

Calendar No. 439109TH CONGRESS
2^D SESSION**S. 2803**

To amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2006

Mr. ENZI (for himself, Mr. KENNEDY, Mr. ISAKSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BYRD, Mr. DEWINE, Mr. SANTORUM, Mr. SPECTER, Mr. MCCONNELL, Mr. BUNNING, and Mr. OBAMA) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

MAY 23, 2006

Reported by Mr. FRIST for Mr. ENZI, with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Mine Improvement and
3 New Emergency Response Act of 2006” or the “MINER
4 Act”.

5 **SEC. 2. EMERGENCY RESPONSE.**

6 Section 316 of the Federal Mine Safety and Health
7 Act of 1977 (30 U.S.C. 876) is amended—

8 (1) in the section heading by adding at the end
9 the following: “AND EMERGENCY RESPONSE PLANS”;

10 (2) by striking “Telephone” and inserting “(a)
11 IN GENERAL.—Telephone”; and

12 (3) by adding at the end the following:

13 “(b) ACCIDENT PREPAREDNESS AND RESPONSE.—

14 “(1) IN GENERAL.—Each underground coal
15 mine operator shall carry out on a continuing basis
16 a program to improve accident preparedness and re-
17 sponse at each mine.

18 “(2) RESPONSE AND PREPAREDNESS PLAN.—

19 “(A) IN GENERAL.—Not later than 60
20 days after the date of enactment of the Mine
21 Improvement and New Emergency Response
22 Act of 2006, each underground coal mine oper-
23 ator shall develop and adopt a written accident
24 response plan that complies with this subsection
25 with respect to each mine of the operator, and
26 periodically update such plans to reflect

1 changes in operations in the mine, advances in
2 technology, or other relevant considerations.
3 Each such operator shall make the accident re-
4 sponse plan available to the miners and the
5 miners' representatives.

6 “(B) PLAN REQUIREMENTS.—An accident
7 response plan under subparagraph (A) shall—

8 “(i) provide for the evacuation of all
9 individuals endangered by an emergency;
10 and

11 “(ii) provide for the maintenance of
12 individuals trapped underground in the
13 event that miners are not able to evacuate
14 the mine.

15 “(C) PLAN APPROVAL.—The accident re-
16 sponse plan under subparagraph (A) shall be
17 subject to review and approval by the Secretary.
18 In determining whether to approve a particular
19 plan the Secretary shall take into consideration
20 all comments submitted by miners or their rep-
21 resentatives. Approved plans shall—

22 “(i) afford miners a level of safety
23 protection at least consistent with the ex-
24 isting standards, including standards man-
25 dated by law and regulation;

1 “(ii) reflect the most recent credible
2 scientific research;

3 “(iii) be technologically feasible; make
4 use of current commercially available tech-
5 nology; and account for the specific phys-
6 ical characteristics of the mine; and

7 “(iv) reflect the improvements in mine
8 safety gained from experience under this
9 Act and other worker safety and health
10 laws.

11 “(D) PLAN REVIEW.—The accident re-
12 sponse plan under subparagraph (A) shall be
13 reviewed periodically, but at least every 6
14 months, by the Secretary. In such periodic re-
15 views, the Secretary shall consider all comments
16 submitted by miners and miners’ representa-
17 tives and intervening advancements in science
18 and technology that could be implemented to
19 enhance miners’ ability to evacuate or otherwise
20 survive in an emergency.

21 “(E) PLAN CONTENT-GENERAL REQUIRE-
22 MENTS.—To be approved under subparagraph
23 (C), an accident response plan shall include the
24 following:

1 “(i) POST-ACCIDENT COMMUNICA-
2 TIONS.—The plan shall provide for a re-
3 dundant means of communication with the
4 surface for persons underground, such as
5 secondary telephone or equivalent two-way
6 communication.

7 “(ii) POST-ACCIDENT TRACKING.—
8 Consistent with commercially available
9 technology and with the physical con-
10 straints, if any, of the mine, the plan shall
11 provide for above ground personnel to de-
12 termine the current, or immediately pre-ac-
13 cident, location of all underground per-
14 sonnel. Any system so utilized shall be
15 functional, reliable, and calculated to re-
16 main serviceable in a post-accident setting.

17 “(iii) POST-ACCIDENT BREATHABLE
18 AIR.—The plan shall provide for—

19 “(I) emergency supplies of
20 breathable air for individuals trapped
21 underground sufficient to maintain
22 such individuals for a sustained period
23 of time;

24 “(II) caches of self-rescuers pro-
25 viding in the aggregate not less than

1 2 hours for each miner to be kept in
2 escapeways from the deepest work
3 area to the surface at a distance of no
4 further than an average miner could
5 walk in 30 minutes;

6 “(III) a maintenance schedule for
7 checking the reliability of self res-
8 cuers, retiring older self-rescuers first,
9 and introducing new self-rescuer tech-
10 nology, such as units with inter-
11 changeable air or oxygen cylinders not
12 requiring doffing to replenish airflow
13 and units with supplies of greater
14 than 60 minutes, as they are approved
15 by the Administration and become
16 available on the market; and

17 “(IV) training for each miner in
18 proper procedures for donning self-
19 rescuers, switching from one unit to
20 another, and ensuring a proper fit.

21 “(iv) ~~POST-ACCIDENT LIFELINES.—~~

22 The plan shall provide for the use of
23 flame-resistant directional lifelines or
24 equivalent systems in escapeways to enable
25 evacuation. The flame-resistance require-

1 ment of this clause shall apply upon the re-
2 placement of existing lifelines, or, in the
3 ease of lifelines in working sections, upon
4 the earlier of the replacement of such life-
5 lines or 3 years after the date of enact-
6 ment of the Mine Improvement and New
7 Emergency Response Act of 2006.

8 “(v) TRAINING.—The plan shall pro-
9 vide a training program for emergency pro-
10 cedures described in the plan which will
11 not diminish the requirements for manda-
12 tory health and safety training currently
13 required under section 115.

14 “(vi) LOCAL COORDINATION.—The
15 plan shall set out procedures for coordina-
16 tion and communication between the oper-
17 ator, mine rescue teams, and local emer-
18 gency response personnel and make provi-
19 sions for familiarizing local rescue per-
20 sonnel with surface functions that may be
21 required in the course of mine rescue work.

22 “(F) PLAN CONTENT-SPECIFIC REQUIRE-
23 MENTS.—

24 “(i) IN GENERAL.—In addition to the
25 content requirements contained in subpara-

1 graph (E); and subject to the consider-
2 ations contained in subparagraph (C), the
3 Secretary may make additional plan re-
4 quirements with respect to any of the con-
5 tent matters:

6 “(ii) POST ACCIDENT COMMUNICA-
7 TIONS.—Not later than 3 years after the
8 date of enactment of the Mine Improve-
9 ment and New Emergency Response Act of
10 2006, a plan shall, to be approved, provide
11 for post accident communication between
12 underground and surface personnel via a
13 wireless two-way medium, and provide for
14 an electronic tracking system permitting
15 surface personnel to determine the location
16 of any persons trapped underground or set
17 forth within the plan the reasons such pro-
18 visions can not be adopted. Where such
19 plan sets forth the reasons such provisions
20 can not be adopted, the plan shall also set
21 forth the operator’s alternative means of
22 compliance. Such alternative shall approxi-
23 mate, as closely as possible, the degree of
24 functional utility and safety protection pro-

1 vided by the wireless two-way medium and
2 tracking system referred to in this subpart.

3 “(G) 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 or any refusal by the Secretary to ap-
8 prove such a plan shall be resolved on an
9 expedited basis.

10 “(ii) DISPUTES.—In the event of a
11 dispute or refusal described in clause (i),
12 the Secretary shall issue a technical cita-
13 tion which shall be immediately referred to
14 a Department of Labor Administrative
15 Law Judge. The Secretary and the oper-
16 ator shall submit all relevant material re-
17 garding the dispute to the Administrative
18 Law Judge within 15 days of the date of
19 the referral. The Administrative Law
20 Judge shall render his or her decision with
21 respect to the plan content dispute within
22 15 days of the receipt of the submission.

23 “(iii) FURTHER APPEALS.—A party
24 adversely affected by a decision under
25 clause (ii) may pursue all further available

1 appeal rights with respect to the citation
2 involved, except that inclusion of the dis-
3 puted provision in the plan will not be lim-
4 ited by such appeal unless such relief is re-
5 quested by the operator and permitted by
6 the Administrative Law Judge.

7 “(iv) RULE OF CONSTRUCTION.—

8 Nothing in this subparagraph shall be con-
9 strued to modify the authority of the Sec-
10 retary to issue citations or orders as pro-
11 vided for in this Act.

12 “(H) MAINTAINING PROTECTIONS FOR

13 MINERS.—Notwithstanding any other provision
14 of this Act, nothing in this section, and no re-
15 sponse and preparedness plan developed under
16 this section, shall be approved if it reduces the
17 protection afforded miners by an existing man-
18 datory health or safety standard.”.

