

116TH CONGRESS
1ST SESSION

S. 2205

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 SENATE OF THE UNITED STATES

JULY 23, 2019

Mr. CASEY (for himself, Mr. BROWN, Mr. KAINE, Mr. WARNER, and Mr. MANCHIN) 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 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 2019”.

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

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

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

TITLE I—BLACK LUNG BENEFITS

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

- Sec. 101. Mandatory disclosure of medical information and reports.
 Sec. 102. Attorneys' fees and medical expenses payment program.
 Sec. 103. Clarifying eligibility for black lung benefits.
 Sec. 104. Restoring adequate benefit adjustments for miners suffering from
black lung disease and for their dependent family members.
 Sec. 105. Treatment of evidence in equipoise.
 Sec. 106. Providing assistance with claims for miners and their dependent fam-
ily members.
 Sec. 107. False statements or misrepresentations, attorney disqualification, and
discovery sanctions.
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 Sec. 109. Medical evidence training program.
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Benefits Act claims.

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

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

TITLE II—STANDARD FOR RESPIRABLE DUST CONCENTRATION

- Sec. 201. Standard for respirable dust concentration.

TITLE III—ESTABLISHING THE OFFICE OF WORKERS' COMPENSATION PROGRAMS

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

TITLE IV—SEVERABILITY

- Sec. 401. Severability.

1 **SEC. 3. FINDINGS.**

2 Congress finds the following:

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

1 attorney during the initial claims determination. Ab-
2 sent efforts to remedy administrative problems and
3 address structural weaknesses in the process for ob-
4 taining benefits, claimants with meritorious claims
5 will not receive 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, past investigations have un-
15 covered that there have been NIOSH-certified B
16 Readers who systematically misclassified chest
17 radiographs while employed by coal operators or
18 their law firms for the purpose of opposing claims
19 under such Act. Where chest radiographs are needed
20 to establish entitlement to benefits, claimants should
21 have access to accurate interpretations so as to en-
22 sure the fair adjudication of such claims.

23 (6) Past instances of systematic
24 misclassification of chest radiographs that resulted
25 in survivors being denied benefit claims under the

1 Black Lung Benefits Act were not discovered until
2 years after the misclassifications had begun. In such
3 instances, survivors should be permitted to file a new
4 claim for benefits under such Act. However, a sur-
5 vivor is effectively barred from filing a new claim
6 one year after a decision regarding such benefits is
7 final, constituting an injustice that merits a remedy.

8 (7) Insufficient numbers of administrative law
9 judges in the Department of Labor coupled with
10 high numbers of cases filed under the Black Lung
11 Benefits Act and disruptions in Federal Government
12 functions caused by shutdowns have contributed to
13 extensive delays in adjudicating claims under such
14 Act and numerous other labor and employment laws.
15 A 2017 report by the Department of Labor Office
16 of the Inspector General found that the Office of
17 Workers' Compensation Programs took an average
18 of almost a year to process a claim for benefits
19 under the Black Lung Benefits Act and that claims
20 appealed to the Office of Administrative Law Judges
21 took, on average, an additional 640 days to receive
22 a decision. These delays directly and severely impact
23 the lives of workers throughout the United States,
24 placing an undue financial and emotional burden on
25 the affected individuals and their families.

1 (8) Contrary to the intent of Congress, benefits
2 payments under the Black Lung Benefits Act do not
3 automatically increase with the rising cost of living.
4 Benefit payments are tied to the monthly pay rate
5 for Federal employees in grade GS–2, step 1. In
6 multiple fiscal years between 2010 and the enact-
7 ment of this Act, there was a pay freeze for Federal
8 employees, which had the effect of eliminating cost-
9 of-living adjustments for miners, surviving spouses,
10 and dependents under the Black Lung Benefits Act
11 during such years.

12 (9) A competent assessment of medical infor-
13 mation and testimony, which often involves multiple
14 physicians disputing a diagnosis, is necessary in de-
15 termining whether to award benefits under the
16 Black Lung Benefits Act. To ensure that a deter-
17 mination regarding a claim for benefits under such
18 Act is fair and accurate, regular training is needed
19 regarding—

20 (A) developments in pulmonary medicine
21 relating to black lung disease;

22 (B) medical evidence necessary to sustain
23 claims for such benefits; and

24 (C) the proper weight to be given to con-
25 flicting evidence.

