

## BLACK LUNG COAL TAX

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SEPTEMBER 24, 1976.—Ordered to be printed

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Mr. LONG, from the Committee on Finance,  
submitted the following

## REPORT

[To accompany H.R. 10760]

together with

## MINORITY VIEWS

The Committee on Finance, to which was referred the bill (H.R. 10760) to amend the Federal Coal Mine Health and Safety Act to revise the black lung benefits program established under such Act in order to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

## I. SUMMARY OF THE BILL

The bill H.R. 10760 to amend the Black Lung Benefits Program passed the House of Representatives on March 2, 1976, and was reported to the Senate by the Committee on Labor and Public Welfare on September 16, 1976. Because the bill, as reported by that Committee, establishes an earmarked coal tax to finance the Black Lung Benefits Program, the bill has been referred to the Committee on Finance.

*Benefit provisions.*—The bill, as reported by the Committee on Labor and Public Welfare, modifies a number of the eligibility criteria with respect to benefits under the Black Lung Program and in particular cases some of the evidentiary requirements. The Committee on Finance did not make any modifications on these aspects of the legislation.

*Financing provisions.*—Under the present law and under H.R. 10760, as reported by the Committee on Labor and Public Welfare, a part of the cost of black lung benefits is charged directly against the former employer of the beneficiary when liability can be established

under certain statutory criteria. Where this is not possible, the present law provides for the costs of benefits to be financed out of Federal general revenues. The Labor and Public Welfare Committee bill would have substituted for general revenue financing, a tax on coal mining operations. The rate of tax would have been set by the Secretary of Labor according to the amount of revenue needed to meet the bill's requirements and the Secretary would have been given the discretion to vary the rate among different classes of coal mining operations.

## II. GENERAL DISCUSSION OF THE BILL

*The black lung program under present law.*—The present Black Lung Benefits Program provides benefits to miners totally disabled by black lung disease (pneumoconiosis) and to their dependents and survivors. There are actually two separate programs under the present law. For claims filed before June 30, 1973, benefits are paid out of Federal general revenues and administered by the Social Security Administration. This is a large scale program under which over 500 thousand beneficiaries are receiving benefits at a cumulative cost already in excess of \$4 billion. Benefits are payable for the life of the disabled miner and dependents as long as they continue to meet the conditions of eligibility. Under the second program, for claims filed after June 30, 1973, benefits are to be provided through approved state workmen's compensation laws, or, in the absence of such laws, through a program administered by the Secretary of Labor. As no state law has yet been approved, the program is entirely administered by the Secretary of Labor. Benefits are payable by the responsible coal operator, where one can be identified under standards in the law, and from general revenues where no responsible operator can be identified. At the present time, practically all benefits under this program are being paid out of general revenues.

*Amendments proposed by the Labor and Public Welfare Committee.*—The bill, as reported by the Labor and Public Welfare Committee makes significant changes in the present black lung program. These changes are of two basic types. First, the bill amends the program so as to significantly expand the eligibility for benefits and to ease the proof requirements for establishing eligibility. The most significant of these liberalizations of the program and the estimated amount of additional benefits that would result therefrom are summarized in the table below:

	Fiscal year <sup>1</sup> —				
	1977	1978	1979	1980	1981
Allows survivors to claim benefits even if miner was employed at the time of death.....	\$9.25	\$4.0	\$4.0	\$4.2	\$4.2
Expands term "miner" to include those who work on the surface, e.g., in processing or transporting coal.....	1.75	1.75	1.75	2.0	2.0
Creates certain presumptions of eligibility where miners have 25 years of mine employment.....	57.7	62.7	68.0	73.5	79.5
Allows miners to file for benefits even if they are still employed.....	5.0	1.7	1.7	2.0	2.0
Bars Labor Department from challenging X-ray interpretations submitted on behalf of claimants by any qualified radiologist.....	197.0	82.5	90.0	98.0	106.5
For survivorship claims, permits affidavits to be used to establish eligibility in the absence of medical evidence.....	17.7	8.0	8.7	9.2	10.0
Time limitation on filing claims for widows' benefits.....	6.5	7.5	8.7	10.0	11.5
Total increased benefit costs <sup>2</sup> .....	295.0	168.2	183.0	199.0	215.7

<sup>1</sup> These additional costs are the total of the benefits estimated to be paid by the trust fund and the additional benefits paid by the operators through insurance or self-insurance. The new costs chargeable to the Federal trust fund are shown in pt. III of this report.

<sup>2</sup> Totals may not add due to rounding.

Greater details on the liberalizations of these benefit provisions are contained in the report of the Labor and Public Welfare Committee (S. Rept. 94-1254).

The Labor and Public Welfare Committee also recommended a major change in the financing provisions of the benefit program administered by the Department of Labor. While it makes no change with respect to the financing of the benefits where a responsible operator can be identified, it provides a new financing mechanism in those cases in which no such operator can be found. Instead of such benefits being payable from Federal general revenues, benefits would be payable from a trust fund financed by assessments levied on coal operators by the Secretary of Labor. Operators would be assessed an amount sufficient to meet the fund's obligations. The Secretary would classify mine operations and levy a uniform per-ton assessment upon each classification.

The Committee on Finance has modified this tax provision to provide instead that the rate of tax will be 10¢ per ton of coal sold (15¢ in the case of anthracite). This tax, like other Federal taxes, would be assessed and collected by the Treasury Department.

*Trust fund for black lung benefits.*—The legislation reported by the Committee on Labor and Public Welfare establishes a Black Lung Trust Fund to receive the receipts of the new coal tax and to pay out the benefits in those cases where payments are not changed to individual mine operators. The Committee on Finance has made several amendments to the provisions in the bill as reported by the Labor and Public Welfare Committee. These amendments specify that the Secretary of the Treasury, not the Secretary of Labor, will be the managing trustee and they provide for the automatic appropriation into the trust fund of the amounts collected under the new coal tax. The Committee also authorizes general revenue appropriations for the trust fund if the receipts from the coal tax are insufficient to meet benefit costs.

Under the Labor and Public Welfare committee bill the trust fund was to be set up in the Labor Department with the Secretary of Labor as the managing trustee and with the Secretary of the Treasury and the Secretary of Health, Education, and Welfare as the other trustees. The trust fund would receive its funding from the coal taxes assessed by the Secretary and would be responsible for the costs of administering the program and for paying those benefits which were not chargeable against individual mine operators. (In addition, the fund would serve as a revolving fund, paying benefits in cases where mine operators failed or delayed in making the payments for which they were liable. When the amounts owed were subsequently collected from such defaulting employers, the fund would be reimbursed.) The bill also provided for the appropriation of funds as an advance from general revenues to meet the costs of benefit payments until the coal tax collections reached a sufficient level to operate the programs. These advances were to be repaid within five years.

*Finance Committee amendments.*—The Finance Committee, though concerned with the additional cost resulting from the benefit liberalizations proposed by the Labor and Public Welfare Committee, made no change in these provisions.

The Finance Committee limited its consideration to the financing provisions of the bill. It has retained the trust fund concepts embodied in the bill reported by the Labor and Public Welfare committee but has made a number of modifications consistent with its amendments to the coal tax provisions. The Committee was concerned with the degree of discretion given to the Secretary of Labor to levy assessments on the industry. He could establish classifications, but the bill did not specify any required basis for the classifications used. The Labor and Public Welfare Committee's report makes plain that the Secretary would have discretion to classify mines on the basis of the means of extracting coal, whether the operation is a mining or milling one, or the classification could be on the type of coal mine. The bill further states that the rates for the different classifications shall be established "on an equitable basis . . . which takes into account such factors as are appropriate including productivity of each class of mine operation." The Labor and Public Welfare Committee's report again specified a number of different factors which the Secretary may consider, including productivity, comparative incidence of disease and market value of the product. However, in effect, the matter of classification and rate variation is left to the discretion of the Secretary of Labor. The Committee has considerable doubt as to the constitutionality of such a delegation of taxing authority to the Secretary of Labor; but it has no doubt that it is unwise to do so. The Finance Committee amendment removes this discretionary authority and in fact provides that the trust fund will be financed by a specified excise tax on the first sale or use of coal. The rate of tax on anthracite is 15¢ per ton and on other types of coal is 10¢ per ton. This differential is due to the generally recognized fact that anthracite miners are subject to significantly higher risks of contracting black lung disease.

The Committee bill authorizes general revenue contributions to the fund to pay any excess of benefit costs over the amount received from the coal tax. The Committee estimates that the proceeds of the tax will be less than the amount of benefits payable from the trust fund. The Committee believes that this need for a general revenue contribution to the trust fund will call the attention of the Senate to the size of the costs involved in this program.

The Committee on Finance has also modified some of the technical aspects of the Black Lung Disability Trust fund to bring it into closer conformity with the model of the Social Security trust funds. The Secretary of the Treasury (rather than the Secretary of Labor) is designated to hold the fund and to serve as the managing trustee. Specific provision is made for the automatic appropriation into the trust fund of amounts equal to all coal tax collections.

*Detailed explanation of coal excise tax provision.*—The Finance Committee amendment to the bill imposes a new excise tax on the sale of coal by the producer. This excise tax is added to the manufacturers excise tax provisions already existing in the Internal Revenue Code, and in general the same rules applicable to those taxes are to be applied to the new excise tax on coal. However, the tax is imposed only on coal produced in the United States, not on coal imported into the United States.

The excise tax is imposed at a rate of 15¢ per ton on the sale of anthracite coal which is extracted by shaft, drift, or slope mining

techniques from underground deposits. All other coal (including lignite) is subject to the tax at a rate of 10¢ per ton. The determination of what coal is considered to be anthracite coal is to be made in accordance with the conventional industry definition of that type of coal.

Although the tax is imposed on the sale of coal by the producer, use by the producer (for example, coal mined by a steel company for its own use) is, under the rules of present law applicable to manufacturers excise taxes generally, to be treated as sold by that producer. In these cases the constructive sale is to be treated as having taken place after the mining of the coal and after any sizing, breaking, and cleaning of the coal.

The exemptions for sales for various uses which are provided generally under the various manufacturers excise taxes are not provided for purposes of the tax on coal. Thus, for example, coal that is produced in the United States but is subsequently exported is to be subject to the excise tax. Moreover, sales to the United States Government for its own use are not to be exempted from this tax. In addition, sales to another person for further manufacture are not to be exempted. For example, if a coal producer sells coal which is to be processed into coke, the tax is to be imposed on the producer of the coal and not on the subsequent processor. Similarly, if a coal producer processes coal into coke for its own use, the tax is to be imposed on the coal rather than on the processed coke. However, the rules applicable to other manufacturers excise taxes which relate to imposing the tax on persons that acquire taxable articles in nontaxable transfers (for example, where such articles are assigned to a creditor or are received in bankruptcy proceedings) are to apply for purposes of the excise tax on coal.

Finally, the rules governing the assessment and collection of manufacturers excise taxes generally apply to the new excise tax on coal.

The new tax on coal is to apply to sales taking place after March 31, 1977. In the case of coal used by the producer, the tax is to be imposed on any coal which reaches the point of constructive sale after that date.

### III. BUDGETARY IMPACT OF THE COMMITTEE BILL

The amendments to the bill made by the Committee on Finance do not affect benefit expenditures under the Black Lung Benefits program. Reports on the costs and revenues of the Finance Committee bill and the Labor and Public welfare committee bill are included at the end of this section of the report. The committee estimates that the revenues anticipated from the tax on coal will, over the next five years, be somewhat less than the new costs of the bill which are chargeable to the trust fund.

(In millions)

	Fiscal years--					5-year total
	1977	1978	1979	1980	1981	
New revenues .....	\$30	\$74	\$77	\$80	\$84	\$345
New costs chargeable to trust fund.....	101	57	61	65	69	353

The costs shown in the above table are in addition to the current law costs of operating the black lung benefits program. The bill would also transfer to the trust funds certain costs which have been charged to general revenues. This intra-fund transfer would not have any overall budgetary impact.

### CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE, SEPTEMBER 24, 1976

1. Bill number: H.R. 10760.
2. Bill title: Black Lung Benefits Reform Act of 1975.
3. Purpose of bill: The Senate Finance Committee, to whom H.R. 10760 was re-referred from the Senate Committee on Labor and Public Welfare, amended section 6 of this bill with regard to the means of raising revenues to support the Black Lung Trust Fund. Under the Finance Committee's provision, a sales tax of 10 cents per ton is placed on coal (15 cents per ton for anthracite), the receipts of which will be collected by the Treasury Department and paid into the fund. The bill also authorizes funds to be appropriated from general revenues to meet the remainder of the funds required for benefit payments and expenses for which the trust fund is liable under H.R. 10760.
4. Cost estimate:

[In millions of dollars]

	1977	1978	1979	1980	1981
Total trust fund liability.....	130.5	89.7	96.3	103.1	110.7
Revenues to the trust fund.....	30.0	73.7	77.2	79.8	83.9
Additional appropriations required above current law.....	70.5				
Net budget savings below current law.....		16.0	16.3	15.0	14.8

5. Basis for estimate: Total trust fund liability is based upon the estimated liability for new entitlements under H.R. 10760 (see Senate Report 94-1254 for cost estimate), plus the present and future liability for Part C under current law.

Projected revenues to the trust fund are based on estimates of coal production provided by the Joint Tax Committee. For fiscal year 1977, because of the effective date of April 1, 1977, only half-year revenues were calculated. Also, because collections are lagged one month, revenues in the last month of each fiscal year are reflected in the following year totals.

Additional appropriations and net savings are based upon the difference between the total costs generated by H.R. 10760 less the revenues raised through the tax provision. Where revenues exceed the costs of the bill, the savings will be seen in the decreased appropriations necessary to cover liability generated for Part C under current law. Current law projections assume an annual growth rate in claims of 15,000 with an estimated approval rate of 10 percent. Costs to the trust fund for future years for these beneficiaries do assume, however, a 60 percent identification rate for responsible mine operators, as would be the case under H.R. 10760.

6. Estimate comparison: Not applicable.
7. Previous CBO estimate: A cost estimate was prepared for the House version of H.R. 10760 in December of 1975. The cost estimate prepared for the Senate version was transmitted on September 20, 1976.
8. Estimate prepared by: Jeffrey C. Merrill.
9. Estimate approved by:

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

## CONGRESSIONAL BUDGET OFFICE

### COST ESTIMATE

1. Bill number: H.R. 10760
2. Bill title: Black Lung Benefits Reform Act of 1976
3. Purposes of bill: H.R. 10760 provides for the reform of the present black lung benefits program by expanding and redefining entitlements to that program, by establishing a black lung disability benefit trust fund, and by transferring to the Department of Labor claims that had been denied under part B which could be reopened as a result of this bill.

The following provisions in the bill will have an impact on the overall cost of the black lung program:

A. Section 2 amends the definition of a "miner" to include "any individual who works or who has worked in or around a coal mine in coal extraction or the processing and transporting of coal". The section also provides for survivors of miners who had been employed at the time of their death to now file a claim for benefits.

B. Section 3 establishes a new entitlement to benefits for a living miner if that miner had worked 25 years or more in the mines and is partially or totally disabled and, also, establishes an irrebuttable presumption for the survivors of miners who had worked 25 or more years in the mine before the time of their death.

C. Section 4 eliminates the provision under current law that establishes current employment as a bar to filing for benefits.

D. Section 5 amends current law to now require the Secretary to accept the interpretation of an X-ray submitted in support of a claim if that X-ray were interpreted by a board-certified or eligible radiologist. Current law would allow for the re-reading of such X-rays. Also, under section 5, is a proviso which specifically allows a claim supported by affidavits in the case of a deceased miner, if there is no other medical evidence, to be accepted as evidence of the disability.

E. Section 6 provides for the establishment of a trust fund within the Department of Labor to pay all claims under part C where the responsible mine operator cannot be identified. This section also amends Section 422(i) of the Black Lung Act to provide that an operator who acquired a mine or its assets from a prior operator after January 1, 1959, shall

be liable for benefits which would have been payable by the prior operator. This provision moves the date back ten years from that which exists under current law.

F. Section 7 removes the current time limitation on filing of a claim by a widow from the present three years. This section also authorizes \$10 million each fiscal year for black lung clinical facilities.

G. Section 8 authorizes the Secretary of Labor to establish the necessary field offices to assist claimants with the filing and processing of claims.

H. Section 10 provides that any person who filed a part B claim and whose claim had been ultimately denied by the Social Security Administration, may file a new claim under part C if they deem that, under the provisions of this bill, they would now become eligible for entitlement.

I. Section 12 requires the Department of Labor, in conjunction with the National Institute of Occupational Safety and Health, to study all occupationally related lung diseases in the United States, including an analysis of factors similar to coal workers pneumoconiosis and its sequelae. This study would also look at the adequacy of workers' compensation programs for such diseases and the status and adequacy of federal activities in the areas of health and safety.

#### 4. Cost estimate:

[In millions of dollars]

	1977	1978	1979	1980	1981
Sec. 2(c)—Employment at time of death .....	3.7	1.6	1.6	1.7	1.7
Sec. 2(b)—"Miner" definition .....	.7	.7	.7	.8	.8
Sec. 3—25-year presumption .....	23.1	25.1	27.2	29.4	31.8
Sec. 4—Current employment bar .....	2.0	.7	.7	.8	.8
Sec. 5(a)—					
Rereadings of X-rays .....	78.8	33.0	36.0	39.2	42.6
Affidavits as evidence .....	7.1	3.2	3.5	3.7	4.0
Sec. 6(b)—Offsets due to 1959 cutoff .....	-20.5	-10.2	-12.4	-14.8	-17.2
Sec. 7(e)—Headline on widows' filing .....	2.6	3.0	3.5	4.0	4.6
Sec. 7(f)—Clinical facilities .....	10.0	10.0	10.0	10.0	10.0
Sec. 8—Field offices .....	2.5	2.6	2.8	3.0	3.2
Sec. 12—Lung diseases study .....	1.5	.8			
Total program costs .....	111.5	70.5	73.7	77.8	82.3
Administrative costs .....	3.0				
Total costs .....	114.5	70.5	73.7	77.8	82.3

5. Basis for estimate: In general, the data used to develop the cost estimates of the various sections was provided by the Department of Labor and the Social Security Administration. Assumptions for the average monthly benefits for both miners and survivors were based upon the 1976 average monthly benefits inflated by CBO Federal pay raise projections for the next five years. Thus, an average benefit of \$295 per month was used for miners in 1977 and a \$218 benefit for survivors. Future benefits were inflated by 6 percent in 1978 and 6.2, 6.1, and 6.3 percent for 1979-1981, respectively.

The overall additional costs to the Federal government resulting from sections 2, 3, 4, 5, and 7(e) are based solely on the liability to the trust fund. Although the entitlement

provisions of this bill would increase benefit payments significantly, according to the Department of Labor only 40 percent of that total would be paid through the trust fund, with the remaining 60 percent paid by the responsible mine operators. The Department of Labor indicates that the provision under Section 6 which moves the date back to 1959 to establish liability of the mine operators would increase the identification rate of those operators from the present 25 percent up to 60 percent. The following represents, on a section-by-section basis, the assumptions used in determining the costs related to those sections:

Section 2, the definition of "miner" in Section 2 would provide, according to testimony of the independent coal operators, an additional 500 potential beneficiaries among the small coal mine operators to the program. Estimates for the cost of this section are, thus, based upon this number of potential beneficiaries and use, in calculating 1978-1981 costs, projected mortality rates of 7.6 percent in 1978 (and an additional 0.3 percent per year) for miners and 4.4 percent (and an additional 0.2 percent per year) for survivors. These mortality rates, supplied by the Social Security Administration, are used throughout this cost estimate.

Also under section 2, the provision that a miner's survivor—who had been previously barred from filing a claim because the miner was employed at the time of his death—can now file would, according to the Social Security Administration, apply to a total of 1,500 survivor beneficiaries. Costs were estimated using this estimate and, because of the retroactivity back to 1974 of this provision, a total first-year benefit of \$6,215 was used. It should be noted that, throughout this estimate, where retroactivity is included, the first-year benefit will be \$8,416 for entitlements where both miners and survivors are involved and \$6,215 where, as in this case, only survivors were involved.