19 **SEC. 3. INCIDENT COMMAND AND CONTROL.**

20 Title I of the Federal Mine Safety and Health Act
21 of 1977 (30 U.S.C. 811 et seq.) is amended by adding
22 at the end the following:

1 **“SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RES-**
2 **CUE OPERATIONS.**

3 “(a) **IN GENERAL.**—No person shall bring an action
4 against any covered individual or his or her regular em-
5 ployer for property damage or an injury (or death) sus-
6 tained as a result of carrying out activities relating to
7 mine accident rescue or recovery operations. This sub-
8 section shall not apply where the action that is alleged to
9 result in the property damages or injury (or death) was
10 the result of gross negligence, reckless conduct, or illegal
11 conduct or, where the regular employer (as such term is
12 used in this Act) is the operator of the mine at which the
13 rescue activity takes place. Nothing in this section shall
14 be construed to preempt State workers’ compensation laws

15 “(b) **COVERED INDIVIDUAL.**—For purposes of sub-
16 section (a), the term ‘covered individual’ means an indi-
17 vidual—

18 “(1) who is a member of a mine rescue team
19 or who is otherwise a volunteer with respect to a
20 mine accident; and

21 “(2) who is carrying out activities relating to
22 mine accident rescue or recovery operations.

23 “(c) **REGULAR EMPLOYER.**—For purposes of sub-
24 section (a), the term ‘regular employer’ means the entity
25 that is the covered employee’s legal or statutory employer
26 pursuant to applicable State law.”

1 **SEC. 4. MINE RESCUE TEAMS.**

2 Section 115(e) of the Federal Mine Safety and
 3 Health Act of 1977 (30 U.S.C. 825(e)) is amended—

4 (1) by inserting “(1)” after the subsection des-
 5 ignation; and

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

7 “(1)(A) The Secretary shall issue regulations with re-
 8 gard to mine rescue teams which shall be finalized and
 9 in effect not later than 18 months after the date of enact-
 10 ment of the Mine Improvement and New Emergency Re-
 11 sponse Act of 2006.

12 “(B) Such regulations shall provide for the following:

13 “(i) That such regulations shall not be con-
 14 strued to waive operator training requirements appli-
 15 cable to existing mine rescue teams.

16 “(ii) That the Mine Safety and Health Admin-
 17 istration shall establish, and update every 5 years
 18 thereafter, criteria to certify the qualifications of
 19 mine rescue teams.

20 “(iii)(I) That the operator of each underground
 21 coal mine with more than 36 employees—

22 “(aa) have an employee knowledgeable in
 23 mine emergency response who is employed at
 24 the mine on each shift at each underground
 25 mine; and

1 “(bb) make available two certified mine
2 rescue teams whose members—

3 “(AA) are familiar with the operations
4 of such coal mine;

5 “(BB) participate at least annually in
6 two local mine rescue contests;

7 “(CC) participate at least annually in
8 mine rescue training at the underground
9 coal mine covered by the mine rescue team;
10 and

11 “(DD) are available at the mine with-
12 in one hour ground travel time from the
13 mine rescue station.

14 “(II)(aa) For the purpose of complying with
15 subclause (I), an operator shall employ one team
16 that is either an individual mine site mine rescue
17 team or a composite team as provided for in item
18 (bb).

19 “(bb) The following options may be used by an
20 operator to comply with the requirements of item
21 (aa):

22 “(AA) An individual mine-site mine rescue
23 team.

24 “(BB) A multi-employer composite team
25 that is made up of team members who are

1 knowledgeable about the operations and ventila-
2 tion of the covered mines and who train on a
3 semi-annual basis at the covered underground
4 coal mine—

5 “(aaa) which provides coverage for
6 multiple operators that have team mem-
7 bers which include at least two active em-
8 ployees from each of the covered mines;

9 “(bbb) which provides coverage for
10 multiple mines owned by the same operator
11 which members include at least two active
12 employees from each mine; or

13 “(ccc) which is a State-sponsored
14 mine rescue team comprised of at least two
15 active employees from each of the covered
16 mines.

17 “(CC) A commercial mine rescue team pro-
18 vided by contract through a third-party vendor
19 or mine rescue team provided by another coal
20 company, if such team—

21 “(aaa) trains on a quarterly basis at
22 covered underground coal mines;

23 “(bbb) is knowledgeable about the op-
24 erations and ventilation of the covered
25 mines; and

1 ~~“(ccc) is comprised of individuals with~~
2 ~~a minimum of 3 years underground coal~~
3 ~~mine experience that shall have occurred~~
4 ~~within the 10-year period preceding their~~
5 ~~employment on the contract mine rescue~~
6 ~~team.~~

7 ~~“(DD) A State-sponsored team made up of~~
8 ~~State employees.~~

9 ~~“(iv) That the operator of each underground~~
10 ~~coal mine with 36 or less employees shall—~~

11 ~~“(I) have an employee on each shift who is~~
12 ~~knowledgeable in mine emergency responses;~~
13 ~~and~~

14 ~~“(II) make available two certified mine res-~~
15 ~~cue teams whose members—~~

16 ~~“(aa) are familiar with the operations~~
17 ~~of such coal mine;~~

18 ~~“(bb) participate at least annually in~~
19 ~~two local mine rescue contests;~~

20 ~~“(cc) participate at least semi-annu-~~
21 ~~ally in mine rescue training at the under-~~
22 ~~ground coal mine covered by the mine res-~~
23 ~~cue team;~~

1 “(dd) are available at the mine within
2 one hour ground travel time from the mine
3 rescue station;

4 “(ee) are knowledgeable about the op-
5 erations and ventilation of the covered
6 mines; and

7 “(ff) are comprised of individuals with
8 a minimum of 3 years underground coal
9 mine experience that shall have occurred
10 within the 10-year period preceding their
11 employment on the contract mine rescue
12 team.”.

13 **SEC. 5. PROMPT INCIDENT NOTIFICATION.**

14 (a) **IN GENERAL.**—Section 103(j) of the Federal
15 Mine Safety and Health Act of 1977 (30 U.S.C. 813(j))
16 is amended by inserting after the first sentence the fol-
17 lowing: “For purposes of the preceding sentence, the noti-
18 fication required shall be provided by the operator within
19 15 minutes of the time at which the operator realizes that
20 the death of an individual at the mine, or an injury or
21 entrapment of an individual at the mine which has a rea-
22 sonable potential to cause death, has occurred.”.

23 (b) **PENALTY.**—Section 110(a) of the Federal Mine
24 Safety and Health Act of 1977 (30 U.S.C. 820(a)) is
25 amended—

1 (1) by striking “The operator” and inserting
2 “(1) The operator”; and

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

4 “(2) The operator of a coal or other mine who fails
5 to provide timely notification to the Secretary as required
6 under section 103(j) (relating to the 15 minute require-
7 ment) shall be assessed a civil penalty by the Secretary
8 of not less than \$5,000 and not more than \$60,000.”.

9 **SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY**
10 **AND HEALTH.**

11 (a) GRANTS.—Section 22 of the Occupational Safety
12 and Health Act of 1970 (29 U.S.C. 671) is amended by
13 adding at the end the following:

14 “(h) OFFICE OF MINE SAFETY AND HEALTH.—

15 “(1) IN GENERAL.—There shall be permanently
16 established within the Institute an Office of Mine
17 Safety and Health which shall be administered by an
18 Associate Director to be appointed by the Director.

19 “(2) PURPOSE.—The purpose of the Office is to
20 enhance the development of new mine safety tech-
21 nology and technological applications and to expedite
22 the commercial availability and implementation of
23 such technology in mining environments.

24 “(3) FUNCTIONS.—In addition to all purposes
25 and authorities provided for under this section, the

1 Office of Mine Safety and Health shall be respon-
2 sible for research, development, and testing of new
3 technologies and equipment designed to enhance
4 mine safety and health. To carry out such functions
5 the Director of the Institute, acting through the Of-
6 fice, shall have the authority to—

7 “(A) award competitive grants to institu-
8 tions and private entities to encourage the de-
9 velopment and manufacture of mine safety
10 equipment;

11 “(B) award contracts to educational insti-
12 tutions or private laboratories for the perform-
13 ance of product testing or related work with re-
14 spect to new mine technology and equipment;
15 and

16 “(C) establish an interagency working
17 group as provided for in paragraph (5).

18 “(4) GRANT AUTHORITY.—To be eligible to re-
19 ceive a grant under the authority provided for under
20 paragraph (3)(A), an entity or institution shall—

21 “(A) submit to the Director of the Insti-
22 tute an application at such time, in such man-
23 ner, and containing such information as the Di-
24 rector may require; and

1 “(B) include in the application under sub-
2 paragraph (A), a description of the mine safety
3 equipment to be developed and manufactured
4 under the grant and a description of the rea-
5 sons that such equipment would otherwise not
6 be developed or manufactured, including rea-
7 sons relating to the limited potential commer-
8 cial market for such equipment.

9 ~~“(5) INTERAGENCY WORKING GROUP.—~~

10 “(A) ESTABLISHMENT.—The Director of
11 the Institute, in carrying out paragraph (3)(D)
12 shall establish an interagency working group to
13 share technology and technological research and
14 developments that could be utilized to enhance
15 mine safety and accident response.

