

112TH CONGRESS
1ST SESSION

H. R. 3697

To honor the Nation's fallen miners by requiring improved mine safety practices and compliance in order to prevent future mine accidents.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2011

Mrs. CAPITO introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To honor the Nation's fallen miners by requiring improved mine safety practices and compliance in order to prevent future mine accidents.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Mine Safety Accountability and Improved Protection
6 Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. References.

TITLE I—ADDITIONAL INSPECTION AND INVESTIGATION AUTHORITY

- Sec. 101. Establishment of National Mine Safety Board for certain investigations.
- Sec. 102. Subpoena authority and miner rights during investigations.
- Sec. 103. Designation of miner representative.
- Sec. 104. Additional amendments relating to inspections and investigations.

TITLE II—ENHANCED ENFORCEMENT AUTHORITY

- Sec. 201. Significant and substantial violations.
- Sec. 202. A pattern of recurring noncompliance or accidents.
- Sec. 203. Injunctive Authority.
- Sec. 204. Revocation of approval of plans.
- Sec. 205. Challenging decisions related to the approval of a coal or other mine plan.

TITLE III—PENALTIES

- Sec. 301. Civil penalties.
- Sec. 302. Civil and criminal liability of officers, directors, and agents.
- Sec. 303. Criminal penalties.
- Sec. 304. Conference process for appealing penalties; delinquent payments and prejudgment interest.

TITLE IV—WORKER RIGHTS AND PROTECTIONS

- Sec. 401. Protection from retaliation.
- Sec. 402. Protection from loss of pay.

TITLE V—MODERNIZING HEALTH AND SAFETY STANDARDS

- Sec. 501. Pre-shift review of mine conditions.
- Sec. 502. Atmospheric monitoring systems.
- Sec. 503. Technology related to respirable dust.
- Sec. 504. Refresher training on miner rights and responsibilities.
- Sec. 505. Authority to mandate additional training.
- Sec. 506. Certification of personnel.

TITLE VI—ADDITIONAL MINE SAFETY PROVISIONS

- Sec. 601. Definitions.
- Sec. 602. Assistance to States.
- Sec. 603. Amendments relating to eligibility for scholarship program.
- Sec. 604. Additional training of mine inspectors.
- Sec. 605. Report on staffing needs of the Mine Safety and Health Administration.
- Sec. 606. Budget neutrality; offset.

1 **SEC. 2. REFERENCES.**

2 Wherever in this Act an amendment is expressed as
3 an amendment to a section or other provision, the ref-
4 erence shall be considered to be made to a section or other
5 provision of the Federal Mine Safety and Health Act of
6 1977 (30 U.S.C. 801 et seq.).

7 **TITLE I—ADDITIONAL INSPEC-**
8 **TION AND INVESTIGATION**
9 **AUTHORITY**

10 **SEC. 101. ESTABLISHMENT OF NATIONAL MINE SAFETY**
11 **BOARD FOR CERTAIN INVESTIGATIONS.**

12 Section 103(b) (30 U.S.C. 813(b)) is amended—

13 (1) by striking “(b) For the purpose” and in-
14 serting the following:

15 “(b) ACCIDENT INVESTIGATIONS.—

16 “(1) IN GENERAL.—For the purpose”; and

17 (2) by adding at the end the following:

18 “(2) ESTABLISHMENT OF NATIONAL MINE
19 SAFETY BOARD FOR CERTAIN ACCIDENT INVESTIGA-
20 TIONS.—

21 “(A) ESTABLISHMENT.—There is estab-
22 lished an independent board to be known as the
23 National Mine Safety Board (in this paragraph
24 referred to as the ‘Board’) consisting of 5 mem-
25 bers, including a Chairperson, who shall be ap-
26 pointed by the President, by and with the ad-

1 vice and consent of the Senate. Members of the
2 Board shall be appointed on the basis of tech-
3 nical qualification, professional standing, and
4 demonstrated knowledge of mine safety, acci-
5 dent reconstruction, safety engineering, and
6 human factors. The terms of office of members
7 of the Board shall be 5 years. Any member of
8 the Board, including the Chairperson, may be
9 removed for inefficiency, neglect of duty, or
10 malfeasance in office. The Chairperson shall be
11 the Chief Executive Officer of the Board and
12 shall exercise the executive and administrative
13 functions of the Board.

14 “(B) INVESTIGATION OF CERTAIN ACCI-
15 DENTS.—For any accident involving 3 or more
16 deaths, the Board shall conduct an independent
17 investigation to—

18 “(i) assess and identify any factors
19 that caused the accident, including defi-
20 ciencies in safety management systems,
21 regulations, enforcement, industry prac-
22 tices or guidelines, or organizational fail-
23 ures;

24 “(ii) identify and evaluate any con-
25 tributing actions or inactions of—

1 “(I) the operator;

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

5 “(III) any State agency with
6 oversight responsibilities;

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

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

11 “(iii) review the findings and conclu-
12 sions of the investigation conducted by the
13 Secretary under paragraph (1);

14 “(iv) prepare a report that—

15 “(I) includes the findings regard-
16 ing the causal factors described in
17 clauses (i) and (ii);

18 “(II) identifies any strengths and
19 weaknesses in the Secretary’s inves-
20 tigation; and

21 “(III) includes recommendations,
22 including interim recommendations
23 where appropriate, to industry, labor
24 organizations, State and Federal
25 agencies, or Congress, regarding pol-

1 icy, regulatory, enforcement, adminis-
2 trative, or other changes, which in the
3 judgment of the Panel, would prevent
4 a recurrence at other mines; and

5 “(v) publish such findings and rec-
6 ommendations (excluding any portions
7 which the Attorney General requests that
8 the Board withhold in relation to a crimi-
9 nal referral) and hold public meetings to
10 inform the mining community and families
11 of affected miners of the Board’s findings
12 and recommendations.

13 “(C) SUBPOENA POWER AND ADMINISTRA-
14 TION OF OATHS.—In carrying out its authority,
15 the National Mine Safety Board may issue sub-
16 poenas (in accordance with Rule 45 of the Fed-
17 eral Rules of Civil Procedure) for the attend-
18 ance and testimony of witnesses and the pro-
19 duction of information, including all relevant
20 data, papers, books, documents, items of phys-
21 ical evidence, and administer oaths. Witnesses
22 summoned shall be paid the same fees and
23 mileage that are paid witnesses in the courts of
24 the United States. In case of contumacy or re-
25 fusal to obey a subpoena served upon any per-

1 son under this section, the district court of the
2 United States for any district in which such
3 person is found or resides or transacts business,
4 upon application by the United States and after
5 notice to such person, shall have jurisdiction to
6 issue an order requiring such person to appear
7 and give testimony before the Board or to ap-
8 pear and produce documents before the Board,
9 or both, and any failure to obey such order of
10 the court may be punished by such court as a
11 contempt thereof.

12 “(D) HEARINGS; APPLICABILITY OF CER-
13 TAIN FEDERAL LAW.—The Board shall have the
14 authority to conduct public hearings or meet-
15 ings, but shall not be subject to the Federal Ad-
16 visory Committee Act. All public hearings of the
17 Board shall be subject to the requirements
18 under section 552b of title 5, United States
19 Code.

20 “(E) MEMORANDUM OF UNDER-
21 STANDING.—Not later than 90 days after the
22 appointment of the Board under subparagraph
23 (A), the Secretary and the Board shall conclude
24 and publically issue a memorandum of under-
25 standing that—

1 “(i) outlines administrative arrange-
2 ments which will facilitate a coordination
3 of efforts between the Secretary and the
4 Board, ensures that the Secretary’s inves-
5 tigation under paragraph (1) is not de-
6 layed or otherwise compromised by the ac-
7 tivities of the Board, and establishes a
8 process to resolve any conflicts between
9 such investigations;

10 “(ii) ensures that Board members or
11 staff will be able to participate in inves-
12 tigation activities (such as mine inspections
13 and interviews) related to the Secretary’s
14 investigation and will have full access to
15 documents that are assembled or produced
16 in such investigation, and ensures that the
17 Secretary will make all of the authority
18 available to such Secretary under this sec-
19 tion, including subpoena authority, to ob-
20 tain information and witnesses which may
21 be requested by such Board; and

22 “(iii) establishes such other arrange-
23 ments as are necessary to implement this
24 paragraph.”.

1 **SEC. 102. SUBPOENA AUTHORITY AND MINER RIGHTS DUR-**
2 **ING INVESTIGATIONS.**

3 Section 103(b)(1) (as amended by section 101) (30
4 U.S.C. 813(b)) is further amended—

5 (1) in the first sentence, by striking “the Sec-
6 retary may” and all that follows through “oaths.”
7 and inserting: “the Secretary may sign and issue
8 subpoenas for the attendance and testimony of wit-
9 nesses and the production of information, including
10 all relevant data, papers, books, documents, and
11 items of physical evidence, and administer oaths,
12 and, after notice, hold public hearings.”; and

13 (2) in the last sentence by striking “docu-
14 ments” and inserting “information, including data,
15 papers, books, documents, and items of physical evi-
16 dence”.

