

**SUBSTITUTE AMENDMENT TO THE AMENDMENT IN
THE NATURE OF A SUBSTITUTE TO H.R. 5663
OFFERED BY MR. KLINE**

Strike all after the enacting clause and insert the following:

1 SEC. 1. SHORT TITLE.

2 This Act may be cited as the “Mine Safety and
3 Health Improvement Act”.

4 SECTION 2. REFERENCES.

5 Except as otherwise expressly provided, whenever in
6 this Act an amendment is expressed as an amendment to
7 a section or other provision, the reference shall be consid-
8 ered to be made to a section or other provision of the Fed-
9 eral Mine Safety and Health Act of 1977 (30 U.S.C. 801
10 et seq.).

**11 TITLE I—ENHANCED
12 ENFORCEMENT**

13 SEC. 101. PATTERN OF VIOLATIONS.

14 (a) ESTABLISHMENT OF SAFE PERFORMANCE
15 INDEX.—Section 104(e) (30 U.S.C. 814(e)) is amended—

16 (1) in paragraph (1), by striking “If an oper-
17 ator” and inserting “(A) If an operator”;

1 (2) by redesignating paragraphs (2) through
2 (4) as subparagraphs (B) through (D);

3 (3) in subparagraph (D) (as so redesignated),
4 by striking “The Secretary shall make such rules as
5 he deems necessary to” and inserting “(i) Not later
6 than 1 year after the date of enactment of the Mine
7 Safety and Health Improvement Act, the Secretary
8 shall, by rule,”;

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

10 “(ii) In issuing such rules and establishing such
11 criteria, the Secretary shall take into consideration
12 the conclusions of the inspector general of the De-
13 partment of Labor regarding the computerized sys-
14 tem for determining a pattern of violations under
15 this subsection and any recommendations of the in-
16 spector general for establishing a clearer system for
17 identifying when such a pattern of violations exists.

18 “(iii) Such criteria shall establish and provide a
19 method for calculating a safe performance index
20 using a scale of zero to 100, wherein a higher num-
21 ber on the index indicates better safety performance
22 and a score that is more than 2 standard deviations
23 below the median on such safe performance index
24 shall be the threshold for determining that a pattern
25 of violations exists under this subsection. Such index

1 shall use the following performance measures, each
2 weighted as determined by the Secretary:

3 “(I) The incidence rate of accidents result-
4 ing in no work days lost.

5 “(II) The incidence rate of nonfatal acci-
6 dents resulting in work days lost.

7 “(III) A severity measure for all accidents.

8 “(IV) The number of citations for viola-
9 tions issued per 100 inspection hours.

10 “(V) The number of citations issued for
11 significant and substantial violations per 100
12 inspection hours.

13 “(VI) The number of orders issued per
14 1,000 inspection hours.”; and

15 (5) by adding at the end of such subsection the
16 following:

17 “(2) The Secretary shall review the performance of
18 mines on the index as frequently as possible and not less
19 than quarterly, and shall notify the operator of any mine
20 that meets the threshold for a pattern of violations under
21 the safe performance index established under paragraph
22 (1)(D) and shall require, by order, such operator to pre-
23 pare and submit to the Secretary for approval a remedi-
24 ation plan within 15 days after receiving such notification
25 under this paragraph. Any such remediation plan that is

1 disapproved by the Secretary shall be reviewed in accord-
2 ance with section 316(b)(2)(G), and a final remediation
3 plan agreed to by the operator and the Secretary not later
4 than 10 days after notification under this paragraph was
5 received by the operator. If such a plan cannot be agreed
6 to, the Secretary shall issue a citation of impasse. If, at
7 any time during the process for determining whether a
8 pattern of violations exists, the Secretary finds that an
9 imminent danger exists at such mine, the Secretary shall
10 take action consistent with section 107(a).

