

113TH CONGRESS
2^D SESSION

S. 2959

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2014

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

A BILL

To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to 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”.

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

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

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

TITLE I—BLACK LUNG BENEFITS

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

- Sec. 101. Mandatory disclosure of medical information and reports.
 Sec. 102. Legal fees.
 Sec. 103. Clarifying eligibility for black lung benefits claims.
 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 family 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.

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

- Sec. 113. Strategy to reduce delays in adjudication.
 Sec. 114. GAO report on black lung disease.

TITLE II—STANDARD FOR RESPIRABLE DUST CONCENTRATION

- Sec. 201. Standard for respirable dust concentration.

TITLE III—ESTABLISHING THE OFFICE OF WORKERS' COMPENSATION PROGRAMS

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

TITLE IV—SEVERABILITY

- Sec. 401. Severability.

1 **SEC. 3. FINDINGS.**

2 Congress finds the following:

- 3 (1) The Black Lung Benefits Act (30 U.S.C.
 4 901 et seq.) was enacted to provide health care and
 5 modest benefits to coal miners who develop pneumo-
 6 coniosis (referred to in this section as “black lung

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

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

1 attorney when filing a claim. Absent efforts to rem-
2 edy administrative problems and address structural
3 weaknesses in the process for obtaining benefits,
4 claimants with meritorious claims would not receive
5 benefits.

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

21 (4) Given the remedial nature of the Black
22 Lung Benefits Act, when an adjudicator determines
23 that evidence is evenly balanced, it is appropriate for
24 any resulting doubt to be resolved in favor of the
25 claimant. The Supreme Court vacated this long-

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

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

1 should have access to accurate interpretations so as
2 to ensure the fair adjudication of such claims.

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

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

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

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

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

1 Act is fair and accurate, regular training is needed
2 regarding—

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

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

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

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

24 “(1) **IN GENERAL.**—In any claim for benefits
25 under this title, each party shall provide all other

1 parties in the proceeding with a copy of all medical
 2 information developed regarding the miner's physical
 3 condition relating to such claim, even if the party
 4 does not intend to submit the information as evi-
 5 dence.

6 “(2) **MEDICAL INFORMATION.**—The medical in-
 7 formation described in paragraph (1) shall include—

8 “(A) the opinion of any examining physi-
 9 cian; and

10 “(B) any examining or nonexamining phy-
 11 sician's interpretation of radiographs or pathol-
 12 ogy samples, and reports of such radiographs or
 13 samples.

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

18 **SEC. 102. LEGAL FEES.**

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

22 **“SEC. 404. ATTORNEYS' FEE PAYMENT PROGRAM.**

23 “(a) **PROGRAM ESTABLISHED.**—

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

1 fits Improvement Act of 2014, the Secretary shall
2 establish an attorneys' fee payment program to pay
3 attorneys' fees, using amounts from the fund, to the
4 attorneys of claimants in qualifying claims.

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

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

14 “(b) PAYMENTS AUTHORIZED.—

15 “(1) IN GENERAL.—If a claimant for benefits
16 under this title obtains an effective award for a
17 qualifying claim before an administrative law judge,
18 the Benefits Review Board established under section
19 21(b) of the Longshore and Harbor Workers' Com-
20 pensation Act (33 U.S.C. 921(b)), or a Federal
21 court, and the judge, Board, or court approves attor-
22 neys' fees for work done before it, the Secretary
23 shall, through the program under this section, pay
24 an amount of attorneys' fees not to exceed \$1,500
25 at each stage of the administrative and legal process.

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

5 “(c) REIMBURSEMENT OF FUNDS.—In any case in
6 which a qualifying claim results in a final order awarding
7 compensation, the liable operator shall reimburse the fund
8 for any fees paid under this section, subject to enforce-
9 ment by the Secretary under section 424 and in the same
10 manner as compensation orders are enforced under section
11 21(d) of the Longshore and Harbor Workers’ Compensa-
12 tion Act (33 U.S.C. 921(d)).

