

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6102
OFFERED BY MS. ADAMS OF NORTH CAROLINA**

Strike all after the enactment clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Black Lung Benefits
3 Improvement Act of 2022”.

4 SEC. 2. TABLE OF CONTENTS.

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

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—BLACK LUNG BENEFITS

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

Sec. 101. Providing assistance with claims for miners and their dependent family members.

Sec. 102. Clarifying eligibility for black lung benefits.

Sec. 103. Development of medical evidence by the Secretary.

Sec. 104. False statements or misrepresentations, attorney disqualification, and discovery sanctions.

Sec. 105. Readjudicating cases involving certain chest radiographs.

Sec. 106. Attorneys’ fees and medical expenses payment program.

Sec. 107. Restoring adequate benefit adjustments for miners suffering from black lung disease and for their dependent family members.

Sec. 108. Disclosure of employment and earnings information for Black Lung benefits claims.

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

Sec. 121. Strategy to reduce delays in adjudication.

PART C—IMPROVEMENT IN THE FINANCIAL SECURITY OF THE BLACK LUNG
BENEFITS DISABILITY TRUST FUND

Sec. 131. Policies for securing the payment of benefits.

TITLE II—ESTABLISHING THE OFFICE OF WORKERS’
COMPENSATION PROGRAMS

Sec. 201. Office of Workers’ Compensation Programs.

TITLE III—ADDITIONAL PROVISIONS

Sec. 301. Technical and conforming amendments.

Sec. 302. Severability.

1 **TITLE I—BLACK LUNG BENEFITS**

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

3 **AND ADJUDICATING CLAIMS FOR BENEFITS**

4 **SEC. 101. PROVIDING ASSISTANCE WITH CLAIMS FOR MIN-**

5 **ERS AND THEIR DEPENDENT FAMILY MEM-**

6 **BERS.**

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

15 **SEC. 102. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**

16 **EFITS.**

17 Section 411(c) of the Black Lung Benefits Act (30
18 U.S.C. 921(c)) is amended by striking paragraph (3) and
19 inserting the following:

1 “(3)(A) If x-ray, CT scan, biopsy, autopsy, or
2 other medically accepted and relevant test or proce-
3 dure establishes that a miner is suffering or has suf-
4 fered from a chronic dust disease of the lung, diag-
5 nosed as complicated pneumoconiosis or progressive
6 massive fibrosis (as determined in accordance with
7 subparagraph (B)), then there shall be an
8 irrebuttable presumption that such miner is totally
9 disabled due to pneumoconiosis, that the miner’s
10 death was due to pneumoconiosis, or that at the
11 time of death the miner was totally disabled by
12 pneumoconiosis, as the case may be.

13 “(B) For purposes of subparagraph (A), com-
14 plicated pneumoconiosis or progressive massive fi-
15 brosis can be established by any of the following:

16 “(i) A chest radiograph, which yields one
17 or more large opacities whose greatest diameter
18 exceeds 1 centimeter and would be classified in
19 Category A, B, or C in the International Classi-
20 fication of Radiographs of Pneumoconiosis by
21 the International Labor Organization, in the
22 absence of more probative evidence sufficient to
23 establish that the etiology of the large opacity
24 is not pneumoconiosis.

1 “(ii) A chest CT scan, which yields one or
2 more large opacities whose greatest diameter
3 exceeds 1 centimeter, in the absence of more
4 probative evidence sufficient to establish that
5 the etiology of the large opacity is not pneumo-
6 coniosis.

7 “(iii) A lung biopsy or autopsy, which
8 would yield a lesion at least 1 centimeter in its
9 long axis diameter if measured at the time of
10 gross dissection.

11 “(iv) A diagnosis by other means that
12 would reasonably be expected to yield results
13 described in clause (i), (ii), or (iii).”.

14 **SEC. 103. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
15 **SECRETARY.**

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

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

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

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

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

8 “(b) AUTHORIZING CHEST SCANS.—In diagnosing
9 whether there is complicated pneumoconiosis as a part of
10 a medical examination conducted under subsection (a), the
11 Secretary shall authorize a high-quality, low-dose or
12 standard computerized tomography scan where any or a
13 combination of the following is found:

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

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

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

24 “(1) for any claim in which the Secretary rec-
25 ommends an award of benefits based on the results

1 of the initial report under subsection (a)(1) and a
2 party opposing such award submits evidence that
3 could be considered contrary to the findings of the
4 Secretary; and

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

7 “(A) the Secretary has awarded benefits to
8 the claimant;

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

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

17 “(d) PROCESS FOR SUPPLEMENTAL MEDICAL EVI-
18 DENCE.—

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

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

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

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

12 “(e) QUALIFIED PHYSICIANS FOR COMPLETE PUL-
13 MONARY EVALUATION AND PROTECTIONS FOR SUIT-
14 ABILITY AND POTENTIAL CONFLICTS OF INTEREST.—

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

20 “(2) PUBLIC AVAILABILITY.—The Secretary
21 shall make the list under this subsection available to
22 the public.

23 “(3) ANNUAL EVALUATION.—Each year, the
24 Secretary shall update such list by reviewing the

1 suitability of the listed qualified physicians and as-
2 sessing any potential conflicts of interest.

3 “(4) CRITERIA FOR SUITABILITY.—The Sec-
4 retary shall include on the list only those physicians
5 whom the Secretary determines are qualified, capa-
6 ble, and willing to provide credible opinions con-
7 sistent with the premises underlying this Act. In de-
8 termining whether a physician is suitable to be on
9 the list under this subsection, the Secretary shall
10 consult the National Practitioner Data Bank of the
11 Department of Health and Human Services and as-
12 sess reports of adverse licensure, certifications, hos-
13 pital privilege, and professional society actions in-
14 volving the physician. In no case shall such list in-
15 clude any physician—

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

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

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

1 “(5) CONFLICTS OF INTEREST.—The Secretary
2 shall develop and implement policies and procedures
3 to ensure that any actual or potential conflict of in-
4 terest of qualified physicians on the list under this
5 subsection, including both individual and organiza-
6 tional conflicts of interest, are disclosed to the De-
7 partment, and to provide such disclosure to claim-
8 ants. Such policies and procedures shall provide that
9 a physician with a conflict of interest shall not be
10 used to perform a complete pulmonary medical eval-
11 uation under subsection (a) that is reimbursed pur-
12 suant to subsection (g) if—

13 “(A) such physician is employed by, under
14 contract to, or otherwise providing services to a
15 private party opposing the claim, a law firm or
16 lawyer representing such opposing party, or an
17 interested insurer or other interested third
18 party; or

19 “(B) such physician has been retained by
20 a private party opposing the claim, a law firm
21 or lawyer representing such opposing party, or
22 an interested insurer or other interested third
23 party in the previous 24 months.

24 “(f) RECORD.—Upon receipt of any initial report or
25 supplemental report under this section, the Secretary shall

1 enter the report in the record and provide a copy of such
2 report to all parties to the proceeding.

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

9 **SEC. 104. FALSE STATEMENTS OR MISREPRESENTATIONS,**
10 **ATTORNEY DISQUALIFICATION, AND DIS-**
11 **COVERY SANCTIONS.**

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

14 **“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS,**
15 **ATTORNEY DISQUALIFICATION, AND DIS-**
16 **COVERY SANCTIONS.**

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

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

24 “(2) knowingly and willfully threaten, coerce,
25 intimidate, deceive, or mislead a party, representa-

1 tive, witness, potential witness, judge, or anyone par-
2 ticipating in a proceeding regarding any matter re-
3 lated to a proceeding under this title.

4 “(b) FINE; IMPRISONMENT.—Any person who en-
5 gages in the conduct described in subsection (a) shall,
6 upon conviction, be subject to a fine in accordance with
7 title 18, United States Code, imprisoned for not more than
8 5 years, or both.

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

14 “(d) DISQUALIFICATION.—

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

21 “(2) ATTORNEY DISQUALIFICATION.—In addi-
22 tion to the disqualification described in paragraph
23 (1), the Secretary may disqualify an attorney from
24 representing any party in any administrative pro-

1 ceeding under this title for either a limited term or
2 permanently, if the attorney—

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

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

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

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

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

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

23 “(f) REGULATIONS.—The Secretary shall promulgate
24 a proposed rule not later than 180 days after the date

1 of enactment of this Act and a final rule not later than
2 18 months after such date of enactment that—

3 “(1) provides procedures for the disqualifica-
4 tions and sanctions under this section and is appro-
5 priate for all parties; and

6 “(2) distinguishes between parties that are rep-
7 resented by an attorney and parties that are not
8 represented by an attorney.”.

9 **SEC. 105. READJUDICATING CASES INVOLVING CERTAIN**
10 **CHEST RADIOGRAPHS.**

11 Part C of the Black Lung Benefits Act (30 U.S.C.
12 931 et seq.), as amended by section 103, is further amend-
13 ed by adding at the end the following:

14 **“SEC. 436. READJUDICATING CASES INVOLVING DISCRED-**
15 **ITED EXPERT OPINIONS.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) COVERED CHEST RADIOGRAPH.—The term
18 ‘covered chest radiograph’ means a chest radiograph
19 that was interpreted as negative for simple pneumo-
20 coniosis, complicated pneumoconiosis, or progressive
21 massive fibrosis by a physician with respect to whom
22 the Secretary has directed, in writing and after an
23 evaluation by the Secretary, that such physician’s
24 negative interpretations of chest radiographs not be
25 credited, except where subsequently determined to be

1 credible by the Secretary in evaluating a claim for
2 benefits under this Act.

3 “(2) COVERED INDIVIDUAL.—The term ‘cov-
4 ered individual’ means an individual whose record
5 for a claim for benefits under this Act includes a
6 covered chest radiograph.

7 “(3) COVERED SURVIVOR.—The term ‘covered
8 survivor’ means an individual who—

9 “(A) is a survivor of a covered individual
10 whose claim under this Act was still pending at
11 the time of the covered individual’s death; and

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

15 “(b) CLAIMS.—A covered individual or a covered sur-
16 vivor whose claim for benefits under this Act was denied
17 may file a new claim for benefits under this Act.

18 “(c) ADJUDICATION ON THE MERITS.—

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

23 “(2) COVERED SURVIVOR.—Any new claim filed
24 under subsection (b) by a covered survivor shall be
25 adjudicated as either a miner’s or a survivor’s claim

1 depending upon the type of claim pending at the
2 time of the covered individual's death.

3 “(d) TIME OF PAYMENT.—

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

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

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

22 “(f) LIMITATION ON FILING OF NEW CLAIMS.—A
23 new claim for benefits may be filed under subsection (b)
24 only if the original claim was finally denied by a district
25 director, an administrative law judge, or the Benefits Re-

1 view Board established under section 21(b) of the
2 Longshore and Harbor Workers' Compensation Act (33
3 U.S.C. 921(b)).”.

4 **SEC. 106. ATTORNEYS' FEES AND MEDICAL EXPENSES PAY-**
5 **MENT PROGRAM.**

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. ATTORNEYS' FEES AND MEDICAL EXPENSES PAY-**
10 **MENT PROGRAM.**

11 “(a) PROGRAM ESTABLISHED.—

12 “(1) IN GENERAL.—Not later than 180 days
13 after the date of enactment of the Black Lung Bene-
14 fits Improvement Act of 2022, the Secretary shall
15 establish a payment program to pay attorneys' fees
16 and other reasonable and unreimbursed medical ex-
17 penses incurred in establishing the claimant's case,
18 using amounts from the fund, to the attorneys of
19 claimants in qualifying claims.

20 “(2) QUALIFYING CLAIM.—A qualifying claim
21 for purposes of this section is a contested claim for
22 benefits under this title for which a final order has
23 not been entered within two years of the filing of the
24 claim.

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

5 “(b) PAYMENTS AUTHORIZED.—

6 “(1) ATTORNEYS’ FEES.—If a claimant for ben-
7 efits under this title obtains a proposed decision and
8 order from a district director with an award of bene-
9 fits for a qualifying claim, or an award for a quali-
10 fying claim before an administrative law judge, the
11 district director may approve attorneys’ fees for
12 work done before such director in an amount not to
13 exceed \$1,500 and an administrative law judge may
14 approve attorneys’ fees for work done before such
15 judge in an amount not to exceed \$3,000. The Sec-
16 retary shall, through the program under this section,
17 pay such amounts approved.

18 “(2) MEDICAL EXPENSES.—If a claimant for
19 benefits under this title obtains a proposed decision
20 and order from a district director with an award of
21 benefits for a qualifying claim, or an award for a
22 qualifying claim before an administrative law judge,
23 such district director and administrative law judge
24 may each approve an award to the claimant’s attor-
25 ney of reasonable and unreimbursed medical ex-

1 penses incurred in establishing the claimant's case in
2 an amount not to exceed \$1,500. The Secretary
3 shall, through the program under this section, pay
4 such amounts approved.

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

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

17 “(d) ADDITIONAL PROGRAM RULES.—Nothing in
18 this section shall limit or otherwise affect an operator's
19 liability for any attorneys' fees, medical expenses, or other
20 allowable and unreimbursed expenses awarded by the dis-
21 trict director or an administrative law judge that were not
22 paid by the program under this section. Nothing in this
23 section shall limit or otherwise affect the Secretary's au-
24 thority to use amounts in the fund to pay approved attor-
25 neys' fees and other allowable and unreimbursed expenses

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

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

8 **SEC. 107. RESTORING ADEQUATE BENEFIT ADJUSTMENTS**
9 **FOR MINERS SUFFERING FROM BLACK LUNG**
10 **DISEASE AND FOR THEIR DEPENDENT FAM-**
11 **ILY MEMBERS.**

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

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

18 “(A) for any calendar year preceding Jan-
19 uary 1, 2022, at a rate equal to 37½ percent
20 of the monthly pay rate for Federal employees
21 in grade GS–2, step 1;

22 “(B) for the calendar year beginning on
23 January 1, 2022, at a rate of \$8,834.01 per
24 year, payable in 12 equal monthly payments;
25 and

1 “(C) for each calendar year thereafter, at
2 a rate equal to the product of the rate in effect
3 under this paragraph for the calendar year im-
4 mediately preceding such calendar year multi-
5 plied by the ratio (not less than 1) of—

6 “(i) the Consumer Price Index for
7 Urban Wage Earners and Clerical Workers
8 (CPI–W, as published by the Bureau of
9 Labor Statistics of the Department of
10 Labor) for the calendar year immediately
11 preceding such calendar year, to

12 “(ii) the CPI-W for the second cal-
13 endar year preceding such calendar year.”.

14 **SEC. 108. DISCLOSURE OF EMPLOYMENT AND EARNINGS**
15 **INFORMATION FOR BLACK LUNG BENEFITS**
16 **CLAIMS.**

17 (a) TAX RETURN INFORMATION.—

18 (1) IN GENERAL.—Section 6103(l) of the Inter-
19 nal Revenue Code of 1986 is amended by adding at
20 the end the following new paragraph:

21 “(23) DISCLOSURE OF RETURN INFORMATION
22 TO DEPARTMENT OF LABOR TO CARRY OUT BLACK
23 LUNG BENEFITS ACT.—

24 “(A) IN GENERAL.—The Commissioner of
25 Social Security shall, on written request with

1 respect to any individual, disclose to officers or
2 employees of the Department of Labor return
3 information from returns with respect to net
4 earnings from self-employment (as defined in
5 section 1402) and wages (as defined in section
6 3121(a) or 3401(a)) for employment for each
7 employer of such individual.

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

15 (2) CONFORMING AMENDMENTS.—Section
16 6103(p)(4) of such Code is amended—

17 (A) in the matter preceding subparagraph
18 (A), by striking “or (22)” and inserting “(22),
19 or (23)”; and

20 (B) in subparagraph (F)(ii), by striking
21 “or (22),” and inserting “(22), or (23)”.

22 (b) SOCIAL SECURITY EARNINGS INFORMATION.—
23 Notwithstanding section 552a of title 5, United States
24 Code, or any other provision of Federal or State law, the
25 Commissioner of Social Security shall make available to

1 the officers and employees of the Department of Labor,
2 upon written request, the Social Security earnings infor-
3 mation of living or deceased individuals who are the sub-
4 ject of a claim under the Black Lung Benefits Act (30
5 U.S.C. 901 et seq.), which the Secretary of Labor may
6 require to carry out such Act. Such information shall be
7 made available in electronic form.

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

11 **SEC. 121. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**
12 **TION.**

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

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

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

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

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

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

19 **PART C—IMPROVEMENT IN THE FINANCIAL SE-**
20 **CURITY OF THE BLACK LUNG BENEFITS DIS-**
21 **ABILITY TRUST FUND**

22 **SEC. 131. POLICIES FOR SECURING THE PAYMENT OF BEN-**
23 **EFITS.**

24 (a) IN GENERAL.—Not later than 60 days after the
25 date of enactment of this Act, the Secretary shall publish

1 an interim final rule setting forth the requirements for an
2 operator of a coal mine to qualify as a self-insurer with
3 respect any portion of the operator's liabilities under the
4 Black Lung Benefits Act, as described in section
5 423(a)(1) of such Act (30 U.S.C. 933(a)(1)). Such rule
6 shall—

7 (1) establish criteria, relating to the financial
8 health of the operator (including creditworthiness,
9 long-term enterprise viability, and other liabilities),
10 on which the eligibility of the operator to seek and
11 maintain qualification as a self-insurer shall be de-
12 termined;

13 (2) establish procedures to determine on an an-
14 nual basis (or more frequently, where deemed nec-
15 essary by the Secretary) the minimum amount of se-
16 curity sufficient to insure current and projected li-
17 abilities; and

18 (3) establish procedures for review by the Sec-
19 retary of operator appeals of determinations de-
20 scribed in paragraphs (1) and (2).

21 The Secretary shall promulgate a final rule not later than
22 12 months after the date of enactment of this Act.

23 (b) PENALTIES.—

1 (1) IN GENERAL.—Section 423(d)(1) of the
2 Black Lung Benefits Act (30 U.S.C. 933(d)(1)) is
3 amended—

4 (A) by striking “\$1,000” and inserting
5 “\$25,000”;

6 (B) by inserting “chief executive officer,
7 chief operating officer,” after the word “presi-
8 dent,” each place it appears;

9 (C) by striking “and treasurer” each place
10 it appears and inserting “treasurer, and other
11 responsible party”;

12 (D) by striking “for any benefit” and all
13 that follows through “this section.” and insert-
14 ing “for—

15 “(A) any benefit which may accrue under this
16 title in respect to any disability which may occur to
17 any employee of such corporation while it shall so
18 fail to secure the payment of benefits as required by
19 this section; or

20 “(B) in the event of bankruptcy or other per-
21 manent abandonment of the obligation to secure the
22 payment of benefits, the actuarial present value of
23 the benefits to be paid by the fund under section
24 424(b)(1), projected as of the date of failure to se-

1 cure such benefits, less any security recovered or
2 surrendered, plus interest.”.

3 (2) OTHER RESPONSIBLE PARTY DEFINED.—
4 Section 402 of the Black Lung Benefits Act (30
5 U.S.C. 902) is amended by inserting at the end the
6 following:

7 “(j) The term ‘other responsible party’ means—

8 “(1) an individual, partnership, joint venture,
9 corporation, mutual company, joint-stock company,
10 trust, estate, unincorporated organization, associa-
11 tion, or other enterprise that possesses, directly or
12 indirectly, the power to direct or cause the direction
13 of the management and policies of an operator or
14 employer; or

15 “(2) any trade or business (whether or not in-
16 corporated) which is under common control with an
17 operator or employer.”.

18 **TITLE II—ESTABLISHING THE**
19 **OFFICE OF WORKERS’ COM-**
20 **PENSATION PROGRAMS**

21 **SEC. 201. OFFICE OF WORKERS’ COMPENSATION PRO-**
22 **GRAMS.**

23 (a) ESTABLISHMENT.—There shall be established, in
24 the Department of Labor, an Office of Workers’ Com-

1 pension Programs (referred to in this section as the “Of-
2 fice”).

3 (b) DIRECTOR.—

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

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

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

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

1 **TITLE III—ADDITIONAL**
2 **PROVISIONS**

3 **SEC. 301. TECHNICAL AND CONFORMING AMENDMENTS.**

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

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

9 (2) in section 402—

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

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

1 ceiving at least one-half of his or her support, as de-
2 termined in accordance with regulations prescribed
3 by the Secretary, from the miner, or is receiving
4 substantial contributions from the miner (pursuant
5 to a written agreement), or there is in effect a court
6 order for substantial contributions to the spouse's
7 support from such miner.”;

8 (B) by striking subsection (e) and insert-
9 ing the following:

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

1 as determined in accordance with regulations prescribed
2 by the Secretary, from the miner, or was receiving sub-
3 stantial contributions from the miner (pursuant to a writ-
4 ten agreement) or there was in effect a court order for
5 substantial contributions to the spouse's support from the
6 miner at the time of the miner's death.”;

7 (C) in subsection (g)—

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

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

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

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

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

21 (A) by striking subsection (a) and insert-
22 ing the following:

23 “(a) The Secretary shall, in accordance with the pro-
24 visions of this title, and the regulations promulgated by

1 the Secretary under this title, make payments of benefits
2 in respect of—

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

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

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

10 “(4) survivors’ benefits for any survivor’s claim
11 filed after January 1, 2005, that is pending on or
12 after March 23, 2010, where the miner is found en-
13 titled to receive benefits on a claim filed under part
14 C; and

15 “(5) survivors’ benefits where the miner is
16 found entitled to receive benefits on a claim filed
17 under part C before January 1, 1982.”; and

18 (B) in subsection (c)—

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

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

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

25 (A) in subsection (a)—

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

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

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

6 “(B) in a claim filed after January 1, 2005,
7 and that is pending on or after March 23, 2010, of
8 a miner who is found entitled to receive benefits on
9 a claim filed under part C;

10 “(C) of a miner who is found entitled to receive
11 benefits on a claim filed under part C before Janu-
12 ary 1, 1982; or

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

19 (ii) in paragraph (3)—

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

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 on a
15 claim filed under part C;

16 “(iii) of a miner who is found entitled to receive
17 benefits on a 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(e).”;

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 on a claim filed under part C,
15 (iii) who is found entitled to receive
16 benefits on a claim filed under part C
17 before January 1, 1982, or (iv) in a
18 claim filed under part C before Janu-
19 ary 1, 1982, who was totally disabled
20 by pneumoconiosis at the time of the
21 miner’s death; in the case of the de-
22 pendent surviving brother(s) or sis-
23 ter(s) of such a miner who is not sur-
24 vived at the time of the miner’s death
25 by a surviving spouse, child, or par-

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

21 (II) in the fourth sentence—

22 (aa) by striking “brother
23 only if he” and inserting “broth-
24 er or sister only if the brother or
25 sister”;

1 (bb) by striking “before he
2 ceased” and inserting “before the
3 brother or sister ceased”; and

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

7 (B) in subsection (b)—

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

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

12 and

13 (C) in subsection (e), by striking “Internal
14 Revenue Code of 1954” and inserting “Internal
15 Revenue Code of 1986”;

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

17 (A) in subsection (b)—

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

21 (ii) in the ninth sentence, by striking
22 “widow” and inserting “surviving spouse”;

23 and

24 (iii) by striking the last sentence; and

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

3 (6) in section 414 (30 U.S.C. 924)—

4 (A) in subsection (a)—

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

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

12 (B) in subsection (e)—

13 (i) by striking “widow” and inserting
14 “surviving spouse”; and

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

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

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

21 (B) in paragraph (2)—

22 (i) by striking “he” and inserting
23 “such Secretary”; and

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

- 1 (8) in section 421 (30 U.S.C. 931)—
- 2 (A) in subsection (a), by striking “widows”
- 3 and inserting “spouses”; and
- 4 (B) in subsection (b)(2)—
- 5 (i) in the matter preceding subpara-
- 6 graph (A), by striking “he” and inserting
- 7 “such Secretary”; and
- 8 (ii) in subparagraph (F), by striking
- 9 “promulgated by him” and inserting “pro-
- 10 mulgated by such Secretary”;
- 11 (9) in section 422 (30 U.S.C. 932)—
- 12 (A) in subsection (a)—
- 13 (i) by striking “Internal Revenue
- 14 Code of 1954” and inserting “Internal
- 15 Revenue Code of 1986”; and
- 16 (ii) by striking “he” and inserting
- 17 “such Secretary”;
- 18 (B) in subsection (i)(4), by striking “Inter-
- 19 nal Revenue Code of 1954” and inserting “In-
- 20 ternal Revenue Code of 1986”; and
- 21 (C) in subsection (j), by striking “Internal
- 22 Revenue Code of 1954” each place it appears
- 23 and inserting “Internal Revenue Code of
- 24 1986”;

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

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

4 (A) in the matter following subparagraph
5 (B) of paragraph (1), by striking “him” and in-
6 sserting “such operator”;

7 (B) in paragraph (3), by striking “Internal
8 Revenue Code of 1954” each place it appears
9 and inserting “Internal Revenue Code of
10 1986”; and

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

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

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

17 (B) in subsection (b)—

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

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

22 (iii) in the ninth sentence—

23 (I) by striking “he” each place it
24 appears and inserting “the Sec-
25 retary”; and

1 (II) by striking “his” and insert-
2 ing “the miner’s”; and
3 (iv) in the tenth sentence, by striking
4 “he” each place it appears and inserting
5 “the Secretary”; and
6 (13) in section 430 (30 U.S.C. 940)—
7 (A) by striking “1977 and” and inserting
8 “1977,”; and
9 (B) by striking “1981” and inserting
10 “1981, and the Black Lung Benefits Improve-
11 ment Act of 2022, and any amendments made
12 after the date of enactment of such Act,”.

13 **SEC. 302. SEVERABILITY.**

14 If any provision of this Act or any amendment made
15 by this Act, or the application of a provision of this Act
16 or an amendment made by this Act to any person or cir-
17 cumstance, is held to be unconstitutional, the remainder
18 of this Act, and the application of the provisions to any
19 person or circumstance, shall not be affected by the hold-
20 ing.

