

115TH CONGRESS  
1ST SESSION

# S. 855

To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, APRIL 4), 2017

Mr. CASEY (for himself, Mr. BROWN, Mr. MANCHIN, Mr. KAINE, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes.

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

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Black Lung Benefits  
5   Improvement Act of 2017”.

### 6   **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.

## TITLE I—BLACK LUNG BENEFITS

### PART A—IMPROVING THE PROCESS FOR FILING AND ADJUDICATING CLAIMS FOR BENEFITS

- Sec. 101. Mandatory disclosure of medical information and reports.
- Sec. 102. Attorneys' fees and medical expenses payment program.
- Sec. 103. Clarifying eligibility for black lung benefits.
- Sec. 104. Restoring adequate benefit adjustments for miners suffering from  
black lung disease and for their dependent family members.
- Sec. 105. Treatment of evidence in equipoise.
- Sec. 106. Providing assistance with claims for miners and their dependent fam-  
ily members.
- Sec. 107. False statements or misrepresentations, attorney disqualification, and  
discovery sanctions.
- Sec. 108. Development of medical evidence by the Secretary.
- Sec. 109. Establishment of pilot program to provide impartial classifications of  
chest radiographs.
- Sec. 110. Medical evidence training program.
- Sec. 111. Technical and conforming amendments.
- Sec. 112. Readjudicating cases involving certain chest radiographs.
- Sec. 113. Disclosure of employment and earnings information for Black Lung  
Benefits Act claims.

### PART B—REPORTS TO IMPROVE THE ADMINISTRATION OF BENEFITS UNDER THE BLACK LUNG BENEFITS ACT

- Sec. 121. Strategy to reduce delays in adjudication.
- Sec. 122. GAO report on black lung program.

## TITLE II—STANDARD FOR RESPIRABLE DUST CONCENTRATION

- Sec. 201. Standard for respirable dust concentration.

## TITLE III—ESTABLISHING THE OFFICE OF WORKERS' COMPENSATION PROGRAMS

- Sec. 301. Office of Workers' Compensation Programs.

## TITLE IV—SEVERABILITY

- Sec. 401. Severability.

## 1 **SEC. 3. FINDINGS.**

2 Congress finds the following:

- 3 (1) The Black Lung Benefits Act (30 U.S.C.
- 4 901 et seq.) was enacted to provide health care and
- 5 modest benefits to coal miners who develop pneumo-

1        coniosis (referred to in this section as “black lung  
2        disease”) resulting from exposure to coal dust dur-  
3        ing their employment. Yet the determination of a  
4        claimant’s eligibility for these benefits often requires  
5        complex, adversarial litigation. Resource disparities  
6        between coal companies and such claimants are  
7        widespread within the statutory and regulatory  
8        framework of such Act. Comprehensive reforms are  
9        necessary to ensure that coal miners are not at a  
10       disadvantage when filing claims for benefits.

11            (2) The Government Accountability Office has  
12        found that many claimants under the Black Lung  
13        Benefits Act are not equipped with the medical and  
14        legal resources necessary to develop evidence to meet  
15        the requirements for benefits. Miners often lack  
16        complete and reliable medical evidence, consequently  
17        increasing the risk that the individuals who review  
18        claims for benefits will be presented with insufficient  
19        medical evidence. Similarly, without better options  
20        for legal representation, significant numbers of such  
21        claimants proceed with their claims through a com-  
22        plex and potentially long administrative process  
23        without resources that Department of Labor officials  
24        and black lung disease experts note are important  
25        for developing evidence and supporting their claims.

1       Only 33 percent of claimants are represented by an  
2       attorney during the initial claims determination. Ab-  
3       sent efforts to remedy administrative problems and  
4       address structural weaknesses in the process for ob-  
5       taining benefits, claimants with meritorious claims  
6       will not receive benefits.

7           (3) Full exchange and disclosure between the  
8       parties of relevant medical information is essential  
9       for fair adjudication of claims under the Black Lung  
10      Benefits Act, regardless of whether the parties in-  
11      tend to submit such information into evidence.  
12      Records of adjudications reveal that some mine oper-  
13      ators' legal representatives have withheld relevant  
14      evidence from claimants, administrative law judges,  
15      and, in some cases, even their own medical experts.  
16      In several cases, the disclosure of such evidence  
17      would have substantiated a miner's claim for bene-  
18      fits. Withholding medical information can endanger  
19      miners by depriving them of important information  
20      about their own health and the potential need to  
21      seek medical treatment.

22           (4) Given the remedial nature of the Black  
23      Lung Benefits Act, when an adjudicator determines  
24      that evidence is evenly balanced, it is appropriate for  
25      any resulting doubt to be resolved in favor of the

1 claimant. The Supreme Court vacated this long-  
2 standing legal principle, not on substantive grounds,  
3 but because its application conflicted with the re-  
4 quirements of another statute. Such principle needs  
5 to be reinstated in the Black Lung Benefits Act be-  
6 cause it provides fairness and improves the adminis-  
7 tration of benefits.

8 (5) Physicians who read lung x-rays as part of  
9 pulmonary assessments used in proceedings for  
10 claims under the Black Lung Benefits Act are re-  
11 quired to demonstrate competency in classifying  
12 chest radiographs by becoming certified as B Read-  
13 ers by the National Institute for Occupational Safety  
14 and Health (referred to in this section as  
15 “NIOSH”). However, investigations have uncovered  
16 that there are NIOSH-certified B Readers who have  
17 systematically misclassified chest radiographs while  
18 employed by coal operators or their law firms for the  
19 purpose of opposing claims under such Act. In re-  
20 sponse, the Department of Labor has directed claims  
21 examiners “not to credit negative chest x-ray read-  
22 ings for pneumoconiosis” by one widely used physi-  
23 cian employed at a prominent medical center unless  
24 the conclusions of such physician “have been reha-  
25 bilitated”. Where chest radiographs are needed to

1 establish entitlement to benefits, claimants should  
2 have access to accurate interpretations so as to en-  
3 sure the fair adjudication of such claims.

4 (6) As of the date of enactment of this Act,  
5 more than one year has passed since survivors were  
6 denied benefits on claims under the Black Lung  
7 Benefits Act that involved the consideration of chest  
8 radiograph interpretations rendered by a certain  
9 physician whose interpretations have since been de-  
10 termined by the Department of Labor to be gen-  
11 erally not worthy of credit. Such survivors should be  
12 permitted to file a new claim for benefits under such  
13 Act. However, a survivor is effectively barred from  
14 filing a new claim one year after a decision regard-  
15 ing such benefits is final, constituting an injustice  
16 that merits a remedy.

17 (7) Between the calendar years 2004 and 2014,  
18 a reduction in the number of administrative law  
19 judges in the Department of Labor, coupled with a  
20 large increase in the number of cases filed under the  
21 Black Lung Benefits Act, cuts to nondefense discre-  
22 tionary spending, furloughs resulting from seques-  
23 tration, and the 16-day shutdown of the Federal  
24 Government during the calendar year 2013, has cre-  
25 ated extensive delays in adjudicating claims under

1 such Act and numerous other labor and employment  
2 laws. Due to the imbalance between resources and  
3 caseloads, a typical claim under such Act remains  
4 unresolved for an average of nearly 2 years prior to  
5 a decision by an administrative law judge. These  
6 delays directly and severely impact the lives of work-  
7 ers throughout the United States, placing an undue  
8 financial and emotional burden on the affected indi-  
9 viduals and their families.

10 (8) Contrary to the intent of Congress, benefits  
11 payments under the Black Lung Benefits Act do not  
12 automatically increase with the rising cost of living.  
13 Benefit payments are tied to the monthly pay rate  
14 for Federal employees in grade GS-2, step 1. In sev-  
15 eral of the fiscal years prior to the enactment of this  
16 Act, there was a pay freeze for Federal employees,  
17 which had the effect of eliminating cost-of-living ad-  
18 justments for miners, surviving spouses, and depend-  
19 ents under the Black Lung Benefits Act during such  
20 years.

21 (9) A competent assessment of medical infor-  
22 mation and testimony, which often involves multiple  
23 physicians disputing a diagnosis, is necessary in de-  
24 termining whether to award benefits under the  
25 Black Lung Benefits Act. To ensure that a deter-

1 mination regarding a claim for benefits under such  
2 Act is fair and accurate, regular training is needed  
3 regarding—

4 (A) developments in pulmonary medicine  
5 relating to black lung disease;

6 (B) medical evidence necessary to sustain  
7 claims for such benefits; and

8 (C) the proper weight to be given to con-  
9 flicting evidence.

10 (10) Black lung disease has been the underlying  
11 or contributing cause of death of more than 76,000  
12 miners since 1968. After decades of decline, the inci-  
13 dence of coal miners with black lung disease is on  
14 the rise. According to NIOSH, miners are devel-  
15 oping advanced cases of the disease at younger ages.  
16 In response, the Department of Labor has taken im-  
17 portant steps to combat the disease, including pro-  
18 mulgating a rule that reduces the allowed concentra-  
19 tion of coal dust and eliminates weaknesses in the  
20 current dust sampling system. Retrospective studies  
21 should be continued to determine whether revisions  
22 to the standards are necessary to eliminate the dis-  
23 ease.

24 (11) To eliminate an avoidable delay in evalu-  
25 ating claims under such Act, the Inspector General



1 of the Department of Labor has recommended legis-  
 2 lation that would authorize the Department of Labor  
 3 to have electronic access to miners' earning records  
 4 held by the Social Security Administration.