1 (10) Black lung disease has been the underlying
2 or contributing cause of death of more than 78,000
3 miners since 1968. After decades of decline, the inci-
4 dence of coal miners with black lung disease is on
5 the rise. According to NIOSH, miners are devel-
6 oping advanced cases of the disease at younger ages.
7 In response, the Department of Labor took impor-
8 tant steps to combat the disease, including promul-
9 gating a rule in 2014 that reduced the allowed con-
10 centration of coal dust and addressed weaknesses in
11 the dust sampling system. Retrospective studies
12 should be continued to determine whether revisions
13 to the standards are necessary to eliminate the dis-
14 ease.

15 (11) To eliminate an avoidable delay in evalu-
16 ating claims under such Act, the Inspector General
17 of the Department of Labor has recommended legis-
18 lation that would authorize the Department of Labor
19 to have electronic access to miners' earning records
20 held by the Social Security Administration.

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.—For purposes of
 7 paragraph (1), the term ‘medical information’—

8 “(A) shall include the opinion of any exam-
 9 ining physician, and any examining or non-
 10 examining physician's interpretations of
 11 radiographs or pathology; and

12 “(B) shall not include—

13 “(i) any record of a miner's hos-
 14 pitalization or other medical treatment; or

15 “(ii) any communication from a min-
 16 er's representative to a medical expert.

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

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

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

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

3 “(a) PROGRAM ESTABLISHED.—

4 “(1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of the Black Lung Bene-
6 fits Improvement Act of 2019, the Secretary shall
7 establish a payment program to pay attorneys’ fees
8 and other reasonable and unreimbursed medical ex-
9 penses incurred in establishing the claimant’s case,
10 using amounts from the fund, to the attorneys of
11 claimants in qualifying claims.

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

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

21 “(b) PAYMENTS AUTHORIZED.—

22 “(1) ATTORNEYS’ FEES.—

23 “(A) APPROVAL.—If a claimant for bene-
24 fits under this title obtains a proposed decision
25 and order from a district director with an
26 award of benefits for a qualifying claim, or an

1 award for a qualifying claim before an adminis-
2 trative law judge—

3 “(i) the district director may approve
4 attorneys’ fees for work done before such
5 director in an amount not to exceed
6 \$1,500; and

7 “(ii) an administrative law judge may
8 approve attorneys’ fees for work done be-
9 fore such judge in an amount not to exceed
10 \$3,000.

11 “(B) PAYMENT.—The Secretary shall,
12 through the program under this section, pay
13 any amounts approved under subparagraph (A).

14 “(2) MEDICAL EXPENSES.—

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

1 “(B) PAYMENT.—The Secretary shall,
2 through the program under this section, pay
3 any amounts approved under subparagraph (A).

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

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

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

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

19 “(d) ADDITIONAL PROGRAM RULES.—Nothing in
20 this section shall limit or otherwise affect an operator’s
21 liability for any attorneys’ fees or medical expenses award-
22 ed by the district director or an administrative law judge
23 that were not paid by the program under this section.
24 Nothing in this section shall limit or otherwise affect the
25 Secretary’s authority to use amounts in the fund to pay

1 approved attorneys' fees in claims for benefits under this
 2 title for which a final order awarding compensation has
 3 been entered and the operator is unable to pay.

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

8 **SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**
 9 **EFITS.**

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

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

1 or more large opacities (whose greatest diameter ex-
2 ceeds 1 centimeter), and would be classified in cat-
3 egory A, B, or C in the International Classification
4 of Radiographs of Pneumoconioses by the Inter-
5 national Labour Organization, shall be sufficient to
6 invoke the presumption, in the absence of more pro-
7 bative evidence sufficient to establish that the eti-
8 ology of a large opacity is not pneumoconiosis.

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

1 butted only by establishing that such miner does
 2 not, or did not, have pneumoconiosis, or that no part
 3 of such miner’s respiratory or pulmonary impair-
 4 ment or death was caused by pneumoconiosis.”.