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

23 “(e) NO RECOUPMENT OF ATTORNEYS’ FEES.—Any
24 payment for attorneys’ fees made by the Secretary under

1 this section shall not be recouped from the claimant or
2 the claimant's attorney.”.

3 **SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**
4 **EFITS CLAIMS.**

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

8 “(3)(A) If x-ray, biopsy, autopsy, or other
9 medically accepted and relevant test or procedure es-
10 tablishes that a miner is suffering or has suffered
11 from a chronic dust disease of the lung, diagnosed
12 as complicated pneumoconiosis or progressive mas-
13 sive fibrosis, then there shall be an irrebuttable pre-
14 sumption that such miner is totally disabled due to
15 pneumoconiosis, that such miner's death was due to
16 pneumoconiosis, or that, at the time of death, such
17 miner was totally disabled by pneumoconiosis, as the
18 case may be. A chest radiograph that yields one or
19 more large opacities (greater than one centimeter in
20 diameter) and would be classified in category A, B,
21 or C in the International Classification of
22 Radiographs of Pneumoconioses by the International
23 Labor Organization shall be sufficient to invoke such
24 presumption, unless there is more probative evidence

1 establishing that the etiology of a large opacity is
2 not pneumoconiosis.

3 “(B) In this paragraph, the term ‘complicated
4 pneumoconiosis or progressive massive fibrosis’
5 means pneumoconiosis that has formed an opacity,
6 mass, or lesion greater than one centimeter in di-
7 ameter.

8 “(4) If a miner was employed for 15 years or
9 more in one or more coal mines, and if there is a
10 chest radiograph submitted in connection with the
11 claim under this title of such miner or such miner’s
12 surviving spouse, child, parent, brother, sister, or de-
13 pendent and it is interpreted as negative with re-
14 spect to the requirements of paragraph (3), and if
15 other evidence demonstrates the existence of a to-
16 tally disabling respiratory or pulmonary impairment,
17 then there shall be a rebuttable presumption that
18 such miner is totally disabled due to pneumoconiosis,
19 that the miner’s death was due to pneumoconiosis,
20 or that, at the time of death, the miner was totally
21 disabled by pneumoconiosis. In the case of a living
22 miner, a spouse’s affidavit may not be used by itself
23 to establish the presumption under this paragraph.
24 The presumption under this paragraph may be re-
25 butted only by establishing that such miner does

1 not, or did not, have pneumoconiosis, or that no part
2 of such miner's respiratory or pulmonary impair-
3 ment was caused by pneumoconiosis.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(d) DISQUALIFICATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(d) QUALIFIED PHYSICIANS FOR COMPLETE PUL-
9 MONARY EVALUATION AND PROTECTIONS FOR SUIT-
10 ABILITY AND POTENTIAL CONFLICTS OF INTEREST.—

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

16 “(2) PUBLIC AVAILABILITY.—The Secretary
17 shall make the list under this subsection available to
18 the public.

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

23 “(4) CRITERIA FOR SUITABILITY.—In deter-
24 mining whether a physician is suitable to be on the
25 list under this subsection, the Secretary shall consult

1 the National Practitioner Data Bank of the Depart-
2 ment of Health and Human Services and assess re-
3 ports of adverse licensure, certifications, hospital
4 privilege, and professional society actions involving
5 the physician. In no case shall such list include any
6 physician—

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

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

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

16 “(5) CONFLICTS OF INTEREST.—The Secretary
17 shall develop and implement policies and procedures
18 to ensure that any actual or potential conflict of in-
19 terest of qualified physicians on the list under this
20 subsection, including both individual and organiza-
21 tional conflicts of interest, are disclosed to the De-
22 partment, and to provide such disclosure to claim-
23 ants. Such policies and procedures shall provide
24 that, unless the claimant knowingly and with the
25 benefit of full disclosure waives the following limita-

1 tions, a physician shall not be used to perform a
2 complete pulmonary medical evaluation under sub-
3 section (a) that is reimbursed pursuant to subsection
4 (f), if—