17 **SEC. 103. DESIGNATION OF MINER REPRESENTATIVE.**

18 (a) IN GENERAL.—Section 103(f) (30 U.S.C. 813(f))
19 is amended by inserting before the last sentence the fol-
20 lowing: “Each operator shall require each miner employed
21 by the operator to designate a next of kin or other rep-
22 resentative of the miner’s choosing at the time of employ-
23 ment. Such representative shall act on the miner’s behalf
24 for purposes of this subsection if the miner is entrapped
25 or otherwise prevented as the result of an accident in such
26 mine from acting on the miner’s own behalf. A miner may

1 designate a different representative to the operator at any
2 time. Should a miner who has not designated such a rep-
3 resentative be entrapped or otherwise prevented from des-
4 ignating a representative as the result of an accident in
5 such mine, such miner's closest relative may act on behalf
6 of such miner in designating such a representative.”.

7 (b) APPLICATION TO MINERS ALREADY EM-
8 PLOYED.—Not later than 60 days after the date of enact-
9 ment of this Act, each operator of a mine shall obtain from
10 each miner employed by such operator on such date of
11 enactment a designated next of kin or other representa-
12 tive, in accordance with section 103(f) of the Federal Mine
13 Safety and Health Act of 1977.

14 **SEC. 104. ADDITIONAL AMENDMENTS RELATING TO IN-**
15 **SPECTIONS AND INVESTIGATIONS.**

16 (a) HOURS OF INSPECTIONS.—Section 103(a) (30
17 U.S.C. 813(a)) is amended by inserting after the third
18 sentence the following: “Such inspections shall be con-
19 ducted during the various shifts and days of the week dur-
20 ing which miners are normally present in the mine to en-
21 sure that the protections of this Act are afforded to all
22 miners working all shifts.”.

23 (b) INJURY AND ILLNESS REPORTING.—Section
24 103(d) (30 U.S.C. 813(d)) is amended by striking the last
25 sentence and inserting the following: “The records to be

1 kept and made available by the operator of the mine shall
2 include man-hours worked and occupational injuries and
3 illnesses, and shall be maintained separately for each mine
4 and be reported at a frequency determined by the Sec-
5 retary, but at least annually. Operators shall be respon-
6 sible for reporting all miners working at such mine under
7 their direct supervision.”.

8 (c) CONFLICT OF INTEREST IN THE REPRESENTA-
9 TION OF MINERS.—Section 103(a) (30 U.S.C. 813(a)) is
10 amended by adding at the end the following: “During in-
11 spections and investigations under this section, and during
12 any litigation under this Act, no attorney shall represent
13 or purport to represent both the operator of a coal or other
14 mine and any other individual, unless such individual has
15 willfully and voluntarily waived all actual and reasonably
16 foreseeable conflicts of interest resulting from such rep-
17 resentation. The Secretary is authorized to take such ac-
18 tions as the Secretary considers appropriate to ascertain
19 whether such individual has willfully and voluntarily
20 waived all such conflicts of interest. If the Secretary finds
21 that such an individual cannot be represented adequately
22 by such an attorney due to such conflicts of interest, the
23 Secretary may petition the appropriate United States Dis-
24 trict Court which shall have jurisdiction to disqualify such
25 attorney as counsel to such individual in the matter. The

1 Secretary may make such a motion as part of an ongoing
2 related civil action or as a miscellaneous action.”.

3 (d) CONFORMING AMENDMENT.—Section 103(e) (30
4 U.S.C. 813(e)) is amended by inserting “or the National
5 Mine Safety Board” after “Welfare”.

6 **TITLE II—ENHANCED**
7 **ENFORCEMENT AUTHORITY**

8 **SEC. 201. SIGNIFICANT AND SUBSTANTIAL VIOLATIONS.**

9 Section 104(d)(1) (30 U.S.C. 814(d)(1)) is amend-
10 ed—

11 (1) in the first sentence—

12 (A) by striking “any mandatory health or
13 safety standard” and inserting “any provision
14 of this Act, including any mandatory health or
15 safety standard or regulation promulgated
16 under this Act”; and

17 (B) by striking “such mandatory health or
18 safety standards” and inserting “such provi-
19 sions, regulations, or mandatory health or safe-
20 ty standards”;

21 (2) in the second sentence, by striking “any
22 mandatory health or safety standard” and inserting
23 “any provision of this Act, including any mandatory
24 health or safety standard or regulation promulgated
25 under this Act,”; and

1 (3) by inserting after the first sentence the fol-
2 lowing: “For purposes of this Act, a violation of a
3 provision of this Act, including any mandatory
4 health or safety standard or regulation promulgated
5 under this Act, is of such nature as could signifi-
6 cantly and substantially contribute to the cause and
7 effect of a safety or health hazard if there is a sub-
8 stantial probability such violation could result in se-
9 rious injury, illness, or death.”.

10 **SEC. 202. A PATTERN OF RECURRING NONCOMPLIANCE OR**
11 **ACCIDENTS.**

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

14 “(e) PATTERN OF RECURRING NONCOMPLIANCE OR
15 ACCIDENTS.—

16 “(1) DETERMINATION OF PATTERN STATUS.—

17 “(A) IN GENERAL.—If the Secretary deter-
18 mines that an operator has a possible pattern
19 of violations of mandatory health or safety
20 standards based upon the initial screening cri-
21 teria promulgated in accordance with subpara-
22 graph (B), the Secretary shall provide the oper-
23 ator written notice pursuant to subparagraph
24 (D). If, upon any inspection within 90 days
25 after the issuance of such notice, an authorized

1 representative of the Secretary finds any viola-
2 tion of a mandatory health or safety standard
3 which could significantly and substantially con-
4 tribute to the cause and effect of a coal or other
5 mine safety or health hazard the operator shall
6 be placed in pattern status.

7 “(B) REGULATIONS ESTABLISHING INITIAL
8 SCREENING CRITERIA FOR POSSIBLE PLACE-
9 MENT IN PATTERN STATUS.—

10 “(i) IN GENERAL.—The Secretary
11 shall issue regulations establishing initial
12 screening criteria for determining whether
13 to place a mine on pattern status under
14 this subsection. The criteria in such regu-
15 lations shall be based on the following fac-
16 tors, each assigned appropriate weight as
17 determined by the Secretary:

18 “(I) Citations for significant and
19 substantial violations;

20 “(II) Orders under section
21 104(b) of the Act for not abating sig-
22 nificant and substantial violations;

23 “(III) Citations and withdrawal
24 orders under section 104(d) of the

1 Act, resulting from the operator’s un-
2 warrantable failure to comply;

3 “(IV) Imminent danger orders
4 under section 107(a) of the Act;

5 “(V) Orders under section 104(g)
6 of the Act requiring withdrawal of
7 miners who have not received training
8 and who the inspector declares to be
9 a hazard to themselves and others;

10 “(VI) Enforcement measures,
11 other than section 104(e) of the Act,
12 which have been applied at the mine;
13 and

14 “(VII) Other information that
15 demonstrates a serious safety or
16 health management problem at the
17 mine such as accident, injury, and ill-
18 ness records.

19 “(ii) REVIEW.—At least 2 times each
20 year, the Secretary will review the compli-
21 ance and accident, injury, and illness
22 records of mines to determine if any mines
23 meet the criteria established in the regula-
24 tions promulgated under this subpara-
25 graph.

1 “(C) MINE CATEGORIES.—Regulations
2 promulgated under subparagraph (B) may be
3 determined and maintained for different types
4 of mines, according to the following classifica-
5 tions:

6 “(i) Underground coal mines;

7 “(ii) Surface coal mines;

8 “(iii) Underground metal mines;

9 “(iv) Surface metal mines; and

10 “(v) Non-metal mines.

11 “(D) ISSUANCE OF NOTICE.—

12 “(i) ISSUANCE.—When a mine has a
13 pattern of violations, the Secretary will
14 issue a pattern of violations notice to the
15 mine operator that specifies the basis for
16 the Secretary’s action. The Secretary will
17 also provide a copy of the notice to the
18 representative of miners.

19 “(ii) POSTING.—The mine operator
20 shall post a copy of the notice on the mine
21 bulletin board and in a conspicuous place
22 near each staffed entrance onto the mine
23 property. The notice shall remain posted at
24 the mine until it is terminated.