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

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

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

15 “(A) for any calendar year preceding Jan-
 16 uary 1, 2020, at a rate equal to 37½ percent
 17 of the monthly pay rate for Federal employees
 18 in grade GS–2, step 1;

19 “(B) for the calendar year beginning on
 20 January 1, 2020, at a rate, payable in 12 equal
 21 monthly payments, of—

22 “(i) \$8,370 per year; increased by

23 “(ii) the same percentage that the pay
 24 rate for Federal employees in grade GS–2,

1 step 1 is increased for calendar year 2020;

2 and

3 “(C) for each calendar year thereafter, at
4 a rate equal to the amount under subparagraph
5 (B) increased by an amount equal to any in-
6 crease in the annual rate of the Consumer Price
7 Index for Urban Wage Earners and Clerical
8 Workers, as published by the Bureau of Labor
9 Statistics.”.

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

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

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

19 **SEC. 106. PROVIDING ASSISTANCE WITH CLAIMS FOR MIN-**
20 **ERS AND THEIR DEPENDENT FAMILY MEM-**
21 **BERS.**

22 Section 427(a) of the Black Lung Benefits Act (30
23 U.S.C. 937(a)) is amended by striking “the analysis, ex-
24 amination, and treatment” and all that follows through
25 “coal miners.” and inserting “the analysis, examination,

1 and treatment of respiratory and pulmonary impairments
 2 in active and inactive coal miners and for assistance on
 3 behalf of miners, spouses, dependents, and other family
 4 members with claims arising under this title.”.

5 **SEC. 107. FALSE STATEMENTS OR MISREPRESENTATIONS,**
 6 **ATTORNEY DISQUALIFICATION, AND DIS-**
 7 **COVERY SANCTIONS.**

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

10 **“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS,**
 11 **ATTORNEY DISQUALIFICATION, AND DIS-**
 12 **COVERY SANCTIONS.**

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

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

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

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

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

11 “(d) DISQUALIFICATION.—

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

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

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

4 “(B) is suspended or disbarred by any
5 court of the United States, any State, or any
6 territory, commonwealth, or possession of the
7 United States with jurisdiction over the pro-
8 ceeding.

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

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

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

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

21 “(f) REGULATIONS.—The Secretary shall promulgate
22 regulations that—

23 “(1) provide procedures for the disqualifications
24 and sanctions under this section and are appropriate
25 for all parties; and

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

4 **SEC. 108. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
 5 **SECRETARY.**

6 Part C of the Black Lung Benefits Act (30 U.S.C.
 7 931 et seq.) is amended by adding at the end the fol-
 8 lowing:

9 **“SEC. 435. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
 10 **SECRETARY.**

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

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

20 “(2) if the conditions under subsection (b) are
 21 met, any supplemental medical evidence described in
 22 subsection (c).

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

1 “(1) for any claim in which the Secretary rec-
 2 ommends an award of benefits based on the results
 3 of the initial report under subsection (a)(1) and a
 4 party opposing such award submits evidence that
 5 could be considered contrary to the findings of the
 6 Secretary; and

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

9 “(A) the Secretary has awarded benefits to
 10 the claimant;

11 “(B) the party opposing such award has
 12 submitted evidence not previously reviewed that
 13 could be considered contrary to the award
 14 under subparagraph (A); and

15 “(C) the claimant or, if the claimant is
 16 represented by an attorney, the claimant’s at-
 17 torney consents to the Secretary developing
 18 supplemental medical evidence.

19 “(c) PROCESS FOR SUPPLEMENTAL MEDICAL EVI-
 20 DENCE.—

21 “(1) IN GENERAL.—Except as provided under
 22 paragraph (2), to develop supplemental medical evi-
 23 dence under conditions described in subsection (b),
 24 the Secretary shall request the physician who con-

1 ducted the initial report under subsection (a)(1)
2 to—

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

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

8 “(2) ALTERNATIVE PHYSICIAN.—If such physi-
9 cian is no longer available or is unwilling to provide
10 supplemental medical evidence under paragraph (1),
11 the Secretary shall select another qualified physician
12 to provide such evidence.

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

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

24 “(B) Any certified B reader of a chest
25 radiograph associated with the examination

1 under section 413(b) finds a coalescence of
2 small opacities.

3 “(C) Any certified B reader of a chest
4 radiograph associated with the examination
5 under section 413(b) has a reasonable belief
6 that there may be a large opacity in the upper
7 lungs that has been obscured by bony struc-
8 tures.