11 “(3) Any mine that meets the threshold for a pattern
12 of violations under the safe performance index established
13 under paragraph (1)(D) shall be subject to spot inspec-
14 tions as provided for in section 103(i) until the Secretary
15 determines that such mine—

16 “(A) is rated not more than 2 standard devi-
17 ations below the median on such safe performance
18 index; and

19 “(B) has met all of the requirements of the re-
20 mediation plan required under paragraph (2).”.

21 (b) METHOD OF CALCULATION OF SAFE PERFORM-
22 ANCE INDEX.—In establishing a method for calculating a
23 safe performance index for determining when a pattern
24 of mandatory health and safety violations exists pursuant
25 to section 104(e)(4) of the Federal Mine Safety and

1 Health Act of 1977 (as amended by this Act) and
2 weighting the factors set forth in subparagraph (C) of
3 such section, the Secretary of Labor shall base such meth-
4 od of calculation and weighting on the weighting of such
5 factors and the procedures for calculating a safe perform-
6 ance index set forth in the publication entitled “Pilot sam-
7 ple risk analysis for underground coal mine fires and ex-
8 plosions using MSHA citation data” by the Pennsylvania
9 State University Department of Energy and Mineral Engi-
10 neering and published in volume 47, issue 10 of “Safety
11 Science”. Such method of calculation shall take into ac-
12 count and adjust for changes in safety practices.

13 **SEC. 102. CRIMINAL PENALTIES.**

14 (a) INCREASED PENALTIES.—Section 110(d) (30
15 U.S.C. 820(d)) is amended—

16 (1) by striking “\$250,000, or by imprisonment
17 for not more than one year” and inserting
18 “\$500,000, or by imprisonment for not more than 3
19 years”; and

20 (2) by striking “\$500,000, or by imprisonment
21 for not more than five years” and inserting
22 “\$1,000,000, or by imprisonment for not more than
23 6 years”.

1 (b) CRIMINAL PENALTY FOR ADVANCED NOTICE OF
2 INSPECTION.—Section 110(e) (30 U.S.C. 820(e)) is
3 amended—

4 (1) by inserting “(except at the behest of the
5 inspector in order to facilitate the inspection)” after
6 “under this Act”; and

7 (2) by striking “fine of not more than \$1,000
8 or by imprisonment for not more than six months,
9 or both.” and inserting “fine of not more than
10 \$5,000 or by imprisonment for not more than 1
11 year, or both. Any person who gives advance noticed
12 of such an inspection with intent to interfere with
13 the inspection, shall, upon conviction, be subject to
14 a fine of not more than \$50,000, or by imprison-
15 ment for not more than 5 years, or both.”.

16 **SEC. 103. SUBPOENA AUTHORITY.**

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

18 (1) in the first sentence, by striking “or other
19 occurrence” and all that follows through “oaths.”
20 and inserting: “, the Secretary may (1) sign and
21 issue subpoenas (in accordance with rule 45 of the
22 Federal Rules of Civil Procedure) for the attendance
23 and testimony of witnesses and the production of in-
24 formation, including all relevant data, papers, books,
25 documents, and items of physical evidence, and ad-

1 minister oaths, and (2) after notice, hold public
2 hearings.”; and

3 (2) in the last sentence by striking “docu-
4 ments” and inserting “information, including data,
5 papers, books, documents, and items of physical evi-
6 dence”.

7 **TITLE II—STRENGTHENED** 8 **INSPECTION AUTHORITY**

9 **SEC. 201. HOURS OF INSPECTIONS.**

10 Section 103(a) (30 U.S.C. 813(a)) is amended by in-
11 serting after the third sentence the following: “Not fewer
12 than 30 percent of the total number of hours during which
13 the inspections required by the previous sentence are con-
14 ducted shall take place during evenings and weekends for
15 those mines that are in operation on evenings and week-
16 ends. Such 30 percent requirement shall not be affected
17 by any collective bargaining agreement of the inspectors.”.