1 “(E) MITIGATING CIRCUMSTANCES.—Not-
2 withstanding the criteria established under sub-
3 paragraph (B), if, after conducting an assess-
4 ment of a coal or other mine that otherwise
5 qualifies for pattern status, the Secretary cer-
6 tifies that there are mitigating circumstances
7 wherein the operator is in the process of reduc-
8 ing elevated risks to the health or safety of
9 miners and is implementing sufficient measures
10 to ensure such elevated risk will not recur, the
11 Secretary may deem such mine to not be in pat-
12 tern status under this subsection. The Sec-
13 retary shall issue any such certification of such
14 mitigating circumstances that would preclude
15 the placement of a mine in pattern status as a
16 written finding, which shall, not later than 10
17 days after the certification is made, be—

18 “(i) published in the Federal Register;

19 and

20 “(ii) transmitted to the Committee on
21 Education and the Workforce of the House
22 of Representatives and the Committee on
23 Health, Education, Labor, and Pensions of
24 the Senate.

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

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

6 “(B) issue an order requiring such oper-
7 ator to cause all persons to be withdrawn from
8 such mine while the Secretary conducts a com-
9 plete inspection of the mine to identify any haz-
10 ards or violations that could be immediately
11 harmful to the safety or health of the miners;

12 “(C) require, as a condition of reopening
13 the mine, that—

14 “(i) all violations or other conditions
15 in the mine identified by the Secretary
16 have been or are being fully abated or cor-
17 rected; and

18 “(ii) the operator file a remediation
19 plan as described in paragraph (3); and

20 “(D) require that the number of regular
21 inspections of such mine required under section
22 103 be increased by an amount determined by
23 the Secretary to be sufficient to ensure that all
24 hazardous conditions have been addressed and

1 that a program is in place to prevent a reoccur-
2 rence of such conditions.

3 “(3) REMEDIATION PLAN.—

4 “(A) IN GENERAL.—An operator of a mine
5 placed in pattern status shall submit to the Sec-
6 retary a remediation plan for approval by the
7 Secretary to—

8 “(i) institute and implement an effec-
9 tive health and safety management pro-
10 gram that specifically addresses the issues
11 that gave rise to the placement of the mine
12 in pattern status; and

13 “(ii) facilitate any effort by the Sec-
14 retary to communicate directly with miners
15 employed at the mine outside the presence
16 of the mine operators or its agents, for the
17 purpose of obtaining information about
18 mine conditions, health and safety prac-
19 tices, advising miners of their rights under
20 this Act, and to assist the efforts of the
21 operator in developing or implementing the
22 remediation plan.

23 “(B) EXPEDITED REVIEW.—The opera-
24 tor’s remediation plan shall be evaluated for ap-

1 proval by the Secretary on an expedited basis,
2 in accordance with section 105(d).

3 “(C) PLAN DISPUTE RESOLUTION.—

4 “(i) IN GENERAL.—Any dispute be-
5 tween the Secretary and an operator with
6 respect to the content of the operator’s
7 plan under paragraph (3) or any refusal by
8 the Secretary to approve such plan shall be
9 resolved on an expedited basis.

10 “(ii) DISPUTES.—In the event of a
11 dispute or refusal to approve a plan, the
12 Secretary shall issue a citation which shall
13 be immediately referred to the Commis-
14 sion. The Secretary and the operator shall
15 submit all relevant material regarding the
16 dispute to the Commission within 15 days
17 of the date of the referral. The Commis-
18 sion shall render its decision with respect
19 to the plan content dispute within 15 days
20 of the receipt of the submission.

21 “(iii) FURTHER APPEALS.—Any party
22 adversely affected by a decision under this
23 subparagraph may pursue all further avail-
24 able appeal rights with respect to the situ-
25 ation involved, except that inclusion of the

1 disputed provision in the plan will not be
2 limited by such appeal unless such relief is
3 requested by the operator and permitted by
4 the Commission.

5 “(4) PERFORMANCE EVALUATION.—

6 “(A) PERFORMANCE BENCHMARKS.—The
7 Secretary shall evaluate the performance of
8 each operator whose mine is in pattern status
9 every 90 days during which the mine is pro-
10 ducing and determine if, for such 90-day pe-
11 riod—

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

14 “(I) is, on average, in the top
15 performing 35th percentile of such
16 rates, respectively, for all mines of
17 similar size and type; and

18 “(II) has been reduced by 70
19 percent since such mine was placed on
20 pattern status; and

21 “(ii) the accident and injury rates at
22 such mine are, on average, in the top per-
23 forming 35th percentile of such rates, re-
24 spectively, for all mines of similar size and
25 type.

1 “(B) REISSUANCE OF PRODUCTION LIM-
2 TATION.—If an operator being evaluated fails
3 to achieve the performance benchmarks de-
4 scribed in subparagraph (A), the Secretary may
5 re-impose the conditions under paragraph
6 (2)(B) to remedy any recurring conditions that
7 led to pattern status under this subsection, and
8 may require modification of the remediation
9 plan, as necessary, to protect the health and
10 safety of miners.

11 “(5) TERMINATION OF PATTERN STATUS.—

12 “(A) PERFORMANCE BENCHMARKS.—The
13 Secretary shall remove an operator of a coal or
14 other mine from pattern status if, for a period
15 of 180 days during which the mine is pro-
16 ducing—

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

19 “(I) is, on average, in the top
20 performing 25th percentile of such
21 rates, respectively, for all mines of
22 similar size and type; and

23 “(II) has been reduced by 70
24 percent since such mine was placed on
25 pattern status; and

1 “(ii) the accident and injury rates at
2 such mine are, on average, in the top per-
3 forming 25th percentile of such rates, re-
4 spectively, for all mines of similar size and
5 type.

6 “(B) CONTINUATION OF PATTERN STA-
7 TUS.—Should the mine operator fail to meet
8 the performance benchmarks described in sub-
9 paragraph (A), the Secretary shall extend the
10 mine’s placement in pattern status until such
11 benchmarks are achieved.

12 “(6) EXPEDITED HEARING.—The operator of a
13 mine whose mine is placed in a pattern status under
14 this section shall have the right to an expedited
15 hearing, within 10 days of providing notice to the
16 Commission to contest the validity of any enforce-
17 ment action that has contributed to the mine being
18 identified under this section, notwithstanding wheth-
19 er the enforcement action was previously the subject
20 of a notice of contest pursuant to section 105 or has
21 been deemed a final order of the Commission.

22 “(7) LIMITATION ON APPLICATION.—The provi-
23 sions of this subsection shall not apply, for a period
24 of 12 months, following the acquisition of a mine by
25 a purchaser.

1 “(8) REGULATIONS.—Not later than 180 days
2 after the date of enactment of the Mine Safety Ac-
3 countability and Improved Protection Act, the Sec-
4 retary shall issue proposed regulations to implement
5 the provisions of this subsection. Not later than 1
6 year after the date of enactment of such Act, the
7 Secretary shall issue final regulations to implement
8 this subsection.

9 “(9) PUBLIC DATABASE AND INFORMATION.—
10 The Secretary shall establish and maintain a pub-
11 lically available electronic database containing the
12 data used to determine pattern status for all coal or
13 other mines. Such database shall be searchable, shall
14 have the capacity to provide comparative data about
15 the health and safety at mines of similar sizes and
16 types. The Secretary shall also make publicly avail-
17 able—

18 “(A) a list of all mines the Secretary
19 places in pattern status, updated not less fre-
20 quently than quarterly; and

21 “(B) the metrics, including percentile in-
22 formation, used for the purposes of the per-
23 formance benchmarks and threshold criteria de-
24 scribed in paragraphs (4) and (5).

1 “(10) OPERATOR FEES FOR ADDITIONAL IN-
2 SPECTIONS.—

3 “(A) ASSESSMENT AND COLLECTION.—Be-
4 ginning 120 days after the date of enactment of
5 the Mine Safety Accountability and Improved
6 Protection Act, the Secretary shall assess and
7 collect fees, in accordance with this paragraph,
8 from each coal or other mine in pattern status
9 for the costs of additional inspections under
10 this subsection. The Secretary shall issue, by
11 rule, a schedule of fees to be assessed against
12 coal or other mines of varying types and sizes,
13 and shall collect and assess amounts under this
14 paragraph based on the schedule.

15 “(B) MINES IN PATTERN STATUS INSPEC-
16 TION FUND.—There is established in the Treas-
17 ury of the United States a separate account for
18 the deposit of fees collected under this para-
19 graph to be known as the Mines in Pattern Sta-
20 tus Inspection Fund. The Secretary shall de-
21 posit any fees collected pursuant to subpara-
22 graph (A) into the fund.

23 “(C) USE.—Amounts in the Mines in Pat-
24 tern Status Inspection Fund shall be available
25 to the Secretary, as provided in subparagraph

1 (D), for making expenditures to carry out the
2 additional inspections required under paragraph
3 (2)(D).