16 “(B) MEMBERSHIP.—The working group
17 under subparagraph (A) shall be chaired by the
18 Associate Director of the Office who shall ap-
19 point the members of the working group, which
20 may include representatives of other Federal
21 agencies or departments as determined appro-
22 priate by the Associate Director.

23 “(C) DUTIES.—The working group under
24 subparagraph (A) shall conduct an evaluation
25 of research conducted by, and the technological

1 developments of, agencies and departments who
2 are represented on the working group that may
3 have applicability to mine safety and accident
4 response and make recommendations to the Di-
5 rector for the further development and eventual
6 implementation of such technology.

7 “(6) ANNUAL REPORT.—Not later than 1 year
8 after the establishment of the Office under this sub-
9 section, and annually thereafter, the Director of the
10 Institute shall submit to the Committee on Health,
11 Education, Labor, and Pensions of the Senate and
12 the Committee on Education and the Workforce of
13 the House of Representatives a report that, with re-
14 spect to the year involved, described the new mine
15 safety technologies and equipment that have been
16 studied, tested, and certified for use, and with re-
17 spect to those instances of technologies and equip-
18 ment that have been considered but not yet certified
19 for use, there reasons therefore.

20 “(7) AUTHORIZATION OF APPROPRIATIONS.—
21 There is authorized to be appropriated, such sums
22 as may be necessary to enable the Institute and the
23 Office of Mine Safety and Health to carry out this
24 subsection.”.

1 **SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS.**

2 The Secretary of Labor shall establish a policy that—

3 (1) requires the temporary assignment of an in-
4 dividual Department of Labor official to be a liaison
5 between the Department and the families of victims
6 of mine tragedies involving multiple deaths;

7 (2) requires the Mine Safety and Health Ad-
8 ministration to be as responsive as possible to re-
9 quests from the families of mine accident victims for
10 information relating to mine accidents; and

11 (3) requires that in such accidents, that the
12 Mine Safety and Health Administration shall serve
13 as the primary communicator with the operator,
14 miners' families, the press and the public.

15 **SEC. 8. PENALTIES.**

16 (a) IN GENERAL.—Section 110 of the Federal Mine
17 Safety and Health Act of 1977 (30 U.S.C. 820) is amend-
18 ed—

19 (1) in subsection (a)—

20 (A) by inserting “(1)” after the subsection
21 designation; and

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

23 “(2) Any operator who willfully violates a mandatory
24 health or safety standard, or knowingly violates or fails
25 or refuses to comply with any order issued under section
26 104 and section 107, or any order incorporated in a final

1 decision issued under this title, except an order incor-
2 porated in a decision under paragraph (1) or section
3 105(c), shall, upon conviction, be punished by a fine of
4 not more than \$250,000, or by imprisonment for not more
5 than one year, or by both, except that if the conviction
6 is for a violation committed after the first conviction of
7 such operator under this Act, punishment shall be by a
8 fine of not more than \$500,000, or by imprisonment for
9 not more than five years, or both.

10 “(3)(A) The minimum penalty for any citation issued
11 under section 104(d)(1) shall be \$2,000.

12 “(B) The minimum penalty for a failure or refusal
13 to comply with any order issued under section 104(d)(2)
14 shall be \$4,000.

15 “(4) Nothing in this subsection shall be construed to
16 prevent an operator from obtaining a review, in accord-
17 ance with section 106, of an order imposing a penalty de-
18 scribed in this subsection. If a court, in making such re-
19 view, sustains the order, the court shall apply the min-
20 imum penalties required under this subsection.”; and

21 (2) by adding at the end of subsection (b) the
22 following: “Violations under this section that are
23 deemed to be flagrant may be assessed a civil pen-
24 alty of not more than \$220,000. For purposes of the
25 preceding sentence, the term ‘flagrant’ with respect

1 to a violation means a reckless or repeated failure to
 2 make reasonable efforts to eliminate a known viola-
 3 tion of a mandatory health or safety standard that
 4 substantially and proximately caused, or reasonably
 5 could have been expected to cause, death or serious
 6 bodily injury.”.

7 (b) REGULATIONS.—Not later than December 31,
 8 2006, the Secretary of Labor shall promulgate final regu-
 9 lations with respect to the penalties provided for under
 10 the amendments made by this section.

11 **SEC. 9. FINE COLLECTIONS.**

12 Section 108(a)(1)(A) of the Federal Mine Safety and
 13 Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended
 14 by inserting before the comma, the following: “, or fails
 15 or refuses to comply with any order or decision, including
 16 a civil penalty assessment order, that is issued under this
 17 Act”.

18 **SEC. 10. SEALING OF ABANDONED AREAS.**

19 Not later than 18 months after the issuance by the
 20 Mine Safety and Health Administration of a final report
 21 on the Sago Mine accident or the date of enactment of
 22 the Mine Improvement and New Emergency Response Act
 23 of 2006, whichever occurs earlier, the Secretary of Labor
 24 shall finalize mandatory health and safety standards relat-
 25 ing to the sealing of abandoned areas in underground coal

1 mines. Such health and safety standards shall provide for
2 an increase in the 20 psi standard currently set forth in
3 section 75.335(a)(2) of title 30, Code of Federal Regula-
4 tions.

5 **SEC. 11. TECHNICAL STUDY PANEL.**

6 Title V of the Federal Mine Safety and Health Act
7 of 1977 (30 U.S.C. 951 et seq.) is amended by adding
8 at the end the following:

9 **“SEC. 514. TECHNICAL STUDY PANEL.**

10 **“(a) ESTABLISHMENT.—**There is established a Tech-
11 nical Study Panel (referred to in this section as the
12 ‘Panel’) which shall provide independent scientific and en-
13 gineering review and recommendations with respect to the
14 utilization of belt air and the composition and fire retard-
15 ant properties of belt materials in underground coal min-
16 ing.

17 **“(b) MEMBERSHIP.—**The Panel shall be composed
18 of—

19 **“(1)** two individuals to be appointed by the Sec-
20 retary of Health and Human Services, in consulta-
21 tion with the Director of the National Institute for
22 Occupational Safety and Health and the Associate
23 Director of the Office of Mine Safety;

1 “(2) two individuals to be appointed by the Sec-
2 retary of Labor, in consultation with the Assistant
3 Secretary for Mine Safety and Health; and

4 “(3) two individuals, one to be appointed jointly
5 by the majority leaders of the Senate and House of
6 Representatives and one to be appointed jointly by
7 the minority leader of the Senate and House of Rep-
8 resentatives, each to be appointed prior to the sine
9 die adjournment of the second session of the 109th
10 Congress.

11 “(e) QUALIFICATIONS.—Four of the six individuals
12 appointed to the Panel under subsection (b) shall possess
13 a masters or doctoral level degree in mining engineering
14 or another scientific field demonstrably related to the sub-
15 ject of the report. No individual appointed to the Panel
16 shall be an employee of any coal or other mine, or of any
17 labor organization, or of any State or Federal agency pri-
18 marily responsible for regulating the mining industry.

19 “(d) REPORT.—

20 “(1) IN GENERAL.—Not later than 1 year after
21 the date on which all members of the Panel are ap-
22 pointed under subsection (b), the Panel shall pre-
23 pare and submit to the Secretary of Labor, the Sec-
24 retary of Health and Human Services, the Com-
25 mittee on Health, Education, Labor, and Pensions

1 of the Senate, and the Committee on Education and
2 the Workforce of the House of Representatives a re-
3 port concerning the utilization of belt air and the
4 composition and fire retardant properties of belt ma-
5 terials in underground coal mining.

6 “(2) RESPONSE BY SECRETARY.—Not later
7 than 180 days after the receipt of the report under
8 paragraph (1), the Secretary of Labor shall provide
9 a response to the Committee on Health, Education,
10 Labor, and Pensions of the Senate and the Com-
11 mittee on Education and the Workforce of the
12 House of Representatives containing a description of
13 the actions, if any, that the Secretary intends to
14 take based upon the report, including proposing reg-
15 ulatory changes, and the reasons for such actions.

16 “(c) COMPENSATION.—Members appointed to the
17 panel, while carrying out the duties of the Panel shall be
18 entitled to receive compensation, per diem in lieu of sub-
19 sistence, and travel expenses in the same manner and
20 under the same conditions as that prescribed under section
21 208(c) of the Public Health Service Act.”.

22 **SEC. 12. SCHOLARSHIPS.**

23 Title V of the Federal Mine Safety and Health Act
24 of 1977 (30 U.S.C. 951 et seq.), as amended by section
25 12, is further amended by adding at the end the following:

1 **“SEC. 515. SCHOLARSHIPS.**

2 “(a) ESTABLISHMENT.—The Secretary of Education
3 (referred to in this section as the ‘Secretary’), in consulta-
4 tion with the Secretary of Labor and the Secretary of
5 Health and Human Services, shall establish a program to
6 provide scholarships to eligible individuals to increase the
7 skilled workforce for both private sector coal mine opera-
8 tors and mine safety inspectors and other regulatory per-
9 sonnel for the Mine Safety and Health Administration.