18 **SEC. 202. INDEPENDENT ACCIDENT INVESTIGATIONS.**

19 (a) IN GENERAL.—Section 103(b) (30 U.S.C.
20 813(b)) is amended by striking “(b) For the purpose” and
21 inserting the following:

22 “(b) ACCIDENT INVESTIGATIONS.—

23 “(1) IN GENERAL.—For all accident investiga-
24 tions under this Act, the Secretary shall—

25 “(A) determine why the accident occurred;

1 “(B) determine whether there were viola-
2 tions of law, mandatory health and safety
3 standards, or other requirements, and if such
4 violations are found, issue citations and pen-
5 alties, and in cases involving possible criminal
6 actions, refer such matters to the Attorney
7 General; and

8 “(C) make recommendations to avoid any
9 recurrence.

10 “(2) INDEPENDENT ACCIDENT INVESTIGA-
11 TIONS.—

12 “(A) IN GENERAL.—There shall be, in ad-
13 dition to an accident investigation under para-
14 graph (1), an independent investigation by an
15 independent investigation panel (referred to in
16 this subsection as the ‘Panel’) appointed under
17 subparagraph (B) for—

18 “(i) any accident involving 3 or more
19 deaths; or

20 “(ii) any accident that is of such se-
21 verity or scale for potential or actual harm
22 that, in the opinion of the Secretary of
23 Health and Human Services, the accident
24 merits an independent investigation.

25 “(B) APPOINTMENT.—

1 “(i) IN GENERAL.—As soon as prac-
2 ticable after an accident described in sub-
3 paragraph (A), the Secretary of Health
4 and Human Services shall appoint 5 mem-
5 bers for the Panel required under this
6 paragraph from among individuals who
7 have expertise in accident investigations,
8 mine engineering, or mine safety and
9 health that is relevant to the particular in-
10 vestigation.

11 “(ii) CHAIRPERSON.—The Panel shall
12 include, and be chaired by, a representative
13 from the Office of Mine Safety and Health
14 Research, of the National Institute for Oc-
15 cupational Safety and Health (referred to
16 in this subsection as NIOSH).

17 “(iii) CONFLICTS OF INTEREST.—
18 Panel members, and staff and consultants
19 assisting the Panel with an investigation,
20 shall be free from conflicts of interest with
21 regard to the investigation, and be subject
22 to the same standards of ethical conduct
23 for persons employed by the Secretary.

1 “(iv) COMPOSITION.—The Secretary
2 of Health and Human Services shall ap-
3 point as members of the Panel—

4 “(I) 1 operator of a mine or indi-
5 vidual representing mine operators,
6 and

7 “(II) 1 representative of a labor
8 organization that represents miners,
9 and may not appoint more than 1 of either
10 such individuals as members of the Panel.

11 “(v) STAFF AND EXPENSES.—The Di-
12 rector of NIOSH shall designate NIOSH
13 staff to facilitate the work of the Panel.
14 The Director may accept as staff personnel
15 on detail from other Federal agencies or
16 re-employ annuitants. The detail of per-
17 sonnel under this paragraph may be on a
18 non-reimbursable basis, and such detail
19 shall be without interruption or loss of civil
20 service status or privilege. The Director of
21 NIOSH shall have the authority to procure
22 on behalf of the Panel such materials, sup-
23 plies or services, including technical ex-
24 perts, as requested in writing by a majority
25 of the Panel.

