4

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 2768, AS REPORTED

OFFERED BY Wilson (SC) and Kline (MN)

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

1 participate to address issues of mine safety and to deal
2 with the mine operator regarding emergency response,
3 communication, rescue, recovery, inspection and other
4 terms and conditions of employment relating to mine safe-
5 ty.".

6 **SEC. 3. SUBSTANCE ABUSE TESTING.**

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

9 **"SEC. 209. SUBSTANCE ABUSE TESTING.**

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

19 "(1) mandatory substance abuse testing proce-
20 dures;

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

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

1 "(4) the establishment of an Employee Assist-
2 ance Program; and
3 "(5) for purposes of subsection (b), a process
4 for mine operators to notify the Administration of
5 the names of individuals who test positive for sub-
6 stance abuse.
7 "(b) REGISTRY.—Not later than 180 days after the
8 date of enactment of this section, the Secretary shall pro-
9 mulgate regulations creating a registry of those found to
10 have tested positive for substance abuse for the sole pur-
11 pose of sharing, on a confidential basis, with State au-
12 thorities responsible for issuance of licenses, certification,
13 permits, or other documents required to seek employment
14 in the mining industry.".
15 **SEC. 4. IMPROVING MINE SAFETY.**
16 (a) COORDINATION WITH BUREAU OF LAND MAN-
17 AGEMENT.—The Mine Safety and Health Administration
18 shall regularly consult with the Bureau of Land Manage-
19 ment concerning the safety status of mines in order for
20 the Administration to maintain an awareness of any safety
21 concerns observed by Bureau of Land Management per-
22 sonnel.
23 (b) STUDY OF DEEP MINE CONDITIONS BY TECH-
24 NICAL STUDY PANEL.—

1 (1) ESTABLISHMENT OF TECHNICAL STUDY
2 PANEL.—There is established a Technical Study
3 Panel (hereafter referred to as "the Panel") which
4 shall provide independent scientific and engineering
5 review and provide recommendations to the Mine
6 Safety and Health Administration to evaluate the
7 risk assessment procedures of deep mine conditions.
8 (2) MEMBERSHIP.—
9 (A) IN GENERAL.—The Panel shall be
10 composed of—
11 (i) two individuals to be appointed by
12 the Secretary of Health and Human Serv-
13 ices, in consultation with the Director of
14 the National Institute for Occupational
15 Safety and Health and the Associate Di-
16 rector of the Office of Mine Safety;
17 (ii) two individuals to be appointed by
18 the Secretary of Labor, in consultation
19 with the Assistant Secretary for Mine
20 Safety and Health;
21 (iii) one individual appointed jointly
22 by the majority leaders of the Senate and
23 House of Representatives; and

1 (iv) one individual to be appointed
2 jointly by the minority leader of the Senate
3 and House of Representatives.
4 (B) QUALIFICATIONS.—Four of the 6 indi-
5 viduals appointed to the Panel under paragraph
6 (A) shall possess a masters or doctoral level de-
7 gree in mining engineering or another scientific
8 field demonstrably related to the subject of the
9 report. No individual appointed to the Panel
10 shall be an employee of any coal or other mine,
11 or of any labor organization, or of any State or
12 Federal agency primarily responsible for regu-
13 lating the mining industry.
14 (3) REPORT.—
15 (A) IN GENERAL.—Not later than 1 year
16 after the date on which all members of the
17 Panel are appointed under paragraph (2), the
18 Panel shall prepare and submit a report con-
19 cerning deep mine conditions to the Secretary
20 of Labor, the Secretary of Health and Human
21 Services, the Committee on Education and
22 Labor of the House of Representatives and the
23 Committee on Health, Education, Labor, and
24 Pensions of the Senate.

1 (B) RESPONSE BY THE SECRETARY.—Not
2 later than 180 days after the receipt of the re-
3 port, the Secretary of Labor shall provide a re-
4 sponse to the report and submit such response
5 to the Committee on Education and Labor of
6 the House of Representatives and the Com-
7 mittee on Health, Education, Labor, and Pen-
8 sions of the Senate. Such response shall contain
9 a description of the actions, if any, that the
10 Secretary intends to take based upon the re-
11 port, including proposing regulatory changes,
12 and the reasons for such actions.
13 (4) COMPENSATION.—Members appointed to
14 the Panel, while carrying out the duties of the
15 Panel, shall be entitled to receive compensation, per
16 diem in lieu of subsistence, and travel expenses in
17 the same manner and under the same conditions as
18 that prescribed under section 208(c) of the Public
19 Health Service Act.
20 (c) STUDY OF RETREAT MINING AND PILLARING.—
21 (1) STUDY.—The National Institute for Occu-
22 pational Safety and Health shall conduct a study of
23 the recovery of coal pillars through retreat room and
24 pillar mining practices in underground coal mines at
25 depths greater than 1,500 feet. The study shall ex-

1 amine the safety implications of retreat room and
2 pillar mining practices, with emphasis on the impact
3 of full or partial pillar extraction mining. The study
4 shall consider, among other things—
5 (A) seam thickness;
6 (B) depth of cover;
7 (C) strength of the mine roof, pillars, and
8 floor;
9 (D) the susceptibility of the mine to seis-
10 mic activity; and
11 (E) a sensitivity analysis on input param-
12 eters such as strength of the coal, the size the
13 pillar core, the strength of roof and floor rock
14 members, abutment pressure from caved areas,
15 and the horizontal stress; and
16 (F) the procedures used to ensure miner
17 safety during retreat mining.
18 (2) REPORT.—Not later than one year after the
19 date of enactment of this Act, the National Institute
20 for Occupational Safety and Health shall submit a
21 report containing the results of the study to the Sec-
22 retary of Labor and Committee on Education and
23 Labor of the House of Representatives, and the
24 Committee on Health, Education, Labor, and Pen-
25 sions of the Senate.

1 (3) REPORT BY THE SECRETARY OF LABOR.—
2 Not later than 180 days after receipt of the report
3 required under paragraph 2, the Secretary of Labor
4 shall report to the Committee on Education and
5 Labor of the House of Representatives and the Com-
6 mittee on Health, Education, Labor, and Pensions
7 of the Senate what actions, if any, that the Sec-
8 retary intends to take based on the report.
9 (d) DISSEMINATION OF ACCIDENT INFORMATION.—
10 Section 103 of the Federal Mine Safety and Health Act
11 of 1977 (30 U.S.C. 813) amended by adding at the end
12 the following:
13 "(l)(1) All information concerning the accident or in-
14 cident obtained by any person or organization partici-
15 pating in an investigation under this section shall be
16 transmitted to the representative of the Administration co-
17 ordinating the rescue effort or subsequent accident inves-
18 tigation. Parties to the investigation may relay to respec-
19 tive organizations information necessary for purposes of
20 prevention or remedial action. No information concerning
21 the accident or incident may be released to any person
22 not a party to the investigation or representative of such
23 party prior to the release of such information by the Ad-
24 ministration without the prior consultation with and ap-
25 proval of the Administration.

1 "(2) For purposes of this subsection, parties to the
2 investigation include the mine owner, mine operator, em-
3 ployees of that mine, first responders, mine rescue team
4 members, or others participating in the rescue and recov-
5 ery effort.".