4 “(D) AUTHORIZATION OF APPROPRIA-
5 TIONS.—In addition to any other amounts ap-
6 propriated, there is authorized to be appro-
7 priated from the Mines in Pattern Status In-
8 spection Fund to the Assistant Secretary for
9 Mine Safety and Health for each fiscal year in
10 which fees are collected under subparagraph
11 (A) an amount equal to the total amount col-
12 lected during the previous fiscal year from fees
13 assessed pursuant to this paragraph. Such
14 amounts are authorized to remain available
15 until expended.

16 “(E) CREDITING AND AVAILABILITY OF
17 FEES.—Fees authorized and collected under
18 this paragraph shall be available for obligation
19 only to the extent and in the amount provided
20 in advance in appropriations Acts.”.

21 **SEC. 203. INJUNCTIVE AUTHORITY.**

22 Section 108(a)(2) is amended to read as follows:

23 “(2) The Secretary may institute a civil action for
24 relief, including permanent or temporary injunction, re-
25 straining order, or any other appropriate order in the dis-

1 triet court of the United States for the district in which
2 the coal or other mine is located or in which the operator
3 of such mine has his principal office whenever the Sec-
4 retary believes that the operator of a coal or other mine
5 is engaged in a pattern of violation of this Act, or of any
6 mandatory health or safety standards of this Act, or regu-
7 lation promulgated under this Act, which constitutes a
8 continuing hazard to the health or safety of miners.”.

9 **SEC. 204. REVOCATION OF APPROVAL OF PLANS.**

10 Section 105 (30 U.S.C. 815) is amended by adding
11 at the end the following:

12 “(e) REVOCATION OF APPROVAL OF PLANS.—If the
13 Secretary finds that any program or plan of an operator,
14 or part thereof, that was approved by the Secretary under
15 this Act is based on inaccurate information or that cir-
16 cumstances that existed when such plan was approved
17 have materially changed and that continued operation of
18 such mine under such plan constitutes a hazard to the
19 safety or health of miners, the Secretary shall revoke the
20 approval of such program or plan and provide the operator
21 with a detailed explanation containing the specific reasons
22 that approval was revoked.”.

1 **SEC. 205. CHALLENGING DECISIONS RELATED TO THE AP-**
2 **PROVAL OF A COAL OR OTHER MINE PLAN.**

3 Section 105 (30 U.S.C. 815) is further amended by
4 adding at the end the following:

5 “(f) PROCESS FOR APPROVAL OF AND CHALLENGING
6 DECISIONS RELATED TO THE APPROVAL OF A COAL OR
7 OTHER MINE PLAN.—

8 “(1) PROPOSED PROGRAMS, PLANS, AND PLAN
9 REVISION PROCESS.—

10 “(A) SUBMISSION FOR APPROVAL.—Any
11 operator’s proposed program, plan, or plan revi-
12 sion, which is subject to approval by the Sec-
13 retary under this Act, and implementing stand-
14 ards and regulations, shall be submitted in writ-
15 ing to the appropriate district manager of the
16 Mine Safety and Health Administration (in this
17 subsection referred to as the ‘district man-
18 ager’). When revisions to a previously approved
19 plan are proposed by a mine operator, only pro-
20 posed revised pages, maps, and sketches are re-
21 quired to be submitted, unless otherwise speci-
22 fied by the district manager. Written comments
23 may be submitted by representatives of the
24 miners relative to plan or revisions submitted.
25 Such program, plan, or plan revision shall be
26 reviewed and either approved or denied ap-

1 proval by the district manager, pursuant to the
2 following provisions:

3 “(B) NOTIFICATION OF APPROVAL OR DE-
4 NIAL OF PROPOSED PROGRAM, PLAN OR PLAN
5 REVISION.—The district manager shall notify
6 the mine operator, in writing, of the approval or
7 denial of the proposed program, plan or plan
8 revision. A copy of the district manager’s writ-
9 ten notification shall be mailed to the represent-
10 ative of miners by the district manager.

11 “(C) FAILURE OF THE DISTRICT MANAGER
12 TO PROVIDE WRITTEN NOTIFICATION.—If the
13 district manager fails to notify a mine operator,
14 in writing, of the approval or denial of any pro-
15 posed program or plan within 30 days of the
16 mine operator’s submission, such proposed pro-
17 gram or plan shall be deemed approved. If a
18 district manager fails to notify a mine operator,
19 in writing, of the approval or denial of approval
20 of any proposed plan revision within 7 days of
21 the mine operator’s submission, such proposed
22 program or plan shall be deemed approved.

23 “(D) SPECIFICATION OF DEFICIENCIES
24 AND RECOMMENDED CHANGES.—When ap-
25 proval of any proposed program, plan or plan

1 revision is denied, the district manager’s writ-
2 ten notification shall—

3 “(i) specify the deficiencies in the
4 mine operator’s proposed program, plan, or
5 plan revision;

6 “(ii) recommend changes to eliminate
7 the specified deficiencies in the proposed
8 program, plan, or plan revision; and

9 “(iii) provide an opportunity for the
10 operator to schedule a meeting with the
11 district manager to discuss any specified
12 deficiencies in the proposed program, plan,
13 or plan revision.

14 “(E) PROCESS FOLLOWING MEETING.—
15 Following any meeting between the operator
16 and the district manager regarding any pro-
17 posed program, plan, or plan revision, the dis-
18 trict manager shall provide the mine operator
19 with a reasonable time period to resubmit the
20 proposed program, plan, or plan revision.

21 “(2) PLAN DISPUTE RESOLUTION.—

22 “(A) CONTEST.—In the event a district
23 manager denies approval of an operator’s pro-
24 posed program, plan, or plan revision, the oper-
25 ator may contest the decision of the district

1 manager to the Secretary. Any dispute between
2 the Secretary and an operator with respect to
3 the content of any program, plan or plan revision
4 of the mine operator shall be resolved on
5 an expedited basis.

6 “(B) DISPUTES.—In the event of a dispute
7 described in subparagraph (A), any technical citation
8 issued by the Secretary shall be immediately
9 referred to the Commission. The Secretary
10 and the mine operator shall submit all
11 relevant material regarding the dispute to the
12 Commission within 15 days of the date of the
13 referral. The Commission shall render its decision
14 with respect to the plan content dispute
15 within 15 days of the receipt of the submission.

16 “(C) FURTHER APPEALS.—A party adversely
17 affected by a decision under subparagraph
18 (B) may pursue all further available appeal
19 rights with respect to the citation involved,
20 except that inclusion of the disputed provision
21 of the plan shall not be limited by such appeal
22 unless such relief is requested by the operator
23 and permitted by the Commission.”

1 **TITLE III—PENALTIES**

2 **SEC. 301. CIVIL PENALTIES.**

3 (a) **MAXIMUM CIVIL PENALTIES.**—Section 110(a)(1)
4 (30 U.S.C. 820(a)(1)) is amended by inserting “including
5 any regulation promulgated under this Act,” after “this
6 Act,”.

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

10 “(3) Notwithstanding any other provision of this Act,
11 an operator of a coal or other mine that is in pattern sta-
12 tus under section 104(e) and that fails to meet the per-
13 formance benchmarks set forth by the Secretary under
14 section 104(e)(5)(A) during any performance review of the
15 mine following the first performance review shall be as-
16 sessed an increased civil penalty for any violation of this
17 Act, including any mandatory health or safety standard
18 or regulation promulgated under this Act. Such increased
19 penalty shall be twice the amount that would otherwise
20 be assessed for the violation under this Act, including the
21 regulations promulgated under this Act, subject to the
22 maximum civil penalty established for the violation under
23 this Act. This paragraph shall apply to violations at such
24 mine that occur during the period beginning after the
25 failed performance review following the first performance

1 review, and ending when the Secretary determines at a
 2 subsequent performance review that the mine meets the
 3 performance benchmarks under section 104(e)(5)(A).”.

4 (c) CIVIL PENALTY FOR RETALIATION.—Section
 5 110(a) (30 U.S.C. 820(a)) is further amended—

6 (1) by redesignating paragraph (4) as para-
 7 graph (5); and

8 (2) by inserting after paragraph (3) the fol-
 9 lowing:

10 “(4) If any person violates section 105(c), the Sec-
 11 retary shall propose, and the Commission shall assess, a
 12 civil penalty of not less than \$10,000 or more than
 13 \$100,000 for the first occurrence of such violation, and
 14 not less than \$20,000 or more than \$200,000 for any sub-
 15 sequent violation, during any 3-year period.”.