10 “(b) FUNDAMENTAL SKILLS SCHOLARSHIPS.—

11 “(1) IN GENERAL.—Under the program under
12 subsection (a), the Secretary may award scholarship
13 to fully or partially pay the tuition costs of eligible
14 individuals enrolled in 2-year associate’s degree pro-
15 grams at community colleges or other colleges and
16 universities that focus on providing the fundamental
17 skills and training that is of immediate use to a be-
18 ginning coal miner.

19 “(2) SKILLS.—The skills described in para-
20 graph (1) shall include basic math, basic health and
21 safety, business principles, management and super-
22 visory skills, skills related to electric circuitry, skills
23 related to heavy equipment operations, and skills re-
24 lated to communications.

1 “(3) ELIGIBILITY.—To be eligible to receive a
2 scholarship under this subsection an individual
3 shall—

4 “(A) have a high school diploma or a
5 GED;

6 “(B) have at least 2 years experience in
7 full-time employment in mining or mining-re-
8 lated activities;

9 “(C) submit to the Secretary an applica-
10 tion at such time, in such manner, and con-
11 taining such information; and

12 “(D) demonstrate an interest in working in
13 the field of mining and performing an intern-
14 ship with the Mine Safety and Health Adminis-
15 tration or the National Institute for Occupa-
16 tional Safety and Health Office of Mine Safety.

17 “(e) MINE SAFETY INSPECTOR SCHOLARSHIPS.—

18 “(1) IN GENERAL.—Under the program under
19 subsection (a), the Secretary may award scholarship
20 to fully or partially pay the tuition costs of eligible
21 individuals enrolled in undergraduate bachelor’s de-
22 gree programs at accredited colleges or universities
23 that provide the skills needed to become mine safety
24 inspectors.

1 “(2) SKILLS.—The skills described in para-
2 graph (1) include skills developed through programs
3 leading to a degree in mining engineering, civil engi-
4 neering, mechanical engineering, electrical engineer-
5 ing, industrial engineering, environmental engineer-
6 ing, industrial hygiene, occupational health and safe-
7 ty, geology, chemistry, or other fields of study re-
8 lated to mine safety and health work.

9 “(3) ELIGIBILITY.—To be eligible to receive a
10 scholarship under this subsection an individual
11 shall—

12 “(A) have a high school diploma or a
13 GED;

14 “(B) have at least 5 years experience in
15 full-time employment in mining or mining-re-
16 lated activities;

17 “(C) submit to the Secretary an applica-
18 tion at such time, in such manner, and con-
19 taining such information; and

20 “(D) agree to be employed for a period of
21 at least 5 years at the Mine Safety and Health
22 Administration or, to repay, on a pro-rated
23 basis, the funds received under this program,
24 plus interest, at a rate established by the Sec-
25 retary upon the issuance of the scholarship.

1 “(d) **ADVANCED RESEARCH SCHOLARSHIPS.**—

2 “(1) **IN GENERAL.**—Under the program under
3 subsection (a), the Secretary may award scholar-
4 ships to fully or partially pay the tuition costs of eli-
5 gible individuals enrolled in undergraduate bach-
6 elor’s degree, masters degree, and Ph.D. degree pro-
7 grams at accredited colleges or universities that pro-
8 vide the skills needed to augment and advance re-
9 search in mine safety and to broaden, improve, and
10 expand the universe of candidates for mine safety in-
11 spector and other regulatory positions in the Mine
12 Safety and Health Administration.

13 “(2) **SKILLS.**—The skills described in para-
14 graph (1) include skills developed through programs
15 leading to a degree in mining engineering, civil engi-
16 neering, mechanical engineering, electrical engineer-
17 ing, industrial engineering, environmental engineer-
18 ing, industrial hygiene, occupational health and safe-
19 ty, geology, chemistry, or other fields of study re-
20 lated to mine safety and health work.

21 “(3) **ELIGIBILITY.**—To be eligible to receive a
22 scholarship under this subsection an individual
23 shall—

24 “(A) have a bachelor’s degree or equivalent
25 from an accredited 4-year institution;

1 “(B) have at least 5 years experience in
2 full-time employment in underground mining or
3 mining-related activities; and

4 “(C) submit to the Secretary an applica-
5 tion at such time, in such manner, and con-
6 taining such information.

7 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated such sums as may be
9 necessary to carry out this section.”.

10 **SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES.**

11 (a) IN GENERAL.—The National Institute of Occupa-
12 tional Safety and Health shall provide for the conduct of
13 research, including field tests, concerning the utility, prac-
14 ticality, survivability, and cost of various refuge alter-
15 natives in an underground coal mine environment, includ-
16 ing commercially-available portable refuge chambers.

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 18 months
19 after the date of enactment of this Act, the National
20 Institute for Occupational Safety and Health shall
21 prepare and submit to the Secretary of Labor, the
22 Secretary of Health and Human Services, the Com-
23 mittee on Health, Education, Labor, and Pensions
24 of the Senate, and the Committee on Education and
25 the Workforce of the House of Representatives a re-

1 port concerning the results of the research con-
 2 ducted under subsection (a), including any field
 3 tests.

4 (2) **RESPONSE BY SECRETARY.**—Not later than
 5 180 days after the receipt of the report under para-
 6 graph (1), the Secretary of Labor shall provide a re-
 7 sponse to the Committee on Health, Education,
 8 Labor, and Pensions of the Senate and the Com-
 9 mittee on Education and the Workforce of the
 10 House of Representatives containing a description of
 11 the actions, if any, that the Secretary intends to
 12 take based upon the report, including proposing reg-
 13 ulatory changes, and the reasons for such actions.

14 **SEC. 14. SAGO MINE SAFETY GRANTS.**

15 (a) **IN GENERAL.**—The Secretary of Labor shall es-
 16 tablish a program to award competitive grants for edu-
 17 cation and training to carry out the purposes of this sec-
 18 tion.

19 (b) **PURPOSES.**—It is the purpose of this section, to
 20 provide for the funding of education and training pro-
 21 grams to better identify, avoid, and prevent unsafe work-
 22 ing conditions in and around mines.

23 (c) **ELIGIBILITY.**—To be eligible to receive a grant
 24 under this section, an entity shall—

25 (1) be a public or private nonprofit entity; and

1 (2) submit to the Secretary of Labor an appli-
2 cation at such time, in such manner, and containing
3 such information as the Secretary may require.

4 (d) USE OF FUNDS.—Amounts received under a
5 grant under this section shall be used to establish and im-
6 plement education and training programs, or to develop
7 training materials for employers and miners, concerning
8 safety and health topics in mines, as determined appro-
9 priate by the Mine Safety and Health Administration.

10 (e) AWARDING OF GRANTS.—

11 (1) ANNUAL BASIS.—Grants under this section
12 shall be awarded on an annual basis.

13 (2) SPECIAL EMPHASIS.—In awarding grants
14 under this section, the Secretary of Labor shall give
15 special emphasis to programs and materials that tar-
16 get workers in smaller mines, including training
17 miners and employers about new Mine Safety and
18 Health Administration standards, high risk activi-
19 ties, or hazards identified by such Administration.

20 (3) PRIORITY.—In awarding grants under this
21 section, the Secretary of Labor shall give priority to
22 the funding of pilot and demonstration projects that
23 the Secretary determines will provide opportunities
24 for broad applicability for mine safety.

1 (f) **EVALUATION.**—The Secretary of Labor shall use
 2 not less than 1 percent of the funds made available to
 3 carry out this section in a fiscal year to conduct evalua-
 4 tions of the projects funded under grants under this sec-
 5 tion.

6 (g) **AUTHORIZATION OF APPROPRIATIONS.**—There
 7 are authorized to be appropriated for each fiscal year,
 8 such sums as may be necessary to carry out this section.

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Mine Improvement and*
 11 *New Emergency Response Act of 2006” or the “MINER*
 12 *Act”.*

13 **SEC. 2. EMERGENCY RESPONSE.**

14 *Section 316 of the Federal Mine Safety and Health*
 15 *Act of 1977 (30 U.S.C. 876) is amended—*

16 (1) *in the section heading by adding at the end*
 17 *the following: “AND EMERGENCY RESPONSE PLANS”;*

18 (2) *by striking “Telephone” and inserting “(a)*
 19 *IN GENERAL.—Telephone”;* and

20 (3) *by adding at the end the following:*

21 “(b) **ACCIDENT PREPAREDNESS AND RESPONSE.**—

22 “(1) **IN GENERAL.**—*Each underground coal mine*
 23 *operator shall carry out on a continuing basis a pro-*
 24 *gram to improve accident preparedness and response*
 25 *at each mine.*

1 “(2) *RESPONSE AND PREPAREDNESS PLAN.*—

2 “(A) *IN GENERAL.*—Not later than 60 days
3 after the date of enactment of the Mine Improve-
4 ment and New Emergency Response Act of 2006,
5 each underground coal mine operator shall de-
6 velop and adopt a written accident response plan
7 that complies with this subsection with respect to
8 each mine of the operator, and periodically up-
9 date such plans to reflect changes in operations
10 in the mine, advances in technology, or other rel-
11 evant considerations. Each such operator shall
12 make the accident response plan available to the
13 miners and the miners’ representatives.