## 5 **TITLE I—BLACK LUNG BENEFITS**

### 6 **PART A—IMPROVING THE PROCESS FOR FILING**

#### 7 **AND ADJUDICATING CLAIMS FOR BENEFITS**

#### 8 **SEC. 101. MANDATORY DISCLOSURE OF MEDICAL INFOR-** 9 **MATION AND REPORTS.**

10 Part A of the Black Lung Benefits Act (30 U.S.C.  
 11 901 et seq.) is amended by adding at the end the fol-  
 12 lowing:

#### 13 **“SEC. 403. MANDATORY MEDICAL INFORMATION DISCLO-** 14 **SURE.**

15 “(a) REPORT.—In any claim for benefits under this  
 16 title, an operator that requires a miner to submit to a  
 17 medical examination regarding the miner's respiratory or  
 18 pulmonary condition shall, not later than 21 days after  
 19 the miner has been examined, deliver to the claimant a  
 20 complete copy of the examining physician's report. The ex-  
 21 amining physician's report shall—

22 “(1) be in writing; and

23 “(2) set out in detail the findings of such physi-  
 24 cian, including any diagnoses and conclusions, the

1 results of any diagnostic imaging tests, and any  
 2 other tests performed on the miner.

3 “(b) DISCLOSURE.—In any claim for benefits under  
 4 this title, each party shall provide all other parties in the  
 5 proceeding with a copy of all medical information devel-  
 6 oped regarding the miner’s physical condition relating to  
 7 such claim, even if the party does not intend to submit  
 8 the information as evidence. Such medical information  
 9 shall include the opinion of any examining physician, and  
 10 any examining or nonexamining physician’s interpreta-  
 11 tions of radiographs or pathology.

12 “(c) REGULATIONS.—The Secretary shall promulgate  
 13 regulations regarding the disclosure of medical informa-  
 14 tion under this section, and such regulations may establish  
 15 sanctions for noncompliance with this section.”.

16 **SEC. 102. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**  
 17 **MENT PROGRAM.**

18 Part A of the Black Lung Benefits Act (30 U.S.C.  
 19 901 et seq.), as amended by section 101, is further amend-  
 20 ed by adding at the end the following:

21 **“SEC. 404. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**  
 22 **MENT PROGRAM.**

23 “(a) PROGRAM ESTABLISHED.—

24 “(1) IN GENERAL.—Not later than 180 days  
 25 after the date of enactment of the Black Lung Bene-

1 fits Improvement Act of 2017, the Secretary shall  
2 establish a payment program to pay attorneys' fees  
3 and other reasonable and unreimbursed medical ex-  
4 penses incurred in establishing the claimant's case,  
5 using amounts from the fund, to the attorneys of  
6 claimants in qualifying claims.

7 “(2) QUALIFYING CLAIM.—A qualifying claim  
8 for purposes of this section is a contested claim for  
9 benefits under this title for which a final order has  
10 not been entered within one year of the filing of the  
11 claim.

12 “(3) USE OF PAYMENTS FROM THE FUND.—  
13 Notwithstanding any other provision of law,  
14 amounts in the fund shall be available for payments  
15 authorized by the Secretary under this section.

16 “(b) PAYMENTS AUTHORIZED.—

17 “(1) ATTORNEYS' FEES.—

18 “(A) APPROVAL.—If a claimant for bene-  
19 fits under this title obtains a proposed decision  
20 and order from a district director with an  
21 award of benefits for a qualifying claim, or an  
22 award for a qualifying claim before an adminis-  
23 trative law judge—

24 “(i) the district director may approve  
25 attorneys' fees for work done before such

1 director in an amount not to exceed  
2 \$1,500; and

3 “(ii) an administrative law judge may  
4 approve attorneys’ fees for work done be-  
5 fore such judge in an amount not to exceed  
6 \$3,000.

7 “(B) PAYMENT.—The Secretary shall,  
8 through the program under this section, pay  
9 any amounts approved under subparagraph (A).

10 “(2) MEDICAL EXPENSES.—

11 “(A) APPROVAL.—If a claimant for bene-  
12 fits under this title obtains a proposed decision  
13 and order from a district director with an  
14 award of benefits for a qualifying claim, or an  
15 award for a qualifying claim before an adminis-  
16 trative law judge, such district director and ad-  
17 ministrative law judge may each approve an  
18 award, in an amount not to exceed \$1,500, to  
19 the claimant’s attorney of reasonable and unre-  
20 imburSED medical expenses incurred in estab-  
21 lishing the claimant’s case.

22 “(B) PAYMENT.—The Secretary shall,  
23 through the program under this section, pay  
24 any amounts approved under subparagraph (A).

1           “(3) MAXIMUM.—The Secretary, through the  
2           program established under this section, shall for any  
3           single qualifying claim pay—

4                   “(A) not more than a total of \$4,500 in at-  
5                   torneys’ fees; and

6                   “(B) not more than \$3,000 in medical ex-  
7                   penses.

8           “(c) REIMBURSEMENT OF FUNDS.—In any case in  
9           which a qualifying claim results in a final order awarding  
10          compensation, the liable operator shall reimburse the fund  
11          for any fees or expenses paid under this section, subject  
12          to enforcement by the Secretary under section 424 and  
13          in the same manner as compensation orders are enforced  
14          under section 21(d) of the Longshore and Harbor Work-  
15          ers’ Compensation Act (33 U.S.C. 921(d)).

16          “(d) ADDITIONAL PROGRAM RULES.—Nothing in  
17          this section shall limit or otherwise affect an operator’s  
18          liability for any attorneys’ fees or medical expenses award-  
19          ed by the district director or an administrative law judge  
20          that were not paid by the program under this section.  
21          Nothing in this section shall limit or otherwise affect the  
22          Secretary’s authority to use amounts in the fund to pay  
23          approved attorneys’ fees in claims for benefits under this  
24          title for which a final order awarding compensation has  
25          been entered and the operator is unable to pay.

1       “(e) NO RECOUPMENT OF ATTORNEYS’ FEES.—Any  
 2 payment for attorneys’ fees or medical expenses made by  
 3 the Secretary under this section shall not be recouped  
 4 from the claimant or the claimant’s attorney.”.

5       **SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**  
 6                                   **EFITS.**

7       Section 411(c) of the Black Lung Benefits Act (30  
 8 U.S.C. 921(c)) is amended by striking paragraphs (3) and  
 9 (4) and inserting the following:

10               “(3) If x-ray, biopsy, autopsy, or other medi-  
 11 cally accepted and relevant test or procedure estab-  
 12 lishes that a miner is suffering or has suffered from  
 13 a chronic dust disease of the lung, diagnosed as  
 14 complicated pneumoconiosis or progressive massive  
 15 fibrosis (pneumoconiosis that has formed an opacity,  
 16 mass, or lesion whose greatest diameter exceeds 1  
 17 centimeter), then there shall be an irrebuttable pre-  
 18 sumption that such miner is totally disabled due to  
 19 pneumoconiosis, that the miner’s death was due to  
 20 pneumoconiosis, or that at the time of death the  
 21 miner was totally disabled by pneumoconiosis, as the  
 22 case may be. A chest radiograph, which yields one  
 23 or more large opacities (whose greatest diameter ex-  
 24 ceeds 1 centimeter), and would be classified in cat-  
 25 egory A, B, or C in the International Classification

1 of Radiographs of Pneumoconioses by the Inter-  
2 national Labor Organization, shall be sufficient to  
3 invoke the presumption, in the absence of more pro-  
4 bative evidence sufficient to establish that the eti-  
5 ology of a large opacity is not pneumoconiosis.

6 “(4) If a miner was employed for 15 years or  
7 more in one or more coal mines, and if there is a  
8 chest radiograph submitted in connection with the  
9 claim under this title of such miner or such miner’s  
10 surviving spouse, child, parent, brother, sister, or de-  
11 pendent and it is interpreted as negative with re-  
12 spect to the requirements of paragraph (3), and if  
13 other evidence demonstrates the existence of a to-  
14 tally disabling respiratory or pulmonary impairment,  
15 then there shall be a rebuttable presumption that  
16 such miner is totally disabled due to pneumoconiosis,  
17 that the miner’s death was due to pneumoconiosis,  
18 or that at the time of death the miner was totally  
19 disabled by pneumoconiosis. In the case of a living  
20 miner, a spouse’s affidavit may not be used by itself  
21 to establish the presumption under this paragraph.  
22 The presumption under this paragraph may be re-  
23 butted only by establishing that such miner does  
24 not, or did not, have pneumoconiosis, or that no part

1 of such miner's respiratory or pulmonary impair-  
 2 ment or death was caused by pneumoconiosis.”.

3 **SEC. 104. RESTORING ADEQUATE BENEFIT ADJUSTMENTS**  
 4 **FOR MINERS SUFFERING FROM BLACK LUNG**  
 5 **DISEASE AND FOR THEIR DEPENDENT FAM-**  
 6 **ILY MEMBERS.**

7 Section 412(a) of the Black Lung Benefits Act (30  
 8 U.S.C. 922(a)) is amended by striking paragraph (1) and  
 9 inserting the following:

10 “(1) In the case of total disability of a miner  
 11 due to pneumoconiosis, the disabled miner shall be  
 12 paid benefits during the disability—

13 “(A) for any calendar year preceding Jan-  
 14 uary 1, 2015, at a rate equal to 37½ percent  
 15 of the monthly pay rate for Federal employees  
 16 in grade GS–2, step 1;

17 “(B) for the calendar year beginning on  
 18 January 1, 2015, at a rate of \$7,980 per year,  
 19 payable in 12 equal monthly payments; and

20 “(C) for each calendar year thereafter, at  
 21 a rate equal to the amount under subparagraph  
 22 (B) increased by an amount equal to any in-  
 23 crease in the annual rate of the Consumer Price  
 24 Index for Urban Wage Earners and Clerical



1           Workers, as published by the Bureau of Labor  
2           Statistics.”.

3   **SEC. 105. TREATMENT OF EVIDENCE IN EQUIPOISE.**

4           Section 422 of the Black Lung Benefits Act (30  
5   U.S.C. 932) is amended by adding at the end the fol-  
6   lowing:

7           “(m) In determining the validity of a claim under this  
8   title, an adjudicator who finds that the evidence is evenly  
9   balanced on an issue shall resolve any resulting doubt in  
10   the claimant’s favor and find that the claimant has met  
11   the burden of persuasion on such issue.”.

