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PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 2768) TO ESTABLISH IMPROVED MANDATORY STANDARDS TO PROTECT MINERS DURING EMERGENCIES, AND FOR OTHER PURPOSES

JANUARY 15, 2008.—Referred to the House Calendar and ordered to be printed

Mrs. SLAUGHTER, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 918]

The Committee on Rules, having had under consideration House Resolution 918, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 2768, the Supplemental Mine Improvement and New Emergency Response Act of 2007, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except for clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recom-

mit with or without instructions. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and waives all points of order against the amendment in the nature of a substitute (except clause 10 of rule XXI), the Committee is not aware of any points of order. The waivers of all points of order are prophylactic in nature.

SUMMARY OF AMENDMENTS MADE IN ORDER

(Summaries derived from information provided by sponsors.)

1. Miller, George (CA): The Manager's amendment would provide the mining industry with more time to install a new generation of fire-resistant conveyor belts. The amendment would also provide funds for MSHA to purchase a new generation of dust monitoring devices to limit black lung disease, and ensure that breathable air requirements of the MINER Act of 2006 are properly implemented. In addition, the amendment requires that the Secretary of Labor conduct a study on substance abuse by miners with recommendations for policy changes, in consultation with all interested parties. The Secretary shall report the findings within six months of the bill's enactment and, if she deems it feasible and effective, shall be authorized to establish a miner substance abuse testing, rehabilitation, and treatment program within MSHA in consultation with the interested parties. (10 minutes)

2. Boucher (VA): The amendment authorizes $10,000,000 to award grants to provide rehabilitation services to current and former miners suffering from mental health impairments, including drug addiction and substance abuse issues, which may have been caused or exacerbated by their work as miners. (10 minutes)

3. Ellsworth (IN): This amendment offers relief to mine operators that have been assessed penalties and pay them in a timely fashion. It also establishes a trust fund within Treasury, composed of mine safety civil penalties. Funds from the trust fund can be used for mine safety inspections and investigations only. (10 minutes)

4. Wilson, Joe (SC)/Kline (MN): Amendment in the Nature of a Substitute. The substitute amendment promotes the continued robust implementation of the 2006 MINER Act, increases worker safety by providing miners the opportunity to have a voice in mine safety, expands substance abuse programs to all mines to ensure safe working conditions for all miners, and addresses issues raised by the recent Crandall Canyon disaster. (30 minutes)

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GEORGE MILLER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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

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

(2) by adding at the end the following:

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

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

Page 5, line 23, strike ", or" and insert "; or".

Page 6, beginning on line 4, strike "In addition" and all that follows through "emergency shelter" and insert "The regulations shall further provide that in all cases a portable refuge chamber shall be installed and maintained".

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

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

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

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

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

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

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

At the end of the bill, insert the following:

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

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

propriate State agencies, and public health and substance abuse experts.

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

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

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BOUCHER OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

At the end of the bill, insert the following:

(d) GRANTS FOR REHABILITATION.—

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

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

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ELLSWORTH OF INDIANA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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

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

(2) by inserting at the end the following:

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

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

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

"(C) In the event".

At the end of the bill, insert the following:

SEC. 9. MINE SAFETY PROGRAM FUND.

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

"SEC. 117. MINE SAFETY PROGRAM FUND.

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

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

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

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

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

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

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

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

Sec. 9. Mine safety program fund.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WILSON OF SOUTH CAROLINA, OR HIS DESIGNEE, DEBATABLE FOR 30 MINUTES

Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF CONGRESS.

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

SEC. 2. SAFETY COMMITTEES.

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

"SEC. 208. SAFETY COMMITTEES.

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

SEC. 3. SUBSTANCE ABUSE TESTING.

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

"SEC. 209. SUBSTANCE ABUSE TESTING.

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

"(1) mandatory substance abuse testing procedures;

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

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

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

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

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

SEC. 4. IMPROVING MINE SAFETY.

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

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

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

(2) MEMBERSHIP.—

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

(i) two individuals to be appointed by the Secretary of Health and Human Services, in consultation with the Director of the National Institute for Occupational Safety and Health and the Associate Director of the Office of Mine Safety;

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

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

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

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

(3) REPORT.—

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

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

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

(c) STUDY OF RETREAT MINING AND PILLARING.—

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

(A) seam thickness;

(B) depth of cover;

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

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

(E) a sensitivity analysis on input parameters such as strength of the coal, the size of the pillar core, the strength

of roof and floor rock members, abutment pressure from caved areas, and the horizontal stress; and

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

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

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

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

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

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

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