicant for employment on behalf of him or herself or others of any right afforded by this Act, or has reported any injury or illness to an operator or agent;

“(III) has testified or is about to testify before Congress or any Federal or State proceeding related to safety or health in a coal or other mine; or

“(IV) refused to violate any provision of this Act, including any mandatory health and safety standard or regulation; or

“(ii) such miner is the subject of medical evaluations and potential transfer under a standard published pursuant to section 101.

“(B) RETALIATION FOR REFUSAL TO PERFORM DUTIES.—

“(i) IN GENERAL.—No person shall discharge or in any manner discriminate against a miner or other employee of an operator for refusing to perform the miner’s or other employee’s duties if the miner or other employee has a good-faith and reasonable belief that performing such duties would pose a safety or health hazard to the miner or other employee or to any other miner or employee.

“(ii) STANDARD.—For purposes of clause (i), the circumstances causing the miner’s or other employee’s good-faith belief that performing such duties would pose a safety or health hazard shall be of such a nature that a reasonable person, under the circumstances confronting the miner or other employee, would conclude that there is such a hazard. In order to qualify for protection under this paragraph, the miner or other employee, when practicable, shall have communicated or attempted to communicate the safety or health concern to the operator and have not received from the operator a response reasonably calculated to allay such concern.

“(2) COMPLAINT.—Any miner or other employee or representative of miners or applicant for employment who believes that he or she has been discharged, disciplined, or otherwise discriminated against by any person in violation of paragraph (1) may file a complaint with the Secretary alleging such discrimination not later than 180 days after the later of—

“(A) the last date on which an alleged violation of paragraph (1) occurs; or

“(B) the date on which the miner or other employee or representative knows or should reasonably have known that such alleged violation occurred.

“(3) INVESTIGATION AND HEARING.—

“(A) COMMENCEMENT OF INVESTIGATION AND INITIAL DETERMINATION.—Upon receipt of such complaint, the Secretary shall forward a copy of the complaint to the respondent, and shall commence an investigation within 15 days of the Secretary’s receipt of the complaint, and, as soon as practicable after commencing such investigation, make the determination required under subparagraph (B)

regarding the reinstatement of the miner or other employee.

“(B) REINSTATEMENT.—If the Secretary finds that such complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner or other employee until there has been a final Commission order disposing of the underlying complaint of the miner or other employee. If either the Secretary or the miner or other employee pursues the underlying complaint, such reinstatement shall remain in effect until the Commission has disposed of such complaint on the merits, regardless of whether the Secretary pursues such complaint by filing a complaint under subparagraph (D) or the miner or other employee pursues such complaint by filing an action under paragraph (4). If neither the Secretary nor the miner or other employee pursues the underlying complaint within the periods specified in paragraph (4), such reinstatement shall remain in effect until such time as the Commission may, upon motion of the operator and after providing notice and an opportunity to be heard to the parties, vacate such complaint for failure to prosecute.

“(C) INVESTIGATION.—Such investigation shall include interviewing the complainant and—

“(i) providing the respondent an opportunity to submit to the Secretary a written response to the complaint and to present statements from witnesses or provide evidence; and

“(ii) providing the complainant an opportunity to receive any statements or evidence provided to the Secretary and rebut any statements or evidence.

“(D) ACTION BY THE SECRETARY.—If, upon such investigation, the Secretary determines that the provisions of this subsection have been violated, the Secretary shall immediately file a complaint with the Commission, with service upon the alleged violator and the miner or other employee or representative of miners alleging such discrimination or interference and propose an order granting appropriate relief.

“(E) ACTION OF THE COMMISSION.—The Commission shall afford an opportunity for a hearing on the record (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or vacating the Secretary’s proposed order, or directing other appropriate relief. Such order shall become final 30 days after its issuance. The complaining miner or other employee, representative, or applicant for employment may present additional evidence on his or her own behalf during any hearing held pursuant to this paragraph.

“(F) RELIEF.—The Commission shall have authority in such proceedings to require a person committing a violation of this subsection to take such affirmative action to abate the violation and prescribe a remedy as the Commission considers appropriate, including—

“(i) the rehiring or reinstatement of the miner or other employee with back pay and interest and without loss of position or seniority, and restoration of the terms, rights, conditions, and privileges associated with the complainant’s employment;

“(ii) any other compensatory and consequential damages sufficient to make the complainant whole, and exemplary damages where appropriate; and

“(iii) expungement of all warnings, reprimands, or derogatory references that have been placed in paper or electronic records or databases of any type relating to the actions

by the complainant that gave rise to the unfavorable personnel action, and, at the complainant's direction, transmission of a copy of the decision on the complaint to any person whom the complainant reasonably believes may have received such unfavorable information.

“(4) NOTICE TO AND ACTION OF COMPLAINANT.—

“(A) NOTICE TO COMPLAINANT.—Not later than 90 days of the receipt of a complaint filed under paragraph (2), the Secretary shall notify, in writing, the miner or other employee, applicant for employment, or representative of miners of his determination whether a violation has occurred.

“(B) ACTION OF COMPLAINANT.—If the Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right, within 30 days after receiving notice of the Secretary's determination, to file an action in his or her own behalf before the Commission, charging discrimination or interference in violation of paragraph (1).

“(C) HEARING AND DECISION.—The Commission shall afford an opportunity for a hearing on the record (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a)(3) of such section), and thereafter shall issue an order, based upon findings of fact, dismissing or sustaining the complainant's charges and, if the charges are sustained, granting such relief as it deems appropriate as described in paragraph (3)(D). Such order shall become final 30 days after its issuance.

“(5) BURDEN OF PROOF.—In adjudicating a complaint pursuant to this subsection, the Commission may determine that a violation of paragraph (1) has occurred only if the complainant demonstrates that any conduct described in paragraph (1) with respect to the complainant was a contributing factor in the adverse action alleged in the complaint. A decision or order that is favorable to the complainant shall not be issued pursuant to this subsection if the respondent demonstrates by clear and convincing evidence that the respondent would have taken the same adverse action in the absence of such conduct.

“(6) ATTORNEYS' FEES.—Whenever an order is issued sustaining the complainant's charges under this subsection, a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, as determined by the Commission to have been reasonably incurred by the complainant for, or in connection with, the institution and prosecution of such proceedings shall be assessed against the person committing such violation. The Commission shall determine whether such costs and expenses were reasonably incurred by the complainant without reference to whether the Secretary also participated in the proceeding.

“(7) EXPEDITED PROCEEDINGS; JUDICIAL REVIEW.—Proceedings under this subsection shall be expedited by the Secretary and the Commission. Any order issued by the Commission under this subsection shall be subject to judicial review in accordance with section 106. Violations by any person of paragraph (1) shall be subject to the provisions of sections 108 and 110(a)(4).

“(8) PROCEDURAL RIGHTS.—The rights and remedies provided for in this subsection may not be waived by any agreement, policy, form, or condition of employment, including by any pre-dispute arbitration agreement or collective bargaining agreement.

“(9) SAVINGS.—Nothing in this subsection shall be construed to diminish the rights, privileges, or remedies of any employee who exercises rights under any Federal or State law or common law, or under any collective bargaining agreement.”.

SEC. 402. PROTECTION FROM LOSS OF PAY.