12   **SEC. 106. PROVIDING ASSISTANCE WITH CLAIMS FOR MIN-**  
13                   **ERS AND THEIR DEPENDENT FAMILY MEM-**  
14                   **BERS.**

15           Section 427(a) of the Black Lung Benefits Act (30  
16   U.S.C. 937(a)) is amended by striking “the analysis, ex-  
17   amination, and treatment” and all that follows through  
18   “coal miners.” and inserting “the analysis, examination,  
19   and treatment of respiratory and pulmonary impairments  
20   in active and inactive coal miners and for assistance on  
21   behalf of miners, spouses, dependents, and other family  
22   members with claims arising under this title.”.

1 **SEC. 107. FALSE STATEMENTS OR MISREPRESENTATIONS,**  
 2 **ATTORNEY DISQUALIFICATION, AND DIS-**  
 3 **COVERY SANCTIONS.**

4 Section 431 of the Black Lung Benefits Act (30  
 5 U.S.C. 941) is amended to read as follows:

6 **“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS,**  
 7 **ATTORNEY DISQUALIFICATION, AND DIS-**  
 8 **COVERY SANCTIONS.**

9 “(a) IN GENERAL.—No person, including any claim-  
 10 ant, physician, operator, duly authorized agent of such op-  
 11 erator, or employee of an insurance carrier, shall—

12 “(1) knowingly and willfully make a false state-  
 13 ment or misrepresentation for the purpose of obtain-  
 14 ing, increasing, reducing, denying, or terminating  
 15 benefits under this title; or

16 “(2) threaten, coerce, intimidate, deceive, or  
 17 knowingly mislead a party, representative, witness,  
 18 potential witness, judge, or anyone participating in  
 19 a proceeding regarding any matter related to a pro-  
 20 ceeding under this title.

21 “(b) FINE; IMPRISONMENT.—Any person who en-  
 22 gages in the conduct described in subsection (a) shall,  
 23 upon conviction, be subject to a fine in accordance with  
 24 title 18, United States Code, imprisoned for not more than  
 25 5 years, or both.

1       “(c) PROMPT INVESTIGATION.—The United States  
2 Attorney for the district in which the conduct described  
3 in subsection (a) is alleged to have occurred shall make  
4 every reasonable effort to promptly investigate each com-  
5 plaint of a violation of such subsection.

6       “(d) DISQUALIFICATION.—

7           “(1) IN GENERAL.—An attorney or expert wit-  
8 ness who engages in the conduct described in sub-  
9 section (a) shall, in addition to the fine or imprison-  
10 ment provided under subsection (b), be permanently  
11 disqualified from representing any party, or appear-  
12 ing in any proceeding, under this title.

13           “(2) ATTORNEY DISQUALIFICATION.—In addi-  
14 tion to the disqualification described in paragraph  
15 (1), the Secretary may disqualify an attorney from  
16 representing any party in a proceeding under this  
17 title for either a limited term or permanently, if the  
18 attorney—

19           “(A) engages in any action or behavior  
20 that is prejudicial to the fair and orderly con-  
21 duct of such proceeding; or

22           “(B) is suspended or disbarred by any  
23 court of the United States, any State, or any  
24 territory, commonwealth, or possession of the

1 United States with jurisdiction over the pro-  
2 ceeding.

3 “(e) DISCOVERY SANCTIONS.—An administrative law  
4 judge may sanction a party who fails to comply with an  
5 order to compel discovery or disclosure, or to supplement  
6 earlier responses, in a proceeding under this title. These  
7 sanctions may include, as appropriate—

8 “(1) drawing an adverse inference against the  
9 noncomplying party on the facts relevant to the dis-  
10 covery or disclosure order;

11 “(2) limiting the noncomplying party’s claims,  
12 defenses, or right to introduce evidence; and

13 “(3) rendering a default decision against the  
14 noncomplying party.

15 “(f) REGULATIONS.—The Secretary shall promulgate  
16 regulations that—

17 “(1) provide procedures for the disqualifications  
18 and sanctions under this section and are appropriate  
19 for all parties; and

20 “(2) distinguish between parties that are rep-  
21 resented by an attorney and parties that are not  
22 represented by an attorney.”.

1 **SEC. 108. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**  
2 **SECRETARY.**

3 Part C of the Black Lung Benefits Act (30 U.S.C.  
4 931 et seq.) is amended by adding at the end the fol-  
5 lowing:

6 **“SEC. 435. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**  
7 **SECRETARY.**

8 “(a) COMPLETE PULMONARY EVALUATION.—Upon  
9 request by a claimant for benefits under this title, the Sec-  
10 retary shall provide the claimant an opportunity to sub-  
11 stantiate the claim through a complete pulmonary evalua-  
12 tion of the miner that shall include—

13 “(1) an initial report, conducted by a qualified  
14 physician on the list provided under subsection (d),  
15 and in accordance with subsection (d)(5) and sec-  
16 tions 402(f)(1)(D) and 413(b); and

17 “(2) if the conditions under subsection (b) are  
18 met, any supplemental medical evidence described in  
19 subsection (c).

20 “(b) CONDITIONS FOR SUPPLEMENTAL MEDICAL  
21 EVIDENCE.—The Secretary shall develop supplemental  
22 medical evidence, in accordance with subsection (c)—

23 “(1) for any claim in which the Secretary rec-  
24 ommends an award of benefits based on the results  
25 of the initial report under subsection (a)(1) and a  
26 party opposing such award submits evidence that

1       could be considered contrary to the findings of the  
2       Secretary; and

3               “(2) for any compensation case under this title  
4       heard by an administrative law judge, in which—

5               “(A) the Secretary has awarded benefits to  
6       the claimant;

7               “(B) the party opposing such award has  
8       submitted evidence not previously reviewed that  
9       could be considered contrary to the award  
10      under subparagraph (A); and

11              “(C) the claimant or, if the claimant is  
12      represented by an attorney, the claimant’s at-  
13      torney consents to the Secretary developing  
14      supplemental medical evidence.

15      “(c) PROCESS FOR SUPPLEMENTAL MEDICAL EVI-  
16      DENCE.—

17              “(1) IN GENERAL.—Except as provided under  
18      paragraph (2), to develop supplemental medical evi-  
19      dence under conditions described in subsection (b),  
20      the Secretary shall request the physician who con-  
21      ducted the initial report under subsection (a)(1)  
22      to—

23              “(A) review any medical evidence sub-  
24      mitted after such report or the most recent sup-  
25      plemental report, as appropriate; and

1                   “(B) update his or her opinion in a supple-  
2                   mental report.

3                   “(2) ALTERNATIVE PHYSICIAN.—If such physi-  
4                   cian is no longer available or is unwilling to provide  
5                   supplemental medical evidence under paragraph (1),  
6                   the Secretary shall select another qualified physician  
7                   to provide such evidence.

8                   “(3) COMPLICATED PNEUMOCONIOSIS.—In di-  
9                   agnosing whether there is complicated pneumo-  
10                  coniosis as a part of a medical examination con-  
11                  ducted under paragraph (1) or (2), the Secretary  
12                  shall authorize a high-quality, low-dose or standard  
13                  CT scan where one or more of the following is  
14                  found:

15                  “(A) Any certified B reader of a chest  
16                  radiograph associated with the examination  
17                  under section 413(b) finds advanced pneumo-  
18                  coniosis (ILO category 2/1 or greater).

19                  “(B) Any certified B reader of a chest  
20                  radiograph associated with the examination  
21                  under section 413(b) finds a coalescence of  
22                  small opacities.

23                  “(C) Any certified B reader of a chest  
24                  radiograph associated with the examination  
25                  under section 413(b) has a reasonable belief

1           that there may be a large opacity in the upper  
 2           lungs that has been obscured by bony struc-  
 3           tures.

4           “(d) QUALIFIED PHYSICIANS FOR COMPLETE PUL-  
 5   MONARY EVALUATION AND PROTECTIONS FOR SUIT-  
 6   ABILITY AND POTENTIAL CONFLICTS OF INTEREST.—

7           “(1) QUALIFIED PHYSICIANS LIST.—The Sec-  
 8   retary shall create and maintain a list of qualified  
 9   physicians to be selected by a claimant to perform  
 10   the complete pulmonary evaluation described in sub-  
 11   section (a).

12           “(2) PUBLIC AVAILABILITY.—The Secretary  
 13   shall make the list under this subsection available to  
 14   the public.

15           “(3) ANNUAL EVALUATION.—Each year, the  
 16   Secretary shall update such list by reviewing the  
 17   suitability of the listed qualified physicians and as-  
 18   sessing any potential conflicts of interest.

19           “(4) CRITERIA FOR SUITABILITY.—In deter-  
 20   mining whether a physician is suitable to be on the  
 21   list under this subsection, the Secretary shall consult  
 22   the National Practitioner Data Bank of the Depart-  
 23   ment of Health and Human Services and assess re-  
 24   ports of adverse licensure, certifications, hospital  
 25   privilege, and professional society actions involving



1 the physician. In no case shall such list include any  
2 physician—

3 “(A) who is not licensed to practice medi-  
4 cine in any State or any territory, common-  
5 wealth, or possession of the United States;

6 “(B) whose license is revoked by a medical  
7 licensing board of any State, territory, common-  
8 wealth, or possession of the United States; or

9 “(C) whose license is suspended by a med-  
10 ical licensing board of any State, territory, com-  
11 monwealth, or possession of the United States.

12 “(5) CONFLICTS OF INTEREST.—The Secretary  
13 shall develop and implement policies and procedures  
14 to ensure that any actual or potential conflict of in-  
15 terest of qualified physicians on the list under this  
16 subsection, including both individual and organiza-  
17 tional conflicts of interest, are disclosed to the De-  
18 partment, and to provide such disclosure to claim-  
19 ants. Such policies and procedures shall provide  
20 that, unless the claimant knowingly and with the  
21 benefit of full disclosure waives the following limita-  
22 tions, a physician shall not be used to perform a  
23 complete pulmonary medical evaluation under sub-  
24 section (a) that is reimbursed pursuant to subsection  
25 (f), if—

1           “(A) such physician is employed by, under  
2           contract to, or otherwise providing services to a  
3           private party opposing the claim, a law firm or  
4           lawyer representing such opposing party, or an  
5           interested insurer or other interested third  
6           party; or

7           “(B) such physician has been retained by  
8           a private party opposing the claim, a law firm  
9           or lawyer representing such opposing party, or  
10          an interested insurer or other interested third  
11          party in the previous 24 months.