14 “(B) *PLAN REQUIREMENTS.*—An accident
15 response plan under subparagraph (A) shall—

16 “(i) provide for the evacuation of all
17 individuals endangered by an emergency;
18 and

19 “(ii) provide for the maintenance of
20 individuals trapped underground in the
21 event that miners are not able to evacuate
22 the mine.

23 “(C) *PLAN APPROVAL.*—The accident re-
24 sponse plan under subparagraph (A) shall be
25 subject to review and approval by the Secretary.

1 *In determining whether to approve a particular*
2 *plan the Secretary shall take into consideration*
3 *all comments submitted by miners or their rep-*
4 *resentatives. Approved plans shall—*

5 *“(i) afford miners a level of safety pro-*
6 *tection at least consistent with the existing*
7 *standards, including standards mandated*
8 *by law and regulation;*

9 *“(ii) reflect the most recent credible sci-*
10 *entific research;*

11 *“(iii) be technologically feasible, make*
12 *use of current commercially available tech-*
13 *nology, and account for the specific physical*
14 *characteristics of the mine; and*

15 *“(iv) reflect the improvements in mine*
16 *safety gained from experience under this*
17 *Act and other worker safety and health*
18 *laws.*

19 *“(D) PLAN REVIEW.—The accident response*
20 *plan under subparagraph (A) shall be reviewed*
21 *periodically, but at least every 6 months, by the*
22 *Secretary. In such periodic reviews, the Sec-*
23 *retary shall consider all comments submitted by*
24 *miners or miners’ representatives and inter-*
25 *vening advancements in science and technology*

1 *that could be implemented to enhance miners’*
 2 *ability to evacuate or otherwise survive in an*
 3 *emergency.*

4 “(E) *PLAN CONTENT-GENERAL REQUIRE-*
 5 *MENTS.—To be approved under subparagraph*
 6 *(C), an accident response plan shall include the*
 7 *following:*

8 “(i) *POST-ACCIDENT COMMUNICA-*
 9 *TIONS.—The plan shall provide for a redun-*
 10 *dant means of communication with the sur-*
 11 *face for persons underground, such as sec-*
 12 *ondary telephone or equivalent two-way*
 13 *communication.*

14 “(ii) *POST-ACCIDENT TRACKING.—Con-*
 15 *sistent with commercially available tech-*
 16 *nology and with the physical constraints, if*
 17 *any, of the mine, the plan shall provide for*
 18 *above ground personnel to determine the*
 19 *current, or immediately pre-accident, loca-*
 20 *tion of all underground personnel. Any sys-*
 21 *tem so utilized shall be functional, reliable,*
 22 *and calculated to remain serviceable in a*
 23 *post-accident setting.*

24 “(iii) *POST-ACCIDENT BREATHABLE*
 25 *AIR.—The plan shall provide for—*

1 “(I) emergency supplies of breath-
2 able air for individuals trapped under-
3 ground sufficient to maintain such in-
4 dividuals for a sustained period of
5 time;

6 “(II) in addition to the 2 hours of
7 breathable air per miner required by
8 law under the emergency temporary
9 standard as of the day before the date
10 of enactment of the Mine Improvement
11 and New Emergency Response Act of
12 2006, caches of self-rescuers providing
13 in the aggregate not less than 2 hours
14 per miner to be kept in escapeways
15 from the deepest work area to the sur-
16 face at a distance of no further than
17 an average miner could walk in 30
18 minutes;

19 “(III) a maintenance schedule for
20 checking the reliability of self rescuers,
21 retiring older self-rescuers first, and
22 introducing new self-rescuer tech-
23 nology, such as units with interchange-
24 able air or oxygen cylinders not requir-
25 ing doffing to replenish airflow and

1 *units with supplies of greater than 60*
2 *minutes, as they are approved by the*
3 *Administration and become available*
4 *on the market; and*

5 *“(IV) training for each miner in*
6 *proper procedures for donning self-res-*
7 *cuers, switching from one unit to an-*
8 *other, and ensuring a proper fit.*

9 *“(iv) POST-ACCIDENT LIFELINES.—The*
10 *plan shall provide for the use of flame-re-*
11 *sistant directional lifelines or equivalent*
12 *systems in escapeways to enable evacuation.*
13 *The flame-resistance requirement of this*
14 *clause shall apply upon the replacement of*
15 *existing lifelines, or, in the case of lifelines*
16 *in working sections, upon the earlier of the*
17 *replacement of such lifelines or 3 years after*
18 *the date of enactment of the Mine Improve-*
19 *ment and New Emergency Response Act of*
20 *2006.*

21 *“(v) TRAINING.—The plan shall pro-*
22 *vide a training program for emergency pro-*
23 *cedures described in the plan which will not*
24 *diminish the requirements for mandatory*

1 *health and safety training currently re-*
2 *quired under section 115.*

3 “(vi) *LOCAL COORDINATION.—The*
4 *plan shall set out procedures for coordina-*
5 *tion and communication between the oper-*
6 *ator, mine rescue teams, and local emer-*
7 *gency response personnel and make provi-*
8 *sions for familiarizing local rescue per-*
9 *sonnel with surface functions that may be*
10 *required in the course of mine rescue work.*

11 “(F) *PLAN CONTENT-SPECIFIC REQUIRE-*
12 *MENTS.—*

13 “(i) *IN GENERAL.—In addition to the*
14 *content requirements contained in subpara-*
15 *graph (E), and subject to the considerations*
16 *contained in subparagraph (C), the Sec-*
17 *retary may make additional plan require-*
18 *ments with respect to any of the content*
19 *matters.*

20 “(ii) *POST ACCIDENT COMMUNICA-*
21 *TIONS.—Not later than 3 years after the*
22 *date of enactment of the Mine Improvement*
23 *and New Emergency Response Act of 2006,*
24 *a plan shall, to be approved, provide for*
25 *post accident communication between un-*

1 *derground and surface personnel via a wire-*
2 *less two-way medium, and provide for an*
3 *electronic tracking system permitting sur-*
4 *face personnel to determine the location of*
5 *any persons trapped underground or set*
6 *forth within the plan the reasons such pro-*
7 *visions can not be adopted. Where such plan*
8 *sets forth the reasons such provisions can*
9 *not be adopted, the plan shall also set forth*
10 *the operator's alternative means of compli-*
11 *ance. Such alternative shall approximate,*
12 *as closely as possible, the degree of func-*
13 *tional utility and safety protection provided*
14 *by the wireless two-way medium and track-*
15 *ing system referred to in this subpart.*

16 *“(G) PLAN DISPUTE RESOLUTION.—*

17 *“(i) IN GENERAL.—Any dispute be-*
18 *tween the Secretary and an operator with*
19 *respect to the content of the operator's plan*
20 *or any refusal by the Secretary to approve*
21 *such a plan shall be resolved on an expe-*
22 *ditated basis.*

23 *“(ii) DISPUTES.—In the event of a dis-*
24 *pute or refusal described in clause (i), the*
25 *Secretary shall issue a citation which shall*

1 *be immediately referred to a Commission*
2 *Administrative Law Judge. The Secretary*
3 *and the operator shall submit all relevant*
4 *material regarding the dispute to the Ad-*
5 *ministrative Law Judge within 15 days of*
6 *the date of the referral. The Administrative*
7 *Law Judge shall render his or her decision*
8 *with respect to the plan content dispute*
9 *within 15 days of the receipt of the submis-*
10 *sion.*

11 “(iii) *FURTHER APPEALS.—A party*
12 *adversely affected by a decision under clause*
13 *(ii) may pursue all further available appeal*
14 *rights with respect to the citation involved,*
15 *except that inclusion of the disputed provi-*
16 *sion in the plan will not be limited by such*
17 *appeal unless such relief is requested by the*
18 *operator and permitted by the Administra-*
19 *tive Law Judge.*

20 “(H) *MAINTAINING PROTECTIONS FOR MIN-*
21 *ERS.—Notwithstanding any other provision of*
22 *this Act, nothing in this section, and no response*
23 *and preparedness plan developed under this sec-*
24 *tion, shall be approved if it reduces the protec-*

1 *tion afforded miners by an existing mandatory*
 2 *health or safety standard.”.*

3 **SEC. 3. INCIDENT COMMAND AND CONTROL.**

4 *Title I of the Federal Mine Safety and Health Act of*
 5 *1977 (30 U.S.C. 811 et seq.) is amended by adding at the*
 6 *end the following:*

7 **“SEC. 116. LIMITATION ON CERTAIN LIABILITY FOR RESCUE**
 8 **OPERATIONS.**

9 *“(a) IN GENERAL.—No person shall bring an action*
 10 *against any covered individual or his or her regular em-*
 11 *ployer for property damage or an injury (or death) sus-*
 12 *tained as a result of carrying out activities relating to mine*
 13 *accident rescue or recovery operations. This subsection shall*
 14 *not apply where the action that is alleged to result in the*
 15 *property damages or injury (or death) was the result of*
 16 *gross negligence, reckless conduct, or illegal conduct or,*
 17 *where the regular employer (as such term is used in this*
 18 *Act) is the operator of the mine at which the rescue activity*
 19 *takes place. Nothing in this section shall be construed to*
 20 *preempt State workers’ compensation laws.*

21 *“(b) COVERED INDIVIDUAL.—For purposes of sub-*
 22 *section (a), the term ‘covered individual’ means an indi-*
 23 *vidual—*

1 “(1) who is a member of a mine rescue team or
2 who is otherwise a volunteer with respect to a mine
3 accident; and

4 “(2) who is carrying out activities relating to
5 mine accident rescue or recovery operations.