16 **SEC. 302. CIVIL AND CRIMINAL LIABILITY OF OFFICERS, DI-**
 17 **RECTORS, AND AGENTS.**

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

20 “(c) CIVIL AND CRIMINAL LIABILITY OF OFFICERS,
 21 DIRECTORS, AND AGENTS.—Whenever an operator vio-
 22 lates a provision of this Act, including any mandatory
 23 health or safety standard or regulation promulgated under
 24 this Act, or willfully violates or fails or refuses to comply
 25 with any order issued under this Act or any order incor-

1 porated in a final decision issued under this Act, any di-
2 rector, officer, or agent of such operator who willfully au-
3 thorized, ordered, or carried out such violation, failure, or
4 refusal, or any policy or practice that contributed to the
5 occurrence of a fatality shall be subject to the same civil
6 penalties, fines, and imprisonment that may be imposed
7 upon a person under this section.”.

8 **SEC. 303. CRIMINAL PENALTIES.**

9 (a) **WILLFUL VIOLATIONS.**—Section 110(d) (30
10 U.S.C. 820(d)) is amended by striking “\$500,000” and
11 inserting “\$1,000,000”.

12 (b) **CRIMINAL PENALTY FOR RETALIATION.**—Section
13 110(d) is further amended—

14 (1) by inserting “(1)” before “Any operator”;
15 and

16 (2) by adding at the end the following:

17 “(2) Whoever willfully takes any action that is di-
18 rectly or indirectly harmful to any person, including action
19 that interferes with the lawful employment or livelihood
20 of any person, because such person has provided an au-
21 thorized representative of the Secretary, the National
22 Mine Safety Board, or another law enforcement officer
23 with any information related to the existence of a health
24 or safety violation or an unhealthful or unsafe condition,
25 policy, or practice under this Act shall be fined under title

1 18, United States Code, imprisoned for not more than 5
2 years, or both.”.

3 (c) ADVANCE NOTICE OF INSPECTIONS.—

4 (1) IN GENERAL.—Section 110(e) (30 U.S.C.
5 820(e)) is amended—

6 (A) by striking “Unless” and inserting
7 “(1) Unless”; and

8 (B) by adding at the end the following:

9 “(2) Unless otherwise authorized by this Act, any op-
10 erator, agent or contractor of any operator, miner, inspec-
11 tor, employee of the Administration, or State mine inspec-
12 tor, that willfully gives, causes to give, or attempts to give
13 or cause to give advance notice of any inspection to be
14 conducted under this Act shall be fined under title 18,
15 United States Code, imprisoned for not more than 5 years,
16 or both.”.

17 (2) POSTING OF ADVANCE NOTICE PEN-
18 ALTIES.—Section 109 (30 U.S.C. 819) is amended
19 by adding at the end the following:

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

1 “(1) that giving, causing to give, or attempting
2 to give or cause to give advance notice of any inspec-
3 tion to be conducted under this Act is unlawful pur-
4 suant to section 110(e); and

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

7 (d) FALSE STATEMENTS AND REPRESENTATIONS.—
8 Section 110(f) (30 U.S.C. 820(f)) is amended by striking
9 “\$10,000” and inserting “\$50,000”.

10 **SEC. 304. CONFERENCE PROCESS FOR APPEALING PEN-**
11 **ALTIES; DELINQUENT PAYMENTS AND PRE-**
12 **JUDGMENT INTEREST.**

13 (a) CONFERENCE PROCESS.—Section 110 (30 U.S.C.
14 820) is amended by—

15 (1) redesignating subsection (l) as subsection
16 (m); and

17 (2) by inserting after subsection (k) the fol-
18 lowing:

19 “(l) OPERATOR CONFERENCE PROCESS.—

20 “(1) RIGHT TO REVIEW.—Prior to the assess-
21 ment of any penalty assessed under this section, the
22 operator shall be afforded the opportunity to review
23 with a designated Conference Litigation Representa-
24 tive of the Secretary each citation and order issued
25 during an inspection.

1 “(2) REQUEST FOR CONFERENCE; TIMELINE.—

2 Upon receipt of a citation or order issued under this
3 Act the operator shall have 15 days to request the
4 review described in paragraph (1) of any citation or
5 order issues during an inspection. The conference re-
6 quest must include a brief statement of the reason
7 why each citation or order should be afforded a con-
8 ference. Within 15 days following receipt of a re-
9 quest by the operator the Conference Litigation Rep-
10 representative shall schedule a meeting to review the ci-
11 tations or orders subject to the request. The Con-
12 ference Litigation Representative shall consider all
13 relevant information submitted in a timely manner
14 with respect to the violations or orders.

15 “(3) DECISION OF CONFERENCE LITIGATION
16 REPRESENTATIVE.—Within 15 days following the
17 conduct of conference, the Conference Litigation
18 Representative shall issue a decision affirming,
19 modifying, or vacating the citations or orders that
20 were the subject of the conference. The decision
21 shall be communicated to the operator, the issuing
22 inspector, and the district manager responsible for
23 the district within which the mine is located. In
24 making a decision, the Conference Litigation Rep-
25 resentative shall consult, as needed, with the Direc-

1 tor of the Mine Safety and Health Administration,
2 Office of Accountability, to which each Conference
3 Litigation Representative shall report.”.

4 (b) PRE-FINAL ORDER INTEREST.—Section 110(j)
5 (30 U.S.C. 820(j)) is amended by striking the second and
6 third sentences and inserting the following: “Pre-final
7 order interest on such penalties shall begin to accrue on
8 the date the operator contests a citation issued under this
9 Act, including any mandatory health or safety standard
10 or regulation promulgated under this Act, and shall end
11 upon the issuance of the final order. Such pre-final order
12 interest shall be calculated at the current underpayment
13 rate determined by the Secretary of the Treasury pursu-
14 ant to section 6621 of the Internal Revenue Code of 1986,
15 and shall be compounded daily. Post-final order interest
16 shall begin to accrue 30 days after the date a final order
17 of the Commission or the court is issued, and shall be
18 charged at the rate of 8 percent per annum.”.

19 (c) ENSURING PAYMENT OF PENALTIES.—

20 (1) AMENDMENT.—Section 110 (30 U.S.C.
21 820) is further amended by adding after subsection
22 (l) (as added by subsection (a)) the following:

23 “(m) ENSURING PAYMENTS OF PENALTIES.—

24 “(1) DELINQUENT PAYMENT LETTER.—If the
25 operator of a coal or other mine fails to pay any civil

1 penalty assessment that has become a final order of
2 the Commission or a court within 90 days after such
3 assessment became a final order, the Secretary shall
4 send the operator a letter advising the operator of
5 the consequences under this subsection of such fail-
6 ure to pay. The letter shall also advise the operator
7 of the opportunity to enter into or modify a payment
8 plan with the Secretary based upon a demonstrated
9 inability to pay, the procedure for entering into such
10 plan, and the consequences of not entering into or
11 not complying with such plan.

12 “(2) WITHDRAWAL ORDERS FOLLOWING FAIL-
13 URE TO PAY.—If an operator that receives a letter
14 under paragraph (1) has not paid the assessment by
15 the date that is 180 days after such assessment be-
16 came a final order and has not entered into a pay-
17 ment plan with the Secretary, the Secretary shall
18 issue an order requiring such operator to cause all
19 persons, except those referred to in section 104(c),
20 to be withdrawn from, and to be prohibited from en-
21 tering, the mine that is covered by the final order
22 described in paragraph (1), until the operator pays
23 such assessment in full (including interest and ad-
24 ministrative costs) or enters into a payment plan
25 with the Secretary. If such operator enters into a

1 payment plan with the Secretary and at any time
2 fails to comply with the terms specified in such pay-
3 ment plan, the Secretary shall issue an order requir-
4 ing such operator to cause all persons, except those
5 referred to in section 104(c), to be withdrawn from
6 the mine that is covered by such final order, and to
7 be prohibited from entering such mine, until the op-
8 erator rectifies the noncompliance with the payment
9 plan in the manner specified in such payment
10 plan.”.

11 (2) APPLICABILITY AND EFFECTIVE DATE.—
12 The amendment made by paragraph (1) shall apply
13 to all unpaid civil penalty assessments under the
14 Federal Mine Safety and Health Act of 1977 (30
15 U.S.C. 801 et seq.), except that, for any unpaid civil
16 penalty assessment that became a final order of the
17 Commission or a court before the date of enactment
18 of this Act, the time periods under section 110(n) of
19 the Federal Mine Safety and Health Act of 1977 (as
20 amended) (30 U.S.C. 820(n)) shall be calculated as
21 beginning on the date of enactment of this Act in-
22 stead of on the date of the final order.