12          “(e) RECORD.—Upon receipt of any initial report or  
13          supplemental report under this section, the Secretary shall  
14          enter the report in the record and provide a copy of such  
15          report to all parties to the proceeding.

16          “(f) EXPENSES.—All expenses related to obtaining  
17          the medical evidence under this section shall be paid for  
18          by the fund. If a claimant receives a final award of bene-  
19          fits, the operator liable for payment of benefits, if any,  
20          shall reimburse the fund for such expenses, which shall  
21          include interest.”.

1 **SEC. 109. ESTABLISHMENT OF PILOT PROGRAM TO PRO-**  
 2 **VIDE IMPARTIAL CLASSIFICATIONS OF**  
 3 **CHEST RADIOGRAPHS.**

4 (a) ESTABLISHMENT.—Part C of the Black Lung  
 5 Benefits Act (30 U.S.C. 931 et seq.), as amended by sec-  
 6 tion 108, is further amended by adding at the end the  
 7 following:

8 **“SEC. 436. ESTABLISHMENT OF PILOT PROGRAM TO PRO-**  
 9 **VIDE IMPARTIAL CLASSIFICATIONS OF**  
 10 **CHEST RADIOGRAPHS.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) B READER.—The term ‘B Reader’ means  
 13 an individual who—

14 “(A) has a valid license to practice medi-  
 15 cine in not less than one State, territory, com-  
 16 monwealth, or possession of the United States;  
 17 and

18 “(B) has demonstrated a proficiency,  
 19 through an examination administered by the  
 20 National Institute for Occupational Safety and  
 21 Health, in classifying chest radiographs for  
 22 findings consistent with pneumoconiosis using  
 23 the International Classification of Radiographs  
 24 of Pneumoconioses by the International Labor  
 25 Organization.

1           “(2) B READER PANEL.—The term ‘B Reader  
2           Panel’ means a panel of not less than 3 B Readers  
3           selected by the Director exclusively from the B  
4           Reader Panel Pool.

5           “(3) DIRECTOR.—The term ‘Director’ means  
6           the Director of the National Institute for Occupa-  
7           tional Safety and Health.

8           “(4) ILO CLASSIFICATION.—The term ‘ILO  
9           classification’ means the standardized categorization  
10          of chest radiographs for findings consistent with  
11          pneumoconiosis using the International Classifica-  
12          tion of Radiographs of Pneumoconioses by the Inter-  
13          national Labor Organization.

14          “(5) B READER PANEL POOL.—The term ‘B  
15          Reader Panel Pool’ means the group of physicians  
16          included in the pool described in subsection (c).

17          “(b) B READER PANEL PROGRAM.—

18                 “(1) ESTABLISHMENT OF PILOT PROGRAM.—

19                         “(A) IN GENERAL.—The Director shall es-  
20                         tablish, in the National Institute for Occupa-  
21                         tional Safety and Health, a pilot program to be  
22                         known as the ‘B Reader Panel Program’. The  
23                         B Reader Panel Program shall establish B  
24                         Reader Panels that—

1 “(i) are operated in a manner to as-  
 2 sure accurate ILO classifications, which  
 3 may be used for claims for benefits de-  
 4 scribed in subparagraph (C);

5 “(ii) only classify chest radiographs;  
 6 and

7 “(iii) classify all appearances de-  
 8 scribed in the International Classification  
 9 of Radiographs of Pneumoconiosis by the  
 10 International Labor Organization or illus-  
 11 trated by the International Labor Organi-  
 12 zation standard radiographs.

13 “(B) DURATION.—The B Reader Panel  
 14 Program established under this section shall be  
 15 conducted for a duration of one year, beginning  
 16 after the issuance of necessary protocols and in-  
 17 terim final rules under subsection (h).

18 “(C) APPLICABILITY.—A chest radiograph  
 19 classification may only be requested under this  
 20 section for a claim for benefits under this title  
 21 where the presence or absence of complicated  
 22 pneumoconiosis or progressive massive fibrosis  
 23 (large opacities greater than or equal to cat-  
 24 egory A of the ILO classification) is in fact at  
 25 issue.

1 “(2) PROGRAM PERSONNEL MATTERS.—

2 “(A) IN GENERAL.—The Director may hire  
3 such personnel as are necessary to establish,  
4 manage, and evaluate the B Reader Panel Pro-  
5 gram, including a B Reader Program Director  
6 described in subparagraph (B).

7 “(B) B READER PROGRAM DIRECTOR.—  
8 The B Reader Program Director shall be a phy-  
9 sician who is a B Reader and has documented  
10 expertise in ILO classifications.

11 “(C) STAFF.—

12 “(i) IN GENERAL.—In procuring the  
13 services of B Readers for this section, the  
14 Director may hire Federal personnel, con-  
15 tract for services, or both.

16 “(ii) COMPENSATION.—The Director  
17 shall establish compensation rates for B  
18 Readers who are hired under contract.

19 “(3) ETHICS POLICY.—

20 “(A) CODE OF ETHICS.—

21 “(i) IN GENERAL.—In order to maxi-  
22 mize the quality, objectivity, and con-  
23 fidence in ILO classifications under this  
24 section, the Director shall establish a bind-  
25 ing code of ethics to which all B Readers

1 in the B Reader Panel Pool shall agree to  
2 in writing and adhere.

3 “(ii) CONTENTS.—The code of ethics  
4 shall include—

5 “(I) definitions and stipulations  
6 of procedures dealing with actual and  
7 apparent conflicts of interest and the  
8 appearance of bias or lack of suffi-  
9 cient impartiality;

10 “(II) a requirement that each  
11 such B Reader submits a conflict of  
12 interest disclosure statement to the  
13 Director and annually updates such  
14 statement; and

15 “(III) requirements for the con-  
16 tent of the conflict of interest disclo-  
17 sure statements required under sub-  
18 clause (II).

19 “(B) B READER ETHICS OFFICER.—The  
20 Director shall designate an employee of the Na-  
21 tional Institute for Occupational Safety and  
22 Health as the B Reader Ethics Officer whose  
23 responsibilities shall include—

1 “(i) reviewing all conflict of interest  
2 disclosures of B Readers on the B Reader  
3 Panel Pool;

4 “(ii) investigating the validity of such  
5 disclosures;

6 “(iii) maintaining a list of such B  
7 Readers who fail to disclose a conflict of  
8 interest;

9 “(iv) addressing complaints about in-  
10 complete or inaccurate conflict of interest  
11 disclosures;

12 “(v) assessing whether any such B  
13 Reader has been improperly assigned to a  
14 panel due to a conflict of interest; and

15 “(vi) assuring full transparency of  
16 conflict of interest disclosures to the pub-  
17 lic.

18 “(4) QUALITY ASSURANCE PROGRAM.—

19 “(A) PROTOCOLS.—

20 “(i) ESTABLISHMENT.—The Director  
21 shall establish a quality assurance program  
22 consisting of protocols to ensure that the  
23 results produced by B Reader Panels meet  
24 or exceed standards of performance re-  
25 quired for accuracy and consistency.



1                   “(ii)    PROTOCOLS.—The    protocols  
2                   under this subparagraph shall include pro-  
3                   tocols—

4                   “(I) for each B Reader to pre-  
5                   pare an individual ILO classification  
6                   report for each chest radiograph; and

7                   “(II) for the preparation of a  
8                   final ILO classification report for the  
9                   chest radiograph.

10                  “(iii)   ADDITIONAL    REVIEWERS.—If  
11                  individual ILO classifications reported by  
12                  each B Reader of a B Reader Panel di-  
13                  verge from each other by more than an ac-  
14                  ceptable variance, as determined by proto-  
15                  cols established under subsection (h), the  
16                  Director shall assign additional B Readers  
17                  to the applicable B Reader Panel or con-  
18                  vene an additional B Reader Panel, as the  
19                  Director determines necessary, to assure  
20                  that the ILO classification report of the  
21                  initial B Reader Panel is accurate and sci-  
22                  entifically valid.

23                  “(iv)    USE OF KNOWN POSITIVE AND  
24                  NEGATIVE X-RAYS AS A QUALITY CONTROL  
25                  TOOL.—The   quality   assurance   program

1 under this paragraph shall use pre-read  
 2 radiographs, for which ILO classifications  
 3 have been previously established as exter-  
 4 nal standards, with sufficient frequency in  
 5 order to assure that B Readers on B Read-  
 6 er Panels read radiographs that are bor-  
 7 derline positive or negative for complicated  
 8 pneumoconiosis or progressive massive fi-  
 9 brosis (large opacities greater than or  
 10 equal to category A of the ILO classifica-  
 11 tion) with accuracy and consistency.

12 “(v) BLIND READINGS.—In reading a  
 13 radiograph to make an ILO classification,  
 14 a B Reader shall be blinded from the ori-  
 15 gin of the radiograph.

16 “(B) CONTINUOUS IMPROVEMENT.—The  
 17 Director shall establish a process for providing  
 18 feedback to B Readers in the B Reader Pool  
 19 with respect to their performance in providing  
 20 ILO classifications and provide suggestions for  
 21 improvement.

22 “(c) CREATION AND MAINTENANCE OF B READER  
 23 PANEL POOL.—

24 “(1) ESTABLISHMENT.—The Director shall es-  
 25 tablish a B Reader Panel Pool to be used for the B

1 Reader Panel Program under this section. The Di-  
 2 rector shall solicit and select physicians who are B  
 3 Readers for inclusion in the B Reader Panel Pool.

4 “(2) SELECTION AND RETENTION FOR B READ-  
 5 ERS ON B READER PANEL POOL.—

6 “(A) IN GENERAL.—The Director shall es-  
 7 tablish and disclose criteria by which B Readers  
 8 are selected and retained within the B Reader  
 9 Panel Pool, including minimum standards of  
 10 performance described in subparagraph (B).

11 “(B) MINIMUM STANDARDS OF PERFORM-  
 12 ANCE.—The minimum standards of perform-  
 13 ance for inclusion in the B Reader Panel Pool  
 14 shall include requiring the B Reader to make  
 15 radiograph classifications consistent with ILO  
 16 classification criteria that are consistently with-  
 17 in acceptable norms, as established by the Di-  
 18 rector.

19 “(C) CONSIDERATIONS FOR SELECTION.—  
 20 In selecting a B Reader to be included in the  
 21 B Reader Panel Pool, the Director shall—

22 “(i) assess, to the maximum extent  
 23 practicable, the prior performance of the B  
 24 Reader in making ILO classifications;

1 “(ii) consult the National Practitioner  
 2 Data Bank of the Department of Health  
 3 and Human Services for information on  
 4 physician suitability; and

5 “(iii) assess reports of adverse licen-  
 6 sure, certifications, hospital privilege, and  
 7 professional society actions involving the B  
 8 Reader.

9 “(D) MONITORING.—The Director shall  
 10 monitor ILO classifications conducted under  
 11 this section to determine if any B Reader in-  
 12 cluded in the B Reader Panel Pool dem-  
 13 onstrates a pattern of providing ILO classifica-  
 14 tions that are erroneous or not consistently  
 15 within the acceptable norms, as established by  
 16 the Director.

17 “(3) PROCESS FOR REMOVAL.—

18 “(A) IN GENERAL.—The Director shall be  
 19 authorized to suspend or remove any B Reader  
 20 from the B Reader Panel Pool for—

21 “(i) consistently failing to meet the  
 22 minimum standards of performance under  
 23 paragraph (2)(B);

24 “(ii) breaching the code of ethics  
 25 under subsection (b)(3)(A); or

1 “(iii) other disqualifying conduct, as  
2 established by rule or policy.

3 “(B) REVIEW.—The Director shall provide  
4 a process for a B Reader who is aggrieved by  
5 a decision of the Director under subparagraph  
6 (A) to seek review by the Secretary of Health  
7 and Human Services. The review by such Sec-  
8 retary shall not stay the suspension of the B  
9 Reader during the pendency of the review.

10 “(4) DISCLOSURE.—The Director shall make  
11 publicly accessible—

12 “(A) the names and qualifications of the B  
13 Readers included in the B Reader Panel Pool;

14 “(B) the names of B Readers who have  
15 been suspended or removed from the B Reader  
16 Panel Pool and the reasons for such suspension  
17 or removal;

18 “(C) the conflict of interest disclosure  
19 statements required under subsection  
20 (b)(3)(A)(ii)(II); and

21 “(D) any pertinent information which the  
22 Director determines necessary to assure trans-  
23 parency and program integrity.

1       “(d) ELIGIBILITY TO REQUEST ILO CLASSIFICA-  
 2 TIONS.—Each of the following individuals may request an  
 3 ILO classification under this section:

4               “(1) Claimants or operators, or their authorized  
 5 representatives, in a claim for benefits that meets  
 6 the requirements of subsection (b)(1)(C).

7               “(2) Individuals defined as adjudication officers  
 8 by regulations of the Secretary.

9       “(e) TIMING OF REPORTS.—Following the receipt of  
 10 a written request for the classification of a chest  
 11 radiograph, the Director shall provide a report conducted  
 12 by a B Reader Panel—

13               “(1) for digital chest radiographic images, with-  
 14 in 45 days; and

15               “(2) for film-based chest radiographs, within 90  
 16 days.

17       “(f) TESTIMONY.—

18               “(1) AVAILABILITY OF DIRECTOR OR DES-  
 19 IGNEE.—The Director, or a designee of the Director,  
 20 shall be available to respond to interrogatories or ap-  
 21 pear and testify about a B Reader Panel’s conclu-  
 22 sions or the process by which B Reader Panels clas-  
 23 sify radiographs in a case under subsection  
 24 (b)(1)(C), upon the request of a party to such case.

1           “(2) INTERROGATORIES AND SUBPOENAS FOR B  
 2           READERS.—To the extent that additional informa-  
 3           tion is reasonably necessary for the full development  
 4           of evidence pertaining to a B Reader Panel Report  
 5           in a case under subsection (b)(1)(C), a B Reader of  
 6           a B Reader Panel—

7                   “(A) may be required to respond to inter-  
 8                   rogatories with respect to the ILO classification  
 9                   provided by the B Reader in the case, only if  
 10                  so ordered by an administrative law judge; and

11                  “(B) may not be required to appear and  
 12                  testify under subpoena, unless the party making  
 13                  such request demonstrates to an administrative  
 14                  law judge that—

15                   “(i)(I) the B Reader Panel Report is  
 16                   incomplete or lacks information that is rea-  
 17                   sonably necessary for such full develop-  
 18                   ment; and

19                   “(II) if responses to interrogatories  
 20                   were ordered, the responses are unclear or  
 21                   incomplete; or

22                   “(ii) there is an extraordinary cir-  
 23                   cumstance in which additional information  
 24                   that is reasonably necessary for such full  
 25                   development is otherwise unavailable from

1           the Director and can only be provided by  
2           such B Reader.

3           “(g) ADMINISTRATIVE COSTS.—

4           “(1) ESTABLISHMENT.—Funds necessary to es-  
5           tablish and operate the B Reader Panel Program  
6           under this section shall be paid as an administrative  
7           cost from the fund. The Director shall consult with  
8           the Secretary on allocations of funds in establishing  
9           such program.

10          “(2) COSTS OF REPORTS FOR B READER PAN-  
11          ELS.—

12          “(A) FEES.—

13                 “(i) IN GENERAL.—The Director shall  
14                 establish a fee for a B Reader Panel Re-  
15                 port in accordance with clause (ii). Such  
16                 fee shall be payable by the party request-  
17                 ing such report. No fee shall be charged if  
18                 the request for such ILO classification is  
19                 made by an individual defined as an adju-  
20                 dication officer by regulations of the Sec-  
21                 retary.

22                 “(ii) LIMITATION.—The amount of a  
23                 fee under clause (i) shall not exceed the di-  
24                 rect cost of hiring the B Readers of the B



1 Reader Panel that made the ILO classi-  
2 fication.

3 “(B) LEGAL COSTS.—

4 “(i) IN GENERAL.—The National In-  
5 stitute for Occupational Safety and Health  
6 shall use amounts in the fund to pay for  
7 all costs related to the appearance and re-  
8 sponses to interrogatories of the Director  
9 or a designee of the Director, or a B Read-  
10 er of a B Reader Panel, in a proceeding  
11 under this section.

12 “(ii) REPRESENTATION OF THE NA-  
13 TIONAL INSTITUTE FOR OCCUPATIONAL  
14 SAFETY AND HEALTH.—The Office of the  
15 General Counsel of the Department of  
16 Health and Human Services shall, in con-  
17 sultation with the Solicitor of Labor, rep-  
18 resent the National Institute for Occupa-  
19 tional Safety and Health in any proceeding  
20 under this section, the costs of which shall  
21 be payable from the fund.

22 “(h) PROTOCOLS AND INTERIM FINAL RULES.—Not  
23 later than 180 days after the date of enactment of the  
24 Black Lung Benefits Improvement Act of 2017, the Sec-  
25 retary of Health and Human Services shall issue protocols

1 and promulgate interim final rules, as necessary, to com-  
 2 mence the implementation of this section.

3 “(i) REPORT TO CONGRESS.—

4 “(1) IN GENERAL.—Not later than 30 days  
 5 after the completion of the pilot program under this  
 6 section, the Director shall, in consultation with the  
 7 Secretary of Labor, prepare and submit a report to  
 8 the Committee on Health, Education, Labor, and  
 9 Pensions of the Senate and the Committee on Edu-  
 10 cation and the Workforce of the House of Rep-  
 11 resentatives that includes the information in para-  
 12 graph (2).

13 “(2) CONTENTS.—The report under this sub-  
 14 section shall include—

15 “(A) the number of B Reader Panels es-  
 16 tablished under this section;

17 “(B) the number of B Readers partici-  
 18 pating in the pilot program under this section;

19 “(C) the effectiveness of the quality assur-  
 20 ance program under subsection (b)(4);

21 “(D) the accuracy of the ILO classifica-  
 22 tions conducted by B Readers under this sec-  
 23 tion;

24 “(E) challenges in the administration and  
 25 implementation of such pilot program;

1           “(F) the costs and revenues of such pilot  
2           program;

3           “(G) the impact of the pilot program on  
4           the claims-adjudication process;

5           “(H) a recommendation on whether the  
6           pilot program under this section should extend  
7           beyond the one-year duration under subsection  
8           (b)(1)(B); and

9           “(I) recommendations for any necessary  
10          modifications to such pilot program, if the Di-  
11          rector recommends such an extension.”.

12       (b) CONFORMING AMENDMENT RELATED TO DE-  
13 POSIT OF FEES.—Section 9501(b) of the Internal Rev-  
14 enue Code of 1986 (26 U.S.C. 9501(b)) is amended by  
15 adding at the end the following new paragraph:

16           “(3) CERTAIN FEES.—Amounts collected as  
17          fees authorized under section 436(g)(2)(A) of the  
18          Black Lung Benefits Act.”.

19 **SEC. 110. MEDICAL EVIDENCE TRAINING PROGRAM.**

20       Part C of the Black Lung Benefits Act (30 U.S.C.  
21 931 et seq.), as amended by sections 108 and 109, is fur-  
22 ther amended by adding at the end the following:

23 **“SEC. 437. MEDICAL EVIDENCE TRAINING PROGRAM.**

24       “(a) IN GENERAL.—Not later than 60 days after the  
25 date of enactment of the Black Lung Benefits Improve-

1 ment Act of 2017, the Secretary, in coordination with the  
 2 National Institute for Occupational Safety and Health,  
 3 shall establish and implement a training program, to pro-  
 4 vide education on issues relating to medical evidence rel-  
 5 evant to claims for benefits under this title, to each of  
 6 the following individuals who engage in work under this  
 7 title:

8           “(1) District directors.

9           “(2) Claims examiners working under such di-  
 10       rectors.

11           “(3) Administrative law judges and attorney  
 12       advisors supporting such judges.

13           “(4) Members of the Benefits Review Board es-  
 14       tablished under section 21(b) of the Longshore and  
 15       Harbor Workers’ Compensation Act (33 U.S.C.  
 16       921(b)).

17       “(b) TRAINING PROGRAM TOPICS.—The training  
 18       program under this section shall provide an overview of  
 19       topics that include—

20           “(1) new developments in pulmonary medicine  
 21       relating to pneumoconiosis;

22           “(2) medical evidence, and other relevant evi-  
 23       dence, sufficient to support a claim for benefits  
 24       under this title; and

1           “(3) weighing conflicting medical evidence and  
2 testimony concerning eligibility for such benefits.

3           “(c) TIMING OF TRAINING.—

4           “(1) INDIVIDUALS HIRED OR APPOINTED PRIOR  
5 TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT  
6 OF 2017.—Any district director, claims examiner, ad-  
7 ministrative law judge, attorney advisor supporting  
8 such judge, or member of the Benefits Review Board  
9 described in subsection (a)(4), who was hired or ap-  
10 pointed prior to the date of enactment of the Black  
11 Lung Benefits Improvement Act of 2017 shall com-  
12 plete the training program under this section not  
13 later than 60 days after the establishment of such  
14 program under subsection (a) and not less than an-  
15 nually thereafter.

16           “(2) INDIVIDUALS HIRED OR APPOINTED AFTER  
17 THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF  
18 2017.—Any district director, claims examiner, admin-  
19 istrative law judge, attorney advisor supporting such  
20 judge, or member of the Benefits Review Board de-  
21 scribed in subsection (a)(4), who is not described in  
22 paragraph (1) shall complete the training program  
23 under this section prior to engaging in any work  
24 under this title and not less than annually there-  
25 after.”.

1 **SEC. 111. TECHNICAL AND CONFORMING AMENDMENTS.**

2 The Black Lung Benefits Act (30 U.S.C. 901 et seq.)  
3 is amended—

4 (1) in section 401(a) (30 U.S.C. 901(a)), by in-  
5 serting “or who were found to be totally disabled by  
6 such disease” after “such disease”;

7 (2) in section 402 (30 U.S.C. 902)—

8 (A) in subsection (a), by striking para-  
9 graph (2) and inserting the following:

10 “(2) a spouse who is a member of the same  
11 household as the miner, or is receiving regular con-  
12 tributions from the miner for support, or whose  
13 spouse is a miner who has been ordered by a court  
14 to contribute to support, or who meets the require-  
15 ments of paragraph (1) or (2) of section 216(b) of  
16 the Social Security Act or paragraph (1) or (2) of  
17 section 216(f) of such Act. An individual is the  
18 ‘spouse’ of a miner when such individual is legally  
19 married to the miner under the laws of the State  
20 where the marriage was celebrated. The term  
21 ‘spouse’ also includes a ‘divorced wife’ or ‘divorced  
22 husband’, as such terms are defined in paragraph  
23 (1) or (4) of section 216(d) of such Act, who is re-  
24 ceiving at least one-half of his or her support, as de-  
25 termined in accordance with regulations prescribed  
26 by the Secretary, from the miner, or is receiving

1       substantial contributions from the miner (pursuant  
2       to a written agreement), or there is in effect a court  
3       order for substantial contributions to the spouse's  
4       support from such miner.”;

5               (B) by striking subsection (e) and insert-  
6       ing the following:

7       “(e) The term ‘surviving spouse’ includes the spouse  
8       living with or dependent for support on the miner at the  
9       time of the miner’s death, or living apart for reasonable  
10      cause or because of the miner’s desertion, or who meets  
11      the requirements of subparagraph (A), (B), (C), (D), or  
12      (E) of section 216(c)(1) of the Social Security Act, sub-  
13      paragraph (A), (B), (C), (D), or (E) of section 216(g)(1)  
14      of such Act, or section 216(k) of such Act, who is not  
15      married. An individual is the ‘surviving spouse’ of a miner  
16      when legally married at the time of the miner’s death  
17      under the laws of the State where the marriage was cele-  
18      brated. Such term also includes a ‘surviving divorced wife’  
19      or ‘surviving divorced husband’, as such terms are defined  
20      in paragraph (2) or (5) of section 216(d) of such Act who  
21      for the month preceding the month in which the miner  
22      died, was receiving at least one-half of his or her support,  
23      as determined in accordance with regulations prescribed  
24      by the Secretary, from the miner, or was receiving sub-  
25      stantial contributions from the miner (pursuant to a writ-

1 ten agreement) or there was in effect a court order for  
 2 substantial contributions to the spouse's support from the  
 3 miner at the time of the miner's death.”;

4 (C) in subsection (g)—

5 (i) in paragraph (2)(B)(ii), by striking  
 6 “he ceased” and inserting “the individual  
 7 ceased”; and

8 (ii) in the matter following paragraph  
 9 (2)(C), by striking “widow” each place it  
 10 appears and inserting “surviving spouse”;

11 (D) in subsection (h), by striking “Internal  
 12 Revenue Code of 1954” and inserting “Internal  
 13 Revenue Code of 1986”; and

14 (E) in subsection (i), by striking “Internal  
 15 Revenue Code of 1954” and inserting “Internal  
 16 Revenue Code of 1986”;

17 (3) in section 411 (30 U.S.C. 921)—

18 (A) by striking subsection (a) and insert-  
 19 ing the following:

20 “(a) The Secretary shall, in accordance with the pro-  
 21 visions of this title, and the regulations promulgated by  
 22 the Secretary under this title, make payments of benefits  
 23 in respect of—

24 “(1) total disability of any miner due to pneu-  
 25 moconiosis;



1           “(2) the death of any miner whose death was  
2           due to pneumoconiosis;

3           “(3) total disability of any miner at the time of  
4           the miner’s death with respect to a claim filed under  
5           part C prior to January 1, 1982;

6           “(4) survivors’ benefits for any claim filed after  
7           January 1, 2005, that is pending on or after March  
8           23, 2010, where the miner is found entitled to re-  
9           ceive benefits at the time of the miner’s death as a  
10          result of the miner’s claim filed under part C; and

11          “(5) survivors’ benefits where the miner is  
12          found entitled to receive benefits at the time of the  
13          miner’s death resulting from the miner’s claim filed  
14          under part C before January 1, 1982.”; and

15                (B) in subsection (c)—

16                   (i) in paragraph (1), by striking “his  
17                   pneumoconiosis” and inserting “the min-  
18                   er’s pneumoconiosis”; and

19                   (ii) in paragraph (2), by striking “his  
20                   death” and inserting “the miner’s death”;

21                (4) in section 412 (30 U.S.C. 922)—

22                   (A) in subsection (a)—

23                           (i) by striking paragraph (2) and in-  
24                           serting the following:

25                               “(2) In the case of a surviving spouse—

1           “(A) of a miner whose death is due to pneumo-  
2       coniosis;

3           “(B) in a claim filed after January 1, 2005,  
4       and that is pending on or after March 23, 2010, of  
5       a miner who is found entitled to receive benefits at  
6       the time of the miner’s death as a result of the min-  
7       er’s claim filed under part C;

8           “(C) of a miner who is found entitled to receive  
9       benefits at the time of the miner’s death as a result  
10      of the miner’s claim filed under part C before Janu-  
11      ary 1, 1982; or

12          “(D) in a claim filed under part C before Janu-  
13      ary 1, 1982, of a miner who was totally disabled by  
14      pneumoconiosis at the time of the miner’s death,  
15      benefits shall be paid to the miner’s surviving spouse at  
16      the rate the deceased miner would receive such benefits  
17      if the miner were totally disabled.”;

18                               (ii) in paragraph (3)—

19                               (I) by striking “(3) In the case”  
20                               and all that follows through “section  
21                               411(c)” and inserting the following:  
22                               “(3)(A) In the case of the child or  
23                               children of a miner described in sub-  
24                               paragraph (B)”;

1 (II) by striking “he” each place  
2 it appears and inserting “the child”;

3 (III) by striking “widow” each  
4 place it appears and inserting “sur-  
5 viving spouse”; and

6 (IV) by adding at the end the fol-  
7 lowing:

8 “(B) Subparagraph (A) shall apply in the case of any  
9 child or children—

10 “(i) of a miner whose death is due to pneumo-  
11 coniosis;

12 “(ii) in a claim filed after January 1, 2005,  
13 that is pending on or after March 23, 2010, of a  
14 miner who is found entitled to receive benefits at the  
15 time of the miner’s death as a result of the miner’s  
16 claim filed under part C;

17 “(iii) of a miner who is found entitled to receive  
18 benefits at the time of the miner’s death as a result  
19 of the miner’s claim filed under part C before Janu-  
20 ary 1, 1982;

21 “(iv) in a claim filed under part C before Janu-  
22 ary 1, 1982, of a miner who was totally disabled by  
23 pneumoconiosis at the time of the miner’s death;

1 “(v) of a surviving spouse who is found entitled  
 2 to receive benefits under this part at the time of the  
 3 surviving spouse’s death; or

4 “(vi) entitled to the payment of benefits under  
 5 paragraph (5) of section 411(c).”;

6 (iii) in paragraph (5)—

7 (I) by striking the first sentence  
 8 and inserting the following: “In the  
 9 case of the dependent parent or par-  
 10 ents of a miner who is not survived at  
 11 the time of death by a surviving  
 12 spouse or a child and (i) whose death  
 13 is due to pneumoconiosis, (ii) in a  
 14 claim filed after January 1, 2005,  
 15 that is pending on or after March 23,  
 16 2010, who is found entitled to receive  
 17 benefits at the time of the miner’s  
 18 death as a result of the miner’s claim  
 19 filed under part C, (iii) who is found  
 20 entitled to receive benefits at the time  
 21 of the miner’s death as a result of the  
 22 miner’s claim filed under part C be-  
 23 fore January 1, 1982, or (iv) in a  
 24 claim filed under part C before Janu-  
 25 ary 1, 1982, who was totally disabled

1 by pneumoconiosis at the time of the  
2 miner's death, (I) in the case of the  
3 dependent surviving brother(s) or sis-  
4 ter(s) of such a miner who is not sur-  
5 vived at the time of the miner's death  
6 by a surviving spouse, child, or par-  
7 ent, (II) in the case of the dependent  
8 parent or parents of a miner (who is  
9 not survived at the time of the miner's  
10 death by a surviving spouse or child)  
11 who are entitled to the payment of  
12 benefits under paragraph (5) of sec-  
13 tion 411(c), or (III) in the case of the  
14 dependent surviving brother(s) or sis-  
15 ter(s) of a miner (who is not survived  
16 at the time of the miner's death by a  
17 surviving spouse, child, or parent)  
18 who are entitled to the payment of  
19 benefits under paragraph (5) of sec-  
20 tion 411(c), benefits shall be paid  
21 under this part to such parent(s), or  
22 to such brother(s), or sister(s), at the  
23 rate specified in paragraph (3) (as if  
24 such parent(s) or such brother(s) or

1 sister(s), were the children of such  
2 miner).”; and

3 (II) in the fourth sentence—

4 (aa) by striking “brother  
5 only if he” and inserting “broth-  
6 er or sister only if the brother or  
7 sister”; and

8 (bb) by striking “before he  
9 ceased” and inserting “before the  
10 brother or sister ceased”; and

11 (iv) in paragraph (6), by striking  
12 “prescribed by him” and inserting “pre-  
13 scribed by such Secretary”;

14 (B) in subsection (b)—

15 (i) by striking “his” each place it ap-  
16 pears and inserting “such miner’s”; and

17 (ii) by striking “widow” each place it  
18 appears and inserting “surviving spouse”;

19 and

20 (C) in subsection (c), by striking “Internal  
21 Revenue Code of 1954” and inserting “Internal  
22 Revenue Code of 1986”;

23 (5) in section 413 (30 U.S.C. 923)—

24 (A) in subsection (b)—

1 (i) in the second sentence, by striking  
 2 “his wife’s affidavits” and inserting “affi-  
 3 davits of the miner’s spouse”;

4 (ii) in the ninth sentence, by striking  
 5 “widow” and inserting “surviving spouse”;  
 6 and

7 (iii) by striking the last sentence; and

8 (B) in subsection (c), by striking “his  
 9 claim” and inserting “the claim”;  
 10 (6) in section 414 (30 U.S.C. 924)—

11 (A) in subsection (a)—

12 (i) in paragraph (1), by striking  
 13 “widow, within six months after the death  
 14 of her husband” and inserting “surviving  
 15 spouse, within six months after the death  
 16 of the miner”; and

17 (ii) in paragraph (2)(C), by striking  
 18 “his” and inserting “the child’s”; and

19 (B) in subsection (e)—

20 (i) by striking “widow” and inserting  
 21 “surviving spouse”; and

22 (ii) by striking “his death” and insert-  
 23 ing “the miner’s death”;

24 (7) in section 415(a) (30 U.S.C. 925(a))—

1 (A) in paragraph (1), by striking “Internal  
 2 Revenue Code of 1954” and inserting “Internal  
 3 Revenue Code of 1986”; and

4 (B) in paragraph (2)—

5 (i) by striking “he” and inserting  
 6 “such Secretary”; and

7 (ii) by striking “him” and inserting  
 8 “such Secretary”;

9 (8) in section 421 (30 U.S.C. 931)—

10 (A) in subsection (a), by striking “widows”  
 11 and inserting “spouses”; and

12 (B) in subsection (b)(2)—

13 (i) in the matter preceding subpara-  
 14 graph (A), by striking “he” and inserting  
 15 “such Secretary”; and

16 (ii) in subparagraph (F), by striking  
 17 “promulgated by him” and inserting “pro-  
 18 mulgated by such Secretary”;

19 (9) in section 422 (30 U.S.C. 932)—

20 (A) in subsection (a)—

21 (i) by striking “Internal Revenue  
 22 Code of 1954” and inserting “Internal  
 23 Revenue Code of 1986”; and

24 (ii) by striking “he” and inserting  
 25 “such Secretary”;



1 (B) in subsection (i)(4), by striking “Inter-  
 2 nal Revenue Code of 1954” and inserting “In-  
 3 ternal Revenue Code of 1986”; and

4 (C) in subsection (j), by striking “Internal  
 5 Revenue Code of 1954” each place it appears  
 6 and inserting “Internal Revenue Code of  
 7 1986”;

8 (10) in section 423(a) (30 U.S.C. 933(a)), by  
 9 striking “he” and inserting “such operator”;

10 (11) in section 424(b) (30 U.S.C. 934(b))—

11 (A) in the matter following subparagraph  
 12 (B) of paragraph (1), by striking “him” and in-  
 13 serting “such operator”;

14 (B) in paragraph (3), by striking “Internal  
 15 Revenue Code of 1954” each place it appears  
 16 and inserting “Internal Revenue Code of  
 17 1986”; and

18 (C) in paragraph (5), by striking “Internal  
 19 Revenue Code of 1954” and inserting “Internal  
 20 Revenue Code of 1986”;

21 (12) in section 428 (30 U.S.C. 938)—

22 (A) in subsection (a), by striking “him”  
 23 and inserting “such operator”; and

24 (B) in subsection (b)—

1 (i) in the first sentence, by striking  
2 “he” and inserting “the miner”;

3 (ii) in the third sentence, by striking  
4 “he” and inserting “the Secretary”;

5 (iii) in the ninth sentence—

6 (I) by striking “he” each place it  
7 appears and inserting “the Sec-  
8 retary”; and

9 (II) by striking “his” and insert-  
10 ing “the miner’s”; and

11 (iv) in the tenth sentence, by striking  
12 “he” each place it appears and inserting  
13 “the Secretary”; and

14 (13) in section 430 (30 U.S.C. 940)—

15 (A) by striking “1977 and” and inserting  
16 “1977,”; and

17 (B) by striking “1981” and inserting  
18 “1981, and the Black Lung Benefits Improve-  
19 ment Act of 2017, and any amendments made  
20 after the date of enactment of such Act,”.

21 **SEC. 112. READJUDICATING CASES INVOLVING CERTAIN**  
22 **CHEST RADIOGRAPHS.**

23 (a) DEFINITIONS.—In this section:

24 (1) COVERED CHEST RADIOGRAPH.—The term  
25 “covered chest radiograph” means a chest

1 radiograph that was interpreted as negative for sim-  
2 ple pneumoconiosis, complicated pneumoconiosis, or  
3 progressive massive fibrosis by a physician with re-  
4 spect to whom the Secretary has directed, in writing  
5 and after an evaluation by the Secretary, that such  
6 physician's negative interpretations of chest  
7 radiographs not be credited, except where subse-  
8 quently determined to be credible by the Secretary  
9 in evaluating a claim for benefits under the Black  
10 Lung Benefits Act (30 U.S.C. 901 et seq.).

11 (2) COVERED INDIVIDUAL.—The term “covered  
12 individual” means an individual whose record for a  
13 claim for benefits under the Black Lung Benefits  
14 Act includes a covered chest radiograph.

15 (3) COVERED SURVIVOR.—The term “covered  
16 survivor” means an individual who—

17 (A) is a survivor of a covered individual  
18 whose claim under the Black Lung Benefits Act  
19 was still pending at the time of the covered in-  
20 dividual's death; and

21 (B) continued to seek an award with re-  
22 spect to the covered individual's claim after the  
23 covered individual's death.

24 (b) CLAIMS.—A covered individual or a covered sur-  
25 vivor whose claim for benefits under the Black Lung Bene-

1 fits Act (30 U.S.C. 901 et seq.) was denied prior to the  
2 enactment of this Act may file a new claim for benefits  
3 under this Act not later than one year after the date of  
4 enactment of this Act.

5 (c) ADJUDICATION ON THE MERITS.—

6 (1) IN GENERAL.—Any new claim filed under  
7 subsection (b) shall be adjudicated on the merits and  
8 shall not include consideration of a covered chest  
9 radiograph.

10 (2) COVERED SURVIVOR.—Any new claim filed  
11 under subsection (b) by a covered survivor shall be  
12 adjudicated as either a miner's or a survivor's claim  
13 depending upon the type of claim pending at the  
14 time of the covered individual's death.

15 (d) TIME OF PAYMENT.—

16 (1) MINER'S CLAIM.—If a claim, filed under  
17 subsection (b) and adjudicated under subsection (c)  
18 as a miner's claim, results in an award of benefits,  
19 benefits shall be payable beginning with the month  
20 of the filing of the denied claim that had included  
21 in its record a covered chest radiograph.

22 (2) SURVIVOR'S CLAIM.—If a claim, filed under  
23 subsection (b) and adjudicated under subsection (c)  
24 as a survivor's claim, results in an award of benefits,

1        benefits shall be payable beginning with the month  
2        of the miner's death.

3        (e) CONTRIBUTING IMPACT.—The Secretary shall  
4        have the discretion to deny a new claim under subsection  
5        (b) in circumstances where the party opposing such claim  
6        establishes through clear and convincing evidence that a  
7        covered chest radiograph did not contribute to the decision  
8        to deny benefits in all prior claims filed by the covered  
9        individual or the covered survivor.

10       (f) LIMITATION ON FILING OF NEW CLAIMS.—A new  
11       claim for benefits may be filed under subsection (b) only  
12       if the original claim was finally denied by a district direc-  
13       tor, an administrative law judge, or the Benefits Review  
14       Board established under section 21(b) of the Longshore  
15       and Harbor Workers' Compensation Act (33 U.S.C.  
16       921(b)).

17       **SEC. 113. DISCLOSURE OF EMPLOYMENT AND EARNINGS**  
18                                **INFORMATION FOR BLACK LUNG BENEFITS**  
19                                **ACT CLAIMS.**

20       (a) TAX RETURN INFORMATION.—Section 6103(l) of  
21       the Internal Revenue Code of 1986 is amended by adding  
22       at the end the following new paragraph:

23                “(23) DISCLOSURE OF RETURN INFORMATION  
24                TO DEPARTMENT OF LABOR TO CARRY OUT BLACK  
25                LUNG BENEFITS ACT.—

1           “(A) IN GENERAL.—The Commissioner of  
2           Social Security shall, on written request with  
3           respect to any individual, disclose to officers or  
4           employees of the Department of Labor return  
5           information from returns with respect to net  
6           earnings from self-employment (as defined in  
7           section 1402) and wages (as defined in section  
8           3121(a) or 3401(a)) for employment for each  
9           employer of such individual.

10           “(B) RESTRICTION ON DISCLOSURE.—The  
11           Commissioner of Social Security shall disclose  
12           return information under subparagraph (A)  
13           only for purposes of, and the extent necessary  
14           in, carrying out the proper administration of  
15           the Black Lung Benefits Act (30 U.S.C. 901 et  
16           seq.).”.

17           (b) SOCIAL SECURITY EARNINGS INFORMATION.—  
18           Notwithstanding section 552a of title 5, United States  
19           Code, or any other provision of Federal or State law, the  
20           Commissioner of Social Security shall make available to  
21           the officers and employees of the Department of Labor,  
22           upon written request, the Social Security earnings infor-  
23           mation of living or deceased individuals who are the sub-  
24           ject of a claim under the Black Lung Benefits Act (30  
25           U.S.C. 901 et seq.), which the Secretary of Labor may

1 require to carry out such Act. Such information shall be  
2 made available in electronic form.

3 **PART B—REPORTS TO IMPROVE THE ADMINIS-**  
4 **TRATION OF BENEFITS UNDER THE BLACK**  
5 **LUNG BENEFITS ACT**

6 **SEC. 121. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**  
7 **TION.**

8 (a) IN GENERAL.—Not later than 90 days after the  
9 date of enactment of this Act, the Secretary of Labor shall  
10 submit to the Committee on Health, Education, Labor,  
11 and Pensions and the Committee on Appropriations of the  
12 Senate and the Committee on Education and the Work-  
13 force and the Committee on Appropriations of the House  
14 of Representatives a comprehensive strategy to reduce the  
15 backlog of cases pending on such date of enactment before  
16 the Office of Administrative Law Judges of the Depart-  
17 ment of Labor.

18 (b) CONTENTS OF STRATEGY.—The strategy under  
19 this section shall provide information relating to—

20 (1) the current and targeted pendency for each  
21 category of cases before the Office of Administrative  
22 Law Judges of the Department of Labor;

23 (2) the number of administrative law judges,  
24 attorney advisors supporting such judges, support  
25 staff, and other resources necessary to achieve and

1 maintain the targeted pendency for each category of  
2 such cases;

3 (3) the necessary resources to improve effi-  
4 ciency and effectiveness, such as equipment for video  
5 conferences, training, use of reemployed annuitants,  
6 and administrative reforms;

7 (4) the impact of sequestration, furloughs, and  
8 the Federal Government shutdown, which occurred  
9 from October 1 to October 16, 2013, on increasing  
10 administrative burdens and the backlog of cases  
11 pending before such office; and

12 (5) with respect to claims filed under the Black  
13 Lung Benefits Act (30 U.S.C. 901 et seq.), the nec-  
14 essary resources needed to reduce the average pend-  
15 ency of cases to less than 12 months from the date  
16 of receipt of the case to the date of disposition of  
17 such case.

18 (c) CONSULTATION.—In preparing such strategy, the  
19 Secretary of Labor shall consult with organizations that  
20 have ongoing interactions with the Office of Administra-  
21 tive Law Judges of the Department of Labor, including  
22 organizations that represent parties in cases under the  
23 Black Lung Benefits Act, the Longshore and Harbor  
24 Workers' Compensation Act (33 U.S.C. 901 et seq.), and



1 Federal statutes regarding whistleblowers, wages and  
2 hours for employees, and immigration.

3 **SEC. 122. GAO REPORT ON BLACK LUNG PROGRAM.**

4 (a) IN GENERAL.—Not later than one year after the  
5 date of enactment of this Act, the Comptroller General  
6 of the United States shall submit to the Committee on  
7 Health, Education, Labor, and Pensions of the Senate and  
8 the Committee on Education and the Workforce of the  
9 House of Representatives a report on any barriers to  
10 health care faced by coal miners with pneumoconiosis.

11 (b) CONTENTS.—The report required under sub-  
12 section (a) shall include—

13 (1) an assessment of possible barriers to health  
14 care under the Black Lung Benefits Act (30 U.S.C.  
15 901 et seq.) and the degree to which any barriers  
16 impact the ability of miners with legitimate medical  
17 needs, particularly such miners in rural areas, to ac-  
18 cess treatment for pneumoconiosis;

19 (2) recommendations necessary to address  
20 issues, if any, relating to patient access to care  
21 under such Act; and

22 (3) an evaluation of whether the benefit pay-  
23 ments authorized under such Act, as amended by  
24 this Act, are sufficient to meet the expenses of dis-  
25 abled miners, surviving spouses, dependents, and

1 other family members entitled to receive benefits  
 2 under the Black Lung Benefits Act.

3 **TITLE II—STANDARD FOR RES-**  
 4 **PIRABLE DUST CONCENTRA-**  
 5 **TION**

6 **SEC. 201. STANDARD FOR RESPIRABLE DUST CONCENTRA-**  
 7 **TION.**

8 Section 202 of the Federal Mine Safety and Health  
 9 Act of 1977 (30 U.S.C. 842) is amended by adding at  
 10 the end the following:

11 “(i) REPORTS.—

12 “(1) RETROSPECTIVE STUDY.—

13 “(A) IN GENERAL.—Beginning on August  
 14 1, 2021, the Secretary shall conduct a retro-  
 15 spective study evaluating data collected using  
 16 continuous personal dust monitors to determine  
 17 whether to—

18 “(i) lower the applicable standard for  
 19 respirable dust concentration to protect the  
 20 health of miners;

21 “(ii) increase the frequency for taking  
 22 samples of respirable dust concentration,  
 23 using continuous personal dust monitors;

24 “(iii) modify the engineering controls  
 25 and work practices used by mine operators

1 to comply with the applicable standard for  
 2 respirable dust concentration;

3 “(iv) convert samples taken for shifts  
 4 that are greater than 8 hours to an 8-hour  
 5 equivalent concentration to more accu-  
 6 rately assess the conditions of miners  
 7 working on longer shifts; and

8 “(v) lower the 100  $\mu\text{g}/\text{m}^3$  standard for  
 9 quartz (crystalline silica) in respirable dust  
 10 to better protect miners’ health.

11 “(B) COMPLETION DEADLINE.—By Au-  
 12 gust 1, 2022, the Secretary shall complete the  
 13 study required by subparagraph (A) and report  
 14 the findings of such study to the Committee on  
 15 Health, Education, Labor, and Pensions of the  
 16 Senate and the Committee on Education and  
 17 the Workforce of the House of Representatives.

18 “(2) SUBSEQUENT STUDIES.—By August 1,  
 19 2025, and every 3 years thereafter, the Secretary  
 20 shall conduct a new study as described in paragraph  
 21 (1)(A) and report, by not later than one year after  
 22 the commencement of the study, the findings of such  
 23 study to the Committee on Health, Education,  
 24 Labor, and Pensions of the Senate and the Com-

1        mittee on Education and the Workforce of the  
2        House of Representatives.

3            “(3) REVISED STANDARDS.—If any report of  
4        the Secretary under this subsection concludes that  
5        the applicable standard for respirable dust con-  
6        centration should be lowered to protect the health of  
7        miners, or that the incidence of pneumoconiosis  
8        among coal miners in the United States, as reported  
9        by the National Institute for Occupational Safety  
10       and Health, has not been reduced from such inci-  
11       dence prior to the implementation of the most recent  
12       applicable standard for respirable dust concentra-  
13       tion, the Secretary shall, consistent with the require-  
14       ments of this section and section 101, accordingly  
15       revise such standard and any applicable sampling or  
16       testing procedures not later than 24 months after  
17       the publication of such report of the Secretary under  
18       this subsection.”.

19       **TITLE III—ESTABLISHING THE**  
20       **OFFICE OF WORKERS’ COM-**  
21       **PENSATION PROGRAMS**

22       **SEC. 301. OFFICE OF WORKERS’ COMPENSATION PRO-**  
23       **GRAMS.**

24        (a) ESTABLISHMENT.—There shall be established, in  
25       the Department of Labor, an Office of Workers’ Com-

1   pensation Programs (referred to in this section as the “Of-  
2   fice”).

3       (b) DIRECTOR.—

4           (1) IN GENERAL.—The Office shall be directed  
5       by a Director for the Office of Workers’ Compensa-  
6       tion (referred to in this title as the “Director”) who  
7       shall be appointed by the President, by and with the  
8       advice and consent of the Senate.

9           (2) DUTIES.—The Director shall carry out all  
10      duties carried out by the Director for the Office of  
11      Workers’ Compensation as of the day before the  
12      date of enactment of this Act.

13      (c) FUNCTIONS.—The functions of the Office on and  
14      after the date of enactment of this Act shall include the  
15      functions of the Office on the day before the date of enact-  
16      ment of this Act, including all of its personnel, assets, au-  
17      thorities, and liabilities.

18      (d) REFERENCES TO BUREAU OF EMPLOYEES’ COM-  
19      PENSATION.—Reference in any other Federal law, Execu-  
20      tive order, reorganization plan, rule, regulation, or delega-  
21      tion of authority, or any document of or relating to the  
22      Bureau of Employees’ Compensation with regard to func-  
23      tions carried out by the Office of Workers’ Compensation  
24      Programs, shall be deemed to refer to the Office of Work-  
25      ers’ Compensation Programs.

1       **TITLE IV—SEVERABILITY**

2   **SEC. 401. SEVERABILITY.**

3       If any provision of this Act, or an amendment made  
4 by this Act, or the application of such provision to any  
5 person or circumstance, is held to be invalid, the remain-  
6 der of this Act, or an amendment made by this Act, or  
7 the application of such provision to other persons or cir-  
8 cumstances, shall not be affected.

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