

113TH CONGRESS
2^D SESSION

H. R. 5751

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.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2014

Mr. CARTWRIGHT (for himself, Mr. GEORGE MILLER of California, Mr. COURTNEY, Mr. RAHALL, and Mr. SCOTT of Virginia) 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

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 2014”.

1 SEC. 2. TABLE OF CONTENTS.

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

- Sec. 1. Short title.
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- Sec. 3. Findings.

TITLE I—BLACK LUNG BENEFITS

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- Sec. 101. Mandatory disclosure of medical information and reports.
- Sec. 102. Legal fees.
- Sec. 103. Clarifying eligibility for black lung benefits.
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black lung disease and for their dependent family members.
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- Sec. 108. Development of medical evidence by the Secretary.
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PART B—REPORTS TO IMPROVE THE ADMINISTRATION OF BENEFITS
UNDER THE BLACK LUNG BENEFITS ACT

- Sec. 113. Strategy to reduce delays in adjudication.
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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:

- 5** (1) The Black Lung Benefits Act (30 U.S.C.
- 6** 901 et seq.) was enacted to provide health care and

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

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

1 for developing evidence and supporting their claims.
2 Only a quarter of claimants are represented by an
3 attorney when filing a claim. Absent efforts to rem-
4 edy administrative problems and address structural
5 weaknesses in the process for obtaining benefits,
6 claimants with meritorious claims will not receive
7 benefits.

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

23 (4) Given the remedial nature of the Black
24 Lung Benefits Act, when an adjudicator determines
25 that evidence is evenly balanced, it is appropriate for

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

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

1 bilitated”. Where chest radiographs are needed to
2 establish entitlement to benefits, claimants should
3 have access to accurate interpretations so as to en-
4 sure the fair adjudication of such claims.

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

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

1 ated extensive delays in adjudicating claims under
2 such Act and numerous other labor and employment
3 laws. Due to the imbalance between resources and
4 caseloads, it takes 429 days to assign a case to an
5 administrative law judge and a typical claim under
6 such Act remains unresolved for an average of 42
7 months prior to a decision by an administrative law
8 judge. These delays directly and severely impact the
9 lives of workers throughout the United States, plac-
10 ing an undue financial and emotional burden on the
11 affected individuals and their families.

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

23 (9) A competent assessment of medical infor-
24 mation and testimony, which often involves multiple
25 physicians disputing a diagnosis, is necessary in de-

1 termining whether to award benefits under the
2 Black Lung Benefits Act. To ensure that a deter-
3 mination regarding a claim for benefits under such
4 Act is fair and accurate, regular training is needed
5 regarding—

6 (A) developments in pulmonary medicine
7 relating to black lung disease;

8 (B) medical evidence necessary to sustain
9 claims for such benefits; and

10 (C) the proper weight to be given to con-
11 flicting evidence.

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

1 **TITLE I—BLACK LUNG BENEFITS**

2 **PART A—IMPROVING THE PROCESS FOR FILING**

3 **AND ADJUDICATING CLAIMS FOR BENEFITS**

4 **SEC. 101. MANDATORY DISCLOSURE OF MEDICAL INFOR-**
5 **MATION AND REPORTS.**

6 Part A of the Black Lung Benefits Act (30 U.S.C.
7 901 et seq.) is amended by adding at the end the fol-
8 lowing:

9 **“SEC. 403. MANDATORY MEDICAL INFORMATION DISCLO-**
10 **SURE.**

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

18 “(1) be in writing; and

19 “(2) set out in detail the findings of such physi-
20 cian, including any diagnoses and conclusions, the
21 results of any diagnostic imaging tests, and any
22 other tests performed on the miner.

23 “(b) **DISCLOSURE.**—In any claim for benefits under
24 this title, each party shall provide all other parties in the
25 proceeding with a copy of all medical information devel-

1 oped regarding the miner’s physical condition relating to
2 such claim, even if the party does not intend to submit
3 the information as evidence. Such medical information
4 shall include the opinion of any examining physician, and
5 any examining or nonexamining physician’s interpreta-
6 tions of radiographs or pathology.