1 **TITLE IV—WORKER RIGHTS AND**
2 **PROTECTIONS**

3 **SEC. 401. PROTECTION FROM RETALIATION.**

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

6 “(c) PROTECTION FROM RETALIATION.—

7 “(1) RETALIATION PROHIBITED.—

8 “(A) RETALIATION FOR COMPLAINT OR
9 TESTIMONY.—No person shall discharge or in
10 any manner discriminate against or cause to be
11 discharged or cause discrimination against or
12 otherwise interfere with the exercise of the stat-
13 utory rights of any miner or other employee of
14 an operator, representative of miners, or appli-
15 cant for employment, because—

16 “(i) such miner or other employee,
17 representative, or applicant for employ-
18 ment—

19 “(I) has filed or made a com-
20 plaint, or is about to file or make a
21 complaint, including a complaint noti-
22 fying the operator or the operator’s
23 agent, or the representative of the
24 miners at the coal or other mine of an

1 alleged danger or safety or health vio-
2 lation in a coal or other mine;

3 “(II) instituted or caused to be
4 instituted, or is about to institute or
5 cause to be instituted, any proceeding
6 under or related to this Act or has
7 testified or is about to testify in any
8 such proceeding or because of the ex-
9 ercise by such miner or other em-
10 ployee, representative, or applicant for
11 employment on behalf of him or her-
12 self or others of any right afforded by
13 this Act;

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

18 “(IV) refused to violate any pro-
19 vision of this Act; or

20 “(ii) such miner is the subject of med-
21 ical evaluations and potential transfer
22 under a standard published pursuant to
23 section 101.

24 “(B) RETALIATION FOR REFUSAL TO PER-
25 FORM DUTIES.—

1 “(i) IN GENERAL.—No person shall
2 discharge or in any manner discriminate
3 against a miner or other employee of an
4 operator for refusing to perform the min-
5 er’s or other employee’s duties if the miner
6 or other employee has a good-faith and
7 reasonable belief that performing such du-
8 ties would pose a safety or health hazard
9 to the miner or other employee or to any
10 other miner or employee.

11 “(ii) STANDARD.—For purposes of
12 clause (i), the circumstances causing the
13 miner’s or other employee’s good-faith be-
14 lief that performing such duties would pose
15 a safety or health hazard shall be of such
16 a nature that a reasonable person, under
17 the circumstances confronting the miner or
18 other employee, would conclude that there
19 is such a hazard. In order to qualify for
20 protection under this paragraph, the miner
21 or other employee, when practicable, shall
22 have communicated or attempted to com-
23 municate the safety or health concern to
24 the operator and have not received from

1 the operator a response reasonably cal-
2 culated to allay such concern.

3 “(2) COMPLAINT.—Any miner or other em-
4 ployee or representative of miners or applicant for
5 employment who believes that he or she has been
6 discharged, disciplined, or otherwise discriminated
7 against by any person in violation of paragraph (1)
8 may file a complaint with the Secretary alleging
9 such discrimination not later than 90 days after the
10 later of—

11 “(A) the last date on which an alleged vio-
12 lation of paragraph (1) occurs; or

13 “(B) the date on which the miner or other
14 employee or representative knows or should rea-
15 sonably have known that such alleged violation
16 occurred.

17 “(3) INVESTIGATION AND HEARING.—

18 “(A) COMMENCEMENT OF INVESTIGATION
19 AND INITIAL DETERMINATION.—Upon receipt
20 of such complaint, the Secretary shall forward
21 a copy of the complaint to the respondent, and
22 shall commence an investigation within 15 days
23 of the Secretary’s receipt of the complaint, and,
24 as soon as practicable after commencing such
25 investigation, make the determination required

1 under subparagraph (B) regarding the rein-
2 statement of the miner or other employee.

3 “(B) REINSTATEMENT.—If the Secretary
4 finds that such complaint was not frivolously
5 brought, the Commission, on an expedited basis
6 upon application of the Secretary, shall order
7 the immediate reinstatement of the miner or
8 other employee until there has been a final
9 Commission order disposing of the underlying
10 complaint of the miner or other employee. If ei-
11 ther the Secretary or the miner or other em-
12 ployee pursues the underlying complaint, such
13 reinstatement shall remain in effect until the
14 Commission has disposed of such complaint on
15 the merits, regardless of whether the Secretary
16 pursues such complaint by filing a complaint
17 under subparagraph (D) or the miner or other
18 employee pursues such complaint by filing an
19 action under paragraph (4). If neither the Sec-
20 retary nor the miner or other employee pursues
21 the underlying complaint within the periods
22 specified in paragraph (4), such reinstatement
23 shall remain in effect until such time as the
24 Commission may, upon motion of the operator
25 and after providing notice and an opportunity

1 to be heard to the parties, vacate such com-
2 plaint for failure to prosecute.

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

6 “(i) providing the respondent an op-
7 portunity to submit to the Secretary a
8 written response to the complaint and to
9 present statements from witnesses or pro-
10 vide evidence; and

11 “(ii) providing the complainant an op-
12 portunity to receive any statements or evi-
13 dence provided to the Secretary and rebut
14 any statements or evidence.

15 “(D) ACTION BY THE SECRETARY.—If,
16 upon such investigation, the Secretary deter-
17 mines that the provisions of this subsection
18 have been violated, the Secretary shall imme-
19 diately file a complaint with the Commission,
20 with service upon the alleged violator and the
21 miner or other employee or representative of
22 miners alleging such discrimination or inter-
23 ference and propose an order granting appro-
24 priate relief.

1 “(E) ACTION OF THE COMMISSION.—The
2 Commission shall afford an opportunity for a
3 hearing (in accordance with section 554 of title
4 5, United States Code, but without regard to
5 subsection (a)(3) of such section) and there-
6 after shall issue an order, based upon findings
7 of fact, affirming, modifying, or vacating the
8 Secretary’s proposed order, or directing other
9 appropriate relief. Such order shall become final
10 30 days after its issuance. The complaining
11 miner or other employee, representative, or ap-
12 plicant for employment may present additional
13 evidence on his or her own behalf during any
14 hearing held pursuant to this paragraph.

15 “(F) RELIEF.—The Commission shall have
16 authority in such proceedings to require a per-
17 son committing a violation of this subsection to
18 take such affirmative action to abate the viola-
19 tion and prescribe a remedy as the Commission
20 considers appropriate, including—

21 “(i) the rehiring or reinstatement of
22 the miner or other employee with back pay
23 and interest and without loss of position or
24 seniority, and restoration of the terms,

1 rights, conditions, and privileges associated
2 with the complainant's employment;

3 “(ii) any other compensatory and con-
4 sequential damages sufficient to make the
5 complainant whole, and exemplary dam-
6 ages where appropriate; and

7 “(iii) expungement of all warnings,
8 reprimands, or derogatory references that
9 have been placed in paper or electronic
10 records or databases of any type relating
11 to the actions by the complainant that
12 gave rise to the unfavorable personnel ac-
13 tion, and, at the complainant's direction,
14 transmission of a copy of the decision on
15 the complaint to any person whom the
16 complainant reasonably believes may have
17 received such unfavorable information.

18 “(4) NOTICE TO AND ACTION OF COMPLAIN-
19 ANT.—

20 “(A) NOTICE TO COMPLAINANT.—Not
21 later than 90 days after the receipt of a com-
22 plaint filed under paragraph (2), the Secretary
23 shall notify, in writing, the miner or other em-
24 ployee, applicant for employment, or representa-

1 tive of miners of his determination whether a
2 violation has occurred.

3 “(B) ACTION OF COMPLAINANT.—If the
4 Secretary, upon investigation, determines that
5 the provisions of this subsection have not been
6 violated, the complainant shall have the right,
7 within 30 days after receiving notice of the Sec-
8 retary’s determination, to file an action in his
9 or her own behalf before the Commission,
10 charging discrimination or interference in viola-
11 tion of paragraph (1).

12 “(C) HEARING AND DECISION.—The Com-
13 mission shall afford an opportunity for a hear-
14 ing (in accordance with section 554 of title 5,
15 United States Code, but without regard to sub-
16 section (a)(3) of such section), and thereafter
17 shall issue an order, based upon findings of
18 fact, dismissing or sustaining the complainant’s
19 charges and, if the charges are sustained,
20 granting such relief as it deems appropriate as
21 described in paragraph (3)(D). Such order shall
22 become final 30 days after its issuance.

23 “(5) BURDEN OF PROOF.—In adjudicating a
24 complaint pursuant to this subsection, the Commis-
25 sion may determine that a violation of paragraph (1)

1 has occurred only if the complainant demonstrates
2 that any conduct described in paragraph (1) with re-
3 spect to the complainant was a contributing factor
4 in the adverse action alleged in the complaint. A de-
5 cision or order that is favorable to the complainant
6 shall not be issued pursuant to this subsection if the
7 respondent demonstrates by clear and convincing
8 evidence that the respondent would have taken the
9 same adverse action in the absence of such conduct.