Section 111 (30 U.S.C. 821) is amended to read as follows:

“SEC. 111. ENTITLEMENT OF MINERS.

“(a) PROTECTION FROM LOSS OF PAY.—

“(1) WITHDRAWAL ORDERS.—If a coal or other mine or area of such mine is closed by an order issued under section 103, 104, 107, 108, or 110, all miners working during the shift when such order was issued who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal or other mine or area of such mine is closed by an order issued under section 104, 107 (in connection with a citation), 108, or 110, all miners who are idled by such order shall be entitled, regardless of the result of any review of such order, to full compensation by the operator at their regular rates of pay and in accordance with their regular schedules of pay for the entire period for which they are idled, not to exceed 60 days.

“(2) CLOSURE IN ADVANCE OF ORDER.—If the Secretary finds that such mine or such area of a mine was closed by the operator in anticipation of the issuance of such an order, all miners who are idled by such closure shall be entitled to full compensation by the operator at their regular rates of pay and in accordance with their regular schedules of pay, from the time of such closure until such time as the Secretary authorizes reopening of such mine or such area of the mine, not to exceed 60 days, except where an operator promptly withdraws miners upon discovery of a hazard, and notifies the Secretary where required, and within the prescribed time period.

“(3) REFUSAL TO COMPLY.—Whenever an operator violates or fails or refuses to comply with any order issued under section 103, 104, 107, 108, or 110, all miners employed at the affected mine who would have been withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated.

“(b) ENFORCEMENT.—

“(1) COMMISSION ORDERS.—The Commission shall have authority to order compensation due under this section upon the filing of a complaint by a miner or his representative and after opportunity for hearing on the record subject to section 554 of title 5, United States Code. Whenever the Commission issues an order sustaining the complaint under this subsection in whole or in part, the Commission shall award the complainant reasonable attorneys' fees and costs.

“(2) FAILURE TO PAY COMPENSATION DUE.—Consistent with the authority of the Secretary to order miners withdrawn from a mine under this Act, the Secretary shall order a mine that has been subject to a withdrawal order under section 103, 104, 107, 108, or 110, and has reopened, to be closed again if compensation in accordance with the provisions of this section is not paid by the end of the next regularly scheduled payroll period following the lifting of a withdrawal order.

“(c) EXPEDITED REVIEW.—If an order is issued which results in payments to miners

under subsection (a), the operators shall have the right to an expedited review before the Commission using timelines and procedures established pursuant to section 316(b)(2)(G)(ii).”.

SEC. 403. UNDERGROUND COAL MINER EMPLOYMENT STANDARD FOR MINES PLACED IN PATTERN STATUS.

The Federal Mine Safety and Health Act of 1977 is further amended by adding at the end of title I the following:

“SEC. 117. UNDERGROUND COAL MINER EMPLOYMENT STANDARD FOR MINES PLACED IN PATTERN STATUS.

“(a) IN GENERAL.—For purposes of ensuring miners' health and safety and miners' right to raise concerns thereof, when an underground coal mine is placed in pattern status pursuant to section 104(e), and for 3 years after such placement, the operator of such mine may not discharge or constructively discharge a miner who is paid on an hourly basis and employed at such underground coal mine without reasonable job-related grounds based on a failure to satisfactorily perform job duties, including compliance with this Act and with mandatory health and safety standards or other regulations issued under this Act, or other legitimate business reason, where the miner has completed the employer's probationary period, not to exceed 6 months.

“(b) CAUSE OF ACTION.—A miner aggrieved by a violation of subsection (a) may file a complaint in Federal district court in the district where the mine is located within 1 year of such violation.

“(c) REMEDIES.—In an action under subsection (b), for any prevailing miner the court shall take affirmative action to further the purposes of the Act, which may include reinstatement with backpay and compensatory damages. Reasonable attorneys' fees and costs shall be awarded to any prevailing miner under this section.

“(d) PRE-DISPUTE WAIVER PROHIBITED.—A miner's right to a cause of action under this section may not be waived with respect to disputes that have not arisen as of the time of the waiver.

“(e) CONSTRUCTION.—Nothing in this section shall be construed to limit the availability of rights and remedies of miners under any other State or Federal law or a collective bargaining agreement.”.

TITLE V—MODERNIZING HEALTH AND SAFETY STANDARDS

SEC. 501. PRE-SHIFT REVIEW OF MINE CONDITIONS.

Section 303(d) (30 U.S.C. 863(d)) is amended by adding at the end the following:

“(3)(A) Not later than 30 days after the issuance of the interim final rules promulgated under subparagraph (C), each operator of an underground coal mine shall implement a communication program at the underground coal mine to ensure that each miner is orally briefed on and made aware of, prior to traveling to or arriving at the miner's work area and commencing the miner's assigned tasks—

“(i) any conditions that are hazardous, or that violate a mandatory health or safety standard or a plan approved under this Act, where the miner is expected to work or travel; and

“(ii) the general conditions of that miner's assigned working section or other area where the miner is expected to work or travel.

“(B) Not later than 180 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall promulgate interim final rules implementing the requirements of subparagraph (A). The Secretary shall issue a final rule not later than 2 years after such date.”.

SEC. 502. ROCK DUST STANDARDS.

(a) STANDARDS.—Section 304(d) (30 U.S.C. 864(d)) is amended—

(1) by striking “Where rock” and inserting the following: “ROCK DUST.—

“(1) IN GENERAL.—Where rock”;

(2) by striking “65 per centum” and all that follows and inserting “80 percent. Where methane is present in any ventilating current, the percentage of incombustible content of such combined dusts shall be increased 0.4 percent for each 0.1 percent of methane.”; and

(3) by adding at the end the following:

“(2) METHODS OF MEASUREMENT.—

“(A) IN GENERAL.—Each operator of an underground coal mine shall take accurate and representative samples which shall measure the total incombustible content of combined coal dust, rock dust, and other dust in such mine to ensure that the coal dust is kept below explosive levels through the appropriate application of rock dust.

“(B) DIRECT READING MONITORS.—By the later of June 15, 2011, or the date that is 30 days after the Secretary of Health and Human Services has certified in writing that direct reading monitors are commercially available to measure total incombustible content in samples of combined coal dust, rock dust, and other dust and the Department of Labor has approved such monitors for use in underground coal mines, the Secretary shall require operators to take such dust samples using direct reading monitors.

“(C) REGULATIONS.—The Secretary shall, not later than 180 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, promulgate an interim final rule that prescribes methods for operator sampling of total incombustible content in samples of combined coal dust, rock dust, and other dust using direct reading monitors and includes requirements for locations, methods, and intervals for mandatory operator sampling.

“(D) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary of Health and Human Services shall, based upon the latest research, recommend to the Secretary of Labor any revisions to the mandatory operator sampling locations, methods, and intervals included in the interim final rule described in subparagraph (B) that may be warranted in light of such research.

“(3) LIMITATION.—Until a final rule is issued by the Secretary under section 502(b)(2) of the Robert C. Byrd Mine Safety Protection Act of 2010, any measurement taken by a direct reading monitor described in paragraph (2) shall not be admissible to establish a violation in an enforcement action under this Act.”.