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

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

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

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

24 “(4) CRITERIA FOR SUITABILITY.—In deter-
25 mining whether a physician is suitable to be on the

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

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

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

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

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

1 benefit of full disclosure waives the following limita-
2 tions, a physician shall not be used to perform a
3 complete pulmonary medical evaluation under sub-
4 section (a) that is reimbursed pursuant to subsection
5 (f), if—

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

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

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

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

1 shall reimburse the fund for such expenses, which shall
 2 include interest.”.

3 **SEC. 109. MEDICAL EVIDENCE TRAINING PROGRAM.**

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. MEDICAL EVIDENCE TRAINING PROGRAM.**

8 “(a) IN GENERAL.—Not later than 60 days after the
 9 date of enactment of the Black Lung Benefits Improve-
 10 ment Act of 2019, the Secretary, in coordination with the
 11 National Institute for Occupational Safety and Health,
 12 shall establish and implement a training program, to pro-
 13 vide education on issues relating to medical evidence rel-
 14 evant to claims for benefits under this title, to each of
 15 the following individuals who engage in work under this
 16 title:

17 “(1) District directors.

18 “(2) Claims examiners working under such di-
 19 rectors.

20 “(3) Administrative law judges and attorney
 21 advisors supporting such judges.

22 “(4) Members of the Benefits Review Board es-
 23 tablished under section 21(b) of the Longshore and
 24 Harbor Workers’ Compensation Act (33 U.S.C.
 25 921(b)).

1 “(b) TRAINING PROGRAM TOPICS.—The training
2 program under this section shall provide an overview of
3 topics that include—

4 “(1) new developments in pulmonary medicine
5 relating to pneumoconiosis;

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

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

11 “(c) TIMING OF TRAINING.—

12 “(1) INDIVIDUALS HIRED OR APPOINTED PRIOR
13 TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT
14 OF 2019.—Any district director, claims examiner, ad-
15 ministrative law judge, attorney advisor supporting
16 such judge, or member of the Benefits Review Board
17 described in subsection (a)(4), who was hired or ap-
18 pointed prior to the date of enactment of the Black
19 Lung Benefits Improvement Act of 2019 shall com-
20 plete the training program under this section not
21 later than 60 days after the establishment of such
22 program under subsection (a) and not less than an-
23 nually thereafter.

24 “(2) INDIVIDUALS HIRED OR APPOINTED AFTER
25 THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF

1 2019.—Any district director, claims examiner, admin-
 2 istrative law judge, attorney advisor supporting such
 3 judge, or member of the Benefits Review Board de-
 4 scribed in subsection (a)(4), who is not described in
 5 paragraph (1) shall complete the training program
 6 under this section prior to engaging in any work
 7 under this title and not less than annually there-
 8 after.”.

9 **SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.**

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

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

15 (2) in section 402 (30 U.S.C. 902)—

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

18 “(2) a spouse who is a member of the same
 19 household as the miner, or is receiving regular con-
 20 tributions from the miner for support, or whose
 21 spouse is a miner who has been ordered by a court
 22 to contribute to support, or who meets the require-
 23 ments of paragraph (1) or (2) of section 216(b) of
 24 the Social Security Act or paragraph (1) or (2) of
 25 section 216(f) of such Act. An individual is the

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

14 (B) by striking subsection (e) and insert-
 15 ing the following:

16 “(e) The term ‘surviving spouse’ includes the spouse
 17 living with or dependent for support on the miner at the
 18 time of the miner’s death, or living apart for reasonable
 19 cause or because of the miner’s desertion, or who meets
 20 the requirements of subparagraph (A), (B), (C), (D), or
 21 (E) of section 216(c)(1) of the Social Security Act, sub-
 22 paragraph (A), (B), (C), (D), or (E) of section 216(g)(1)
 23 of such Act, or section 216(k) of such Act, who is not
 24 married. An individual is the ‘surviving spouse’ of a miner
 25 when legally married at the time of the miner’s death

1 under the laws of the State where the marriage was cele-
 2 brated. Such term also includes a ‘surviving divorced wife’
 3 or ‘surviving divorced husband’, as such terms are defined
 4 in paragraph (2) or (5) of section 216(d) of such Act who
 5 for the month preceding the month in which the miner
 6 died, was receiving at least one-half of his or her support,
 7 as determined in accordance with regulations prescribed
 8 by the Secretary, from the miner, or was receiving sub-
 9 stantial contributions from the miner (pursuant to a writ-
 10 ten agreement) or there was in effect a court order for
 11 substantial contributions to the spouse’s support from the
 12 miner at the time of the miner’s death.”;