10 “(6) ATTORNEYS’ FEES.—Whenever an order is
11 issued sustaining the complainant’s charges under
12 this subsection, a sum equal to the aggregate
13 amount of all costs and expenses, including attor-
14 ney’s fees, as determined by the Commission to have
15 been reasonably incurred by the complainant for, or
16 in connection with, the institution and prosecution of
17 such proceedings shall be assessed against the per-
18 son committing such violation. The Commission
19 shall determine whether such costs and expenses
20 were reasonably incurred by the complainant without
21 reference to whether the Secretary also participated
22 in the proceeding.

23 “(7) EXPEDITED PROCEEDINGS; JUDICIAL RE-
24 VIEW.—Proceedings under this subsection shall be
25 expedited by the Secretary and the Commission. Any

1 order issued by the Commission under this sub-
2 section shall be subject to judicial review in accord-
3 ance with section 106. Violations by any person of
4 paragraph (1) shall be subject to the provisions of
5 sections 108 and 110(a)(4).

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

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

16 **SEC. 402. PROTECTION FROM LOSS OF PAY.**

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

19 **“SEC. 111. ENTITLEMENT OF MINERS.**

20 “(a) PROTECTION FROM LOSS OF PAY.—

21 “(1) WITHDRAWAL ORDER.—If a coal or other
22 mine or area of such mine is closed by an order
23 issued under section 103, 104, 107, 108, or 110 all
24 miners who are idled by such order shall be entitled
25 to full compensation by the operator at their regular

1 rates of pay and in accordance with their regular
2 schedules of pay for the remainder of the current
3 shift and the next 8 hour shift for which they are
4 idled. Nothing in this section shall prevent the oper-
5 ator of a coal or other mine from transferring min-
6 ers from the area of the mine effected by the with-
7 drawal order to another area of the mine not under
8 the withdrawal order.

9 “(2) REFUSAL TO COMPLY.—Whenever an op-
10 erator violates or fails or refuses to comply with any
11 order issued under section 103, 104, 107, 108, or
12 110, all miners employed at the affected mine who
13 would have been withdrawn from, or prevented from
14 entering, such mine or area thereof as a result of
15 such order shall be entitled to full compensation by
16 the operator at their regular rates of pay, in addi-
17 tion to pay received for work performed after such
18 order was issued, for the period beginning when
19 such order was issued and ending when such order
20 is complied with, vacated, terminated, or up to 10
21 days.

22 “(b) ENFORCEMENT.—

23 “(1) COMMISSION ORDERS.—The Commission
24 shall have authority to order compensation due
25 under this section upon the filing of a complaint by

1 a miner or his representative and after opportunity
 2 for hearing subject to section 554 of title 5, United
 3 States Code. Whenever the Commission issues an
 4 order sustaining the complaint under this subsection
 5 in whole or in part, the Commission shall award the
 6 complainant reasonable attorneys' fees and costs.

7 “(2) FAILURE TO PAY COMPENSATION DUE.—
 8 Consistent with the authority of the Secretary to
 9 order miners withdrawn from a mine under this Act,
 10 the Secretary shall order a mine that has been sub-
 11 ject to a withdrawal order under section 103, 104,
 12 107, 108, or 110, and has reopened, to be closed
 13 again if compensation in accordance with the provi-
 14 sions of this section is not paid by the end of the
 15 next regularly scheduled payroll period following the
 16 lifting of a withdrawal order.”.

17 **TITLE V—MODERNIZING**
 18 **HEALTH AND SAFETY STAND-**
 19 **ARDS**

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

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

23 “(3)(A) Not later than 30 days after the issuance of
 24 the interim final rules promulgated under subparagraph
 25 (C), each operator of an underground coal mine shall im-

1 plement a communication program at the underground
2 coal mine to ensure that each miner entering the mine
3 is made aware, at the start of such miner’s shift, of the
4 current conditions of the mine, including—

5 “(i) any conditions that are hazardous; and

6 “(ii) the general conditions of that miner’s as-
7 signed working section or other area.

8 “(B) Not later than 90 days after the date of enact-
9 ment of the Mine Safety Accountability and Improved
10 Protection Act, the Secretary shall promulgate interim
11 final rules implementing the requirements of subpara-
12 graphs (A) and (B).”.

13 **SEC. 502. ATMOSPHERIC MONITORING SYSTEMS.**

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

16 “(u) ATMOSPHERIC MONITORING SYSTEMS.—

17 “(1) NIOSH RECOMMENDATIONS.—Not later
18 than 1 year after the date of enactment of the Mine
19 Safety Accountability and Improved Protection Act,
20 the Director of the National Institute for Occupa-
21 tional Safety and Health, acting through the Office
22 of Mine Safety and Health Research, in consulta-
23 tion, including through technical working groups
24 with operators, vendors, State mine safety agencies,
25 the Secretary, and labor representatives of miners,

1 shall issue recommendations to the Secretary regard-
2 ing—

3 “(A) how to ensure that atmospheric moni-
4 toring systems are utilized in the underground
5 coal mining industry to maximize the health
6 and safety of underground coal miners; and

7 “(B) the implementation of redundant sys-
8 tems, such as the bundle tubing system, that
9 can continuously monitor the mine atmosphere
10 following incidents such as fires, explosions, en-
11 trapments, and inundations.

12 “(2) ATMOSPHERIC MONITORING SYSTEM REG-
13 ULATIONS.—Not later than 1 year following the re-
14 ceipt of the recommendations described in paragraph
15 (1), the Secretary shall promulgate regulations re-
16 quiring that each operator of an underground coal
17 mine install atmospheric monitoring systems, con-
18 sistent with such recommendations, that—

19 “(A) protect miners where the miners nor-
20 mally work and travel;

21 “(B) provide real-time information regard-
22 ing methane and carbon monoxide levels, and
23 airflow direction, as appropriate, with sensing,
24 annunciating, and recording capabilities; and

1 “(C) can, to the maximum extent prac-
2 ticable, withstand explosions and fires.”.

3 **SEC. 503. TECHNOLOGY RELATED TO RESPIRABLE DUST.**

4 Section 202(d) (30 U.S.C. 842(d)) is amended by
5 striking “of Health and Human Services”.

6 **SEC. 504. REFRESHER TRAINING ON MINER RIGHTS AND**
7 **RESPONSIBILITIES.**

8 (a) IN GENERAL.—Section 115(a)(3) (30 U.S.C.
9 825(a)(3)) is amended to read as follows:

10 “(3) all miners shall receive not less than 9
11 hours of refresher training not less frequently than
12 once every 12 months, and such training shall in-
13 clude one hour of training on the statutory rights
14 and responsibilities of miners and their representa-
15 tives under this Act and other applicable Federal
16 and State law, pursuant to a program of instruction
17 developed by the Secretary and delivered by the
18 mine operator or by a trainer approved by the Sec-
19 retary;”.

20 (b) TIMING OF INITIAL STATUTORY RIGHTS TRAIN-
21 ING.—Notwithstanding section 115 of the Federal Mine
22 Safety and Health Act (as amended by subsection (a)) (30
23 U.S.C. 825) or the health and safety training program ap-
24 proved under such section, an operator shall ensure that
25 all miners already employed by the operator on the date

1 of enactment of this Act shall receive the one hour of stat-
2 utory rights and responsibilities training described in sec-
3 tion 115(a)(3) of such Act not later than 180 days after
4 such date.

5 **SEC. 505. AUTHORITY TO MANDATE ADDITIONAL TRAINING.**

6 (a) IN GENERAL.—Section 115 (30 U.S.C. 825) is
7 further amended by redesignating subsection (e) as sub-
8 section (f) and inserting after subsection (d) the following:

9 “(e) AUTHORITY TO MANDATE ADDITIONAL TRAIN-
10 ING.—The Secretary is authorized to require that an oper-
11 ator of a coal mine provide additional training beyond
12 what is otherwise required by law, and specifying the time
13 within which such training shall be provided, if the Sec-
14 retary finds that—

15 “(1)(A) an operator has shown a history of in-
16 adequately training its miners in mine health and
17 safety;

18 “(B) a serious or fatal accident has occurred at
19 such mine; or

20 “(C) such mine has experienced accident and
21 injury rates, citations for violations of this Act (in-
22 cluding mandatory health or safety standards or reg-
23 ulations promulgated under this Act), citations for
24 significant and substantial violations, or withdrawal

1 orders issued under this Act at a rate above the av-
2 erage for mines of similar size and type; and

3 “(2) additional training would benefit the
4 health and safety of miners at the mine.”.

5 (b) CONFORMING AMENDMENTS.—Section 104(g)(2)
6 (30 U.S.C. 814(g)(2)) is amended by striking “under
7 paragraph (1)” both places it appears and inserting
8 “under paragraph (1) or under section 115(e)”.