(b) REPORT AND RULEMAKING AUTHORITY.—

(1) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report—

(A) regarding whether any direct reading monitor described in section 304(d)(2)(B) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 864(d)(2)(B)) is sufficiently reliable and accurate for the enforcement of the mandatory health or safety standards by the Secretary of Labor under such Act, and whether additional improvement to such direct reading monitor, or additional verification regarding reliability and accuracy, would be needed for enforcement purposes; and

(B) identifying any limitations or impediments for such use in underground coal mines.

(2) AUTHORITY.—If the Secretary determines that such direct reading monitor is sufficiently reliable and accurate for the enforcement of mandatory health and safety standards under the Federal Mine Safety and Health Act of 1977 following such report or any update thereto, the Secretary shall promulgate a final rule authorizing the use of such direct reading monitor for purposes of compliance and enforcement, in addition to other methods for determining total incombustible content. Such rule shall specify mandatory operator sampling locations, methods, and intervals.

SEC. 503. ATMOSPHERIC MONITORING SYSTEMS.

Section 317 (30 U.S.C. 877) is amended by adding at the end the following:

“(u) ATMOSPHERIC MONITORING SYSTEMS.—

“(1) NIOSH RECOMMENDATIONS.—Not later than 1 year after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Director of the National Institute for Occupational Safety and Health, acting through the Office of Mine Safety and Health Research, in consultation, including through technical working groups, with operators, vendors, State mine safety agencies, the Secretary, and labor representatives of miners, shall issue recommendations to the Secretary regarding—

“(A) how to ensure that atmospheric monitoring systems are utilized in the underground coal mining industry to maximize the health and safety of underground coal miners;

“(B) the implementation of redundant systems, such as the bundle tubing system, that can continuously monitor the mine atmosphere following incidents such as fires, explosions, entrapments, and inundations; and

“(C) other technologies available to conduct continuous atmospheric monitoring.

“(2) ATMOSPHERIC MONITORING SYSTEM REGULATIONS.—Not later than 1 year following the receipt of the recommendations described in paragraph (1), the Secretary shall promulgate regulations requiring that each operator of an underground coal mine install atmospheric monitoring systems, consistent with such recommendations, that—

“(A) protect miners where the miners normally work and travel;

“(B) provide real-time information regarding methane and carbon monoxide levels, and airflow direction, as appropriate, with sensing, annunciating, and recording capabilities; and

“(C) can, to the maximum extent practicable, withstand explosions and fires.”.

SEC. 504. TECHNOLOGY RELATED TO RESPIRABLE DUST.

Section 202(d) (30 U.S.C. 842(d)) is amended—

(1) by striking “of Health, Education, and Welfare”; and

(2) by striking the second sentence and inserting the following: “Not later than 2 years after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall promulgate final regulations that require operators, beginning on the date such regulations are issued, to provide coal miners with the maximum feasible protection from respirable dust, including coal and silica dust, that is achievable through environmental controls, and that meet the applicable standards.”.

SEC. 505. REFRESHER TRAINING ON MINER RIGHTS AND RESPONSIBILITIES.

(a) IN GENERAL.—Section 115(a)(3) (30 U.S.C. 825(a)(3)) is amended to read as follows:

“(3) all miners shall receive not less than 9 hours of refresher training not less frequently than once every 12 months, and such training shall include one hour of training on the statutory rights and responsibilities

of miners and their representatives under this Act and other applicable Federal and State law, pursuant to a program of instruction developed by the Secretary and delivered by an employee of the Administration or by a trainer approved by the Administration that is a party independent from the operator.”.

(b) NATIONAL HAZARD REPORTING HOTLINE.—Section 115 (30 U.S.C. 825) is further amended—

(1) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

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

“(c) Any health and safety training program of instruction provided under this section shall include distribution to miners of information regarding miners’ rights under the Act, as well as a toll-free hotline telephone number, which the Secretary shall maintain to receive complaints from miners and the public regarding hazardous conditions, discrimination, safety or health violations, or other mine safety or health concerns. Information regarding the hotline shall be provided in a portable, convenient format, such as a durable wallet card, to enable miners to keep the information on their person.”.

(c) TIMING OF INITIAL STATUTORY RIGHTS TRAINING.—Notwithstanding section 115 of the Federal Mine Safety and Health Act (as amended by subsection (a)) (30 U.S.C. 825) or the health and safety training program approved under such section, an operator shall ensure that all miners already employed by the operator on the date of enactment of this Act shall receive the one hour of statutory rights and responsibilities training described in section 115(a)(3) of such Act not later than 180 days after such date.

SEC. 506. AUTHORITY TO MANDATE ADDITIONAL TRAINING.

(a) IN GENERAL.—Section 115 (30 U.S.C. 825) is further amended by redesignating subsections (e) and (f) (as redesignated) as subsections (f) and (g) and inserting after subsection (d) (as redesignated) the following:

“(e) AUTHORITY TO MANDATE ADDITIONAL TRAINING.—

“(1) IN GENERAL.—The Secretary is authorized to issue an order requiring that an operator of a coal or other mine provide additional training beyond what is otherwise required by law, and specifying the time within which such training shall be provided, if the Secretary finds that—

“(A)(i) a serious or fatal accident has occurred at such mine; or

“(ii) such mine has experienced accident and injury rates, citations for violations of this Act (including mandatory health or safety standards or regulations promulgated under this Act), citations for significant and substantial violations, or withdrawal orders issued under this Act at a rate above the average for mines of similar size and type; and

“(B) additional training would benefit the health and safety of miners at the mine.

“(2) WITHDRAWAL ORDER.—If the operator fails to provide training ordered under paragraph (1) within the specified time, the Secretary shall issue an order requiring such operator to cause all affected persons, except those persons referred to in section 104(c), to be withdrawn, and to be prohibited from entering such mine, until such operator has provided such training.”.

(b) CONFORMING AMENDMENTS.—Section 104(g)(2) (30 U.S.C. 814(g)(2)) is amended by striking “under paragraph (1)” both places it appears and inserting “under paragraph (1) or under section 115(e)”.

SEC. 507. CERTIFICATION OF PERSONNEL.

(a) IN GENERAL.—Title I is further amended by adding at the end the following:

“SEC. 118. CERTIFICATION OF PERSONNEL.

“(a) **CERTIFICATION REQUIRED.**—Any person who is authorized or designated by the operator of a coal or other mine to perform any duties or provide any training that this Act, including a mandatory health or safety standard or regulation promulgated pursuant to this Act, requires to be performed or provided by a certified, registered, qualified, or otherwise approved person, shall be permitted to perform such duties or provide such training only if such person has a current certification, registration, qualification, or approval to perform such duties or provide such training consistent with the requirements of this section.

“(b) ESTABLISHMENT OF CERTIFICATION REQUIREMENTS AND PROCEDURES.—

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall issue mandatory standards to establish—

“(A) requirements for such certification, registration, qualification, or other approval, including the experience, examinations, and references that may be required as appropriate;

“(B) time limits for such certifications and procedures for obtaining and renewing such certification, registration, qualification, or other approval; and

“(C) procedures and criteria for revoking such certification, registration, qualification, or other approval, including procedures that ensure that the Secretary (or a State agency, as applicable) responds to requests for revocation and that the names of individuals whose certification or other approval has been revoked are provided to and maintained by the Secretary, and are made available to appropriate State agencies through an electronic database.