13 (C) in subsection (f)(2)—

14 (i) in subparagraph (A), by inserting
 15 “, as in effect on the day before the date
 16 of enactment of the Black Lung Consolida-
 17 tion of Administrative Responsibility Act
 18 (Public Law 107–275)” after “section
 19 435(a)”; and

20 (ii) in subparagraph (B), by inserting
 21 “, as in effect on the day before the date
 22 of enactment of the Black Lung Consolida-
 23 tion of Administrative Responsibility Act
 24 (Public Law 107–275)” after “section
 25 435(b)”;

1 (D) in subsection (g)—

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

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

8 (E) in subsection (h), by striking “Internal
9 Revenue Code of 1954” and inserting “Internal
10 Revenue Code of 1986”; and

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

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

15 (A) by striking subsection (a) and insert-
16 ing the following:

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

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

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

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

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

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

13 (B) in subsection (c)—

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

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

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

20 (A) in subsection (a)—

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

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

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

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

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

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

16 (ii) in paragraph (3)—

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

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

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

4 (IV) by adding at the end the fol-
5 lowing:

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

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

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

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

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

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

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

3 (iii) in paragraph (5)—

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

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

24 (II) in the fourth sentence—

1 (aa) by striking “brother
2 only if he” and inserting “broth-
3 er or sister only if the brother or
4 sister”; and

5 (bb) by striking “before he
6 ceased” and inserting “before the
7 brother or sister ceased”; and

8 (iv) in paragraph (6), by striking
9 “prescribed by him” and inserting “pre-
10 scribed by the Secretary”;

11 (B) in subsection (b)—

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

14 (ii) by striking “widow” each place it
15 appears and inserting “surviving spouse”;
16 and

17 (C) in subsection (c), by striking “Internal
18 Revenue Code of 1954” and inserting “Internal
19 Revenue Code of 1986”;

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

21 (A) in subsection (b)—

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

1 (ii) in the ninth sentence, by striking
 2 “widow” and inserting “surviving spouse”;
 3 and

4 (iii) by striking the last sentence; and
 5 (B) in subsection (c), by striking “his
 6 claim” and inserting “the claim”;

7 (6) in section 414 (30 U.S.C. 924)—

8 (A) in subsection (a)—

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

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

16 (B) in subsection (e)—

17 (i) by striking “widow” and inserting
 18 “surviving spouse”; and

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

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

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

25 (B) in paragraph (2)—

1 (i) by striking “he” and inserting “the
2 Secretary”; and

3 (ii) by striking “him” and inserting
4 “the Secretary”;

5 (8) in section 421 (30 U.S.C. 931)—

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

8 (B) in subsection (b)(2)—

9 (i) in the matter preceding subpara-
10 graph (A), by striking “he” and inserting
11 “the Secretary”; and

12 (ii) in subparagraph (F), by striking
13 “promulgated by him” and inserting “pro-
14 mulgated by the Secretary”;

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

16 (A) in subsection (a)—

17 (i) by striking “Internal Revenue
18 Code of 1954” and inserting “Internal
19 Revenue Code of 1986”; and

20 (ii) by striking “he” and inserting
21 “the Secretary”;

22 (B) in subsection (c), by inserting “, as in
23 effect on the day before the date of enactment
24 of the Black Lung Consolidation of Administra-

1 tive Responsibility Act (Public Law 107–275)”
 2 after “section 435”;

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

6 (D) in subsection (j)—

7 (i) by striking “Internal Revenue
 8 Code of 1954” each place it appears and
 9 inserting “Internal Revenue Code of
 10 1986”; and

11 (ii) in paragraph (3), by inserting “,
 12 as in effect on the day before the date of
 13 enactment of the Black Lung Consolida-
 14 tion of Administrative Responsibility Act
 15 (Public Law 107–275)” after “section
 16 435”;

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

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

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

23 (B) in paragraph (3), by striking “Internal
 24 Revenue Code of 1954” each place it appears

1 and inserting “Internal Revenue Code of
2 1986”; and

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

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

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

9 (B) in subsection (b)—

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

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

14 (iii) in the ninth sentence—

15 (I) by striking “he” each place it
16 appears and inserting “the Sec-
17 retary”; and

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

20 (iv) in the tenth sentence, by striking
21 “he” each place it appears and inserting
22 “the Secretary”; and

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

24 (A) by striking “1977 and” and inserting
25 “1977,”; and

1 (B) by striking “1981” and inserting
 2 “1981, and the Black Lung Benefits Improve-
 3 ment Act of 2019, and any amendments made
 4 after the date of enactment of such Act,”.