1 “(vi) COMPENSATION AND TRAVEL.—
2 All members of the Panel who are officers
3 or employees of the United States shall
4 serve without compensation in addition to
5 that received for their services as officers
6 or employees of the United States. Each
7 Panel member who is not an officer or em-
8 ployee of the United States shall be com-
9 pensated at a rate equal to the daily equiv-
10 alent of the annual rate of basic pay pre-
11 scribed for level IV of the Executive Sched-
12 ule under section 5315 of title 5, United
13 States Code, for each day (including travel
14 time) during which such member is en-
15 gaged in the performance of duties of the
16 Panel. The members of the Panel shall be
17 allowed travel expenses, including per diem
18 in lieu of subsistence, at rates authorized
19 for employees of agencies under subchapter
20 1 of chapter 57 of title 5, United States
21 Code, while away from their homes or reg-
22 ular places of business in the performance
23 of services for the Panel.
24 “(C) DUTIES.—The Panel shall—

1 “(i) review and evaluate the investiga-
2 tion of the accident conducted by the Sec-
3 retary to assess and identify—

4 “(I) any conduct of the Mine
5 Safety and Health Administration
6 leading up to the accident that is rel-
7 evant to the accident; and

8 “(II) any inadequacies in or mis-
9 conduct during such investigation;

10 “(ii) review the determinations and
11 recommendations by the Secretary under
12 paragraph (1);

13 “(iii) prepare a report that—

14 “(I) includes the findings from
15 the review conducted under clauses (i)
16 and (ii);

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

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

1 trative, or other changes, which in the
2 judgment of the Panel, would prevent
3 a recurrence at other mines; and

4 “(iv) publish such findings and rec-
5 ommendations (excluding any portions
6 which the Attorney General requests that
7 the Secretary withhold in relation to a
8 criminal referral) and hold public meetings
9 to inform the mining community and fami-
10 lies of affected miners of the Panel’s find-
11 ings and recommendations.

12 “(D) HEARINGS; APPLICABILITY OF CER-
13 TAIN FEDERAL LAW.—The Panel 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 Panel 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 date of enactment of the Mine Safety and
23 Health Improvement Act, the Secretary of
24 Labor and the Secretary of Health and Human

1 Services shall conclude and publically issue a
2 memorandum of understanding that—

3 “(i) outlines administrative arrange-
4 ments which will facilitate a coordination
5 of efforts between the Secretary of Labor
6 and the Panel, ensures that the Secretary’s
7 investigation under paragraph (1) is not
8 delayed or otherwise compromised by the
9 activities of the Panel, and establishes a
10 process to resolve any conflicts between
11 such investigations;

12 “(ii) ensures that Panel members or
13 staff will be able to participate in inves-
14 tigation activities (such as mine inspections
15 and interviews) related to the Secretary of
16 Labor’s investigation and will have full ac-
17 cess to documents that are assembled or
18 produced in such investigation, and en-
19 sures that the Secretary of Labor will
20 make all of the authority available to such
21 Secretary under this section, including sub-
22 poena authority, to obtain information and
23 witnesses which may be requested by such
24 Panel; and

1 “(iii) establishes such other arrange-
2 ments as are necessary to implement this
3 paragraph.

4 “(F) PROCEDURES.—Not later than 90
5 days after the date of enactment of the Mine
6 Safety and Health Improvement Act, the Sec-
7 retary of Health and Human Services shall es-
8 tablish procedures to ensure the consistency
9 and effectiveness of Panel investigations. In es-
10 tablishing such procedures, such Secretary shall
11 consult with independent safety investigation
12 agencies, sectors of the mining industry, rep-
13 resentatives of miners, families of miners in-
14 volved in fatal accidents, State mine safety
15 agencies, and mine rescue organizations. Such
16 procedures shall include—

17 “(i) authority for the Panel to use evi-
18 dence, samples, interviews, data, analyses,
19 findings, or other information gathered by
20 the Secretary of Labor, as the Panel deter-
21 mines valid;

22 “(ii) provisions to ensure confiden-
23 tiality if requested by any witness, to the
24 extent permitted by law, and prevent con-

1 flicts of interest in witness representation;
2 and

3 “(iii) provisions for preservation of
4 public access to the Panel’s records
5 through the Secretary of Health and
6 Human Services.

7 “(G) AUTHORIZATION OF APPROPRIA-
8 TIONS.—There is authorized to be appropriated
9 to carry out this subsection such sums as may
10 be necessary.