“(2) **COORDINATION WITH STATES.**—In developing such standards, the Secretary shall consult with States that have miner certification programs to ensure effective coordination with existing State standards and requirements for certification. The standards required under paragraph (1) shall provide that the certification, registration, qualification, or other approval of the State in which the coal or other mine is located satisfies the requirement of subsection (a) if the State's program of certification, registration, qualification, or other approval is no less stringent than the standards established by the Secretary under paragraph (1).

“(c) OPERATOR FEES FOR CERTIFICATION.—

“(1) **ASSESSMENT AND COLLECTION.**—Beginning 180 days after the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, the Secretary shall assess and collect fees, in accordance with this subsection, from each operator for each person certified under this section. Fees shall be assessed and collected in amounts determined by the Secretary as necessary to fund the certification programs established under this section.

“(2) **USE.**—Amounts collected as provided in paragraph (1) shall only be available to the Secretary, as provided in paragraph (3), for making expenditures to carry out the certification programs established under this subsection.

“(3) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to funds authorized to be appropriated under section 114, there is authorized to be appropriated to the Assistant Secretary for Mine Safety and Health for each fiscal year in which fees are collected under paragraph (1) an amount equal to the total amount of fees collected under paragraph (1) during that fiscal year. Such amounts are authorized to remain available until expended. If on the first day of a fiscal year a regular appropriation to the Commission has

not been enacted, the Commission shall continue to collect fees (as offsetting collections) under this subsection at the rate in effect during the preceding fiscal year, until 5 days after the date such regular appropriation is enacted.

“(4) **COLLECTING AND CREDITING OF FEES.**—Fees authorized and collected under this subsection shall be deposited and credited as offsetting collections to the account providing appropriations to the Mine Safety and Health Administration and shall not be collected for any fiscal year except to the extent and in the amount provided in advance in appropriation Acts.

“(d) **CITATION; WITHDRAWAL ORDER.**—Any operator who permits a person to perform any of the health or safety related functions described in subsection (a) without a current certification which meets the requirements of this section shall be considered to have committed an unwarrantable failure under section 104(d)(1), and the Secretary shall issue an order requiring that the miner be withdrawn or reassigned to duties that do not require such certification.”.

(b) **CONFORMING AMENDMENTS.**—Section 318 (30 U.S.C. 878) is amended—

(1) by striking subsections (a) and (b);

(2) in subsection (c), by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) in subsection (g), by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(4) by redesignating subsections (c) through (j) as paragraphs (1) through (8), respectively.

TITLE VI—ADDITIONAL MINE SAFETY PROVISIONS**SEC. 601. DEFINITIONS.**

(a) **DEFINITION OF OPERATOR.**—Section 3(d) is amended to read as follows:

“(d) ‘operator’ means—

“(1) any owner, lessee, or other person that—

“(A) operates or supervises a coal or other mine; or

“(B) controls such mine by making or having the authority to make management or operational decisions that affect, directly or indirectly, the health or safety at such mine; or

“(2) any independent contractor performing services or construction at such mine.”.

(b) **DEFINITION OF AGENT.**—Section 3(e) (30 U.S.C. 802(e)) is amended by striking “the miners” and inserting “any miner”.

(c) **DEFINITION OF MINER.**—Section 3(g) (30 U.S.C. 802(g)) is amended by inserting after “or other mine” the following: “, and includes any individual who is not currently working in a coal or other mine but would be currently working in such mine, but for an accident in such mine”.

(d) **DEFINITION OF SIGNIFICANT AND SUBSTANTIAL VIOLATIONS.**—Section 3 (30 U.S.C. 802) is further amended—

(1) in subsection (m), by striking “and” after the semicolon;

(2) in subsection (n), by striking the period at the end and inserting a semicolon;

(3) in subsection (o), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(p) ‘significant and substantial violation’ means a violation of this Act, including any mandatory health or safety standard or regulation promulgated under this Act, that is of such nature as could significantly and substantially contribute to the cause and effect of a coal or other mine safety or health hazard as described in section 104(d).”.

SEC. 602. ASSISTANCE TO STATES.

Section 503 (30 U.S.C. 953(a)) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking “, in coordination with the Secretary of Health, Education, and Welfare and the Secretary of the Interior,”;

(B) in paragraph (2), by striking “and” after the semicolon;

(C) in paragraph (3), by striking the period and inserting “; and”; and

(D) by adding at the end the following:

“(4) to assist such State in developing and implementing any certification program for coal or other mines required for compliance with section 118.”; and

(2) in subsection (h), by striking “\$3,000,000 for fiscal year 1970, and \$10,000,000 annually in each succeeding fiscal year” and inserting “\$20,000,000 for each fiscal year”.

SEC. 603. BLACK LUNG MEDICAL REPORTS.

Title IV of the Black Lung Benefits Act (30 U.S.C. 901 et seq.) is amended by adding at the end the following:

“SEC. 435. MEDICAL REPORTS.

“In any claim for benefits for a miner under this title, an operator that requires a miner to submit to a medical examination regarding the miner's respiratory or pulmonary condition shall, not later than 14 days after the miner has been examined, deliver to the claimant a complete copy of the examining physician's report. The examining physician's report shall be in writing and shall set out in detail the examiner's findings, including any diagnoses and conclusions and the results of any diagnostic imaging techniques and tests that were performed on the miner.”.

SEC. 604. RULES OF APPLICATION TO CERTAIN MINES.

(a) **INAPPLICABILITY OF AMENDMENTS TO CERTAIN MINES.**—

(1) **SPECIAL RULE.**—The amendments made by this Act shall not apply to—

(A) surface mines, except for surface facilities or impoundments physically connected to—

(i) underground coal or underground metal mines; or

(ii) other underground mines which are gassy mines; or

(B) underground mines which are not coal, metal, or gassy mines.

(2) **DEFINITION.**—For purposes of this section, the term “gassy mine” means a mine, tunnel, or other underground workings in which a flammable mixture has been ignited, or has been found with a permissible flame safety lamp, or has been determined by air analysis to contain 0.25 percent or more (by volume) of methane in any open workings when tested at a point not less than 12 inches from the roof, face of rib.

(b) **RULE OF CONSTRUCTION RELATING TO APPLICABILITY OF CERTAIN PROVISIONS TO SURFACE MINES.**—Title I is further amended by adding at the end the following:

“SEC. 119. APPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN MINES.

“(a) **RULE OF CONSTRUCTION.**—With respect to the mines described in subsection (b), this Act as in effect on the date before the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, shall continue to apply to such mines as then in effect.

“(b) **APPLICABLE MINES.**—

“(1) **IN GENERAL.**—The mines referred to in subsection (a) are—

“(A) surface mines, except for surface facilities or impoundments physically connected to—

“(i) underground coal or underground metal mines; or

“(ii) other underground mines which are gassy mines; and

“(B) underground mines which are not coal, metal, or gassy mines.

“(2) **DEFINITION.**—As used in paragraph (1), the term ‘gassy mine’ means a mine, tunnel,

or other underground workings in which a flammable mixture has been ignited, or has been found with a permissible flame safety lamp, or has been determined by air analysis to contain 0.25 percent or more (by volume) of methane in any open workings when tested at a point not less than 12 inches from the roof, face of rib.