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

11 **SEC. 102. LEGAL FEES.**

12 Part A of the Black Lung Benefits Act (30 U.S.C.
13 901 et seq.), as amended by section 101, is further amend-
14 ed by adding at the end the following:

15 **“SEC. 404. ATTORNEYS’ FEE PAYMENT PROGRAM.**

16 “(a) PROGRAM ESTABLISHED.—

17 “(1) IN GENERAL.—Not later than 180 days
18 after the date of enactment of the Black Lung Bene-
19 fits Improvement Act of 2014, the Secretary shall
20 establish an attorneys’ fee payment program to pay
21 attorneys’ fees, using amounts from the fund, to the
22 attorneys of claimants in qualifying claims.

23 “(2) QUALIFYING CLAIM.—A qualifying claim
24 for purposes of this section is a contested claim for
25 benefits under this title for which a final order has

1 not been entered within one year of the filing of the
2 claim.

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

7 “(b) PAYMENTS AUTHORIZED.—

8 “(1) IN GENERAL.—If a claimant for benefits
9 under this title obtains an effective award for a
10 qualifying claim before an administrative law judge,
11 the Benefits Review Board established under section
12 21(b) of the Longshore and Harbor Workers’ Com-
13 pensation Act (33 U.S.C. 921(b)), or a Federal
14 court, and the judge, Board, or court approves attor-
15 neys’ fees for work done before it, the Secretary
16 shall, through the program under this section, pay
17 an amount of attorneys’ fees not to exceed \$1,500
18 at each stage of the administrative and legal process.

19 “(2) MAXIMUM.—The program established
20 under this section shall not pay more than a total
21 of \$4,500 in attorneys’ fees for any single qualifying
22 claim.

23 “(c) REIMBURSEMENT OF FUNDS.—In any case in
24 which a qualifying claim results in a final order awarding
25 compensation, the liable operator shall reimburse the fund

1 for any fees paid under this section, subject to enforce-
2 ment by the Secretary under section 424 and in the same
3 manner as compensation orders are enforced under section
4 21(d) of the Longshore and Harbor Workers' Compensa-
5 tion Act (33 U.S.C. 921(d)).

6 “(d) **ADDITIONAL PROGRAM RULES.**—Nothing in
7 this section shall limit or otherwise affect an operator’s
8 liability for any attorneys’ fees awarded by an administra-
9 tive law judge, the Benefits Review Board, or a Federal
10 court, that were not paid by the program under this sec-
11 tion. Nothing in this section shall limit or otherwise affect
12 the Secretary’s authority to use amounts in the fund to
13 pay approved attorneys’ fees in claims for benefits under
14 this title for which a final order awarding compensation
15 has been entered and the operator is unable to pay.

16 “(e) **NO RECOUPMENT OF ATTORNEYS’ FEES.**—Any
17 payment for attorneys’ fees made by the Secretary under
18 this section shall not be recouped from the claimant or
19 the claimant’s attorney.”.

20 **SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**
21 **EFITS.**

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

1 “(3) If x-ray, biopsy, autopsy, or other medi-
2 cally accepted and relevant test or procedure estab-
3 lishes that a miner is suffering or has suffered from
4 a chronic dust disease of the lung, diagnosed as
5 complicated pneumoconiosis or progressive massive
6 fibrosis (pneumoconiosis that has formed an opacity,
7 mass, or lesion greater than one centimeter in di-
8 ameter), then there shall be an irrebuttable pre-
9 sumption that such miner is totally disabled due to
10 pneumoconiosis, that the miner’s death was due to
11 pneumoconiosis, or that at the time of death the
12 miner was totally disabled by pneumoconiosis, as the
13 case may be. A chest radiograph, which yields one
14 or more large opacities (greater than one centimeter
15 in diameter), and would be classified in category A,
16 B, or C in the International Classification of
17 Radiographs of Pneumoconioses by the International
18 Labor Organization, shall be sufficient to invoke the
19 presumption, in the absence of more probative evi-
20 dence sufficient to establish that the etiology of a
21 large opacity is not pneumoconiosis.

22 “(4) If a miner was employed for 15 years or
23 more in one or more coal mines, and if there is a
24 chest radiograph submitted in connection with the
25 claim under this title of such miner or such miner’s

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

18 **SEC. 104. RESTORING ADEQUATE BENEFIT ADJUSTMENTS**
19 **FOR MINERS SUFFERING FROM BLACK LUNG**
20 **DISEASE AND FOR THEIR DEPENDENT FAM-**
21 **ILY MEMBERS.**

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

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

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

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

11 “(C) for each calendar year thereafter, at
12 a rate equal to the amount under subparagraph
13 (B) increased by an amount equal to any in-
14 crease in the annual rate of the Consumer Price
15 Index for Urban Wage Earners and Clerical
16 Workers, as published by the Bureau of Labor
17 Statistics.”.

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

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

22 “(m) In determining the validity of a claim under this
23 title, an adjudicator who finds that the evidence is evenly
24 balanced on an issue shall resolve any resulting doubt in

1 the claimant's favor and find that the claimant has met
2 the burden of persuasion on such issue.”.

3 **SEC. 106. PROVIDING ASSISTANCE WITH CLAIMS FOR MIN-**
4 **ERS AND THEIR DEPENDENT FAMILY MEM-**
5 **BERS.**

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

14 **SEC. 107. FALSE STATEMENTS OR MISREPRESENTATIONS,**
15 **ATTORNEY DISQUALIFICATION, AND DIS-**
16 **COVERY SANCTIONS.**

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

19 **“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS,**
20 **ATTORNEY DISQUALIFICATION, AND DIS-**
21 **COVERY SANCTIONS.**

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

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

5 “(2) threaten, coerce, intimidate, deceive, or
6 knowingly mislead a party, representative, witness,
7 potential witness, judge, or anyone participating in
8 a proceeding regarding any matter related to a pro-
9 ceeding under this title.

10 “(b) FINE; IMPRISONMENT.—Any person who en-
11 gages in the conduct described in subsection (a) shall,
12 upon conviction, be subject to a fine in accordance with
13 title 18, United States Code, imprisoned for not more than
14 5 years, or both.

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

20 “(d) DISQUALIFICATION.—

21 “(1) IN GENERAL.—An attorney or expert wit-
22 ness who engages in the conduct described in sub-
23 section (a) shall, in addition to the fine or imprison-
24 ment provided under subsection (b), be permanently

1 disqualified from representing any party, or appear-
2 ing in any proceeding, under this title.

3 “(2) ATTORNEY DISQUALIFICATION.—In addi-
4 tion to the disqualification described in paragraph
5 (1), the Secretary may disqualify an attorney from
6 representing any party in a proceeding under this
7 title for either a limited term or permanently, if the
8 attorney—

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

12 “(B) is suspended or disbarred by any
13 court of the United States, any State, or any
14 territory, commonwealth, or possession of the
15 United States with jurisdiction over the pro-
16 ceeding.

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

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

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

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

5 “(f) REGULATIONS.—The Secretary shall promulgate
6 regulations that—

7 “(1) provide procedures for the disqualifications
8 and sanctions under this section and are appropriate
9 for all parties; and

10 “(2) distinguish between parties that are rep-
11 resented by an attorney and parties that are not
12 represented by an attorney.”.

13 **SEC. 108. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
14 **SECRETARY.**

15 Part C of the Black Lung Benefits Act (30 U.S.C.
16 931 et seq.) is amended by adding at the end the fol-
17 lowing:

18 **“SEC. 435. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
19 **SECRETARY.**

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

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

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

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

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

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

19 “(A) the Secretary has awarded benefits to
20 the claimant;

21 “(B) the party opposing such award has
22 submitted evidence not previously reviewed that
23 could be considered contrary to the award
24 under subparagraph (A); and

1 “(C) the claimant or, if the claimant is
2 represented by an attorney, the claimant’s at-
3 torney consents to the Secretary developing
4 supplemental medical evidence.

5 “(c) PROCESS FOR SUPPLEMENTAL MEDICAL EVI-
6 DENCE.—

7 “(1) IN GENERAL.—Except as provided under
8 paragraph (2), to develop supplemental medical evi-
9 dence under conditions described in subsection (b),
10 the Secretary shall request the physician who con-
11 ducted the initial report under subsection (a)(1)
12 to—

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

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

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

23 “(d) QUALIFIED PHYSICIANS FOR COMPLETE PUL-
24 MONARY EVALUATION AND PROTECTIONS FOR SUIT-
25 ABILITY AND POTENTIAL CONFLICTS OF INTEREST.—

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

6 “(2) PUBLIC AVAILABILITY.—The Secretary
7 shall make the list under this subsection available to
8 the public.

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

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

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

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

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

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

21 “(A) such physician is employed by, under
22 contract to, or otherwise providing services to a
23 private party opposing the claim, a law firm or
24 lawyer representing such opposing party, or an

1 interested insurer or other interested third
2 party; or

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

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

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

18 **SEC. 109. ESTABLISHMENT OF PILOT PROGRAM TO PRO-**
19 **VIDE IMPARTIAL CLASSIFICATIONS OF**
20 **CHEST RADIOGRAPHS.**

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

1 **“SEC. 436. ESTABLISHMENT OF PILOT PROGRAM TO PRO-**
2 **VIDE IMPARTIAL CLASSIFICATIONS OF**
3 **CHEST RADIOGRAPHS.**

4 “(a) DEFINITIONS.—In this section:

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

7 “(A) has a valid license to practice medi-
8 cine in not less than one State, territory, com-
9 monwealth, or possession of the United States;
10 and

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

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

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

1 “(4) ILO CLASSIFICATION.—The term ‘ILO
2 classification’ means the standardized categorization
3 of chest radiographs for findings consistent with
4 pneumoconiosis using the International Classifica-
5 tion of Radiographs of Pneumoconioses by the Inter-
6 national Labor Organization.

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

10 “(b) B READER PANEL PROGRAM.—

11 “(1) ESTABLISHMENT OF PILOT PROGRAM.—

12 “(A) IN GENERAL.—The Director shall es-
13 tablish, in the National Institute for Occupa-
14 tional Safety and Health, a pilot program to be
15 known as the ‘B Reader Panel Program’. The
16 B Reader Panel Program shall establish B
17 Reader Panels that—

18 “(i) are operated in a manner to as-
19 sure accurate ILO classifications, which
20 may be used for claims for benefits de-
21 scribed in subparagraph (C);

22 “(ii) only classify chest radiographs;
23 and

24 “(iii) classify all appearances de-
25 scribed in the International Classification

1 of Radiographs of Pneumoconiosis or illus-
2 trated by the ILO Standard Radiographs.

3 “(B) DURATION.—The B Reader Panel
4 Program established under this section shall be
5 conducted for a duration of one year, beginning
6 after the issuance of necessary protocols and in-
7 terim final rules under subsection (h).

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

16 “(2) PROGRAM PERSONNEL MATTERS.—

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

22 “(B) B READER PROGRAM DIRECTOR.—
23 The B Reader Program Director shall be a phy-
24 sician who is a B Reader and has documented
25 expertise in ILO classifications.

1 “(C) STAFF.—

2 “(i) IN GENERAL.—In procuring the
3 services of B Readers for this section, the
4 Director may hire Federal personnel, con-
5 tract for services, or both.

6 “(ii) COMPENSATION.—The Director
7 shall establish compensation rates for B
8 Readers who are hired under contract.

9 “(3) ETHICS POLICY.—

10 “(A) CODE OF ETHICS.—

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

18 “(ii) CONTENTS.—The code of ethics
19 shall include—

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

1 “(II) a requirement that each
2 such B Reader submits a conflict of
3 interest disclosure statement to the
4 Director and annually updates such
5 statement; and

6 “(III) requirements for the con-
7 tent of the conflict of interest disclo-
8 sure statements required under sub-
9 clause (II).

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

15 “(i) reviewing all conflict of interest
16 disclosures of B Readers on the B Reader
17 Panel Pool;

18 “(ii) investigating the validity of such
19 disclosures;

20 “(iii) maintaining a list of such B
21 Readers who fail to disclose a conflict of
22 interest;

23 “(iv) addressing complaints about in-
24 complete or inaccurate conflict of interest
25 disclosures;

1 “(v) assessing whether any such B
2 Reader has been improperly assigned to a
3 panel due to a conflict of interest; and

4 “(vi) assuring full transparency of
5 conflict of interest disclosures to the pub-
6 lic.

7 “(4) QUALITY ASSURANCE PROGRAM.—

8 “(A) PROTOCOLS.—

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

15 “(ii) PROTOCOLS.—The protocols
16 under this subparagraph shall include pro-
17 tocols—

18 “(I) for each B Reader to pre-
19 pare an individual ILO classification
20 report for each chest radiograph; and

21 “(II) for the preparation of a
22 final ILO classification report for the
23 chest radiograph.

24 “(iii) ADDITIONAL REVIEWERS.—If
25 individual ILO classifications reported by

1 each B Reader of a B Reader Panel di-
2 verge from each other by more than an ac-
3 ceptable variance, as determined by proto-
4 cols established under subsection (h), the
5 Director shall assign additional B Readers
6 to the applicable B Reader Panel or con-
7 vene an additional B Reader Panel, as the
8 Director determines necessary, to assure
9 that the ILO classification report of the
10 initial B Reader Panel is accurate and sci-
11 entifically valid.

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

1 “(v) BLIND READINGS.—In reading a
2 radiograph to make an ILO classification,
3 a B Reader shall be blinded from the ori-
4 gin of the radiograph.

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

11 “(c) CREATION AND MAINTENANCE OF B READER
12 PANEL POOL.—

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

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

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

1 “(B) MINIMUM STANDARDS OF PERFORM-
2 ANCE.—The minimum standards of perform-
3 ance for inclusion in the B Reader Panel Pool
4 shall include requiring the B Reader to make
5 radiograph classifications consistent with ILO
6 classification criteria that are consistently with-
7 in acceptable norms, as established by the Di-
8 rector.

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

12 “(i) assess, to the maximum extent
13 practicable, the prior performance of the B
14 Reader in making ILO classifications;

15 “(ii) consult the National Practitioner
16 Data Bank of the Department of Health
17 and Human Services for information on
18 physician suitability; and

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

23 “(D) MONITORING.—The Director shall
24 monitor ILO classifications conducted under
25 this section to determine if any B Reader in-

1 cluded in the B Reader Panel Pool dem-
2 onstrates a pattern of providing ILO classifica-
3 tions that are erroneous or not consistently
4 within the acceptable norms, as established by
5 the Director.

6 “(3) PROCESS FOR REMOVAL.—

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

10 “(i) consistently failing to meet the
11 minimum standards of performance under
12 paragraph (2)(B);

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

15 “(iii) other disqualifying conduct, as
16 established by rule or policy.

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

24 “(4) DISCLOSURE.—The Director shall make
25 publicly accessible—

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

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

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

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

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

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

19 “(2) Individuals defined as adjudication officers
20 by regulations of the Secretary.

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

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

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

5 “(f) TESTIMONY.—

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

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

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

23 “(B) may not be required to appear and
24 testify under subpoena, unless the party making

1 such request demonstrates to an administrative
2 law judge that—

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

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

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

16 “(g) ADMINISTRATIVE COSTS.—

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

23 “(2) COSTS OF REPORTS FOR B READER PAN-
24 ELS.—

25 “(A) FEES.—

1 “(i) IN GENERAL.—The Director shall
2 establish a fee for a B Reader Panel Re-
3 port in accordance with clause (ii). Such
4 fee shall be payable by the party request-
5 ing such report. No fee shall be charged if
6 the request for such ILO classification is
7 made by an individual defined as an adju-
8 dication officer by regulations of the Sec-
9 retary.

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

15 “(B) LEGAL COSTS.—

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

24 “(ii) REPRESENTATION OF THE NA-
25 TIONAL INSTITUTE FOR OCCUPATIONAL

1 SAFETY AND HEALTH.—The General
2 Counsel of the Department of Health and
3 Human Services shall, in consultation with
4 the Solicitor of Labor, represent the Na-
5 tional Institute for Occupational Safety
6 and Health in any proceeding under this
7 section, which costs shall be payable from
8 the fund.

9 “(h) PROTOCOLS AND INTERIM FINAL RULES.—Not
10 later than 180 days after the date of enactment of the
11 Black Lung Benefits Improvement Act of 2014, the Sec-
12 retary of Health and Human Services shall issue protocols
13 and promulgate interim final rules, as necessary, to com-
14 mence the implementation of this section.

15 “(i) REPORT TO CONGRESS.—

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

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

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

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

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

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

12 “(E) challenges in the administration and
13 implementation of such pilot program;

14 “(F) the costs and revenues of such pilot
15 program;

16 “(G) the impact of the pilot program on
17 the claims adjudication process;

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

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

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

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

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

9 Part C of the Black Lung Benefits Act (30 U.S.C.
10 931 et seq.), as amended by sections 108 and 109, is fur-
11 ther amended by adding at the end the following:

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

13 “(a) IN GENERAL.—Not later than 60 days after the
14 date of enactment of the Black Lung Benefits Improve-
15 ment Act of 2014, the Secretary, in coordination with the
16 National Institute for Occupational Safety and Health,
17 shall establish and implement a training program, to pro-
18 vide education on issues relating to medical evidence rel-
19 evant to claims for benefits under this title, to each of
20 the following individuals who engage in work under this
21 title:

22 “(1) District directors.

23 “(2) Claims examiners working under such di-
24 rectors.

1 “(3) Administrative law judges and attorney
2 advisors supporting such judges.

3 “(4) Members of the Benefits Review Board es-
4 tablished under section 21(b) of the Longshore and
5 Harbor Workers’ Compensation Act (33 U.S.C.
6 921(b)).

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

10 “(1) new developments in pulmonary medicine
11 relating to pneumoconiosis;

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

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

17 “(c) TIMING OF TRAINING.—

18 “(1) INDIVIDUALS HIRED OR APPOINTED PRIOR
19 TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT
20 OF 2014.—Any district director, claims examiner, ad-
21 ministrative law judge, attorney advisor supporting
22 such judge, or member of the Benefits Review Board
23 described in subsection (a)(4), who was hired or ap-
24 pointed prior to the date of enactment of the Black
25 Lung Benefits Improvement Act of 2014 shall com-

1 plete the training program under this section not
2 later than 60 days after the establishment of such
3 program under subsection (a) and not less than an-
4 nually thereafter.

5 “(2) INDIVIDUALS HIRED OR APPOINTED AFTER
6 THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF
7 2014.—Any district director, claims examiner, admin-
8 istrative law judge, attorney advisor supporting such
9 judge, or member of the Benefits Review Board de-
10 scribed in subsection (a)(4), who is not described in
11 paragraph (1) shall complete the training program
12 under this section prior to engaging in any work
13 under this title and not less than annually there-
14 after.”.

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

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

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

21 (2) in section 402—

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

24 “(2) a spouse who is a member of the same
25 household as the miner, or is receiving regular con-

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

20 (B) by striking subsection (e) and insert-
21 ing the following:

22 “(e) The term ‘surviving spouse’ includes the spouse
23 living with or dependent for support on the miner at the
24 time of the miner’s death, or living apart for reasonable
25 cause or because of the miner’s desertion, or who meets

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

19 (C) in subsection (g)—

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

23 (ii) in the matter following paragraph
24 (2)(C), by striking “widow” each place it
25 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

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

5 (B) in subsection (c)—

6 (i) in paragraph (1), by striking “his
7 pneumoconiosis” and inserting “the min-
8 er’s pneumoconiosis”; and

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

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

12 (A) in subsection (a)—

13 (i) by striking paragraph (2) and in-
14 serting the following:

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

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

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

23 “(C) of a miner who is found entitled to receive
24 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(e).”; and

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).”;

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”;

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

10 (C) in subsection (e), 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 2014, 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 **PART B—REPORTS TO IMPROVE THE ADMINIS-**
9 **TRATION OF BENEFITS UNDER THE BLACK**
10 **LUNG BENEFITS ACT**

11 **SEC. 113. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**
12 **TION.**

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

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

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

4 (2) the number of administrative law judges,
5 attorney advisors supporting such judges, support
6 staff, and other resources necessary to achieve and
7 maintain the targeted pendency for each category of
8 such cases;

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

13 (4) the impact of sequestration, furloughs, and
14 the Federal Government shutdown, which occurred
15 from October 1 to October 16, 2013, on increasing
16 administrative burdens and the backlog of cases
17 pending before such office; and

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

24 (c) CONSULTATION.—In preparing such strategy, the
25 Secretary of Labor shall consult with organizations that

1 have ongoing interactions with the Office of Administra-
2 tive Law Judges of the Department of Labor, including
3 organizations that represent parties in cases under the
4 Black Lung Benefits Act, the Longshore and Harbor
5 Workers' Compensation Act (33 U.S.C. 901 et seq.), and
6 Federal statutes regarding whistleblowers, wages and
7 hours for employees, and immigration.

8 **SEC. 114. GAO REPORT ON BLACK LUNG PROGRAM.**

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

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

18 (1) an assessment of possible barriers to health
19 care under the Black Lung Benefits Act (30 U.S.C.
20 901 et seq.) and the degree to which any barriers
21 impact the ability of miners with legitimate medical
22 needs, particularly such miners in rural areas, to ac-
23 cess treatment for pneumoconiosis;

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

4 (3) an evaluation of whether the benefit pay-
5 ments authorized under such Act, as amended by
6 this Act, are sufficient to meet the expenses of dis-
7 abled miners, surviving spouses, dependents, and
8 other family members entitled to receive benefits
9 under the Black Lung Benefits Act.

10 **TITLE II—STANDARD FOR RES-**
11 **PIRABLE DUST CONCENTRA-**
12 **TION**

13 **SEC. 201. STANDARD FOR RESPIRABLE DUST CONCENTRA-**
14 **TION.**

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

18 “(i) REPORTS.—

19 “(1) RETROSPECTIVE STUDY.—

20 “(A) IN GENERAL.—Beginning on August
21 1, 2021, the Secretary shall conduct a retro-
22 spective study evaluating data collected using
23 continuous personal dust monitors to determine
24 whether to—

1 “(i) lower the applicable standard for
2 respirable dust concentration to protect the
3 health of miners;

4 “(ii) increase the frequency for taking
5 samples of respirable dust concentration,
6 using continuous personal dust monitors;

7 “(iii) modify the engineering controls
8 and work practices used by mine operators
9 to comply with the applicable standard for
10 respirable dust concentration; and

11 “(iv) convert samples taken for shifts
12 that are greater than 8 hours to an 8-hour
13 equivalent concentration to more accu-
14 rately assess the conditions of miners
15 working on longer shifts.

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

23 “(2) SUBSEQUENT STUDIES.—By August 1,
24 2025, and every 3 years thereafter, the Secretary
25 shall conduct a new study as described in paragraph

1 (1)(A) and report, by not later than one year after
2 the commencement of the study, the findings of such
3 study to the Committee on Health, Education,
4 Labor, and Pensions of the Senate and the Com-
5 mittee on Education and the Workforce of the
6 House of Representatives.

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

1 **TITLE III—ESTABLISHING THE**
2 **OFFICE OF WORKERS’ COM-**
3 **PENSATION PROGRAMS**

4 **SEC. 301. OFFICE OF WORKERS’ COMPENSATION PRO-**
5 **GRAMS.**

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

10 (b) DIRECTOR.—

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

16 (2) DUTIES.—The Director shall carry out all
17 duties carried out by the Director for the Office of
18 Workers’ Compensation as of the day before the
19 date of enactment of this Act.

20 (c) FUNCTIONS.—The functions of the Office on and
21 after the date of enactment of this Act shall include the
22 functions of the Office on the day before the date of enact-
23 ment of this Act, including all of its personnel, assets, au-
24 thorities, and liabilities.

1 (d) REFERENCES TO BUREAU OF EMPLOYEES' COM-
2 PENSATION.—Reference in any other Federal law, Execu-
3 tive order, reorganization plan, rule, regulation, or delega-
4 tion of authority, or any document of or relating to the
5 Bureau of Employees' Compensation with regard to func-
6 tions carried out by the Office of Workers' Compensation
7 Programs, shall be deemed to refer to the Office of Work-
8 ers' Compensation Programs.

9 **TITLE IV—SEVERABILITY**

10 **SEC. 401. SEVERABILITY.**

11 If any provision of this Act, or an amendment made
12 by this Act, or the application of such provision to any
13 person or circumstance, is held to be invalid, the remain-
14 der of this Act, or an amendment made by this Act, or
15 the application of such provision to other persons or cir-
16 cumstances, shall not be affected.

○