6 “(c) *REGULAR EMPLOYER.*—For purposes of sub-
7 section (a), the term ‘regular employer’ means the entity
8 that is the covered employee’s legal or statutory employer
9 pursuant to applicable State law.”.

10 **SEC. 4. MINE RESCUE TEAMS.**

11 Section 115(e) of the Federal Mine Safety and Health
12 Act of 1977 (30 U.S.C. 825(e)) is amended—

13 (1) by inserting “(1)” after the subsection des-
14 ignation; and

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

16 “(2)(A) The Secretary shall issue regulations with re-
17 gard to mine rescue teams which shall be finalized and in
18 effect not later than 18 months after the date of enactment
19 of the Mine Improvement and New Emergency Response Act
20 of 2006.

21 “(B) Such regulations shall provide for the following:

22 “(i) That such regulations shall not be construed
23 to waive operator training requirements applicable to
24 existing mine rescue teams.

1 “(ii) *That the Mine Safety and Health Adminis-*
2 *tration shall establish, and update every 5 years*
3 *thereafter, criteria to certify the qualifications of*
4 *mine rescue teams.*

5 “(iii)(I) *That the operator of each underground*
6 *coal mine with more than 36 employees—*

7 “(aa) *have an employee knowledgeable in*
8 *mine emergency response who is employed at the*
9 *mine on each shift at each underground mine;*
10 *and*

11 “(bb) *make available two certified mine res-*
12 *cue teams whose members—*

13 “(AA) *are familiar with the operations*
14 *of such coal mine;*

15 “(BB) *participate at least annually in*
16 *two local mine rescue contests;*

17 “(CC) *participate at least annually in*
18 *mine rescue training at the underground*
19 *coal mine covered by the mine rescue team;*
20 *and*

21 “(DD) *are available at the mine with-*
22 *in one hour ground travel time from the*
23 *mine rescue station.*

24 “(II)(aa) *For the purpose of complying with sub-*
25 *clause (I), an operator shall employ one team that is*

1 *either an individual mine site mine rescue team or a*
2 *composite team as provided for in item (bb)(BB).*

3 *“(bb) The following options may be used by an*
4 *operator to comply with the requirements of item*
5 *(aa):*

6 *“(AA) An individual mine-site mine rescue*
7 *team.*

8 *“(BB) A multi-employer composite team*
9 *that is made up of team members who are*
10 *knowledgeable about the operations and ventila-*
11 *tion of the covered mines and who train on a*
12 *semi-annual basis at the covered underground*
13 *coal mine—*

14 *“(aaa) which provides coverage for*
15 *multiple operators that have team members*
16 *which include at least two active employees*
17 *from each of the covered mines;*

18 *“(bbb) which provides coverage for*
19 *multiple mines owned by the same operator*
20 *which members include at least two active*
21 *employees from each mine; or*

22 *“(ccc) which is a State-sponsored mine*
23 *rescue team comprised of at least two active*
24 *employees from each of the covered mines.*

1 “(CC) A commercial mine rescue team pro-
2 vided by contract through a third-party vendor
3 or mine rescue team provided by another coal
4 company, if such team—

5 “(aaa) trains on a quarterly basis at
6 covered underground coal mines;

7 “(bbb) is knowledgeable about the oper-
8 ations and ventilation of the covered mines;
9 and

10 “(ccc) is comprised of individuals with
11 a minimum of 3 years underground coal
12 mine experience that shall have occurred
13 within the 10-year period preceding their
14 employment on the contract mine rescue
15 team.

16 “(DD) A State-sponsored team made up of
17 State employees.

18 “(iv) That the operator of each underground coal
19 mine with 36 or less employees shall—

20 “(I) have an employee on each shift who is
21 knowledgeable in mine emergency responses; and

22 “(II) make available two certified mine res-
23 cue teams whose members—

24 “(aa) are familiar with the operations
25 of such coal mine;

1 “(bb) participate at least annually in
2 two local mine rescue contests;

3 “(cc) participate at least semi-annu-
4 ally in mine rescue training at the under-
5 ground coal mine covered by the mine res-
6 cue team;

7 “(dd) are available at the mine within
8 one hour ground travel time from the mine
9 rescue station;

10 “(ee) are knowledgeable about the oper-
11 ations and ventilation of the covered mines;
12 and

13 “(ff) are comprised of individuals with
14 a minimum of 3 years underground coal
15 mine experience that shall have occurred
16 within the 10-year period preceding their
17 employment on the contract mine rescue
18 team.”.

19 **SEC. 5. PROMPT INCIDENT NOTIFICATION.**

20 (a) *IN GENERAL.*—Section 103(j) of the Federal Mine
21 *Safety and Health Act of 1977 (30 U.S.C. 813(j))* is amend-
22 *ed by inserting after the first sentence the following: “For*
23 *purposes of the preceding sentence, the notification required*
24 *shall be provided by the operator within 15 minutes of the*
25 *time at which the operator realizes that the death of an*

1 *individual at the mine, or an injury or entrapment of an*
 2 *individual at the mine which has a reasonable potential*
 3 *to cause death, has occurred.”.*

4 (b) *PENALTY.*—*Section 110(a) of the Federal Mine*
 5 *Safety and Health Act of 1977 (30 U.S.C. 820(a)) is*
 6 *amended—*

7 (1) *by striking “The operator” and inserting*
 8 *“(1) The operator”; and*

9 (2) *by adding at the end the following:*

10 *“(2) The operator of a coal or other mine who fails*
 11 *to provide timely notification to the Secretary as required*
 12 *under section 103(j) (relating to the 15 minute requirement)*
 13 *shall be assessed a civil penalty by the Secretary of not less*
 14 *than \$5,000 and not more than \$60,000.”.*

15 **SEC. 6. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY**
 16 **AND HEALTH.**

17 (a) *GRANTS.*—*Section 22 of the Occupational Safety*
 18 *and Health Act of 1970 (29 U.S.C. 671) is amended by*
 19 *adding at the end the following:*

20 *“(h) OFFICE OF MINE SAFETY AND HEALTH.—*

21 *“(1) IN GENERAL.—There shall be permanently*
 22 *established within the Institute an Office of Mine*
 23 *Safety and Health which shall be administered by an*
 24 *Associate Director to be appointed by the Director.*

1 “(2) *PURPOSE.*—*The purpose of the Office is to*
2 *enhance the development of new mine safety tech-*
3 *nology and technological applications and to expedite*
4 *the commercial availability and implementation of*
5 *such technology in mining environments.*

6 “(3) *FUNCTIONS.*—*In addition to all purposes*
7 *and authorities provided for under this section, the*
8 *Office of Mine Safety and Health shall be responsible*
9 *for research, development, and testing of new tech-*
10 *nologies and equipment designed to enhance mine*
11 *safety and health. To carry out such functions the Di-*
12 *rector of the Institute, acting through the Office, shall*
13 *have the authority to—*

14 “(A) *award competitive grants to institu-*
15 *tions and private entities to encourage the devel-*
16 *opment and manufacture of mine safety equip-*
17 *ment;*

18 “(B) *award contracts to educational insti-*
19 *tutions or private laboratories for the perform-*
20 *ance of product testing or related work with re-*
21 *spect to new mine technology and equipment;*
22 *and*

23 “(C) *establish an interagency working*
24 *group as provided for in paragraph (5).*

1 “(4) *GRANT AUTHORITY.*—*To be eligible to re-*
2 *ceive a grant under the authority provided for under*
3 *paragraph (3)(A), an entity or institution shall—*

4 “(A) *submit to the Director of the Institute*
5 *an application at such time, in such manner,*
6 *and containing such information as the Director*
7 *may require; and*

8 “(B) *include in the application under sub-*
9 *paragraph (A), a description of the mine safety*
10 *equipment to be developed and manufactured*
11 *under the grant and a description of the reasons*
12 *that such equipment would otherwise not be de-*
13 *veloped or manufactured, including reasons re-*
14 *lating to the limited potential commercial mar-*
15 *ket for such equipment.*

16 “(5) *INTERAGENCY WORKING GROUP.*—

17 “(A) *ESTABLISHMENT.*—*The Director of the*
18 *Institute, in carrying out paragraph (3)(D) shall*
19 *establish an interagency working group to share*
20 *technology and technological research and devel-*
21 *opments that could be utilized to enhance mine*
22 *safety and accident response.*