“(c) SAVINGS PROVISION.—Nothing in this section shall impact the authority of the Secretary to promulgate or modify regulations pursuant to the authority under any such provisions as in effect on the date before the date of enactment of the Robert C. Byrd Mine Safety Protection Act of 2010, or shall be construed to alter or modify precedent with regards to the Commission or courts.”.

SEC. 605. PAYGO COMPLIANCE.

The budgetary effects of this Act and the amendments made by this Act for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Kentucky (Mr. GUTHRIE) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. GEORGE MILLER of California. Mr. Speaker, I request 5 legislative days during which Members may revise and extend and insert extraneous material on H.R. 6495 into the RECORD.

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

There was no objection.

Mr. GEORGE MILLER of California. I yield myself such time as I may consume.

Mr. Speaker, the House today considers urgently needed legislation to address life-threatening gaps in our Nation’s mine safety laws. Despite progress made over several decades in mine safety, more than 600 miners have been killed on the job in the last 10 years. Most recently, 29 coal miners were killed in a massive explosion in April that killed miners over a 2-mile swath and twisted railcar tracks like pretzels.

Since that tragedy, we have learned a great deal about the systemic weaknesses in mine safety laws. After every major tragedy, promises are made by public officials to miners and their families—to the survivors—that timely action will be taken to make sure that this thing never happens again.

The Robert C. Byrd Mine Safety Protection Act is our chance to finally make a downpayment on that promise.

First, the bill addresses the broken pattern of violation sanctions. With these fixes, those mine operators who repeatedly violate safety standards will be held accountable. Current law on the patterns of violations has so many loopholes that it invites delays and allows some coal mine operators to game the system.

Massey Energy’s Upper Big Branch mine was a perfect example of an operator repeatedly skirting the law and putting workers’ lives in the crosshairs. The Upper Big Branch mine was subject to 515 violations and to 54 withdrawal orders in 2009, more than any other mine in the country. Red flags were waving about this mine’s repeated unwarrantable failures.

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And yet, because Massey indiscriminately appealed many of those violations, it evaded the stronger sanctions that would have improved the conditions and perhaps saved lives.

The bill sets clear and fair criteria to identify mines with significant safety problems and eliminates the incentives for mine owners that game the system. Had this been in place, I believe the 29 miners who lost their lives in the Upper Big Branch mine would be alive today.

Second, the bill gives miners modern protections against retaliation if they speak up about the dangerous conditions under which they work.

Stanley “Goose” Stewart was working in the Upper Big Branch mine the day it exploded. He testified twice before the committee about the persistent fear and intimidation faced by workers from the Massey management. He said that in his years working for Massey, they took coal mining back to the early 1900s. He urged us to give miners the ability to stand up to rogue mine operators.

This bill empowers miners to speak up about safety concerns by strengthening whistleblower protection and gives miners the right to refuse to work in unsafe conditions.

Third, many have asked why the Mine Safety and Health Administration failed to close down unsafe mines, such as Upper Big Branch, with repeated violations of the law. This bill clarifies that MSHA can seek a court order to close a mine that engages in a course of conduct that endangers the miners.

Fourth, MSHA lacks sufficient subpoena power for investigation inspections. Under current law, MSHA, the Mine Safety and Health Administration, can only issue subpoenas in the context of witnesses for a public hearing. The legislation gives MSHA the subpoena power it needs for full investigations.

Fifth, miners testified that in many parts of the country MSHA does not inspect mines during weekends or night shifts. This legislation would require that inspections occur on all shifts and days of the week. If inspection times are unpredictable, operators will be motivated to work more safely across all shifts.

Sixth, the bill provides meaningful sanctions against those who intentionally provide advance notice of unannounced mine safety and health inspections. All too often, mine operators call ahead of inspectors and direct that

violations be covered up, depriving mine inspectors of the ability to detect unsafe working conditions.

Finally, witnesses told us how safety devices like methane detectors were tampered with so that mining equipment would not automatically shut down and stop production if methane levels got too high. Today, this violation is a mere misdemeanor. Under this legislation, tampering with these devices would be a felony. These reforms will only apply to coal mines, underground mines that release significant amounts of methane and combustible gases, and underground metal mines.

The bill is the result of months of deliberations with stakeholders and experts, including miners, families, academics, State officials, and various sectors of the mining industry. The legislation is part of our ongoing commitment to the families of the Aracoma, Sago, Crandall Canyon, Darby, and, now, Upper Big Branch mine disasters that their loved ones’ deaths would not be in vain and their calls for change would be heeded.

The legislation also honors the late Senator Robert C. Byrd, who was a champion of our Nation’s miners. After the Sago and Aracoma tragedies, Senator Byrd said, “if we truly are a moral Nation . . . then these moral values must be reflected in the government agencies that are charged with protecting the lives of our citizens.”

I agree. This legislation redeems that sentiment of Senator Byrd, and I urge my colleagues to support this important legislation.

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

Mr. GUTHRIE. Mr. Speaker, I yield myself such time as I may consume.

On April 5 of this year, tragedy struck Montcoal, West Virginia. On that day, an explosion at the Upper Big Branch coal mine killed 29 miners and provided a stark reminder that coal mining is a profession marked by risk and danger. And while steps have been taken to strengthen protections for miners, this tragedy and others like it remind us that more work remains to be done.

I believe steps can be taken by Federal and State regulators, mine operators, and miners, themselves, to reduce the dangers inherent for those who mine for natural resources that power our Nation. That is why it is with deep regret that I oppose the legislation before us today.

Once again, well-intended reforms addressing a vital issue are being rushed through a flawed process that results in a deeply flawed bill. This is not the way to govern. This is not the way to advance the concerns and interests of the American people, and it is not the way to strengthen important safety protections for miners.

The bill we are considering today under a suspension of the House rules is the wrong response for several important reasons. First, it seeks to create a solution to a problem we do not

fully understand. The explosion at Upper Big Branch resulted in the worst mining disaster in 40 years. Since that time, significant State and Federal resources have been brought to bear to investigate the cause of the incident, help identify weaknesses in existing law, and determine whether current law is being obeyed by mining operators and aggressively enforced by Federal authorities. These are critical questions for which we are still awaiting answers.

The majority's proposal also ignores important steps the Mine Safety and Health Administration has taken in recent months to strengthen standards to existing law. Republicans have consistently called on the Mine Safety and Health Administration to utilize all the tools at its disposal to protect miners and hold bad actors accountable. I am pleased to see the agency is finally beginning to do just that.

As part of its efforts, the Mine Safety and Health Administration has revised the current framework of identifying mines operating with a pattern of violations. For 30 years, this process has been broken. Today, that process has changed, and we are just beginning to see the results. The Mine Safety Administration has reformed the process and has notified more than a dozen mine operators that they are at risk of being placed in a pattern of violations. It is a step in the right direction.

The agency is also implementing new rock dusting standards, issued a proposal to increase the use of personal dust monitors, and is looking at ways to improve the broken conference process. We may question why the agency did not act sooner, but it is important to recognize that steps are being taken today. Congress should not preempt and potentially undercut reforms underway before we have had the opportunity to learn whether they work.

