



Legislative Bulletin.....January 16, 2008

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H.R. 2768—Amendments to the Supplemental Mine Improvement and New Emergency Response Act (S-MINER)

H.R. 2768, the Supplemental Mine Improvement and New Emergency Response Act (S-MINER) (sponsored by Rep. George Miller, D-CA), is scheduled to be considered on the House floor on Wednesday, January 16, 2008, subject to a structured rule ([H.Res. 918](#)), making in order the following four amendments, each debatable for 10 minutes, except where noted.

The rule waives all points of order against consideration of the bill, except those regarding PAYGO and earmarks, waives all points of order against the bill itself—except the PAYGO rule—and allows the Chair to postpone consideration of the legislation at any time during its consideration. The rule allows one motion to recommit with or without instructions.

Note: The summaries below are based on RSC staff review of *actual amendment text* and thus often differ significantly from what's on the Rules Committee website. For a summary of the underlying bill, see a separate RSC document released yesterday.

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AMENDMENTS MADE IN ORDER UNDER THE RULE

1. Miller, George (D-CA). Manager's Amendment. This amendment would:

- Loosen the requirements in the underlying bill for industry-wide installation of fire-resistant conveyor belts. Whereas in the underlying bill, the regulations for conveyor belt replacement had to be issued by January 31, 2008, and all belts replaced by December 31, 2012, the manager's amendment would extend the regulation publishing deadline to 90 days after enactment of S-MINER and would not specify a deadline for installation of the new belts. The amendment would also exempt from the belts requirements any operator who is unable to obtain the fire resistant belts, as certified by the Labor Secretary, as well as any older belt that has been certified safe from visible defects that could cause ignition. The amendment would apply these changes to underground metal and nonmetal mines as well;
- Authorize an additional \$30 million for the Labor Secretary to purchase personal dust monitors for MSHA's spot inspections of mines for respirable dust;
- Direct the Labor Secretary to study substance abuse by miners and make recommendations to Congress for policy changes, in consultation with all relevant parties (listed in the

amendment text). The Secretary would be authorized, pending the findings of the study, to create a miner substance abuse testing, rehabilitation, and treatment program within MSHA; and

- Make clarifying changes about the installation of underground refuges.

2. *Boucher (D-VA)*. Authorizes \$10 million for the Labor Secretary, in consultation with the HHS Secretary, to award grants “to appropriate entities and programs” to provide rehabilitation services to current and former miners suffering from mental health impairments, including drug addiction and substance abuse issues, that may have been caused or exacerbated by their work as miners.

3. *Ellsworth (D-IN)*. Directs the Labor Secretary to maintain a list of delinquent mine operators who fail to pay assessed penalties on time and allows such operators to challenge their placement on such a list. This amendment would also establish a Mine Safety Program Fund within the U.S. Treasury, capitalized by mine safety civil penalties, as well as private donations. Money from the fund could only be used for mine safety inspections and investigations.

4. *Wilson (R-SC)/Kline (R-MN)*. Amendment in the Nature of a Substitute. The Republican substitute would:

- Express a sense of Congress that MSHA should continue the “full and timely” implementation of the MINER Act (the mine safety bill from 2006) as “robustly, safely, and expeditiously” as possible;
- Direct the Labor Secretary to promulgate regulations authorizing mine operators to create, maintain, assist, and participate in workplace safety committees with miners to deal with all aspects of mine safety;
- Require each mine operator to create a mandatory, random substance abuse testing program for mine employees, including an employee assistance program. Miners’ individual rights and privacy would have to be protected under such a program, and a process of notifying the Labor Department about substance-abusing miners would have to be created;
- Require the creation of a national registry of mine employees found to be substance abusers “for the sole purpose of sharing, on a confidential basis, with state authorities responsible for issuance of licenses, certification, permits, or other documents required to seek employment in the mining industry;”
- Direct MSHA to coordinate with the Bureau of Land Management on mine safety;
- Establish a six-member Technical Study Panel (made up of people appointed by the Labor Department, the HHS Department, and Congress) to provide non-industry, non-labor, non-government scientific and engineering reviews and provide recommendations to MSHA and Congress to evaluate the risk assessment procedures of deep mine conditions;
- Direct NIOSH to study and report to the Labor Department and Congress on “the recovery of coal pillars through retreat room and pillar mining practices in underground coal mines at depths greater than 1,500 feet;” and
- Require that all information concerning a mine accident or incident obtained by any person or organization participating in an investigation thereof be transmitted to the representative of the Administration coordinating the rescue effort or investigation. Parties to the investigation (including the mine owner, mine operator, employees of that mine, first responders, mine rescue team members, or others participating in the rescue and recovery effort) could relay to respective organizations information necessary for purposes of

prevention or remedial action. However, no information concerning the accident or incident could be released to any person not a party to the investigation or representative of such party prior to the release of such information by the Administration without the prior consultation with, and approval of, the Administration.

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