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

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

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

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

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

4 Part C of the Black Lung Benefits Act (30 U.S.C.
 5 931 et seq.), as amended by section 108, is further amend-
 6 ed by adding at the end the following:

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

10 “(a) DEFINITIONS.—In this section:

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

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

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

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

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

8 “(4) COMPLICATED PNEUMOCONIOSIS OR PRO-
9 GRESSIVE MASSIVE FIBROSIS.—The term ‘com-
10 plicated pneumoconiosis or progressive massive fi-
11 brosis’ means pneumoconiosis with the formation of
12 large opacities greater than or equal to category A
13 of the ILO classification.

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

17 “(6) ILO CLASSIFICATION.—The term ‘ILO
18 classification’ means the standardized categorization
19 of chest radiographs for findings consistent with
20 pneumoconiosis using the International Classifica-
21 tion of Radiographs of Pneumoconioses by the ILO.

22 “(7) ILO STANDARD RADIOGRAPHS.—The term
23 ‘ILO Standard Radiographs’ means the set of stand-
24 ard radiographs used in the ILO International Clas-

1 sification of Radiographs of Pneumoconioses by the
2 ILO.

3 “(b) B READER PANEL PROGRAM.—

4 “(1) ESTABLISHMENT OF PILOT PROGRAM.—

5 “(A) IN GENERAL.—The Director shall es-
6 tablish, in the National Institute for Occupa-
7 tional Safety and Health, a pilot program to be
8 known as the ‘B Reader Panel Program’. The
9 B Reader Panel Program shall establish B
10 Reader Panels that—

11 “(i) are operated in a manner to as-
12 sure accurate ILO classifications, which
13 may be used for claims for benefits de-
14 scribed in subparagraph (C);

15 “(ii) only classify chest radiographs;
16 and

17 “(iii) classify all appearances—

18 “(I) described in the Inter-
19 national Classification of Radiographs
20 of Pneumoconiosis by the ILO; or

21 “(II) illustrated by the ILO
22 Standard Radiographs.

23 “(B) DURATION.—The B Reader Panel
24 Program established under this section shall be
25 conducted for a duration of one year, beginning

1 after the issuance of necessary protocols and in-
2 terim final rules under subsection (h).

3 “(C) APPLICABILITY.—A chest radiograph
4 classification may only be requested under this
5 section for a claim for benefits under this title
6 where the presence or absence of complicated
7 pneumoconiosis or progressive massive fibrosis
8 is in fact at issue.

9 “(2) PROGRAM PERSONNEL MATTERS.—

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

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

19 “(C) STAFF.—

20 “(i) IN GENERAL.—In procuring the
21 services of B Readers for this section, the
22 Director may hire Federal personnel, con-
23 tract for services, or both.

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

4 “(3) ETHICS POLICY.—

5 “(A) CODE OF ETHICS.—

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

13 “(ii) CONTENTS.—The code of ethics
14 shall include—

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

20 “(II) a requirement that each
21 such B Reader submits a conflict of
22 interest disclosure statement to the
23 Director and annually updates such
24 statement; and

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

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

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

13 “(ii) investigating the validity of such
14 disclosures;

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

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

21 “(v) assessing whether any such B
22 Reader has been improperly assigned to a
23 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 with accuracy and consistency.

21 “(v) BLIND READINGS.—In reading a
22 radiograph to make an ILO classification,
23 a B Reader shall be blinded from the ori-
24 gin of the radiograph.

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

7 “(c) CREATION AND MAINTENANCE OF B READER
8 PANEL POOL.—

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

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

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

21 “(B) MINIMUM STANDARDS OF PERFORM-
22 ANCE.—The minimum standards of perform-
23 ance for inclusion in the B Reader Panel Pool
24 shall include requiring the B Reader to make
25 radiograph classifications consistent with ILO

1 classification criteria that are consistently with-
2 in acceptable norms, as established by the Di-
3 rector.