Some of my colleagues may argue that these are simply process arguments that ordinary Americans don't care about. I don't like discussing process any more than the next person, but I think we have learned over the last 2 years that the American people care a great deal about the manner in which Congress conducts its business, because a flawed process results in bad law. Today's legislation is no exception.

The process we are considering today puts punishment before prevention. It is based on the faulty premise that simply increasing penalties can lead to better safety. Our goal is to prevent injuries and illnesses before they occur. Everyone agrees bad actors should face stiff penalties for jeopardizing the safety of miners, but we shouldn't establish a regime that may discourage employers from taking actions they believe to strengthen their worker safety. We can punish bad actors, but we must never lose sight of the fact that promoting safety and preventing hazard should be our first priority.

There are other flaws in the legislation, including a provision that will ex-

pand the criminalization of a person's knowing conduct as well as upending, in some cases, the long-established at-will employment doctrine which will insert Federal judges into voluntary hiring and firing decisions of mine operators and their workers.

Last Friday, the majority introduced H.R. 6495 with no advance warning and not consulting with Republicans. Yet here we are days later being told this is the only opportunity Members of the House will have to enhance safety protections for underground miners. Following the same playbook used by the majority time and time again by this majority, we have no opportunity for a full and open debate and no opportunity to offer amendments to fix the errors I have just described. A flawed process is resulting in yet another flawed bill.

On behalf of miners and their families, let me respectfully say they deserve better. I urge my colleagues to oppose this bill.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 4 minutes to the gentleman from West Virginia (Mr. RAHALL).

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

Mr. RAHALL. Mr. Speaker, America's courageous, hardworking coal miners have long provided the fuel that powers this Nation. And while doing so, they labor in some of the toughest, most dangerous work environments. For that reason, our Nation has long recognized its duty to ensure their health and safety on the job. God bless our Nation's coal miners.

This year has been a tragic one in our coalfields. We have, to date, lost 48 miners, and we witnessed the worst coal mine disaster in 40 years, already referenced on the floor, losing 29 young lives in one blast in my home county.

We have much work to do in our mine safety system, though I urge my colleagues not to paint the coal industry with too broad a brush. There are many coal companies with admirable safety records, with time and money devoted to keeping their miners safe. Several of them have worked diligently with myself and with Chairman MILLER and the Education and Labor Committee to make improvements to this bill. They are models for the industry and employers everywhere.

I take this moment to salute the chairman of our Education and Labor Committee, GEORGE MILLER, for the manner in which he has worked not only on this legislation but all previous coal mine health and safety legislation as well. Our coal miners, indeed, have a friend in GEORGE MILLER from California.

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However, just as surely as there are good actors that deserve our respect, we must recognize that the safety chal-

lenges of coal country will not end with the retirement of any one individual, one so-called "Dark Lord." Unless we remain vigilant while miners labor in harm's way, another Voldemort will rise. We all—industry, government, labor—share a responsibility to rein in those very few bad actors who would put profits before safety.

Critics of this legislation argue that it needs additional wordsmithing, that some provisions need tweaking or trimming out altogether, that we ought to await the results of the current UBB investigation; and I appreciate that perspective. But while many of these criticisms might provide an excuse to vote against the pending bill, none of them outweighs the plain and simple truth confronting this particular Member of Congress.

As the Representative of the district in which the UBB mine is located, I have 29 reasons why I must and why I will vote for this legislation. Indeed, there have been additional deaths since Upper Big Branch, but those individuals I will name: Carl Acord, Jason Atkins, Christopher Bell, Greg Brock, Kenny Chapman, Robert E. Clark, Cory Davis, Timmy Davis, Michael Elswick, William "Bob" Griffith, Steve Harrah, Dean Jones, Rick Lane, William Roosevelt Lynch, Joe Marcum, Ronald Lee Maynor, James "Eddie" Mooney, Adam Morgan, Rex Mullins, Josh Napper, Howard "Boone" Payne, Dillard "Dewey" Persinger, Joel "Jody" Price, Gary Quarles, Deward Scott, Benny Willingham, Ricky Workman.

I stood vigil with their families—the mothers, the fathers, their sisters, their brothers, their wives, children, and grandchildren. We waited together throughout those anguishing days in the aftermath of that devastating explosion that took these 29 brave individuals too early from this Earth. I prayed with them, I ate with them, and, in the end, I grieved with them. And if I voted against this legislation, my colleagues, that might have saved their loved ones, I could never again look them in the eyes.

Today I will cast my vote for this appropriately named Robert C. Byrd Mine Safety Protection Act. And I will continue to work with my colleagues to address the needs of our coal miners and our coal industry in the weeks and months ahead. Those needs exist, and those needs need to be addressed, and we need to address them—all stakeholders that Chairman MILLER has so well done—all stakeholders working together to, indeed, make our coal mines a safer place in which to work.

Mr. GUTHRIE. Mr. Speaker, I yield 3 minutes to the gentlelady from West Virginia, Mrs. MOORE CAPITO.

Mrs. CAPITO. In the past few years, my home State, West Virginia, has walked with a heavy heart. On numerous occasions, we have bowed our heads in solemn reverence for miners that we have lost in tragedy. We have watched as our small towns and their citizens

have been thrust into the Nation's eye for the most unfortunate reasons. As we've heard, in fact, on April 5 of this year, we suffered the worst mine disaster in more than a generation. An underground explosion swept through at Massey Energy's Upper Big Branch mine, claiming 29 lives, which my colleague from West Virginia just enumerated very eloquently.

Let me be clear, the issue of mine safety is a very personal one to every West Virginian. Our families and our friends are in the mines. When West Virginia loses even a single miner, it affects all of us.

Currently, multiple investigations into the Upper Big Branch mine are still searching for answers and following each small detail that could uncover the answer to a larger mystery. And it is just that, an unsolved investigation. Even today, investigators are hampered by water and are working to clear the mine before they can continue their work.

With these investigations still in progress, we do not know which laws were not followed by the operator, which laws MSHA failed to enforce, and which health and safety laws were simply inadequate. And yet Congress intends to lay out its heavy hand again before our questions are answered and before we know exactly what happened.

The late Senator Robert C. Byrd was a leader in mine safety. After the Sago mine tragedy in my district, the West Virginia delegation gathered in Senator Byrd's office, and we sat together to reach a common agenda. The Senator believed that we were there for a purpose of protecting our miners and that all ideas were welcome at the table.

I wish this Congress would heed the late Senator's values. This bill was rushed to the floor in the last days of this Congress with little notice and some changes made at the last minute. I was heartened a few months ago when Congress began a new discussion on miner safety. I appreciate the chairman of the committee having a field hearing in Beckley and allowing me to attend. So I appreciate that. In fact, there were many bills introduced as a part of that discussion. And, unfortunately, this discussion has been too short and a single bill was green-lighted by a select few.

This bill has been rushed to the floor so it can be checked off a list of accomplishments. I wholeheartedly support the legislation's goal to better protect the health and safety of our Nation's miners, but in this case, we haven't gotten close to the goal. Improving mine safety can only happen when all parties work to get involved or are working together to achieve better results. It is shortsighted and, in essence, a shot in the dark before we see the true facts.