5 **SEC. 111. READJUDICATING CASES INVOLVING CERTAIN**
 6 **CHEST RADIOGRAPHS.**

7 (a) DEFINITIONS.—In this section:

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

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

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

1 (A) is a survivor of a covered individual
2 whose claim under the Black Lung Benefits Act
3 was still pending at the time of the covered in-
4 dividual's death; and

5 (B) continued to seek an award with re-
6 spect to the covered individual's claim after the
7 covered individual's death.

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

14 (c) ADJUDICATION ON THE MERITS.—

15 (1) IN GENERAL.—Any new claim filed under
16 subsection (b) shall be adjudicated on the merits and
17 shall not include consideration of a covered chest
18 radiograph.

19 (2) COVERED SURVIVOR.—Any new claim filed
20 under subsection (b) by a covered survivor shall be
21 adjudicated as either a miner's or a survivor's claim
22 depending upon the type of claim pending at the
23 time of the covered individual's death.

24 (d) TIME OF PAYMENT.—

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

7 (2) SURVIVOR'S CLAIM.—If a claim, filed under
8 subsection (b) and adjudicated under subsection (c)
9 as a survivor's claim, results in an award of benefits,
10 benefits shall be payable beginning with the month
11 of the miner's death.

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

19 (f) LIMITATION ON FILING OF NEW CLAIMS.—A new
20 claim for benefits may be filed under subsection (b) only
21 if the original claim was finally denied by a district direc-
22 tor, an administrative law judge, or the Benefits Review
23 Board established under section 21(b) of the Longshore
24 and Harbor Workers' Compensation Act (33 U.S.C.
25 921(b)).

1 **SEC. 112. DISCLOSURE OF EMPLOYMENT AND EARNINGS**
 2 **INFORMATION FOR BLACK LUNG BENEFITS**
 3 **ACT CLAIMS.**

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

7 “(23) DISCLOSURE OF RETURN INFORMATION
 8 TO DEPARTMENT OF LABOR TO CARRY OUT BLACK
 9 LUNG BENEFITS ACT.—

10 “(A) IN GENERAL.—The Commissioner of
 11 Social Security shall, on written request with
 12 respect to any individual, disclose to officers or
 13 employees of the Department of Labor return
 14 information from returns with respect to net
 15 earnings from self-employment (as defined in
 16 section 1402) and wages (as defined in section
 17 3121(a) or 3401(a)) for employment for each
 18 employer of such individual.

19 “(B) RESTRICTION ON DISCLOSURE.—The
 20 Commissioner of Social Security shall disclose
 21 return information under subparagraph (A)
 22 only for purposes of, and the extent necessary
 23 in, carrying out the proper administration of
 24 the Black Lung Benefits Act (30 U.S.C. 901 et
 25 seq.).”.

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

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

15 **SEC. 121. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**
16 **TION.**

17 (a) IN GENERAL.—Not later than 90 days after the
18 date of enactment of this Act, the Secretary of Labor shall
19 submit to the Committee on Health, Education, Labor,
20 and Pensions and the Committee on Appropriations of the
21 Senate and the Committee on Education and Labor and
22 the Committee on Appropriations of the House of Rep-
23 resentatives a comprehensive strategy to reduce the back-
24 log of cases pending on such date of enactment before the

1 Office of Administrative Law Judges of the Department
2 of Labor.

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

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

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

13 (3) the necessary resources to improve effi-
14 ciency and effectiveness, such as equipment, train-
15 ing, use of reemployed annuitants, and administra-
16 tive reforms;

17 (4) the impact of sequestration, furloughs, and
18 Federal Government shutdowns on increasing ad-
19 ministrative burdens and the backlog of cases pend-
20 ing before such Office; and

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

1 of receipt of the case to the date of disposition of
2 such case.

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

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

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

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

22 (1) an assessment of possible barriers to health
23 care under the Black Lung Benefits Act (30 U.S.C.
24 901 et seq.) and the degree to which any barriers
25 impact the ability of miners with legitimate medical

1 needs, particularly such miners in rural areas, to ac-
 2 cess treatment for pneumoconiosis;

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

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

12 **TITLE II—STANDARD FOR RES-** 13 **PIRABLE DUST CONCENTRA-** 14 **TION**

15 **SEC. 201. STANDARD FOR RESPIRABLE DUST CONCENTRA-** 16 **TION.**

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

20 “(i) REPORTS.—

21 “(1) RETROSPECTIVE STUDY.—

22 “(A) IN GENERAL.—Beginning not later
 23 than 90 days after the date of enactment of the
 24 Black Lung Benefits Improvement Act of 2019,
 25 the Secretary shall conduct a retrospective

1 study evaluating data collected using continuous
2 personal dust monitors to determine whether
3 to—

4 “(i) lower the applicable standard for
5 respirable dust concentration to better pro-
6 tect the health of miners;

7 “(ii) increase the frequency for taking
8 samples of respirable dust concentration,
9 using continuous personal dust monitors;

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

14 “(iv) convert samples taken for shifts
15 that are greater than 8 hours to an 8-hour
16 equivalent concentration to more accu-
17 rately assess the conditions of miners
18 working on longer shifts; and

19 “(v) lower the applicable standard for
20 quartz (crystalline silica) in respirable dust
21 to better protect miners’ health.

22 “(B) COMPLETION DEADLINE.—Not later
23 than 450 days after the date of enactment of
24 the Black Lung Benefits Improvement Act of
25 2019, the Secretary shall complete the study re-

1 quired by subparagraph (A) and report the
2 findings of such study to the Committee on
3 Health, Education, Labor, and Pensions of the
4 Senate and the Committee on Education and
5 Labor of the House of Representatives.

6 “(2) SUBSEQUENT STUDIES.—By August 1,
7 2025, and every 3 years thereafter, the Secretary
8 shall conduct a new study as described in paragraph
9 (1)(A) and report, by not later than one year after
10 the commencement of the study, the findings of such
11 study to the Committee on Health, Education,
12 Labor, and Pensions of the Senate and the Com-
13 mittee on Education and Labor of the House of
14 Representatives.

15 “(3) REVISED STANDARDS.—If any report of
16 the Secretary under this subsection concludes that
17 the applicable standard for respirable dust con-
18 centration should be lowered to protect the health of
19 miners, or that the incidence of pneumoconiosis
20 among coal miners in the United States, as reported
21 by the National Institute for Occupational Safety
22 and Health, has not been reduced from such inci-
23 dence prior to the implementation of the most recent
24 applicable standard for respirable dust concentra-
25 tion, the Secretary shall, consistent with the require-

1 ments of this section and section 101, accordingly
 2 revise such standard and any applicable sampling or
 3 testing procedures not later than 24 months after
 4 the publication of such report of the Secretary under
 5 this subsection.”.

6 **TITLE III—ESTABLISHING THE** 7 **OFFICE OF WORKERS’ COM-** 8 **PENSATION PROGRAMS**

9 **SEC. 301. OFFICE OF WORKERS’ COMPENSATION PRO-** 10 **GRAMS.**

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

15 (b) DIRECTOR.—

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

21 (2) DUTIES.—The Director shall carry out all
 22 duties carried out by the Director for the Office of
 23 Workers’ Compensation as of the day before the
 24 date of enactment of this Act.

1 (c) FUNCTIONS.—The functions of the Office on and
 2 after the date of enactment of this Act shall include the
 3 functions of the Office on the day before the date of enact-
 4 ment of this Act, including all of its personnel, assets, au-
 5 thorities, and liabilities.

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

14 **TITLE IV—SEVERABILITY**

15 **SEC. 401. SEVERABILITY.**

16 If any provision of this Act, or an amendment made
 17 by this Act, or the application of such provision to any
 18 person or circumstance, is held to be invalid, the remain-
 19 der of this Act, or an amendment made by this Act, or
 20 the application of such provision to other persons or cir-
 21 cumstances, shall not be affected.