23 “(B) *MEMBERSHIP.*—*The working group*
24 *under subparagraph (A) shall be chaired by the*
25 *Associate Director of the Office who shall ap-*

1 *point the members of the working group, which*
2 *may include representatives of other Federal*
3 *agencies or departments as determined appro-*
4 *priate by the Associate Director.*

5 “(C) *DUTIES.*—*The working group under*
6 *subparagraph (A) shall conduct an evaluation of*
7 *research conducted by, and the technological de-*
8 *velopments of, agencies and departments who are*
9 *represented on the working group that may have*
10 *applicability to mine safety and accident re-*
11 *sponse and make recommendations to the Direc-*
12 *tor for the further development and eventual im-*
13 *plementation of such technology.*

14 “(6) *ANNUAL REPORT.*—*Not later than 1 year*
15 *after the establishment of the Office under this sub-*
16 *section, and annually thereafter, the Director of the*
17 *Institute shall submit to the Committee on Health,*
18 *Education, Labor, and Pensions of the Senate and the*
19 *Committee on Education and the Workforce of the*
20 *House of Representatives a report that, with respect*
21 *to the year involved, describes the new mine safety*
22 *technologies and equipment that have been studied,*
23 *tested, and certified for use, and with respect to those*
24 *instances of technologies and equipment that have*

1 *been considered but not yet certified for use, the rea-*
 2 *sons therefore.*

3 “(7) *AUTHORIZATION OF APPROPRIATIONS.—*
 4 *There is authorized to be appropriated, such sums as*
 5 *may be necessary to enable the Institute and the Of-*
 6 *fice of Mine Safety and Health to carry out this sub-*
 7 *section.”.*

8 **SEC. 7. REQUIREMENT CONCERNING FAMILY LIAISONS.**

9 *The Secretary of Labor shall establish a policy that—*

10 (1) *requires the temporary assignment of an in-*
 11 *dividual Department of Labor official to be a liaison*
 12 *between the Department and the families of victims of*
 13 *mine tragedies involving multiple deaths;*

14 (2) *requires the Mine Safety and Health Admin-*
 15 *istration to be as responsive as possible to requests*
 16 *from the families of mine accident victims for infor-*
 17 *mation relating to mine accidents; and*

18 (3) *requires that in such accidents, that the Mine*
 19 *Safety and Health Administration shall serve as the*
 20 *primary communicator with the operator, miners’*
 21 *families, the press and the public.*

22 **SEC. 8. PENALTIES.**

23 (a) *IN GENERAL.—Section 110 of the Federal Mine*
 24 *Safety and Health Act of 1977 (30 U.S.C. 820) is amend-*
 25 *ed—*

1 (1) *in subsection (a)—*

2 (A) *by inserting “(1)” after the subsection*
3 *designation; and*

4 (B) *by adding at the end the following:*

5 “(2) *Any operator who willfully violates a mandatory*
6 *health or safety standard, or knowingly violates or fails or*
7 *refuses to comply with any order issued under section 104*
8 *and section 107, or any order incorporated in a final deci-*
9 *sion issued under this title, except an order incorporated*
10 *in a decision under paragraph (1) or section 105(c), shall,*
11 *upon conviction, be punished by a fine of not more than*
12 *\$250,000, or by imprisonment for not more than one year,*
13 *or by both, except that if the conviction is for a violation*
14 *committed after the first conviction of such operator under*
15 *this Act, punishment shall be by a fine of not more than*
16 *\$500,000, or by imprisonment for not more than five years,*
17 *or both.*

18 “(3)(A) *The minimum penalty for any citation or*
19 *order issued under section 104(d)(1) shall be \$2,000.*

20 “(B) *The minimum penalty for any order issued under*
21 *section 104(d)(2) shall be \$4,000.*

22 “(4) *Nothing in this subsection shall be construed to*
23 *prevent an operator from obtaining a review, in accordance*
24 *with section 106, of an order imposing a penalty described*
25 *in this subsection. If a court, in making such review, sus-*

1 tains the order, the court shall apply at least the minimum
2 penalties required under this subsection.”; and

3 (2) by adding at the end of subsection (b) the fol-
4 lowing: “Violations under this section that are deemed
5 to be flagrant may be assessed a civil penalty of not
6 more than \$220,000. For purposes of the preceding
7 sentence, the term ‘flagrant’ with respect to a viola-
8 tion means a reckless or repeated failure to make rea-
9 sonable efforts to eliminate a known violation of a
10 mandatory health or safety standard that substan-
11 tially and proximately caused, or reasonably could
12 have been expected to cause, death or serious bodily
13 injury.”.

14 (b) REGULATIONS.—Not later than December 30, 2006,
15 the Secretary of Labor shall promulgate final regulations
16 with respect to penalties.

17 **SEC. 9. FINE COLLECTIONS.**

18 Section 108(a)(1)(A) of the Federal Mine Safety and
19 Health Act of 1977 (30 U.S.C. 818(a)(1)(A)) is amended
20 by inserting before the comma, the following: “, or fails or
21 refuses to comply with any order or decision, including a
22 civil penalty assessment order, that is issued under this
23 Act”.

1 **SEC. 10. SEALING OF ABANDONED AREAS.**

2 *Not later than 18 months after the issuance by the*
3 *Mine Safety and Health Administration of a final report*
4 *on the Sago Mine accident or the date of enactment of the*
5 *Mine Improvement and New Emergency Response Act of*
6 *2006, whichever occurs earlier, the Secretary of Labor shall*
7 *finalize mandatory health and safety standards relating to*
8 *the sealing of abandoned areas in underground coal mines.*
9 *Such health and safety standards shall provide for an in-*
10 *crease in the 20 psi standard currently set forth in section*
11 *75.335(a)(2) of title 30, Code of Federal Regulations.*

12 **SEC. 11. TECHNICAL STUDY PANEL.**

13 *Title V of the Federal Mine Safety and Health Act of*
14 *1977 (30 U.S.C. 951 et seq.) is amended by adding at the*
15 *end the following:*

16 **“SEC. 514. TECHNICAL STUDY PANEL.**

17 *“(a) ESTABLISHMENT.—There is established a Tech-*
18 *nical Study Panel (referred to in this section as the ‘Panel’)*
19 *which shall provide independent scientific and engineering*
20 *review and recommendations with respect to the utilization*
21 *of belt air and the composition and fire retardant properties*
22 *of belt materials in underground coal mining.*

23 *“(b) MEMBERSHIP.—The Panel shall be composed of—*

24 *“(1) two individuals to be appointed by the Sec-*
25 *retary of Health and Human Services, in consulta-*
26 *tion with the Director of the National Institute for*

1 *Occupational Safety and Health and the Associate*
2 *Director of the Office of Mine Safety;*

3 “(2) *two individuals to be appointed by the Sec-*
4 *retary of Labor, in consultation with the Assistant*
5 *Secretary for Mine Safety and Health; and*

6 “(3) *two individuals, one to be appointed jointly*
7 *by the majority leaders of the Senate and House of*
8 *Representatives and one to be appointed jointly by*
9 *the minority leader of the Senate and House of Rep-*
10 *resentatives, each to be appointed prior to the sine die*
11 *adjournment of the second session of the 109th Con-*
12 *gress.*

13 “(c) *QUALIFICATIONS.—Four of the six individuals*
14 *appointed to the Panel under subsection (b) shall possess*
15 *a masters or doctoral level degree in mining engineering*
16 *or another scientific field demonstrably related to the subject*
17 *of the report. No individual appointed to the Panel shall*
18 *be an employee of any coal or other mine, or of any labor*
19 *organization, or of any State or Federal agency primarily*
20 *responsible for regulating the mining industry.*

21 “(d) *REPORT.—*

22 “(1) *IN GENERAL.—Not later than 1 year after*
23 *the date on which all members of the Panel are ap-*
24 *pointed under subsection (b), the Panel shall prepare*
25 *and submit to the Secretary of Labor, the Secretary*

1 of Health and Human Services, the Committee on
2 Health, Education, Labor, and Pensions of the Sen-
3 ate, and the Committee on Education and the Work-
4 force of the House of Representatives a report con-
5 cerning the utilization of belt air and the composition
6 and fire retardant properties of belt materials in un-
7 derground coal mining.

8 “(2) *RESPONSE BY SECRETARY.*—Not later than
9 180 days after the receipt of the report under para-
10 graph (1), the Secretary of Labor shall provide a re-
11 sponse to the Committee on Health, Education,
12 Labor, and Pensions of the Senate and the Committee
13 on Education and the Workforce of the House of Rep-
14 resentatives containing a description of the actions, if
15 any, that the Secretary intends to take based upon the
16 report, including proposing regulatory changes, and
17 the reasons for such actions.

18 “(e) *COMPENSATION.*—Members appointed to the
19 panel, while carrying out the duties of the Panel shall be
20 entitled to receive compensation, per diem in lieu of subsist-
21 ence, and travel expenses in the same manner and under
22 the same conditions as that prescribed under section 208(c)
23 of the Public Health Service Act.”.