The bill being considered today takes harsh and punitive measures that does little to address mine safety but, rather, introduces dramatic regulatory

changes and promotes unnecessary litigation which will hurt those mines and miners operating in good faith on behalf of worker safety. It imposes vague new standards for criminal liability, potentially criminalizing most infractions and subjecting officials to sanctions over which they have no direct control.

Any legislation should look at the industry in total, from the companies to the agencies regulating them, and this bill does not do that. If we are to truly get this right, we need to let the investigations move forward and work for a true mine safety bill that would secure the safety of our miners for generations to come.

Mr. GEORGE MILLER of California. I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), the chair of the subcommittee.

Ms. WOOLSEY. I thank the gentleman for bringing this bill forward.

This is a proud day for me, as an original cosponsor of the Robert C. Byrd Mine Safety Protection Act, because the health and safety of miners is finally receiving the attention that it deserves. With this legislation, we hope to prevent the appalling loss of life that continues to occur in the mining industry. The recent accident at Upper Big Branch mine in West Virginia once again proved this issue is too important to ignore, too devastating to delay.

It is true that working conditions for miners have improved over the years, but too many mine workers are still dying or are becoming ill as a result of incidents that were or are preventable had everyone been following the law. The loss of life and health of a worker is unacceptable. There is much more we can do and must do to keep miners as healthy and safe as possible. These miners and their families deserve to know that when they leave for work in the morning, they will return home that evening to their families and that they will be safe and that they will be healthy. H.R. 6495 accomplishes much of that goal for underground coal mines and gassy mines.

The bill makes it easier to identify and improve conditions at mines with serious and repeated violations and increases maximum criminal penalties for underground coal mines and sanctions on those who knowingly tamper with safety equipment. H.R. 6495 also provides more effective enforcement tools for MSHA, while strengthening whistleblower protections for miners and their families. Bringing mine safety protection into the 21st century provides solutions for better protection of miners throughout this country.

I only regret today that the important provisions from the Protecting America's Workers Act, PAWA, legislation that I introduced to amend the Occupational Safety and Health Act, the OSH Act, are not contained in H.R. 6495, because bringing OSHA into the 21st century would have made a long overdue change to the OSH Act, a law

designed to protect the health and safety of millions of nonmining workers throughout the entire Nation.

So, Mr. Speaker, I will continue to support PAWA. But today we're supporting H.R. 6495, which is critical in protecting our miners, and I urge my colleagues to join me in supporting it.

□ 1350

Mr. GUTHRIE. Mr. Speaker, I continue to reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HARE).

Mr. HARE. Mr. Speaker, today I rise in strong support of the Robert C. Byrd Mine Safety Protection Act of 2010 and for the rights of workers all across this great Nation. I would like to begin by thanking Chairman GEORGE MILLER and Chairwoman WOOLSEY for their tireless work on this bill.

As many of you know, I began my career on a factory floor and saw firsthand the inherent dangers that exist in a workplace. It is the dangerous working conditions I saw that continue to drive my commitment to making every workplace in America safe. Compromise is inevitable in Washington, D.C., but keeping our workers safe, healthy, and alive is nonnegotiable. I implore my colleagues on both sides of the aisle to remember that.

It is clear that we can no longer rely on a system of fines and citations to protect our miners. MSHA must have the ability to swiftly shut down unsafe mines in order to save lives. We must end the corporate culture of "profit at all costs" that treats workplace safety upgrades as a budget line item rather than a moral and legal priority.

Today, my colleagues, we have the opportunity to stand up and defend the rights and lives of countless American workers, and I ask you to join me in this great but never-ending fight. The bill before us today will overhaul the very system that has failed to provide adequate protections for our mine workers, each and every day, and I say, enough is enough. This bill puts forth commonsense reforms that are long overdue. It holds irresponsible mine operators accountable.

One of the most unforgettable and heartbreaking moments of my congressional career occurred at the Education and Labor Committee hearing on mine safety. During that hearing, a young boy whose father had perished in the Crandall Canyon Mine disaster came up to me and asked me if I could attend one of his soccer games because "his daddy was in heaven and couldn't go."

It is for the families like this that we need to put partisan politics aside and pass this critical legislation. Every worker deserves to come home safely at the end of the day, and this bill will go to great lengths to ensure that this is the reality for all of our Nation's mine workers.

I ask my colleagues to join me in standing up for all American workers and supporting this critical legislation.

Mr. GUTHRIE. Mr. Speaker, I continue to reserve.

Mr. GEORGE MILLER of California. I yield 1 minute to the gentlewoman from New Hampshire (Ms. SHEA-PORTER), a member of the committee.

Ms. SHEA-PORTER. Thank you, Chairman MILLER, for your leadership on this legislation which deals with issues that are literally a matter of life and death.

After the tragedy at the Upper Big Branch Mine, the committee went to Beckley, West Virginia, to hear directly from the families of the victims. Mr. Speaker, words cannot adequately describe the pain in the room on that day as witness after witness described how their loved ones went reluctantly to work at an unsafe job that ultimately would claim their lives.

This was not the first time we found ourselves sitting across the table from grieving family members who just lost loved ones in a tragedy. In 2007, after the Crandall Canyon Mine collapse, family members came to Washington to appear before the committee, and we heard the same stories.

We know that our mine safety laws are in dire need of improvement. MSHA knows it, and our miners and families know it also. For the miner and his or her family, this bill will make a world of difference, the difference between working in a safe environment or not, and in some cases the difference between coming home or not.

Our mine workers deserve our support. This bill gives support to them. I urge Members to support this.

Mr. GUTHRIE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in the days that followed the tragedy at the Upper Big Branch, Republicans joined many Members here on the House floor to mourn this tragedy. Our incoming chairman has said that our Nation would be searching for answers, and our response must follow a comprehensive review of how such a tragic event could have happened.

We had then, as we do today, a responsibility to look at the laws on the books and how those laws are being implemented and followed. We will in due course have the answers to many of those questions, but the rush to legislate means the answers will arrive too late to inform our debate and help ensure we are doing the right thing.

We are all committed to work in good faith to answer tough questions and pursue commonsense reforms that would enhance miner safety. Unfortunately, such a good faith process has not occurred. This legislation was crafted behind closed doors without input from Republican lawmakers concerned with miners' safety and pushed through the Education and Labor Committee.

Today, we are considering a different proposal developed through the same closed process. There has been no effort to consider or incorporate Republican ideas for strengthening mine

safety. In fact, the majority was so focused on corraling votes with their own caucus that they modified this bill in the dark of night.

Throughout this process, the majority has taken out the carving knives, exempting a mine type here and a mine type there, hoping that the more of the bill they eliminate, the more support they will gather. How can anyone believe this is the best approach to meaningful mine safety?

It is unfortunate that we are here today under these circumstances. As I stated earlier, the miners and their families who deserve strong worker protections also deserve better than this bill. I urge my colleagues to vote "no" so we can take the time to understand and respond to the tragedy in the Upper Big Branch Mine.

I yield back the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the members of our committee, the Education and Labor Committee, who spoke today, Ms. WOOLSEY, who is the subcommittee chair, Mr. HARE, and Ms. SHEA-PORTER, for their commitment to worker safety, whether it is in mines, or construction sites, or factories, or anywhere else in America. They have demonstrated over and over again their commitment to these workers.

