

115TH CONGRESS  
1ST SESSION

# H. R. 1912

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 HOUSE OF REPRESENTATIVES

APRIL 5, 2017

Mr. CARTWRIGHT (for himself, Mr. SCOTT of Virginia, and Ms. WILSON of Florida) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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”.

**1 SEC. 2. TABLE OF CONTENTS.**

**2 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 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.

**3 SEC. 3. FINDINGS.**

**4 Congress finds the following:**

1           (1) The Black Lung Benefits Act (30 U.S.C.  
2       901 et seq.) was enacted to provide health care and  
3       modest benefits to coal miners who develop pneumo-  
4       coniosis (referred to in this section as “black lung  
5       disease”) resulting from exposure to coal dust dur-  
6       ing their employment. Yet the determination of a  
7       claimant’s eligibility for these benefits often requires  
8       complex, adversarial litigation. Resource disparities  
9       between coal companies and such claimants are  
10      widespread within the statutory and regulatory  
11      framework of such Act. Comprehensive reforms are  
12      necessary to ensure that coal miners are not at a  
13      disadvantage when filing claims for benefits.

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

1 without resources that Department of Labor officials  
2 and black lung disease experts note are important  
3 for developing evidence and supporting their claims.  
4 Only 33 percent of claimants are represented by an  
5 attorney during the initial claims determination. Ab-  
6 sent efforts to remedy administrative problems and  
7 address structural weaknesses in the process for ob-  
8 taining benefits, claimants with meritorious claims  
9 will not receive benefits.

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

1           (4) Given the remedial nature of the Black  
2       Lung Benefits Act, when an adjudicator determines  
3       that evidence is evenly balanced, it is appropriate for  
4       any resulting doubt to be resolved in favor of the  
5       claimant. The Supreme Court vacated this long-  
6       standing legal principle, not on substantive grounds,  
7       but because its application conflicted with the re-  
8       quirements of another statute. Such principle needs  
9       to be reinstated in the Black Lung Benefits Act be-  
10      cause it provides fairness and improves the adminis-  
11      tration of benefits.

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

1        ings for pneumoconiosis” by one widely used physi-  
2        cian employed at a prominent medical center unless  
3        the conclusions of such physician “have been reha-  
4        bilitated”. Where chest radiographs are needed to  
5        establish entitlement to benefits, claimants should  
6        have access to accurate interpretations so as to en-  
7        sure the fair adjudication of such claims.

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

21            (7) Between the calendar years 2004 and 2014,  
22       a reduction in the number of administrative law  
23       judges in the Department of Labor, coupled with a  
24       large increase in the number of cases filed under the  
25       Black Lung Benefits Act, cuts to nondefense discre-

1        tionary spending, furloughs resulting from seques-  
2        tration, and the 16-day shutdown of the Federal  
3        Government during the calendar year 2013, has cre-  
4        ated extensive delays in adjudicating claims under  
5        such Act and numerous other labor and employment  
6        laws. Due to the imbalance between resources and  
7        caseloads, a typical claim under such Act remains  
8        unresolved for an average of nearly 2 years prior to  
9        a decision by an administrative law judge. These  
10       delays directly and severely impact the lives of work-  
11       ers throughout the United States, placing an undue  
12       financial and emotional burden on the affected indi-  
13       viduals and their families.

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

1           (9) A competent assessment of medical infor-  
2           mation and testimony, which often involves multiple  
3           physicians disputing a diagnosis, is necessary in de-  
4           termining whether to award benefits under the  
5           Black Lung Benefits Act. To ensure that a deter-  
6           mination regarding a claim for benefits under such  
7           Act is fair and accurate, regular training is needed  
8           regarding—

9                   (A) developments in pulmonary medicine  
10                  relating to black lung disease;

11                  (B) medical evidence necessary to sustain  
12                  claims for such benefits; and

13                  (C) the proper weight to be given to con-  
14                  flicting evidence.

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



1       should be continued to determine whether revisions  
 2       to the standards are necessary to eliminate the dis-  
 3       ease.

4           (11) To eliminate an avoidable delay in evalu-  
 5       ating claims under such Act, the Department of La-  
 6       bor’s Inspector General has recommended legislation  
 7       that would authorize the Department of Labor to  
 8       have electronic access to miners’ earning records  
 9       held by the Social Security Administration.

## 10   **TITLE I—BLACK LUNG BENEFITS**

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

### 12   **AND ADJUDICATING CLAIMS FOR BENEFITS**

#### 13   **SEC. 101. MANDATORY DISCLOSURE OF MEDICAL INFOR-** 14       **MATION AND REPORTS.**

15       Part A of the Black Lung Benefits Act (30 U.S.C.  
 16   901 et seq.) is amended by adding at the end the fol-  
 17   lowing:

#### 18   **“SEC. 403. MANDATORY MEDICAL INFORMATION DISCLO-** 19       **SURE.**

20       “(a) REPORT.—In any claim for benefits under this  
 21   title, an operator that requires a miner to submit to a  
 22   medical examination regarding the miner’s respiratory or  
 23   pulmonary condition shall, not later than 21 days after  
 24   the miner has been examined, deliver to the claimant a

1 complete copy of the examining physician’s report. The ex-  
 2 amining physician’s report shall—

3 “(1) be in writing; and

4 “(2) set out in detail the findings of such physi-  
 5 cian, including any diagnoses and conclusions, the  
 6 results of any diagnostic imaging tests, and any  
 7 other tests performed on the miner.

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

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

21 **SEC. 102. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**  
 22 **MENT PROGRAM.**

23 Part A of the Black Lung Benefits Act (30 U.S.C.  
 24 901 et seq.), as amended by section 101, is further amend-  
 25 ed by adding at the end the following:

1   **“SEC. 404. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**  
2                   **MENT PROGRAM.**

3           “(a) PROGRAM ESTABLISHED.—

4                   “(1) IN GENERAL.—Not later than 180 days  
5           after the date of enactment of the Black Lung Bene-  
6           fits Improvement Act of 2017, the Secretary shall  
7           establish a payment program to pay attorneys’ fees  
8           and other reasonable and unreimbursed medical ex-  
9           penses incurred in establishing the claimant’s case,  
10          using amounts from the fund, to the attorneys of  
11          claimants in qualifying claims.

12                  “(2) QUALIFYING CLAIM.—A qualifying claim  
13          for purposes of this section is a contested claim for  
14          benefits under this title for which a final order has  
15          not been entered within one year of the filing of the  
16          claim.

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

21           “(b) PAYMENTS AUTHORIZED.—

22                   “(1) ATTORNEYS’ FEES.—If a claimant for ben-  
23          efits under this title obtains a proposed decision and  
24          order from a district director with an award of bene-  
25          fits for a qualifying claim, or an award for a quali-  
26          fying claim before an administrative law judge, the

1 district director may approve attorneys' fees for  
2 work done before such director in an amount not to  
3 exceed \$1,500 and an administrative law judge may  
4 approve attorneys' fees for work done before such  
5 judge in an amount not to exceed \$3,000. The Sec-  
6 retary shall, through the program under this section,  
7 pay such amounts approved.

8 “(2) MEDICAL EXPENSES.—If a claimant for  
9 benefits under this title obtains a proposed decision  
10 and order from a district director with an award of  
11 benefits for a qualifying claim, or an award for a  
12 qualifying claim before an administrative law judge,  
13 such district director and administrative law judge  
14 may each approve an award to the claimant's attor-  
15 ney of reasonable and unreimbursed medical ex-  
16 penses incurred in establishing the claimant's case in  
17 an amount not to exceed \$1,500. The Secretary  
18 shall, through the program under this section, pay  
19 such amounts approved.

20 “(3) MAXIMUM.—The program established  
21 under this section shall not pay more than a total  
22 of \$4,500 in attorneys' fees nor more than \$3,000  
23 in medical expenses for any single qualifying claim.

24 “(c) REIMBURSEMENT OF FUNDS.—In any case in  
25 which a qualifying claim results in a final order awarding

1 compensation, the liable operator shall reimburse the fund  
2 for any fees or expenses paid under this section, subject  
3 to enforcement by the Secretary under section 424 and  
4 in the same manner as compensation orders are enforced  
5 under section 21(d) of the Longshore and Harbor Work-  
6 ers' Compensation Act (33 U.S.C. 921(d)).

7       “(d) ADDITIONAL PROGRAM RULES.—Nothing in  
8 this section shall limit or otherwise affect an operator's  
9 liability for any attorneys' fees, medical expenses, or other  
10 allowable and unreimbursed expenses awarded by the dis-  
11 trict director or an administrative law judge that were not  
12 paid by the program under this section. Nothing in this  
13 section shall limit or otherwise affect the Secretary's au-  
14 thority to use amounts in the fund to pay approved attor-  
15 neys' fees in claims for benefits under this title for which  
16 a final order awarding compensation has been entered and  
17 the operator is unable to pay.

18       “(e) NO RECOUPMENT OF ATTORNEYS' FEES.—Any  
19 payment for attorneys' fees or medical expenses made by  
20 the Secretary under this section shall not be recouped  
21 from the claimant or the claimant's attorney.”.

1 **SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**  
2 **EFITS.**

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

6 “(3) If x-ray, biopsy, autopsy, or other medi-  
7 cally accepted and relevant test or procedure estab-  
8 lishes that a miner is suffering or has suffered from  
9 a chronic dust disease of the lung, diagnosed as  
10 complicated pneumoconiosis or progressive massive  
11 fibrosis (pneumoconiosis that has formed an opacity,  
12 mass, or lesion whose greatest diameter exceeds 1  
13 centimeter), then there shall be an irrebuttable pre-  
14 sumption that such miner is totally disabled due to  
15 pneumoconiosis, that the miner’s death was due to  
16 pneumoconiosis, or that at the time of death the  
17 miner was totally disabled by pneumoconiosis, as the  
18 case may be. A chest radiograph, which yields one  
19 or more large opacities (whose greatest diameter ex-  
20 ceeds 1 centimeter), and would be classified in cat-  
21 egory A, B, or C in the International Classification  
22 of Radiographs of Pneumoconioses by the Inter-  
23 national Labor Organization, shall be sufficient to  
24 invoke the presumption, in the absence of more pro-  
25 bative evidence sufficient to establish that the eti-  
26 ology of a large opacity is not pneumoconiosis.

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

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

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

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

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

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

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



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

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

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

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

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

21 **SEC. 107. FALSE STATEMENTS OR MISREPRESENTATIONS,**  
22 **ATTORNEY DISQUALIFICATION, AND DIS-**  
23 **COVERY SANCTIONS.**

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

1 **“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS,**  
2 **ATTORNEY DISQUALIFICATION, AND DIS-**  
3 **COVERY SANCTIONS.**

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

7 “(1) knowingly and willfully make a false state-  
8 ment or misrepresentation for the purpose of obtain-  
9 ing, increasing, reducing, denying, or terminating  
10 benefits under this title; or

11 “(2) knowingly and willfully threaten, coerce,  
12 intimidate, deceive, or mislead a party, representa-  
13 tive, witness, potential witness, judge, or anyone par-  
14 ticipating in a proceeding regarding any matter re-  
15 lated to a proceeding under this title.

16 “(b) FINE; IMPRISONMENT.—Any person who en-  
17 gages in the conduct described in subsection (a) shall,  
18 upon conviction, be subject to a fine in accordance with  
19 title 18, United States Code, imprisoned for not more than  
20 5 years, or both.

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

26 “(d) DISQUALIFICATION.—

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

7           “(2) ATTORNEY DISQUALIFICATION.—In addi-  
8           tion to the disqualification described in paragraph  
9           (1), the Secretary may disqualify an attorney from  
10          representing any party in any administrative pro-  
11          ceeding under this title for either a limited term or  
12          permanently, if the attorney—

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

16               “(B) is suspended or disbarred by any  
17               court of the United States, any State, or any  
18               territory, commonwealth, or possession of the  
19               United States with jurisdiction over the pro-  
20               ceeding.

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

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

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

6 “(3) rendering a default decision against the  
7 noncomplying party.

8 “(f) REGULATIONS.—The Secretary shall promulgate  
9 regulations that—

10 “(1) provide procedures for the disqualifications  
11 and sanctions under this section and are appropriate  
12 for all parties; and

13 “(2) distinguish between parties that are rep-  
14 resented by an attorney and parties that are not  
15 represented by an attorney.”.

16 **SEC. 108. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**  
17 **SECRETARY.**

18 Part C of the Black Lung Benefits Act (30 U.S.C.  
19 931 et seq.) is amended by adding at the end the fol-  
20 lowing:

21 **“SEC. 435. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**  
22 **SECRETARY.**

23 “(a) COMPLETE PULMONARY EVALUATION.—Upon  
24 request by a claimant for benefits under this title, the Sec-  
25 retary shall provide the claimant an opportunity to sub-

1   stantiate the claim through a complete pulmonary evalua-  
2   tion of the miner that shall include—

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

7           “(2) if the conditions under subsection (b) are  
8       met, any supplemental medical evidence described in  
9       subsection (c).

10       “(b)     DIAGNOSING     COMPLICATED     PNEUMO-  
11   CONIOSIS.—In diagnosing whether there is complicated  
12   pneumoconiosis as a part of a medical examination con-  
13   ducted under subsection (a), the Secretary shall authorize  
14   a high-quality, low-dose or standard computerized tomog-  
15   raphy scan where any or a combination of the following  
16   is found:

17           “(1) Any certified B reader of a chest  
18       radiograph associated with an exam conducted under  
19       section 413(b) finds advanced pneumoconiosis (ILO  
20       category 2/1 or greater).