1 **SEC. 12. SCHOLARSHIPS.**

2 *Title V of the Federal Mine Safety and Health Act of*
 3 *1977 (30 U.S.C. 951 et seq.), as amended by section 11,*
 4 *is further amended by adding at the end the following:*

5 **“SEC. 515. SCHOLARSHIPS.**

6 *“(a) ESTABLISHMENT.—The Secretary of Education*
 7 *(referred to in this section as the ‘Secretary’), in consulta-*
 8 *tion with the Secretary of Labor and the Secretary of*
 9 *Health and Human Services, shall establish a program to*
 10 *provide scholarships to eligible individuals to increase the*
 11 *skilled workforce for both private sector coal mine operators*
 12 *and mine safety inspectors and other regulatory personnel*
 13 *for the Mine Safety and Health Administration.*

14 **“(b) FUNDAMENTAL SKILLS SCHOLARSHIPS.—**

15 *“(1) IN GENERAL.—Under the program under*
 16 *subsection (a), the Secretary may award scholarship*
 17 *to fully or partially pay the tuition costs of eligible*
 18 *individuals enrolled in 2-year associate’s degree pro-*
 19 *grams at community colleges or other colleges and*
 20 *universities that focus on providing the fundamental*
 21 *skills and training that is of immediate use to a be-*
 22 *ginning coal miner.*

23 *“(2) SKILLS.—The skills described in paragraph*
 24 *(1) shall include basic math, basic health and safety,*
 25 *business principles, management and supervisory*
 26 *skills, skills related to electric circuitry, skills related*

1 to heavy equipment operations, and skills related to
2 communications.

3 “(3) *ELIGIBILITY.*—To be eligible to receive a
4 scholarship under this subsection an individual
5 shall—

6 “(A) have a high school diploma or a GED;

7 “(B) have at least 2 years experience in
8 full-time employment in mining or mining-re-
9 lated activities;

10 “(C) submit to the Secretary an application
11 at such time, in such manner, and containing
12 such information; and

13 “(D) demonstrate an interest in working in
14 the field of mining and performing an intern-
15 ship with the Mine Safety and Health Adminis-
16 tration or the National Institute for Occupa-
17 tional Safety and Health Office of Mine Safety.

18 “(c) *MINE SAFETY INSPECTOR SCHOLARSHIPS.*—

19 “(1) *IN GENERAL.*—Under the program under
20 subsection (a), the Secretary may award scholarship
21 to fully or partially pay the tuition costs of eligible
22 individuals enrolled in undergraduate bachelor’s de-
23 gree programs at accredited colleges or universities
24 that provide the skills needed to become mine safety
25 inspectors.

1 “(2) *SKILLS.*—*The skills described in paragraph*
2 *(1) include skills developed through programs leading*
3 *to a degree in mining engineering, civil engineering,*
4 *mechanical engineering, electrical engineering, indus-*
5 *trial engineering, environmental engineering, indus-*
6 *trial hygiene, occupational health and safety, geology,*
7 *chemistry, or other fields of study related to mine*
8 *safety and health work.*

9 “(3) *ELIGIBILITY.*—*To be eligible to receive a*
10 *scholarship under this subsection an individual*
11 *shall—*

12 “(A) *have a high school diploma or a GED;*

13 “(B) *have at least 5 years experience in*
14 *full-time employment in mining or mining-re-*
15 *lated activities;*

16 “(C) *submit to the Secretary an application*
17 *at such time, in such manner, and containing*
18 *such information; and*

19 “(D) *agree to be employed for a period of at*
20 *least 5 years at the Mine Safety and Health Ad-*
21 *ministration or, to repay, on a pro-rated basis,*
22 *the funds received under this program, plus in-*
23 *terest, at a rate established by the Secretary*
24 *upon the issuance of the scholarship.*

25 “(d) *ADVANCED RESEARCH SCHOLARSHIPS.*—

1 “(1) *IN GENERAL.*—Under the program under
2 subsection (a), the Secretary may award scholarships
3 to fully or partially pay the tuition costs of eligible
4 individuals enrolled in undergraduate bachelor’s de-
5 gree, masters degree, and Ph.D. degree programs at
6 accredited colleges or universities that provide the
7 skills needed to augment and advance research in
8 mine safety and to broaden, improve, and expand the
9 universe of candidates for mine safety inspector and
10 other regulatory positions in the Mine Safety and
11 Health Administration.

12 “(2) *SKILLS.*—The skills described in paragraph
13 (1) include skills developed through programs leading
14 to a degree in mining engineering, civil engineering,
15 mechanical engineering, electrical engineering, indus-
16 trial engineering, environmental engineering, indus-
17 trial hygiene, occupational health and safety, geology,
18 chemistry, or other fields of study related to mine
19 safety and health work.

20 “(3) *ELIGIBILITY.*—To be eligible to receive a
21 scholarship under this subsection an individual
22 shall—

23 “(A) have a bachelor’s degree or equivalent
24 from an accredited 4-year institution;

1 “(B) have at least 5 years experience in
2 *full-time employment in underground mining or*
3 *mining-related activities; and*

4 “(C) submit to the Secretary an application
5 *at such time, in such manner, and containing*
6 *such information.*

7 “(e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
8 *authorized to be appropriated such sums as may be nec-*
9 *essary to carry out this section.”.*

10 **SEC. 13. RESEARCH CONCERNING REFUGE ALTERNATIVES.**

11 (a) *IN GENERAL.—The National Institute of Occupa-*
12 *tional Safety and Health shall provide for the conduct of*
13 *research, including field tests, concerning the utility, practi-*
14 *cality, survivability, and cost of various refuge alternatives*
15 *in an underground coal mine environment, including com-*
16 *mercially-available portable refuge chambers.*

17 (b) *REPORT.—*

18 (1) *IN GENERAL.—Not later than 18 months*
19 *after the date of enactment of this Act, the National*
20 *Institute for Occupational Safety and Health shall*
21 *prepare and submit to the Secretary of Labor, the*
22 *Secretary of Health and Human Services, the Com-*
23 *mittee on Health, Education, Labor, and Pensions of*
24 *the Senate, and the Committee on Education and the*
25 *Workforce of the House of Representatives a report*

1 *concerning the results of the research conducted under*
2 *subsection (a), including any field tests.*

3 (2) *RESPONSE BY SECRETARY.*—*Not later than*
4 *180 days after the receipt of the report under para-*
5 *graph (1), the Secretary of Labor shall provide a re-*
6 *sponse to the Committee on Health, Education,*
7 *Labor, and Pensions of the Senate and the Committee*
8 *on Education and the Workforce of the House of Rep-*
9 *resentatives containing a description of the actions, if*
10 *any, that the Secretary intends to take based upon the*
11 *report, including proposing regulatory changes, and*
12 *the reasons for such actions.*

13 **SEC. 14. BROOKWOOD-SAGO MINE SAFETY GRANTS.**

14 (a) *IN GENERAL.*—*The Secretary of Labor shall estab-*
15 *lish a program to award competitive grants for education*
16 *and training, to be known as Brookwood-Sago Mine Safety*
17 *Grants, to carry out the purposes of this section.*

18 (b) *PURPOSES.*—*It is the purpose of this section, to*
19 *provide for the funding of education and training programs*
20 *to better identify, avoid, and prevent unsafe working condi-*
21 *tions in and around mines.*

22 (c) *ELIGIBILITY.*—*To be eligible to receive a grant*
23 *under this section, an entity shall—*

24 (1) *be a public or private nonprofit entity; and*

1 (2) *submit to the Secretary of Labor an applica-*
2 *tion at such time, in such manner, and containing*
3 *such information as the Secretary may require.*

4 (d) *USE OF FUNDS.—Amounts received under a grant*
5 *under this section shall be used to establish and implement*
6 *education and training programs, or to develop training*
7 *materials for employers and miners, concerning safety and*
8 *health topics in mines, as determined appropriate by the*
9 *Mine Safety and Health Administration.*

10 (e) *AWARDING OF GRANTS.—*

11 (1) *ANNUAL BASIS.—Grants under this section*
12 *shall be awarded on an annual basis.*

13 (2) *SPECIAL EMPHASIS.—In awarding grants*
14 *under this section, the Secretary of Labor shall give*
15 *special emphasis to programs and materials that tar-*
16 *get workers in smaller mines, including training min-*
17 *ers and employers about new Mine Safety and Health*
18 *Administration standards, high risk activities, or*
19 *hazards identified by such Administration.*

20 (3) *PRIORITY.—In awarding grants under this*
21 *section, the Secretary of Labor shall give priority to*
22 *the funding of pilot and demonstration projects that*
23 *the Secretary determines will provide opportunities*
24 *for broad applicability for mine safety.*

1 (f) *EVALUATION.*—*The Secretary of Labor shall use not*
2 *less than 1 percent of the funds made available to carry*
3 *out this section in a fiscal year to conduct evaluations of*
4 *the projects funded under grants under this section.*

5 (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
6 *authorized to be appropriated for each fiscal year, such*
7 *sums as may be necessary to carry out this section.*

Calendar No. 439

109TH CONGRESS
2^D SESSION

S. 2803

A BILL

To amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

MAY 23, 2006

Reported with an amendment