I also want to thank Mr. RAHALL for his support of this legislation. He has taught me a great deal, not just about mine safety, but about the culture of the communities that engage in this industry and in this employment and the impact that it has on them and their families when things go so very wrong in the mines with accidents, explosions, fires, and other incidents that take place.

Time and again when I have visited miners they have told me how he has stood with them and their families at the mine site and the accident site, if you will, in their churches, in their homes, out in their cars as they have slept overnight waiting to hear what the impact of the accident might be on their loved ones who are still inside of the mine, and I want to thank him for that kind of concern and for the help in drafting this legislation.

Mr. Chairman and members of the committee, I appreciate that the time is never right for my colleagues on the other side of the aisle to engage in worker safety legislation. The fact is, they or their staff were invited numerous times to participate in the drafting sessions. All they wanted to do was see the language, not participate. This is over an 8-month period of time, the consideration of this legislation, where we met with groups all across the mining community, employers, employees, communities, governors, enforcement agencies, Federal, State and local, and all of that together.

We worked with the mining companies themselves. I am very honored to have two letters, one from Patriot

Coal, the CEO of Patriot Coal, and one from the CEO of CONSOL Energy, reflecting on the process that we went through to arrive at this legislation and the improvements that were made.

They were grateful for the extent to which they had been included in this process. I don't say they support this legislation and every item in it. But the fact of the matter is, this was a very open process, and it was open for one reason: Because we wanted the best answers to provide for the safety of these miners and the security of their families.

This bill has the support of those who go into the mines every day. This bill has the support of the families of those who go into the mines every day. Why? Because they know how badly the system has been gamed by mine owners who really don't care about the safety of their workers, of their miners, of the members of their communities.

Unfortunately, it is too many mine owners. It is a small number, but it impacts a huge number of miners who work in those mines, where they disregard the law, where they instruct people to do things that are in violation of the law, where they disrupt the inspection process, where they disrupt the enforcement process. That is how they run their companies.

We have watched it play out on the financial pages of the newspapers. One of the very large mining companies, Massey Energy, struggled with the idea of whether or not they could keep their CEO, who was so strongly identified, so strongly identified, with being against the interests of miners, of working people in violation of the law, of overlooking the safety concerns of their miners. Finally, they decided that he should retire. Unfortunately, they also decided he should go with a very big golden parachute. But the fact of the matter is, this is about protecting miners.

I want to also thank Chairman CONYERS of the Judiciary Committee and Mr. SCOTT of the Judiciary Committee for agreeing to this bill and letting us move it forward before the end of this session.

Finally, I want to thank a gentleman that Mr. RAHALL introduced us to, and that is Stanley "Goose" Stewart, who was one of our witnesses who captured the attention of this committee on a bipartisan basis, the Governor of the State, and Senator ROCKEFELLER from the State, as he explained what was going on in this mine to the detriment of the workers, leading to the deaths of these 29 men, and how they were prevented from speaking out, and how they were intimidated, and how people were discharged if they told the truth about what is taking place in the mines.

□ 1400

That's why this legislation is necessary, because there is no other place for these miners to go to get safety. There is no other place for them to go

to get justice. There is no other place for them to go to get enforcement of the law. And it's only the law that keeps them in a safe working place. But, unfortunately, there are still mine owners in this day and age who insist that they have a right to violate that law.

Today if you do it, you get a slap on the wrist. Pass this law and it's a felony. And that's what's, unfortunately, necessary. We've tried it the other way, with self-enforcement. We've tried it the other way, and it hasn't worked. I have interviewed too many families that have lost people in the mine, and the time has come to stop that. I urge my colleagues to support this legislation.

Let's honor the commitments that everybody makes the first 48 hours after one of these tragedies takes place that we are going to make sure it never happens again, but we haven't done it. But this is a big step forward. I thank my colleagues for their consideration of this legislation and urge their support.

Mr. HOLT. Mr. Speaker, I rise today in support of the Robert C. Byrd Mine Safety Protection Act, H.R. 6495.

As a scientist, I have paid some attention to mine safety technology and overall safety standards. I also feel strongly about the concerns of the mining industry because I was born and raised in West Virginia, where my father many years ago as a U.S. Senator, was known as one of the best friends a miner ever had.

Today, coal mining is rated among the most dangerous jobs in America. It does not have to be that way. In the wake of the Sago, Darby, Crandall Canyon, and the recent Big Branch mine tragedy, I was pleased to work with Chairman MILLER on the Committee on Education and Labor to write legislation that will hold negligent mine operators accountable and help the Mine Safety and Health Administration, MSHA, avoid future tragedies.

The Robert C. Byrd Mine Safety Protection Act would help make underground mines with long histories of serious and repeat violations safer. This bill would increase the maximum penalties for those who tamper with or disable safety equipment and replace the flawed "pattern or violations" sanction system with a rehabilitation program that is supported by mine workers and mine owners. Importantly, this bill protects miner's rights to blow the whistle when they know unsafe conditions exist.

My good friend Cecil Roberts, the International President of the United Mine Workers of America, wrote to us in support of this bill and to remind us that 48 coal miners have died this year. Further, 600 mine workers have lost their lives in the last decade "and thousands more have died from the crippling consequence of exposure to respirable coal dust—exposure resulting from chronic violation of existing standards."

Today we are updating our nation's laws to protect mine workers, make mines safer, and strengthen penalties for mine owners who put their workers in needless danger. We are doing this in memory of the coal miners who have lost their lives, to keep faith with their families, and to protect the lives of miners who still go to work every day.

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

The SPEAKER pro tempore (Mr. ETHERIDGE). The question is on the motion offered by the gentleman from California (Mr. GEORGE MILLER) that the House suspend the rules and pass the bill, H.R. 6495, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. GUTHRIE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order: adoption of House Resolution 1752, by the yeas and nays; and suspending the rules with regard to H.R. 6495, by the yeas and nays; H. Res. 1402, de novo; and H. Res. 1704, de novo.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS AND PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

The SPEAKER pro tempore. The unfinished business is the vote on adoption of the resolution (H. Res. 1752) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, and providing for consideration of motions to suspend the rules, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 215, nays 194, not voting 24, as follows:

[Roll No. 615]

YEAS—215

Ackerman
Andrews
Arcuri
Baca
Baldwin
Barrow
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell

Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler

Chu
Clarke
Clay
Cleaver
Clyburn
Connolly (VA)
Cooper
Costello
Courtney
Critz
Crowley
Cuellar
Cummings

Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee
(TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski

Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Baird
Barrett (SC)
Bartlett
Barton (TX)
Bean
Biggert
Bilirakis
Bishop (UT)
Blackburn
Bocciari
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Campbell
Cantor

Kaptur
Kennedy
Kildee
Kilroy
Kind
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loeb sack
Lofgren, Zoe
Lowey
Lujan
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Matsui
McCarthy (NY)
McCormack
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Melancon
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Olver
Ortiz
Owens
Pallone
Pascarella
Pastor (AZ)
Payne
Perlmutter
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Rahall

NAYS—194

Rangel
Reyes
Richardson
Rodriguez
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman
Schultz
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

Gohmert
Goodlatte
Graves (GA)
Graves (MO)
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis