

114TH CONGRESS
1ST SESSION

S. 2096

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

SEPTEMBER 29, 2015

Mr. CASEY (for himself, Mr. BROWN, Mr. MANCHIN, Mr. WARNER, and Mr. KAINE) 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 2015”.

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 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.
 Sec. 113. Disclosure of employment and earnings information for Black Lung Benefits Act claims.

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

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

TITLE II—STANDARD FOR RESPIRABLE DUST CONCENTRATION

- Sec. 201. Standard for respirable dust concentration.

TITLE III—ESTABLISHING THE OFFICE OF WORKERS' COMPENSATION PROGRAMS

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

TITLE IV—SEVERABILITY

- Sec. 401. Severability.

1 **SEC. 3. FINDINGS.**

2 Congress finds the following:

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

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

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

1 Only 30 percent of claimants are represented by an
2 attorney during the initial claims determination. Ab-
3 sent efforts to remedy administrative problems and
4 address structural weaknesses in the process for ob-
5 taining benefits, claimants with meritorious claims
6 will not receive benefits.

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

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

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

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

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

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

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

1 such Act and numerous other labor and employment
2 laws. Due to the imbalance between resources and
3 caseloads, a typical claim under such Act remains
4 unresolved for an average of 40 months prior to a
5 decision by an administrative law judge. These
6 delays directly and severely impact the lives of work-
7 ers throughout the United States, placing an undue
8 financial and emotional burden on the affected indi-
9 viduals and their families.

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

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

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

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

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

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

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

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

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

5 **TITLE I—BLACK LUNG BENEFITS**

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

7 **AND ADJUDICATING CLAIMS FOR BENEFITS**

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

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

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

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

22 “(1) be in writing; and

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

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

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

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

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

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

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

23 “(a) PROGRAM ESTABLISHED.—

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

1 fits Improvement Act of 2015, the Secretary shall
2 establish a payment program to pay attorneys' fees
3 and other reasonable and unreimbursed medical ex-
4 penses incurred in establishing the claimant's case,
5 using amounts from the fund, to the attorneys of
6 claimants in qualifying claims.

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

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

16 “(b) PAYMENTS AUTHORIZED.—

17 “(1) ATTORNEYS' FEES.—

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

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

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

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

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

10 “(2) MEDICAL EXPENSES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 “(d) DISQUALIFICATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

17 “(b) B READER PANEL PROGRAM.—

18 “(1) ESTABLISHMENT OF PILOT PROGRAM.—

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

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

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

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

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

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

1 “(2) PROGRAM PERSONNEL MATTERS.—

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

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

11 “(C) STAFF.—

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

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

19 “(3) ETHICS POLICY.—

20 “(A) CODE OF ETHICS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

18 “(4) QUALITY ASSURANCE PROGRAM.—

19 “(A) PROTOCOLS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 “(3) PROCESS FOR REMOVAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 “(f) TESTIMONY.—

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

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

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

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

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

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

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

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

3 “(g) ADMINISTRATIVE COSTS.—

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

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

12 “(A) FEES.—

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

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

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

3 “(B) LEGAL COSTS.—

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

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

22 “(h) PROTOCOLS AND INTERIM FINAL RULES.—Not
23 later than 180 days after the date of enactment of the
24 Black Lung Benefits Improvement Act of 2015, the Sec-
25 retary of Health and Human Services shall issue protocols

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

3 “(i) REPORT TO CONGRESS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 ment Act of 2015, 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 2015.—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 2015 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 2015.—Any district director, claims examiner, admin-
19 istrative law judge, attorney advisor supporting such
20 judge, or member of the Benefits Review Board de-
21 scribed in subsection (a)(4), who is not described in
22 paragraph (1) shall complete the training program
23 under this section prior to engaging in any work
24 under this title and not less than annually there-
25 after.”.

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

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

4 (1) in section 401(a) (30 U.S.C. 901(a)), by in-
5 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 legally married at the time of the miner’s death
17 under the laws of the State where the marriage was cele-
18 brated. Such term also includes a ‘surviving divorced wife’
19 or ‘surviving divorced husband’, as such terms are defined
20 in paragraph (2) or (5) of section 216(d) of such Act who
21 for the month preceding the month in which the miner
22 died, was receiving at least one-half of his or her support,
23 as determined in accordance with regulations prescribed
24 by the Secretary, from the miner, or was receiving sub-
25 stantial contributions from the miner (pursuant to a writ-

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

4 (C) in subsection (g)—

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

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

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

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

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

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

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

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

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

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

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

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

15 (B) in subsection (c)—

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

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

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

22 (A) in subsection (a)—

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

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

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

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

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

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

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

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

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

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

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

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

6 (iii) in paragraph (5)—

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

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

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

3 (II) in the fourth sentence—

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

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

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

14 (B) in subsection (b)—

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

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

19 and

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

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

24 (A) in subsection (b)—

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

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

7 (iii) by striking the last sentence; and
8 (B) in subsection (c), by striking “his
9 claim” and inserting “the claim”;

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

11 (A) in subsection (a)—

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

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

19 (B) in subsection (e)—

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

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

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

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

4 (B) in paragraph (2)—

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

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

9 (8) in section 421 (30 U.S.C. 931)—

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

12 (B) in subsection (b)(2)—

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

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

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

20 (A) in subsection (a)—

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

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

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

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

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

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

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

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

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

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

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

24 (B) in subsection (b)—

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

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

5 (iii) in the ninth sentence—

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

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

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

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

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

17 (B) by striking “1981” and inserting
18 “1981, and the Black Lung Benefits Improve-
19 ment Act of 2015, and any amendments made
20 after the date of enactment of such Act,”.

21 **SEC. 112. READJUDICATING CASES INVOLVING CERTAIN**

22 **CHEST RADIOGRAPHS.**

23 (a) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

5 (c) ADJUDICATION ON THE MERITS.—

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

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

15 (d) TIME OF PAYMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 “(i) REPORTS.—

12 “(1) RETROSPECTIVE STUDY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) DIRECTOR.—

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

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

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

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

1 **TITLE IV—SEVERABILITY**

2 **SEC. 401. SEVERABILITY.**

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

○