21           “(2) Any certified B reader of a chest  
22       radiograph associated with an exam conducted under  
23       section 413(b) finds a coalescence of small opacities.

24           “(3) Any certified B reader of a chest  
25       radiograph associated with an exam conducted under

1       section 413(b) has a reasonable belief that there  
2       may be a large opacity in the upper lungs that has  
3       been obscured by bony structures.

4       “(c) CONDITIONS FOR SUPPLEMENTAL MEDICAL  
5 EVIDENCE.—The Secretary shall develop supplemental  
6 medical evidence, in accordance with subsection (d)—

7               “(1) for any claim in which the Secretary rec-  
8       ommends an award of benefits based on the results  
9       of the initial report under subsection (a)(1) and a  
10      party opposing such award submits evidence that  
11      could be considered contrary to the findings of the  
12      Secretary; and

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

15                      “(A) the Secretary has awarded benefits to  
16      the claimant;

17                      “(B) the party opposing such award has  
18      submitted evidence not previously reviewed that  
19      could be considered contrary to the award  
20      under subparagraph (A); and

21                      “(C) the claimant or, if the claimant is  
22      represented by an attorney, the claimant’s at-  
23      torney consents to the Secretary developing  
24      supplemental medical evidence.

1       “(d) PROCESS FOR SUPPLEMENTAL MEDICAL EVI-  
2 DENCE.—

3               “(1) IN GENERAL.—Except as provided under  
4 paragraph (2), to develop supplemental medical evi-  
5 dence under conditions described in subsection (c),  
6 the Secretary shall request the physician who con-  
7 ducted the initial report under subsection (a)(1)  
8 to—

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

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

14               “(2) ALTERNATIVE PHYSICIAN.—If such physi-  
15 cian is no longer available or is unwilling to provide  
16 supplemental medical evidence under paragraph (1),  
17 the Secretary shall select another qualified physician  
18 to provide such evidence.

19       “(e) QUALIFIED PHYSICIANS FOR COMPLETE PUL-  
20 MONARY EVALUATION AND PROTECTIONS FOR SUIT-  
21 ABILITY AND POTENTIAL CONFLICTS OF INTEREST.—

22               “(1) QUALIFIED PHYSICIANS LIST.—The Sec-  
23 retary shall create and maintain a list of qualified  
24 physicians to be selected by a claimant to perform

1 the complete pulmonary evaluation described in sub-  
2 section (a).

3 “(2) PUBLIC AVAILABILITY.—The Secretary  
4 shall make the list under this subsection available to  
5 the public.

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

10 “(4) CRITERIA FOR SUITABILITY.—In deter-  
11 mining whether a physician is suitable to be on the  
12 list under this subsection, the Secretary shall consult  
13 the National Practitioner Data Bank of the Depart-  
14 ment of Health and Human Services and assess re-  
15 ports of adverse licensure, certifications, hospital  
16 privilege, and professional society actions involving  
17 the physician. In no case shall such list include any  
18 physician—

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

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



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

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

18               “(A) such physician is employed by, under  
19               contract to, or otherwise providing services to a  
20               private party opposing the claim, a law firm or  
21               lawyer representing such opposing party, or an  
22               interested insurer or other interested third  
23               party; or

24               “(B) such physician has been retained by  
25               a private party opposing the claim, a law firm

1           or lawyer representing such opposing party, or  
 2           an interested insurer or other interested third  
 3           party in the previous 24 months.

4           “(f) RECORD.—Upon receipt of any initial report or  
 5 supplemental report under this section, the Secretary shall  
 6 enter the report in the record and provide a copy of such  
 7 report to all parties to the proceeding.

8           “(g) EXPENSES.—All expenses related to obtaining  
 9 the medical evidence under this section shall be paid for  
 10 by the fund. If a claimant receives a final award of bene-  
 11 fits, the operator liable for payment of benefits, if any,  
 12 shall reimburse the fund for such expenses, which shall  
 13 include interest.”.

14 **SEC. 109. ESTABLISHMENT OF PILOT PROGRAM TO PRO-**  
 15 **VIDE IMPARTIAL CLASSIFICATIONS OF**  
 16 **CHEST RADIOGRAPHS.**

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

21 **“SEC. 436. ESTABLISHMENT OF PILOT PROGRAM TO PRO-**  
 22 **VIDE IMPARTIAL CLASSIFICATIONS OF**  
 23 **CHEST RADIOGRAPHS.**

24           “(a) DEFINITIONS.—In this section:

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

3                   “(A) has a valid license to practice medi-  
4                   cine in not less than one State, territory, com-  
5                   monwealth, or possession of the United States;  
6                   and

7                   “(B) has demonstrated a proficiency,  
8                   through an examination administered by the  
9                   National Institute for Occupational Safety and  
10                  Health, in classifying chest radiographs for  
11                  findings consistent with pneumoconiosis using  
12                  the International Classification of Radiographs  
13                  of Pneumoconioses by the International Labor  
14                  Organization (ILO).

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

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

22           “(4) ILO CLASSIFICATION.—The term ‘ILO  
23           classification’ means the standardized categorization  
24           of chest radiographs for findings consistent with  
25           pneumoconiosis using the International Classifica-

tion of Radiographs of Pneumoconioses by the International Labor Organization.

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

“(b) B READER PANEL PROGRAM.—

“(1) ESTABLISHMENT OF PILOT PROGRAM.—

“(A) IN GENERAL.—The Director shall establish, in the National Institute for Occupational Safety and Health, a pilot program to be known as the ‘B Reader Panel Program’. The B Reader Panel Program shall establish B Reader Panels that—

“(i) are operated in a manner to assure accurate ILO classifications, which may be used for claims for benefits described in subparagraph (C);

“(ii) only classify chest radiographs; and

“(iii) classify all appearances described in the International Classification of Radiographs of Pneumoconiosis or illustrated by the ILO Standard Radiographs.

“(B) DURATION.—The B Reader Panel Program established under this section shall be

1 conducted for a duration of one year, beginning  
2 after the issuance of necessary protocols and in-  
3 terim final rules under subsection (h).

4 “(C) APPLICABILITY.—A chest radiograph  
5 classification may only be requested under this  
6 section for a claim for benefits under this title  
7 where the presence or absence of complicated  
8 pneumoconiosis or progressive massive fibrosis  
9 (large opacities greater than or equal to cat-  
10 egory A of the ILO classification) is in fact at  
11 issue.

12 “(2) PROGRAM PERSONNEL MATTERS.—

13 “(A) IN GENERAL.—The Director may hire  
14 such personnel as are necessary to establish,  
15 manage, and evaluate the B Reader Panel Pro-  
16 gram, including a B Reader Program Director  
17 described in subparagraph (B).

18 “(B) B READER PROGRAM DIRECTOR.—  
19 The B Reader Program Director shall be a phy-  
20 sician who is a B Reader and has documented  
21 expertise in ILO classifications.