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

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

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

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

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

1 “(3) PROCESS FOR REMOVAL.—

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

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

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

10 “(iii) other disqualifying conduct, as
11 established by rule or policy.

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

19 “(4) DISCLOSURE.—The Director shall make
20 publicly accessible—

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

23 “(B) the names of B Readers who have
24 been suspended or removed from the B Reader

1 Panel Pool and the reasons for such suspension
2 or removal;

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

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

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

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

15 “(2) Individuals defined as adjudication officers
16 by regulations of the Secretary.

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

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

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

25 “(f) TESTIMONY.—

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

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

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

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

22 “(i)(I) the B Reader Panel Report is
23 incomplete or lacks information that is rea-
24 sonably necessary for such full develop-
25 ment; and

1 “(II) if responses to interrogatories
2 were ordered, the responses are unclear or
3 incomplete; or

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

10 “(g) ADMINISTRATIVE COSTS.—

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

17 “(2) COSTS OF REPORTS FOR B READER PAN-
18 ELS.—

19 “(A) FEES.—

20 “(i) IN GENERAL.—The Director shall
21 establish a fee for a B Reader Panel Re-
22 port in accordance with clause (ii). Such
23 fee shall be payable by the party request-
24 ing such report. No fee shall be charged if
25 the request for such ILO classification is

1 made by an individual defined as an adju-
2 dication officer by regulations of the Sec-
3 retary.

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

9 “(B) LEGAL COSTS.—

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

18 “(ii) REPRESENTATION OF THE NA-
19 TIONAL INSTITUTE FOR OCCUPATIONAL
20 SAFETY AND HEALTH.—The General
21 Counsel of the Department of Health and
22 Human Services shall, in consultation with
23 the Solicitor of Labor, represent the Na-
24 tional Institute for Occupational Safety
25 and Health in any proceeding under this

1 section, which costs shall be payable from
2 the fund.

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

9 “(i) REPORT TO CONGRESS.—

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

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

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

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

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

3 “(D) the accuracy of the ILO classifica-
4 tions conducted by B Readers under this sec-
5 tion;

6 “(E) challenges in the administration and
7 implementation of such pilot program;

8 “(F) the costs and revenues of such pilot
9 program;

10 “(G) the impact of the pilot program on
11 the claims adjudication process;

12 “(H) a recommendation on whether the
13 pilot program under this section should extend
14 beyond the one-year duration under subsection
15 (b)(1)(B); and

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

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

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

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

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

1 ment Act of 2014, the Secretary, in coordination with the
2 National Institute for Occupational Safety and Health,
3 shall establish and implement a training program, to pro-
4 vide education on issues relating to medical evidence rel-
5 evant to claims for benefits under this title, to each of
6 the following individuals who engage in work under this
7 title:

8 “(1) District directors.

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

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

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

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

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

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

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

3 “(c) TIMING OF TRAINING.—

4 “(1) INDIVIDUALS HIRED OR APPOINTED PRIOR
5 TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT
6 OF 2014.—Any district director, claims examiner, ad-
7 ministrative law judge, attorney advisor supporting
8 such judge, or member of the Benefits Review Board
9 described in subsection (a)(4), who was hired or ap-
10 pointed prior to the date of enactment of the Black
11 Lung Benefits Improvement Act of 2014 shall com-
12 plete the training program under this section not
13 later than 60 days after the establishment of such
14 program under subsection (a) and not less than an-
15 nually thereafter.

16 “(2) INDIVIDUALS HIRED OR APPOINTED AFTER
17 THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF
18 2014.—Any district director, claims examiner, admin-
19 istrative law judge, attorney advisor supporting such
20 judge, or member of the Benefits Review Board de-
21 scribed in subsection (a)(4), who is not described in
22 paragraph (1) shall complete the training program
23 under this section prior to engaging in any work
24 under this title and not less than annually there-
25 after.”.