11 “(3) POWERS AND PROCESSES.—For the pur-
12 pose”.

13 (b) REPORTING REQUIREMENTS.—Section 511(a)
14 (30 U.S.C. 958(a)) is amended by inserting after “501,”
15 the following: “the status of implementation of rec-
16 ommendations from each independent investigation panel
17 under section 103(b) received in the preceding 5 years.”.

18 **SEC. 203. DESIGNATION OF MINER REPRESENTATIVE.**

19 Section 103(f) (30 U.S.C. 813(f)) is amended by in-
20 serting before the last sentence the following: “Each oper-
21 ator shall require each miner employed by the operator
22 to designate a next of kin or other representative at the
23 time of employment. Such representative shall act on the
24 miners behalf for purposes of this subsection if the miner
25 is entrapped or otherwise prevented as the result of an

1 accident in such mine from acting on the miner's own be-
2 half.”.

3 **SEC. 204. ADDITIONAL TRAINING FOR MINE INSPECTORS.**

4 Section 505 (30 U.S.C. 954) is amended by adding
5 at the end the following: “In providing for the training
6 of inspectors under this section, the Secretary shall ensure
7 that each inspector receives not less than 2 weeks of train-
8 ing or retraining each year. Such training shall ensure
9 that inspectors are fully trained regarding all statutory
10 and regulatory changes relating to the inspections of
11 mines under this Act, their authority and responsibilities
12 as inspectors, and the best practices utilized by other mine
13 inspectors in carrying out their duties under this Act.”.

14 **SEC. 205. PENALTY FOR FRIVOLOUS CONTESTS.**

15 Section 105(d) (30 U.S.C. 815(d)) is amended by
16 adding at the end the following: “In any contest of an
17 order, citation, or proposed assessment of penalty brought
18 under this subsection, if the Commission determines the
19 basis for such a contest to be frivolous, the Commission
20 may assess an additional penalty in an amount determined
21 appropriate by the Commission.”.

22 **SEC. 206. REESTABLISHMENT OF CONFERENCE PROCESS**
23 **FOR CONTESTS.**

24 (a) **NULLIFICATION OF PROCEDURE INSTRUCTION**
25 **LETTERS.**—Beginning on the date of enactment of this

1 Act, Procedure Instruction Letter no. I09–III–3 (PIL
2 I09–III–3), issued by the Mine Safety and Health Admin-
3 istration on March 27, 2009, shall have no force or effect,
4 and Procedure Instruction Letter no. I08–III–
5 01(superseded by PIL I09–III–3) shall have no force or
6 effect. The procedures for review of citations and orders
7 and assessment of civil penalties and conferences shall be
8 those set forth in section 100.6 of title 30, Code of Federal
9 Regulations.

10 (b) STUDY.—The Secretary shall examine the re-
11 quirements for and process of reporting by conference liti-
12 gation representatives to determine if it would be more
13 effective if the Secretary required such representatives to
14 report directly to the Office of Accountability.

15 **TITLE III—MODERNIZING MINE** 16 **SAFETY STANDARDS**

17 **SEC. 301. ROCK DUST STANDARDS AND METHODS OF MEAS-**
18 **UREMENT.**

19 (a) AMENDMENT.—Section 304(d) (30 U.S.C.
20 864(d)) is amended—

21 (1) by striking “Where rock” and inserting the
22 following: “ROCK DUST.—

23 “(1) IN GENERAL.—Where rock”;

24 (2) by striking “65 per centum” and all that
25 follows and inserting “80 percent.”; and

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

2 “(2) METHODS OF MEASUREMENT.—

3 “(A) IN GENERAL.—Each operator of an
4 underground coal mine shall take accurate sam-
5 ples of the amount of coal dust, including float
6 coal dust deposited on rock-dusted surfaces,
7 loose coal, and other combustible materials in
8 the active workings of such mines, to ensure
9 that the coal dust is kept below explosive levels
10 through the appropriate application of rock
11 dusting.

12 “(B) DIRECT READING MONITORS.—By
13 the later of June 15, 2011, or the date that is
14 30 days after the Secretary of Health and
15 Human Services has certified in writing that di-
16 rect reading monitors are commercially avail-
17 able to measure total incombustible content in
18 coal dust rock dust, and other dust, and the
19 Department of Labor has approved such mon-
20 itors for use in underground coal mines, the
21 Secretary shall require operators to take dust
22 samples using direct reading monitors.

23 “(C) REGULATIONS.—The Secretary shall,
24 not later than 180 days after the date of enact-
25 ment of the Mine Safety and Health Improve-

1 ment Act, promulgate an interim final rule that
2 prescribes methods for sampling of total incom-
3 bustible content of coal dust, rock dust, and
4 other dust using direct reading monitors and
5 includes requirements for locations, methods,
6 and intervals for mandatory operator sampling.

7 “(D) RECOMMENDATIONS.—Not later than
8 1 year after the date of enactment of the Mine
9 Safety and Health Improvement Act, the Sec-
10 retary of Health and Human Services shall,
11 based upon the latest research, recommend to
12 the Secretary of Labor any revisions to the
13 mandatory operator sampling locations, meth-
14 ods, and intervals included in the interim final
15 rule described in subparagraph (B) that may be
16 warranted in light of such research.”.

17 (b) REPORT.—Not later than 2 years after the date
18 of enactment of this Act, the Secretary of Health and
19 Human Services, in consultation with the Secretary of
20 Labor, shall prepare and submit, to the Committee on
21 Education and Labor of the House of Representatives and
22 the Committee on Health, Education, Labor, and Pen-
23 sions of the Senate, a report—

24 (1) regarding whether any direct reading device
25 described in section 304(d)(2)(B) of the Federal

1 Mine Safety and Health Act of 1977 (30 U.S.C.
2 864(d)(2)(B)) is sufficiently reliable and accurate
3 for the enforcement of the mandatory health or safe-
4 ty standards by the Secretary of Labor under such
5 Act, and whether additional improvement to such di-
6 rect reading device, or additional verification regard-
7 ing reliability and accuracy, would be needed for en-
8 forcement purposes; and

9 (2) identifying any limitations or impediments
10 for such use in underground coal mines.

11 **SEC. 302. PERSONAL DUST MONITORS.**

12 Not later than 180 days after the date of the enact-
13 ment of this Act, the Secretary of Labor shall issue a man-
14 datory health and safety standard pursuant to section 101
15 of the Federal Mine Safety and Health Act of 1977 (30
16 U.S.C. 811) establishing requirements for the use of per-
17 sonal dust monitors by underground coal miners. Such a
18 standard shall be based on the recommendations of the
19 joint labor-industry task force issued April 4, 2008.

20 **SEC. 303. RISK ANALYSIS PILOT PROGRAM.**

21 (a) STUDY OF INTERNATIONAL MINING PRAC-
22 TICES.—No later than 18 months following the enactment
23 of this Act, the National Institute of Occupational Safety
24 and Health shall survey international mining practices
25 with respect to incident planning generally, with a par-

1 ticular focus on the risk assessment-based approach un-
2 dertaken in Australia, and shall compare the same with
3 current regulatory practices within the United States.

4 (b) PUBLICATION OF PROTOCOLS.—Upon completion
5 of the study required under subsection (a), the National
6 Institute of Occupational Safety and Health shall develop
7 and publish in the Federal Register protocols for incident
8 planning for both underground metal and nonmetal mines
9 and underground coal mines that address—

10 (1) the elements that should be included in any
11 risk management plan;

12 (2) approaches to redesigning mine practices to
13 prevent an incident; and

14 (3) methods that mine operators should con-
15 sider for a timely response to incidents.

16 Upon publication of these protocols the National Institute
17 of Occupational Safety and Health may encourage mine
18 operators to undergo a risk assessment and review using
19 the outlined protocols through its ongoing partnerships.

20 **SEC. 304. ATMOSPHERIC MONITORING SYSTEMS.**

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

23 “(u) ATMOSPHERIC MONITORING SYSTEMS.—

24 “(1) NIOSH RECOMMENDATIONS.—Not later
25 than 6 months after the date of enactment of the

1 Mine Safety and Health Improvement Act, the Di-
2 rector of the National Institute for Occupational
3 Safety and Health, acting through the Office of
4 Mine Safety and Health Research, shall issue rec-
5 ommendations to the Secretary regarding—

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

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

15 “(2) ATMOSPHERIC MONITORING SYSTEM REG-
16 ULATIONS.—Not later than 270 days following the
17 receipt of the recommendations described in para-
18 graph (1), the Secretary shall promulgate regula-
19 tions requiring that each operator of an under-
20 ground coal mine install atmospheric monitoring sys-
21 tems, consistent with such recommendations, that—

22 “(A) protect miners where the miners nor-
23 mally work and travel;

24 “(B) provide real-time information regard-
25 ing methane and carbon monoxide levels, and

1 airflow direction, as appropriate, with sensing,
2 annunciating, and recording capabilities; and

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

5 **TITLE IV—STUDIES**

6 **SEC. 402. STUDY REGARDING ESTABLISHMENT OF A TECH-** 7 **NICAL DISPUTES PANEL.**

8 (a) **STUDY.**—The Secretary of Labor shall conduct
9 a study of the feasibility and potential advantages of es-
10 tablishing a separate, independent panel apart from the
11 Mine Safety and Health Commission that would be re-
12 sponsible for hearing and resolving disputes between such
13 Commission and mine operators relating to citations of
14 impasse and other technical citations issued under the
15 Federal Mine Safety and Health Act of 1977 (30 U.S.C.
16 801 et seq.). Such study shall address whether such a
17 panel could facilitate and expedite the resolution of such
18 disputes and shall consider the role such a panel would
19 play in conjunction with the Federal Mine Safety and
20 Health Review Commission.

21 (b) **REPORT.**—Not later than 18 months after the
22 date of the enactment of this Act, the Secretary shall
23 transmit to Congress a report on the study required under
24 subsection (a), including any recommendations for legisla-
25 tion.

1 **SEC. 403. GAO STUDY ON TRANSFER OF AUTHORITY FROM**
2 **NIOSH TO THE DEPARTMENT OF LABOR.**

3 (a) **STUDY.**—The Comptroller General shall conduct
4 a study of the feasibility and potential advantages of
5 transferring the Office of Mine Safety and Health, estab-
6 lished within the National Institute for Occupational Safe-
7 ty and Health under section 22(h) of the Occupational
8 Safety and Health Act of 1970 (29 U.S.C. 671(h)), to the
9 Department of Labor and permanently locating such office
10 as an independent office in such Department. In con-
11 ducting the study, the Comptroller General shall consider
12 whether it would be advisable to transfer the entire Na-
13 tional Institute for Occupational Safety and Health from
14 the Department of Health and Human Services to the De-
15 partment of Labor and to establish such institute as an
16 independent institute in the Department of Labor. The
17 study shall determine whether having either such office
18 or such institute report to the Secretary of Labor would
19 facilitate the communication of the research and findings
20 of such office or institute to the Department of Labor and
21 would improve worker safety and health.

22 (b) **REPORT.**—Not later than 18 months after the
23 date of the enactment of this Act, the Comptroller General
24 shall transmit to Congress a report on the study required
25 under subsection (a), including—

1 (1) the recommendations of the Comptroller
2 General regarding either transfer described in such
3 subsection;

4 (2) an explanation of the findings of the study
5 and the rationale for such recommendations; and

6 (3) an identification of legislation required to
7 effect such a transfer.