22 “(C) STAFF.—

23 “(i) IN GENERAL.—In procuring the  
24 services of B Readers for this section, the

1 Director may hire Federal personnel, con-  
2 tract for services, or both.

3 “(ii) COMPENSATION.—The Director  
4 shall establish compensation rates for B  
5 Readers who are hired under contract.

6 “(3) ETHICS POLICY.—

7 “(A) CODE OF ETHICS.—

8 “(i) IN GENERAL.—In order to maxi-  
9 mize the quality, objectivity, and con-  
10 fidence in ILO classifications under this  
11 section, the Director shall establish a bind-  
12 ing code of ethics to which all B Readers  
13 in the B Reader Panel Pool shall agree to  
14 in writing and adhere.

15 “(ii) CONTENTS.—The code of ethics  
16 shall include—

17 “(I) definitions and stipulations  
18 of procedures dealing with actual and  
19 apparent conflicts of interest and the  
20 appearance of bias or lack of suffi-  
21 cient impartiality;

22 “(II) a requirement that each  
23 such B Reader submits a conflict of  
24 interest disclosure statement to the

1 Director and annually updates such  
2 statement; and

3 “(III) requirements for the con-  
4 tent of the conflict of interest disclo-  
5 sure statements required under sub-  
6 clause (II).

7 “(B) B READER ETHICS OFFICER.—The  
8 Director shall designate an employee of the Na-  
9 tional Institute for Occupational Safety and  
10 Health as the B Reader Ethics Officer whose  
11 responsibilities shall include—

12 “(i) reviewing all conflict of interest  
13 disclosures of B Readers on the B Reader  
14 Panel Pool;

15 “(ii) investigating the validity of such  
16 disclosures;

17 “(iii) maintaining a list of such B  
18 Readers who fail to disclose a conflict of  
19 interest;

20 “(iv) addressing complaints about in-  
21 complete or inaccurate conflict of interest  
22 disclosures;

23 “(v) assessing whether any such B  
24 Reader has been improperly assigned to a  
25 panel due to a conflict of interest; and

1                   “(vi) assuring full transparency of  
2                   conflict of interest disclosures to the pub-  
3                   lic.

4                   “(4) QUALITY ASSURANCE PROGRAM.—

5                   “(A) PROTOCOLS.—

6                   “(i) ESTABLISHMENT.—The Director  
7                   shall establish a quality assurance program  
8                   consisting of protocols to ensure that the  
9                   results produced by B Reader Panels meet  
10                  or exceed standards of performance re-  
11                  quired for accuracy and consistency.

12                  “(ii) PROTOCOLS.—The protocols  
13                  under this subparagraph shall include pro-  
14                  tocols—

15                         “(I) for each B Reader to pre-  
16                         pare an individual ILO classification  
17                         report for each chest radiograph; and

18                         “(II) for the preparation of a  
19                         final ILO classification report for the  
20                         chest radiograph.

21                         “(iii) ADDITIONAL REVIEWERS.—If  
22                         individual ILO classifications reported by  
23                         each B Reader of a B Reader Panel di-  
24                         verge from each other by more than an ac-  
25                         ceptable variance, as determined by proto-



1 cols established under subsection (h), the  
2 Director shall assign additional B Readers  
3 to the applicable B Reader Panel or con-  
4 vene an additional B Reader Panel, as the  
5 Director determines necessary, to assure  
6 that the ILO classification report of the  
7 initial B Reader Panel is accurate and sci-  
8 entifically valid.

9 “(iv) USE OF KNOWN POSITIVE AND  
10 NEGATIVE X-RAYS AS A QUALITY CONTROL  
11 TOOL.—The quality assurance program  
12 under this paragraph shall use pre-read  
13 radiographs, for which ILO classifications  
14 have been previously established as exter-  
15 nal standards, with sufficient frequency in  
16 order to assure that B Readers on B Read-  
17 er Panels read radiographs that are bor-  
18 derline positive or negative for complicated  
19 pneumoconiosis or progressive massive fi-  
20 brosis (large opacities greater than or  
21 equal to category A of the ILO classifica-  
22 tion) with accuracy and consistency.

23 “(v) BLIND READINGS.—In reading a  
24 radiograph to make an ILO classification,

1           a B Reader shall be blinded from the ori-  
2           gin of the radiograph.

3           “(B) CONTINUOUS IMPROVEMENT.—The  
4           Director shall establish a process for providing  
5           feedback to B Readers in the B Reader Pool  
6           with respect to their performance in providing  
7           ILO classifications and provide suggestions for  
8           improvement.

9           “(c) CREATION AND MAINTENANCE OF B READER  
10          PANEL POOL.—

11           “(1) ESTABLISHMENT.—The Director shall es-  
12          tablish a B Reader Panel Pool to be used for the B  
13          Reader Panel Program under this section. The Di-  
14          rector shall solicit and select physicians who are B  
15          Readers for inclusion in the B Reader Panel Pool.

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

18           “(A) IN GENERAL.—The Director shall es-  
19          tablish and disclose criteria by which B Readers  
20          are selected and retained within the B Reader  
21          Panel Pool, including minimum standards of  
22          performance described in subparagraph (B).

23           “(B) MINIMUM STANDARDS OF PERFORM-  
24          ANCE.—The minimum standards of perform-  
25          ance for inclusion in the B Reader Panel Pool

1 shall include requiring the B Reader to make  
2 radiograph classifications consistent with ILO  
3 classification criteria that are consistently with-  
4 in acceptable norms, as established by the Di-  
5 rector.

6 “(C) CONSIDERATIONS FOR SELECTION.—

7 In selecting a B Reader to be included in the  
8 B Reader Panel Pool, the Director shall—

9 “(i) assess, to the maximum extent  
10 practicable, the prior performance of the B  
11 Reader in making ILO classifications;

12 “(ii) consult the National Practitioner  
13 Data Bank of the Department of Health  
14 and Human Services for information on  
15 physician suitability; and

16 “(iii) assess reports of adverse licen-  
17 sure, certifications, hospital privilege, and  
18 professional society actions involving the B  
19 Reader.

20 “(D) MONITORING.—The Director shall  
21 monitor ILO classifications conducted under  
22 this section to determine if any B Reader in-  
23 cluded in the B Reader Panel Pool dem-  
24 onstrates a pattern of providing ILO classifica-  
25 tions that are erroneous or not consistently

1 within the acceptable norms, as established by  
2 the Director.

3 “(3) PROCESS FOR REMOVAL.—

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

7 “(i) consistently failing to meet the  
8 minimum standards of performance under  
9 paragraph (2)(B);

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

12 “(iii) other disqualifying conduct, as  
13 established by rule or policy.

14 “(B) REVIEW.—The Director shall provide  
15 a process for a B Reader who is aggrieved by  
16 a decision of the Director under subparagraph  
17 (A) to seek review by the Secretary of Health  
18 and Human Services. The review by such Sec-  
19 retary shall not stay the suspension of the B  
20 Reader during the pendency of the review.

21 “(4) DISCLOSURE.—The Director shall make  
22 publicly accessible—

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

1           “(B) the names of B Readers who have  
2           been suspended or removed from the B Reader  
3           Panel Pool and the reasons for such suspension  
4           or removal;

5           “(C) the conflict of interest disclosure  
6           statements required under subsection  
7           (b)(3)(A)(ii)(II); and

8           “(D) any pertinent information which the  
9           Director determines necessary to assure trans-  
10          parency and program integrity.

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

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

17               “(2) Individuals defined as adjudication officers  
18          by regulations of the Secretary.

19          “(e) TIMING OF REPORTS.—Following the receipt of  
20          a written request for the classification of a chest  
21          radiograph, the Director shall provide a report conducted  
22          by a B Reader Panel—

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

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

3 “(f) TESTIMONY.—

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

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

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

21 “(B) may not be required to appear and  
22 testify under subpoena, unless the party making  
23 such request demonstrates to an administrative  
24 law judge that—

1 “(i)(I) the B Reader Panel Report is  
2 incomplete or lacks information that is rea-  
3 sonably necessary for such full develop-  
4 ment; and

5 “(II) if responses to interrogatories  
6 were ordered, the responses are unclear or  
7 incomplete; or

8 “(ii) there is an extraordinary cir-  
9 cumstance in which additional information  
10 that is reasonably necessary for such full  
11 development is otherwise unavailable from  
12 the Director and can only be provided by  
13 such B Reader.

14 “(g) ADMINISTRATIVE COSTS.—

15 “(1) ESTABLISHMENT.—Funds necessary to es-  
16 tablish and operate the B Reader Panel Program  
17 under this section shall be paid as an administrative  
18 cost from the fund. The Director shall consult with  
19 the Secretary on allocations of funds in establishing  
20 such program.

21 “(2) COSTS OF REPORTS FOR B READER PAN-  
22 ELS.—

23 “(A) FEES.—

24 “(i) IN GENERAL.—The Director shall  
25 establish a fee for a B Reader Panel Re-

1 port in accordance with clause (ii). Such  
2 fee shall be payable by the party request-  
3 ing such report. No fee shall be charged if  
4 the request for such ILO classification is  
5 made by an individual defined as an adju-  
6 dication officer by regulations of the Sec-  
7 retary.

8 “(ii) LIMITATION.—The amount of a  
9 fee under clause (i) shall not exceed the di-  
10 rect cost of hiring the B Readers of the B  
11 Reader Panel that made the ILO classi-  
12 fication.

13 “(B) LEGAL COSTS.—

14 “(i) IN GENERAL.—The National In-  
15 stitute for Occupational Safety and Health  
16 shall use amounts in the fund to pay for  
17 all costs related to the appearance and re-  
18 sponses to interrogatories of the Director  
19 or a designee of the Director, or a B Read-  
20 er of a B Reader Panel, in a proceeding  
21 under this section.

22 “(ii) REPRESENTATION OF THE NA-  
23 TIONAL INSTITUTE FOR OCCUPATIONAL  
24 SAFETY AND HEALTH.—The General  
25 Counsel of the Department of Health and



1           Human Services shall, in consultation with  
2           the Solicitor of Labor, represent the Na-  
3           tional Institute for Occupational Safety  
4           and Health in any proceeding under this  
5           section, which costs shall be payable from  
6           the fund.

7           “(h) PROTOCOLS AND INTERIM FINAL RULES.—Not  
8       later than 180 days after the date of enactment of the  
9       Black Lung Benefits Improvement Act of 2017, the Sec-  
10      retary of Health and Human Services shall issue protocols  
11      and promulgate interim final rules, as necessary, to com-  
12      mence the implementation of this section.

13          “(i) REPORT TO CONGRESS.—

14               “(1) IN GENERAL.—Not later than 30 days  
15      after the completion of the pilot program under this  
16      section, the Director shall, in consultation with the  
17      Secretary of Labor, prepare and submit a report to  
18      the Committee on Health, Education, Labor, and  
19      Pensions of the Senate and the Committee on Edu-  
20      cation and the Workforce of the House of Rep-  
21      resentatives that includes the information in para-  
22      graph (2).

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

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

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

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

7           “(D) the accuracy of the ILO classifica-  
8           tions conducted by B Readers under this sec-  
9           tion;

10          “(E) challenges in the administration and  
11          implementation of such pilot program;

12          “(F) the costs and revenues of such pilot  
13          program;

14          “(G) the impact of the pilot program on  
15          the claims-adjudication process;

16          “(H) a recommendation on whether the  
17          pilot program under this section should extend  
18          beyond the one-year duration under subsection  
19          (b)(1)(B); and

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

23          (b) CONFORMING AMENDMENT RELATED TO DE-  
24          POSIT OF FEES.—Section 9501(b) of the Internal Rev-

1 enue Code of 1986 (26 U.S.C. 9501(b)) is amended by  
2 adding at the end the following new paragraph:

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

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

7 Part C of the Black Lung Benefits Act (30 U.S.C.  
8 931 et seq.), as amended by sections 108 and 109, is fur-  
9 ther amended by adding at the end the following:

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

11 “(a) IN GENERAL.—Not later than 60 days after the  
12 date of enactment of the Black Lung Benefits Improve-  
13 ment Act of 2017, the Secretary, in coordination with the  
14 National Institute for Occupational Safety and Health,  
15 shall establish and implement a training program, to pro-  
16 vide education on issues relating to medical evidence rel-  
17 evant to claims for benefits under this title, to each of  
18 the following individuals who engage in work under this  
19 title:

20 “(1) District directors.

21 “(2) Claims examiners working under such di-  
22 rectors.

23 “(3) Administrative law judges and attorney  
24 advisors supporting such judges.

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

5           “(b) TRAINING PROGRAM TOPICS.—The training  
6           program under this section shall provide an overview of  
7           topics that include—

8           “(1) new developments in pulmonary medicine  
9           relating to pneumoconiosis;

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

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

15          “(c) TIMING OF TRAINING.—

16          “(1) INDIVIDUALS HIRED OR APPOINTED PRIOR  
17          TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT  
18          OF 2017.—Any district director, claims examiner, ad-  
19          ministrative law judge, attorney advisor supporting  
20          such judge, or member of the Benefits Review Board  
21          described in subsection (a)(4), who was hired or ap-  
22          pointed prior to the date of enactment of the Black  
23          Lung Benefits Improvement Act of 2017 shall com-  
24          plete the training program under this section not  
25          later than 60 days after the establishment of such

1 program under subsection (a) and not less than an-  
 2 nually thereafter.

3 “(2) INDIVIDUALS HIRED OR APPOINTED AFTER  
 4 THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF  
 5 2017.—Any district director, claims examiner, admin-  
 6 istrative law judge, attorney advisor supporting such  
 7 judge, or member of the Benefits Review Board de-  
 8 scribed in subsection (a)(4), who is not described in  
 9 paragraph (1) shall complete the training program  
 10 under this section prior to engaging in any work  
 11 under this title and not less than annually there-  
 12 after.”.

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

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

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

19 (2) in section 402—

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

22 “(2) a spouse who is a member of the same  
 23 household as the miner, or is receiving regular con-  
 24 tributions from the miner for support, or whose  
 25 spouse is a miner who has been ordered by a court

1 to contribute to support, or who meets the require-  
2 ments of paragraph (1) or (2) of section 216(b) of  
3 the Social Security Act or paragraph (1) or (2) of  
4 section 216(f) of such Act. An individual is the  
5 ‘spouse’ of a miner when such individual is legally  
6 married to the miner under the laws of the State  
7 where the marriage was celebrated. The term  
8 ‘spouse’ also includes a ‘divorced wife’ or ‘divorced  
9 husband’, as such terms are defined in paragraph  
10 (1) or (4) of section 216(d) of such Act, who is re-  
11 ceiving at least one-half of his or her support, as de-  
12 termined in accordance with regulations prescribed  
13 by the Secretary, from the miner, or is receiving  
14 substantial contributions from the miner (pursuant  
15 to a written agreement), or there is in effect a court  
16 order for substantial contributions to the spouse’s  
17 support from such miner.”;

18 (B) by striking subsection (e) and insert-  
19 ing the following:

20 “(e) The term ‘surviving spouse’ includes the spouse  
21 living with or dependent for support on the miner at the  
22 time of the miner’s death, or living apart for reasonable  
23 cause or because of the miner’s desertion, or who meets  
24 the requirements of subparagraph (A), (B), (C), (D), or  
25 (E) of section 216(c)(1) of the Social Security Act, sub-

1 paragraph (A), (B), (C), (D), or (E) of section 216(g)(1)  
 2 of such Act, or section 216(k) of such Act, who is not  
 3 married. An individual is the ‘surviving spouse’ of a miner  
 4 when legally married at the time of the miner’s death  
 5 under the laws of the State where the marriage was cele-  
 6 brated. Such term also includes a ‘surviving divorced wife’  
 7 or ‘surviving divorced husband’, as such terms are defined  
 8 in paragraph (2) or (5) of section 216(d) of such Act who  
 9 for the month preceding the month in which the miner  
 10 died, was receiving at least one-half of his or her support,  
 11 as determined in accordance with regulations prescribed  
 12 by the Secretary, from the miner, or was receiving sub-  
 13 stantial contributions from the miner (pursuant to a writ-  
 14 ten agreement) or there was in effect a court order for  
 15 substantial contributions to the spouse’s support from the  
 16 miner at the time of the miner’s death.”;

17 (C) in subsection (g)—

18 (i) in paragraph (2)(B)(ii), by striking  
 19 “he ceased” and inserting “the individual  
 20 ceased”; and

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

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

4 (E) in subsection (i), by striking “Internal  
5 Revenue Code of 1954” and inserting “Internal  
6 Revenue Code of 1986”;

7 (3) in section 411 (30 U.S.C. 921)—

8 (A) by striking subsection (a) and insert-  
9 ing the following:

10 “(a) The Secretary shall, in accordance with the pro-  
11 visions of this title, and the regulations promulgated by  
12 the Secretary under this title, make payments of benefits  
13 in respect of—

14 “(1) total disability of any miner due to pneu-  
15 moconiosis;

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

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

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



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

(B) in subsection (c)—

(i) in paragraph (1), by striking “his pneumoconiosis” and inserting “the miner’s pneumoconiosis”; and

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

(4) in section 412 (30 U.S.C. 922)—

(A) in subsection (a)—

(i) by striking paragraph (2) and inserting the following:

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

“(A) of a miner whose death is due to pneumoconiosis;

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

“(C) of a miner who is found entitled to receive benefits at the time of the miner’s death as a result

1 of the miner's claim filed under part C before Janu-  
 2 ary 1, 1982; or

3 “(D) in a claim filed under part C before Janu-  
 4 ary 1, 1982, of a miner who was totally disabled by  
 5 pneumoconiosis at the time of the miner's death,  
 6 benefits shall be paid to the miner's surviving spouse at  
 7 the rate the deceased miner would receive such benefits  
 8 if he were totally disabled.”;

9 (ii) in paragraph (3)—

10 (I) by striking “(3) In the case”  
 11 and all that follows through “section  
 12 411(c)” and inserting the following:  
 13 “(3)(A) In the case of the child or  
 14 children of a miner described in sub-  
 15 paragraph (B)”;

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

18 (III) by striking “widow” each  
 19 place it appears and inserting “sur-  
 20 viving spouse”; and

21 (IV) by adding at the end the fol-  
 22 lowing:

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

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

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

8           “(iii) 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;

12          “(iv) 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          “(v) of a surviving spouse who is found entitled  
16      to receive benefits under this part at the time of the  
17      surviving spouse’s death; or

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

20                      (iii) in paragraph (5)—

21                              (I) by striking the first sentence  
22                              and inserting the following: “In the  
23                              case of the dependent parent or par-  
24                              ents of a miner who is not survived at  
25                              the time of death by a surviving

1 spouse or a child and (i) whose death  
2 is due to pneumoconiosis, (ii) in a  
3 claim filed after January 1, 2005,  
4 that is pending on or after March 23,  
5 2010, who is found entitled to receive  
6 benefits at the time of his the miner's  
7 death as a result of the miner's claim  
8 filed under part C, (iii) who is found  
9 entitled to receive benefits at the time  
10 of his death as a result of the miner's  
11 claim filed under part C before Janu-  
12 ary 1, 1982, or (iv) in a claim filed  
13 under part C before January 1, 1982,  
14 who was totally disabled by pneumo-  
15 coniosis at the time of the miner's  
16 death; in the case of the dependent  
17 surviving brother(s) or sister(s) of  
18 such a miner who is not survived at  
19 the time of the miner's death by a  
20 surviving spouse, child, or parent; in  
21 the case of the dependent parent or  
22 parents of a miner (who is not sur-  
23 vived at the time of the miner's death  
24 by a surviving spouse or child) who  
25 are entitled to the payment of benefits

1 under paragraph (5) of section  
2 411(c); or in the case of the depend-  
3 ent surviving brother(s) or sister(s) of  
4 a miner (who is not survived at the  
5 time of the miner's death by a sur-  
6 viving spouse, child, or parent) who  
7 are entitled to the payment of benefits  
8 under paragraph (5) of section  
9 411(c), benefits shall be paid under  
10 this part to such parent(s), or to such  
11 brother(s), or sister(s), at the rate  
12 specified in paragraph (3) (as if such  
13 parent(s) or such brother(s) or sis-  
14 ter(s), were the children of such  
15 miner)."; and

16 (II) in the fourth sentence—

17 (aa) by striking “brother  
18 only if he” and inserting “broth-  
19 er or sister only if the brother or  
20 sister”; and

21 (bb) by striking “before he  
22 ceased” and inserting “before the  
23 brother or sister ceased”; and

1 (iv) in paragraph (6), by striking  
2 “prescribed by him” and inserting “pre-  
3 scribed by such Secretary”;

4 (B) in subsection (b)—

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

7 (ii) by striking “widow” each place it  
8 appears and inserting “surviving spouse”;  
9 and

10 (C) in subsection (c), by striking “Internal  
11 Revenue Code of 1954” and inserting “Internal  
12 Revenue Code of 1986”;

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

14 (A) in subsection (b)—

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

18 (ii) in the ninth sentence, by striking  
19 “widow” and inserting “surviving spouse”;  
20 and

21 (iii) by striking the last sentence; and

22 (B) in subsection (c), by striking “his  
23 claim” and inserting “the claim”;

24 (6) in section 414 (30 U.S.C. 924)—

25 (A) in subsection (a)—

1 (i) in paragraph (1), by striking  
2 “widow, within six months after the death  
3 of her husband” and inserting “surviving  
4 spouse, within six months after the death  
5 of the miner”; and

6 (ii) in paragraph (2)(C), by striking  
7 “his” and inserting “the child’s”; and  
8 (B) in subsection (e)—

9 (i) by striking “widow” and inserting  
10 “surviving spouse”; and

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

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

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

17 (B) in paragraph (2)—

18 (i) by striking “he” and inserting  
19 “such Secretary”; and

20 (ii) by striking “him” and inserting  
21 “such Secretary”;

22 (8) in section 421 (30 U.S.C. 931)—

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

25 (B) in subsection (b)(2)—

1 (i) in the matter preceding subpara-  
2 graph (A), by striking “he” and inserting  
3 “such Secretary”; and

4 (ii) in subparagraph (F), by striking  
5 “promulgated by him” and inserting “pro-  
6 mulgated by such Secretary”;

7 (9) in section 422 (30 U.S.C. 932)—

8 (A) in subsection (a)—

9 (i) by striking “Internal Revenue  
10 Code of 1954” and inserting “Internal  
11 Revenue Code of 1986”; and

12 (ii) by striking “he” and inserting  
13 “such Secretary”;

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

17 (C) in subsection (j), by striking “Internal  
18 Revenue Code of 1954” each place it appears  
19 and inserting “Internal Revenue Code of  
20 1986”;

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

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



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

4 (B) in paragraph (3), by striking “Internal  
5 Revenue Code of 1954” each place it appears  
6 and inserting “Internal Revenue Code of  
7 1986”; and

8 (C) in paragraph (5), by striking “Internal  
9 Revenue Code of 1954” and inserting “Internal  
10 Revenue Code of 1986”;

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

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

14 (B) in subsection (b)—

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

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

19 (iii) in the ninth sentence—

20 (I) by striking “he” each place it  
21 appears and inserting “the Sec-  
22 retary”; and

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

1 (iv) in the tenth sentence, by striking  
 2 “he” each place it appears and inserting  
 3 “the Secretary”; and  
 4 (13) in section 430 (30 U.S.C. 940)—  
 5 (A) by striking “1977 and” and inserting  
 6 “1977,”; and  
 7 (B) by striking “1981” and inserting  
 8 “1981, and the Black Lung Benefits Improve-  
 9 ment Act of 2017, and any amendments made  
 10 after the date of enactment of such Act,”.

11 **SEC. 112. READJUDICATING CASES INVOLVING CERTAIN**  
 12 **CHEST RADIOGRAPHS.**

13 (a) DEFINITIONS.—In this section:

14 (1) COVERED CHEST RADIOGRAPH.—The term  
 15 “covered chest radiograph” means a chest  
 16 radiograph that was interpreted as negative for sim-  
 17 ple pneumoconiosis, complicated pneumoconiosis, or  
 18 progressive massive fibrosis by a physician with re-  
 19 spect to whom the Secretary has directed, in writing  
 20 and after an evaluation by the Secretary, that such  
 21 physician’s negative interpretations of chest  
 22 radiographs not be credited, except where subse-  
 23 quently determined to be credible by the Secretary  
 24 in evaluating a claim for benefits under the Black  
 25 Lung Benefits Act (30 U.S.C. 901 et seq.).

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

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

7                 (A) is a survivor of a covered individual  
8       whose claim under the Black Lung Benefits Act  
9       was still pending at the time of the covered in-  
10      dividual’s death; and

11                (B) who continued to seek an award with  
12      respect to the covered individual’s claim after  
13      the covered individual’s death.

14       (b) CLAIMS.—A covered individual or a covered sur-  
15   vivor whose claim for benefits under the Black Lung Bene-  
16   fits Act (30 U.S.C. 901 et seq.) was denied prior to the  
17   enactment of this Act may file a new claim for benefits  
18   under this Act not later than one year after the date of  
19   enactment of this Act.

20       (c) ADJUDICATION ON THE MERITS.—

21               (1) IN GENERAL.—Any new claim filed under  
22      subsection (b) shall be adjudicated on the merits and  
23      shall not include consideration of a covered chest  
24      radiograph.

1           (2) COVERED SURVIVOR.—Any new claim filed  
2       under subsection (b) by a covered survivor shall be  
3       adjudicated as either a miner’s or a survivor’s claim  
4       depending upon the type of claim pending at the  
5       time of the covered individual’s death.

6       (d) TIME OF PAYMENT.—

7           (1) MINER’S CLAIM.—If a claim, filed under  
8       subsection (b) and adjudicated under subsection (c)  
9       as a miner’s claim, results in an award of benefits,  
10      benefits shall be payable beginning with the month  
11      of the filing of the denied claim that had included  
12      in its record a covered chest radiograph.

13          (2) SURVIVOR’S CLAIM.—If a claim, filed under  
14      subsection (b) and adjudicated under subsection (c)  
15      as a survivor’s claim, results in an award of benefits,  
16      benefits shall be payable beginning with the month  
17      of the miner’s death.

18      (e) CONTRIBUTING IMPACT.—The Secretary shall  
19      have the discretion to deny a new claim under subsection  
20      (b) in circumstances where the party opposing such claim  
21      establishes through clear and convincing evidence that a  
22      covered chest radiograph did not contribute to the decision  
23      to deny benefits in all prior claims filed by the covered  
24      individual or the covered survivor.

1 (f) LIMITATION ON FILING OF NEW CLAIMS.—A new  
 2 claim for benefits may be filed under subsection (b) only  
 3 if the original claim was finally denied by a district direc-  
 4 tor, an administrative law judge, or the Benefits Review  
 5 Board established under section 21(b) of the Longshore  
 6 and Harbor Workers’ Compensation Act (33 U.S.C.  
 7 921(b)).

8 **SEC. 113. DISCLOSURE OF EMPLOYMENT AND EARNINGS**  
 9 **INFORMATION FOR BLACK LUNG BENEFITS**  
 10 **CLAIMS.**

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

14 “(23) DISCLOSURE OF RETURN INFORMATION  
 15 TO DEPARTMENT OF LABOR TO CARRY OUT BLACK  
 16 LUNG BENEFITS ACT.—

17 “(A) IN GENERAL.—The Commissioner of  
 18 Social Security shall, on written request with  
 19 respect to any individual, disclose to officers or  
 20 employees of the Department of Labor return  
 21 information from returns with respect to net  
 22 earnings from self-employment (as defined in  
 23 section 1402) and wages (as defined in section  
 24 3121(a) or 3401(a)) for employment for each  
 25 employer of such individual.

1           “(B) RESTRICTION ON DISCLOSURE.—The  
 2           Commissioner of Social Security shall disclose  
 3           return information under subparagraph (A)  
 4           only for purposes of, and the extent necessary  
 5           in, carrying out the proper administration of  
 6           the Black Lung Benefits Act (30 U.S.C. 901 et  
 7           seq.).”.

8           (b) SOCIAL SECURITY EARNINGS INFORMATION.—  
 9           Notwithstanding section 552a of title 5, United States  
 10          Code, or any other provision of Federal or State law, the  
 11          Commissioner of Social Security shall make available to  
 12          the officers and employees of the Department of Labor,  
 13          upon written request, the Social Security earnings infor-  
 14          mation of living or deceased individuals who are the sub-  
 15          ject of a claim under the Black Lung Benefits Act (30  
 16          U.S.C. 901 et seq.), which the Secretary of Labor may  
 17          require to carry out such Act. Such information shall be  
 18          made available in electronic form.

19   **PART B—REPORTS TO IMPROVE THE ADMINIS-**  
 20   **TRATION OF BENEFITS UNDER THE BLACK**  
 21   **LUNG BENEFITS ACT**

22   **SEC. 121. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**  
 23   **TION.**

24          (a) IN GENERAL.—Not later than 90 days after the  
 25          date of enactment of this Act, the Secretary of Labor shall

1 submit to the Committee on Health, Education, Labor,  
2 and Pensions and the Committee on Appropriations of the  
3 Senate and the Committee on Education and the Work-  
4 force and the Committee on Appropriations of the House  
5 of Representatives a comprehensive strategy to reduce the  
6 backlog of cases pending on such date of enactment before  
7 the Office of Administrative Law Judges of the Depart-  
8 ment of Labor.

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

11 (1) the current and targeted pendency for each  
12 category of cases before the Office of Administrative  
13 Law Judges of the Department of Labor;

14 (2) the number of administrative law judges,  
15 attorney advisors supporting such judges, support  
16 staff, and other resources necessary to achieve and  
17 maintain the targeted pendency for each category of  
18 such cases;

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

23 (4) the impact of sequestration, furloughs, and  
24 the Federal Government shutdown, which occurred  
25 from October 1 to October 16, 2013, on increasing

1 administrative burdens and the backlog of cases  
2 pending before such office; and

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

9 (c) CONSULTATION.—In preparing such strategy, the  
10 Secretary of Labor shall consult with organizations that  
11 have ongoing interactions with the Office of Administra-  
12 tive Law Judges of the Department of Labor, including  
13 organizations that represent parties in cases under the  
14 Black Lung Benefits Act, the Longshore and Harbor  
15 Workers' Compensation Act (33 U.S.C. 901 et seq.), and  
16 Federal statutes regarding whistleblowers, wages and  
17 hours for employees, and immigration.

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

19 (a) IN GENERAL.—Not later than one year after the  
20 date of enactment of this Act, the Comptroller General  
21 of the United States shall submit to the Committee on  
22 Health, Education, Labor, and Pensions of the Senate and  
23 the Committee on Education and the Workforce of the  
24 House of Representatives a report on any barriers to  
25 health care faced by coal miners with pneumoconiosis.



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

3 (1) an assessment of possible barriers to health  
4 care under the Black Lung Benefits Act (30 U.S.C.  
5 901 et seq.) and the degree to which any barriers  
6 impact the ability of miners with legitimate medical  
7 needs, particularly such miners in rural areas, to ac-  
8 cess treatment for pneumoconiosis;

9 (2) recommendations necessary to address  
10 issues, if any, relating to patient access to care  
11 under such Act; and

12 (3) an evaluation of whether the benefit pay-  
13 ments authorized under such Act, as amended by  
14 this Act, are sufficient to meet the expenses of dis-  
15 abled miners, surviving spouses, dependents, and  
16 other family members entitled to receive benefits  
17 under the Black Lung Benefits Act.

18 **TITLE II—STANDARD FOR RES-**  
19 **PIRABLE DUST CONCENTRA-**  
20 **TION**

21 **SEC. 201. STANDARD FOR RESPIRABLE DUST CONCENTRA-**  
22 **TION.**

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

1 “(i) REPORTS.—

2 “(1) RETROSPECTIVE STUDY.—

3 “(A) IN GENERAL.—Beginning on August  
4 1, 2021, the Secretary shall conduct a retro-  
5 spective study to assess the effectiveness of the  
6 Mine Safety and Health Administration’s final  
7 rule entitled ‘Lowering Miners’ Exposure to  
8 Respirable Coal Mine Dust, Including Contin-  
9 uous Personal Dust Monitors’ (published May  
10 1, 2014; 79 Fed. Reg. 24813), the data regard-  
11 ing the use of continuous personal dust mon-  
12 itors, and the rising number of cases of pro-  
13 gressive massive fibrosis (PMF) to determine  
14 whether to—

15 “(i) lower the applicable standard for  
16 respirable dust concentration to protect the  
17 health of miners;

18 “(ii) lower the 100  $\mu\text{g}/\text{m}^3$  standard  
19 for quartz (crystalline silica) in respirable  
20 dust to better protect miners’ health;

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

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

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

3 “(v) 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.

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

15 “(2) SUBSEQUENT STUDIES.—By August 1,  
16 2025, and every 3 years thereafter, the Secretary  
17 shall conduct a new study as described in paragraph  
18 (1)(A) and report, by not later than one year after  
19 the commencement of the study, the findings of such  
20 study to the Committee on Health, Education,  
21 Labor, and Pensions of the Senate and the Com-  
22 mittee on Education and the Workforce of the  
23 House of Representatives.

24 “(3) REVISED STANDARDS.—If any report of  
25 the Secretary under this subsection concludes that

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

## 15 **TITLE III—ESTABLISHING THE** 16 **OFFICE OF WORKERS’ COM-** 17 **PENSATION PROGRAMS**

### 18 **SEC. 301. OFFICE OF WORKERS’ COMPENSATION PRO-** 19 **GRAMS.**

20 (a) ESTABLISHMENT.—There shall be established, in  
 21 the Department of Labor, an Office of Workers’ Com-  
 22 pensation Programs (referred to in this section as the “Of-  
 23 fice”).

24 (b) DIRECTOR.—

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

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

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

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