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

2 (a) **BLACK LUNG BENEFITS ACT.**—The Black Lung
3 Benefits Act (30 U.S.C. 901 et seq.) is amended—

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

7 (2) in section 402 (30 U.S.C. 902)—

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

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

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

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

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

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

4 (C) in subsection (g)—

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

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

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

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

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

19 (A) by striking subsection (a) and insert-
20 ing the following: “(a) The Secretary shall, in
21 accordance with the provisions of this title, and
22 the regulations promulgated by the Secretary
23 under this title, make payments of benefits in
24 respect of—

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

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

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

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

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

17 (B) in subsection (c)—

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

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

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

24 (A) in subsection (a)—

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

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

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

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

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

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

21 (ii) in paragraph (3)—

22 (I) by striking “(3) In the case”
23 and all that follows through “section
24 411(c)” and inserting the following:

25 “(3)(A) In the case of the child or

1 children of a miner described in sub-
2 paragraph (B)”;

3 (II) by striking “he” each place
4 the term appears and inserting “the
5 child”;

6 (III) by striking “widow” each
7 place the term appears and inserting
8 “surviving spouse”; and

9 (IV) by adding at the end the fol-
10 lowing:

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

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

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

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

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

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

7 “(vi) entitled to the payment of benefits under
8 paragraph (5) of section 411(e).”;

9 (iii) in paragraph (5)—

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

1 ary 1, 1982, or (iv) in a claim filed
2 under part C before January 1, 1982,
3 who was totally disabled by pneumo-
4 coniosis at the time of the miner's
5 death, in the case of the dependent
6 surviving brother(s) or sister(s) of
7 such a miner who is not survived at
8 the time of the miner's death by a
9 surviving spouse, child, or parent, in
10 the case of the dependent parent or
11 parents of a miner (who is not sur-
12 vived at the time of the miner's death
13 by a surviving spouse or child) who
14 are entitled to the payment of benefits
15 under paragraph (5) of section
16 411(c), or in the case of the depend-
17 ent surviving brother(s) or sister(s) of
18 a miner (who is not survived at the
19 time of the miner's death by a sur-
20 viving spouse, child, or parent) who
21 are entitled to the payment of benefits
22 under paragraph (5) of section
23 411(c), benefits shall be paid under
24 this part to such parent(s), or to such
25 brother(s), or sister(s), at the rate

1 specified in paragraph (3) (as if such
2 parent(s) or such brother(s) or sis-
3 ter(s), were the children of such
4 miner).”; and

5 (II) in the fourth sentence—

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

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

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

16 (B) in subsection (b)—

17 (i) by striking “his” each place the
18 term appears and inserting “such min-
19 er’s”; and

20 (ii) by striking “widow” each place
21 the term appears and inserting “surviving
22 spouse”; and

23 (C) in subsection (e), by striking “Internal
24 Revenue Code of 1954” and inserting “Internal
25 Revenue Code of 1986”;

1 (5) in section 413 (30 U.S.C. 923)—

2 (A) in subsection (b)—

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

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

9 (iii) by striking the last sentence; and

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

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

13 (A) in subsection (a)—

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

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

21 (B) in subsection (e)—

22 (i) by striking “widow” and inserting
23 “surviving spouse”; and

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

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

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

5 (B) in paragraph (2)—

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

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

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

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

13 (B) in subsection (b)(2)—

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

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

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

21 (A) in subsection (a)—

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

1 (ii) by striking “he” and inserting
2 “such Secretary”;

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

6 (C) in subsection (j), by striking “Internal
7 Revenue Code of 1954” each place the term ap-
8 pears and inserting “Internal Revenue Code of
9 1986”;

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

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

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

16 (B) in paragraph (3), by striking “Internal
17 Revenue Code of 1954” each place the term ap-
18 pears and inserting “Internal Revenue Code of
19 1986”; and