9 **SEC. 506. CERTIFICATION OF PERSONNEL.**

10 (a) IN GENERAL.—Title I is further amended by add-
11 ing at the end the following:

12 **“SEC. 118. CERTIFICATION OF PERSONNEL.**

13 “(a) CERTIFICATION REQUIRED.—Any person who is
14 authorized or designated by the operator of a coal mine
15 to perform any duties or provide any training that this
16 Act, including a mandatory health or safety standard or
17 regulation promulgated pursuant to this Act, requires to
18 be performed or provided by a certified, registered, quali-
19 fied, or otherwise approved person, shall be permitted to
20 perform such duties or provide such training only if such
21 person has a current certification, registration, qualifica-
22 tion, or approval to perform such duties or provide such
23 training consistent with the requirements of this section.

24 “(b) ESTABLISHMENT OF CERTIFICATION REQUIRE-
25 MENTS AND PROCEDURES.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of the Mine Safety Account-
3 ability and Improved Protection Act, the Secretary
4 shall issue mandatory standards to establish—

5 “(A) requirements for such certification,
6 registration, qualification, or other approval, in-
7 cluding the experience, examinations, and ref-
8 erences that may be required as appropriate;

9 “(B) time limits for such certifications and
10 procedures for obtaining and renewing such cer-
11 tification, registration, qualification, or other
12 approval; and

13 “(C) procedures and criteria for revoking
14 such certification, registration, qualification, or
15 other approval, including procedures that en-
16 sure that the Secretary responds to requests for
17 revocation.

18 “(2) COORDINATION WITH STATES.—In devel-
19 oping such standards, the Secretary shall consult
20 with States that have miner certification programs
21 to ensure effective coordination with existing State
22 standards and requirements for certification. The
23 standards required under paragraph (1) may provide
24 that the certification, registration, qualification, or
25 other approval of the State in which the coal or

1 other mine is located satisfies the requirement of
2 subsection (a) if the State's program of certification,
3 registration, qualification, or other approval is no
4 less stringent than the standards established by the
5 Secretary under paragraph (1).

6 “(c) OPERATOR FEES FOR CERTIFICATION.—

7 “(1) ASSESSMENT AND COLLECTION.—Begin-
8 ning 180 days after the date of enactment of the
9 Mine Safety Accountability and Improved Protection
10 Act, the Secretary shall assess and collect fees, in
11 accordance with this subsection, from each operator
12 for each person certified under this section. Fees
13 shall be assessed and collected in amounts deter-
14 mined by the Secretary as necessary to fund the cer-
15 tification programs established under this section.

16 “(2) MINE SAFETY AND HEALTH CERTIFI-
17 CATION FUND.—There is established in the Treasury
18 of the United States a separate account for the de-
19 posit of fees collected under this subsection to be
20 known as the Mine Safety and Health Certification
21 Fund. The Secretary shall deposit any fees collected
22 pursuant to paragraph (1) into the fund.

23 “(3) USE.—Amounts in the Mine Safety and
24 Health Certification Fund shall be available to the
25 Secretary, as provided in paragraph (4), for making

1 expenditures to carry out the certification programs
2 established under this subsection.

3 “(4) AUTHORIZATION OF APPROPRIATIONS.—In
4 addition to funds appropriated under section 114,
5 there is authorized to be appropriated from the Mine
6 Safety and Health Certification Fund to the Assist-
7 ant Secretary for Mine Safety and Health for each
8 fiscal year in which fees are collected under para-
9 graph (1) an amount equal to the total amount col-
10 lected during the previous fiscal year from fees as-
11 sessed pursuant to this subsection. Such amounts
12 are authorized to remain available until expended.

13 “(5) CREDITING AND AVAILABILITY OF FEES.—
14 Fees authorized and collected under this subsection
15 shall be available for obligation only to the extent
16 and in the amount provided in advance in appropria-
17 tions Acts.

18 “(d) CITATION; WITHDRAWAL ORDER.—Any oper-
19 ator who permits a person to perform any of the health
20 or safety related functions described in subsection (a)
21 without a current certification which meets the require-
22 ments of this section shall be considered to have com-
23 mitted an unwarrantable failure under section 104(d)(1),
24 and the Secretary shall issue an order requiring that the

1 miner be withdrawn or reassigned to duties that do not
2 require such certification.”.

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

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

6 (2) in subsection (c), by redesignating para-
7 graphs (1) through (3) as subparagraphs (A)
8 through (C), respectively;

9 (3) in subsection (g), by redesignating para-
10 graphs (1) through (4) as subparagraphs (A)
11 through (D), respectively; and

12 (4) by redesignating subsections (e) through (j)
13 as paragraphs (1) through (8), respectively.

14 **TITLE VI—ADDITIONAL MINE**
15 **SAFETY PROVISIONS**

16 **SEC. 601. DEFINITIONS.**

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

19 “(d) ‘operator’ means—

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

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

23 “(B) controls such mine by making or hav-
24 ing the authority to make management or oper-

1 ational decisions that affect, directly or indi-
2 rectly, the health or safety at such mine; or

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

5 (b) DEFINITION OF AGENT.—Section 3(e) (30 U.S.C.
6 802(e)) is amended by striking “the miners” and inserting
7 “any miner”.

8 (c) DEFINITION OF MINER.—Section 3(g) (30 U.S.C.
9 802(g)) is amended by inserting after “or other mine” the
10 following: “, and includes any individual who is not cur-
11 rently working in a coal or other mine but would be cur-
12 rently working in such mine, but for an accident in such
13 mine”.

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

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

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

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

23 (4) by adding at the end the following:

24 “(p) ‘significant and substantial violation’ means a
25 violation of this Act, including any mandatory health or

1 safety standard or regulation promulgated under this Act,
2 that is of such nature as could significantly and substan-
3 tially contribute to the cause and effect of a coal or other
4 mine safety or health hazard as described in section
5 104(d) and there is a substantial probability that such a
6 violation could result in death.”.

7 **SEC. 602. ASSISTANCE TO STATES.**

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

9 (1) in subsection (a)—

10 (A) in the matter preceding paragraph (1),
11 by striking “, in coordination with the Sec-
12 retary of Health, Education, and Welfare and
13 the Secretary of the Interior,”;

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

16 (C) in paragraph (3), by striking the pe-
17 riod and inserting “; and”; and

18 (D) by adding at the end the following:

19 “(4) to assist such State in developing and im-
20 plementing any certification program for coal or
21 other mines required for compliance with section
22 118.”; and

23 (2) in subsection (h), by striking “\$3,000,000
24 for fiscal year 1970, and \$10,000,000 in each suc-

1 ceeding fiscal year” and inserting “\$20,000,000 for
2 each fiscal year”.

3 **SEC. 603. AMENDMENTS RELATING TO ELIGIBILITY FOR**
4 **SCHOLARSHIP PROGRAM.**

5 Section 515 (30 U.S.C. 964) is amended—

6 (1) in subsection (b)(3), by striking subpara-
7 graph (B) and redesignating subparagraphs (C) and
8 (D) as subparagraphs (B) and (C), respectively;

9 (2) in subsection (c)(3), by striking subpara-
10 graph (B) and redesignating subparagraphs (C) and
11 (D) as subparagraphs (B) and (C), respectively; and

12 (3) in subsection (d)(3)—

13 (A) in subparagraph (A), by inserting
14 “and” after the semicolon; and

15 (B) by striking subparagraph (B) and re-
16 designating subparagraph (C) as subparagraph
17 (B).

18 **SEC. 604. ADDITIONAL TRAINING OF MINE INSPECTORS.**

19 Beginning during the 1 year period after the date of
20 enactment of this Act, and each year thereafter, the Sec-
21 retary of Labor shall require that each mine inspector con-
22 ducting inspections under the Federal Mines Safety and
23 Health Act of 1977 receive a full additional week of train-
24 ing, in addition to the training that was provided to or

1 required of such inspectors prior to the date of enactment
2 of this Act.

3 **SEC. 605. REPORT ON STAFFING NEEDS OF THE MINE SAFE-**
4 **TY AND HEALTH ADMINISTRATION.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the Secretary of Labor shall transmit
7 a report to Congress detailing any specific need for addi-
8 tional inspectors or other employees of the Mine Safety
9 and Health Administration in order for the Administra-
10 tion to carry out and fulfill the purposes of this Act. Such
11 report shall include specific requests for additional appro-
12 priations, if so determined by the Secretary.

13 **SEC. 606. BUDGET NEUTRALITY; OFFSET.**

14 (a) **OFFSET.**—Prior to being appropriated, additional
15 amounts authorized by the amendments made by this Act
16 shall be fully offset by a reduction to another appropria-
17 tion, as the House and Senate Committees on Appropria-
18 tions consider appropriate.

19 (b) **BUDGET CONTROL ACT.**—Nothing in this Act or
20 the amendments made by this Act shall be interpreted to
21 violate the budgetary caps enacted in the Budget Control
22 Act of 2011 (Public Law 112–25).

○