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

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

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

- 1 (B) in subsection (b)—
- 2 (i) in the first sentence, by striking
- 3 “he” and inserting “the miner”;
- 4 (ii) in the third sentence, by striking
- 5 “he” and inserting “the Secretary”;
- 6 (iii) in the ninth sentence—
- 7 (I) by striking “he” each place
- 8 the term appears and inserting “the
- 9 Secretary”; and
- 10 (II) by striking “his” and insert-
- 11 ing “the miner’s”; and
- 12 (iv) in the tenth sentence, by striking
- 13 “he” each place the term appears and in-
- 14 serting “the Secretary”; and
- 15 (13) in section 430 (30 U.S.C. 940)—
- 16 (A) by striking “1977 and” and inserting
- 17 “1977,”; and
- 18 (B) by striking “1981” and inserting
- 19 “1981, and the Black Lung Benefits Improve-
- 20 ment Act of 2014, and any amendments made
- 21 after the date of enactment of such Act,”.
- 22 (b) INTERNAL REVENUE CODE.—Section 9501(b)(2)
- 23 of the Internal Revenue Code of 1986 is amended by add-
- 24 ing at the end the following:

1 “(D) Amounts collected as fees under sec-
2 tion 436(g)(2)(A) of the Black Lung Benefits
3 Act.”.

4 **SEC. 112. READJUDICATING CASES INVOLVING CERTAIN**
5 **CHEST RADIOGRAPHS.**

6 (a) DEFINITIONS.—In this section:

7 (1) COMPLICATED PNEUMOCONIOSIS OR PRO-
8 GRESSIVE MASSIVE FIBROSIS.—The term “com-
9 plicated pneumoconiosis or progressive massive fi-
10 brosis” means pneumoconiosis that has formed an
11 opacity, mass, or lesion greater than one centimeter
12 in diameter.

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

1 (3) 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 (4) 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 (5) PNEUMOCONIOSIS.—The term “pneumo-
15 coniosis” has the meaning given the term in section
16 402(b) of the Black Lung Benefits Act (30 U.S.C.
17 902(b)).

18 (b) CLAIMS.—A covered individual or a covered sur-
19 vivor whose claim for benefits under the Black Lung Bene-
20 fits Act was denied prior to the enactment of this Act may
21 file a new claim for benefits under this Act not later than
22 one year after the date of enactment of this Act.

23 (c) ADJUDICATION ON THE MERITS.—

24 (1) IN GENERAL.—Any new claim filed under
25 subsection (b) shall be adjudicated on the merits and

1 shall not include consideration of a covered chest
2 radiograph.

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

8 (d) TIME OF PAYMENT.—

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

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

20 (e) CONTRIBUTING IMPACT.—The Secretary of Labor
21 shall have the discretion to deny a new claim under sub-
22 section (b) in circumstances where the party opposing
23 such claim establishes through clear and convincing evi-
24 dence that a covered chest radiograph did not contribute

1 to the decision to deny benefits in all prior claims filed
2 by the covered individual or the covered survivor.

3 (f) LIMITATION ON FILING OF NEW CLAIMS.—A new
4 claim for benefits may be filed under subsection (b) only
5 if the original claim was finally denied by a district direc-
6 tor, an administrative law judge, or the Benefits Review
7 Board established under section 21(b) of the Longshore
8 and Harbor Workers' Compensation Act (33 U.S.C.
9 921(b)).

10 **PART B—REPORTS TO IMPROVE THE ADMINIS-**
11 **TRATION OF BENEFITS UNDER THE BLACK**
12 **LUNG BENEFITS ACT**

13 **SEC. 113. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**
14 **TION.**

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

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

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

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

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

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

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

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

10 **SEC. 114. GAO REPORT ON BLACK LUNG DISEASE.**

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

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

20 (1) an assessment of possible barriers to health
21 care under the Black Lung Benefits Act (30 U.S.C.
22 901 et seq.) and the degree to which any barriers
23 impact the ability of miners with legitimate medical
24 needs, particularly such miners in rural areas, to ac-
25 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 section as the “Director”)
14 who shall be appointed by the President, by and
15 with the 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.

○