Section 3 provides entitlement to benefits for miners who have worked 25 or more years in the mines and have a partially or totally disabling respiratory or pulmonary impairment. This provision also establishes an irrebuttable presumption for entitlement to the survivors of miners who had served 25 years in the mines. The costs attributable to this section involve both beneficiaries who had originally applied for benefits under Part B and had been denied, as well as new beneficiaries under Part C (including some who had applied and been denied). Social Security estimates that the total number of individuals who have worked 25 years in the mines and applied under their program was 20,000. Under Part C, there are an estimated 17,600 beneficiaries. Of this total potential population of 37,600, CBO estimates that there is a total of 11,925 survivors who would be automatically entitled and 7,520 miners who would also qualify with 25 years and a partial disability. Multiplying this by the average annual benefit for each year between 1977 and 1981 and using the mortality rates listed above, estimates

were made of the costs of the beneficiaries. As well, additional costs were attributed to this provision because of an increase in claims of 15,000 per year filed with the Department of Labor for 1978 through 1981.

Section 4 provides that a miner may file a claim, while still employed, if the miner has ten or more years in a coal mine, if he has x-ray evidence of pneumoconiosis, or if he is eligible to exercise the option to transfer to a less dusty mine area. This provision amends the Act which barred individuals from filing claims while still employed. According to the Social Security Administration, this would bring a total of 600 new beneficiaries into the program and would provide payments retroactively as far back as 1974. The estimate of costs was based upon this number of beneficiaries and used \$8,416 for the average retroactive payment in 1977, the average monthly payments in subsequent years, and the mortality rates listed above. The Department of Labor indicated this section would have no significant cost impact.

Section 5 makes two cost-relevant changes in the Act: First, the Secretary of Labor will now be required to accept an interpretation of an x-ray submitted in support of a claim if such interpretation was made by a board-certified or board-eligible radiologist and if the x-ray was of acceptable quality and taken by a qualified technologist or technician. Based upon a study prepared by the Department of Labor of claims denied under Part C, it is estimated that 28 percent of those denials were based solely on a rereading of an x-ray. Because this bill requires that interpretation to have been done by a board-certified or eligible radiologist, it is further assumed that only 50 percent of those claims would now become eligible under this provision. SSA indicates that there are approximately 84,000 denials and the Department of Labor, based upon the number of claims presently filed, indicates 80,000 potential denials. Using these as bases, and accounting for retroactivity, the costs for 1977 were determined. The potential effect on future applicants under Part C was determined by assuming the same overall 14 percent of potential claims denied for the 15,000 new applicants projected for each of the future years. Also, outyear costs included the same mortality rates and increases in the average benefit payments as for the above sections. Under Section 5, as well, the costs of the provision which specifically allows a claim supported by affidavits in the case of a deceased miner were also calculated. The number of potential beneficiaries was estimated by the Social Security Administration at 2,000 and, under Part C, by the Department of Labor, at 860. In determining the costs, retroactivity was included in the 1977 estimate.

Section 6 establishes the trust fund and the assumption of liability by that fund for payment of claims where no responsible mine operator can be identified. This section has cost impact in two ways: (1) Since 60 percent of the claims can be attributed to a responsible mine operator, only 40 percent

of these costs resulting from this bill will be shown as Federal expenditures; and (2) because of the provision under this section that moves the date from which an operator can be liable for benefits from 1969 to 1959, the identification rate of responsible mine operators will increase from 25 to 60 percent. This increase in the identification rate will decrease the Federal liability for present and future claims that will be approved under current law. Assuming current law, the total potential liability for approved claims under Part C, given the present filing and approval rates, would be \$60 million in 1977. If the identification rate were 25 percent, then the Federal government would be liable for \$45 million of this amount. However, if the identification rate were 60 percent, the Federal government would only be liable for \$24 million and thus a savings can be seen (the actual numbers were slightly different from \$60 million—thus, the actual savings amounted to \$20.5 million).

Section 7 removes the time limitation on filing of a claim by a widow. According to the Department of Labor, this could potentially involve 10,000 claims. Using a 20 percent approval rate (based upon the 10 percent approval rate under existing law and an additional 10 percent based upon the provisions in this bill), it is calculated that there would be a total of 2,000 additional new beneficiaries. Costs were projected on this basis with no inclusion of retroactivity.

Section 7 also provides authorization of \$10 million for each fiscal year for black lung clinical facilities. This total sum is included in the cost estimate for the five-year period.

Section 8 authorizes the Secretary of Labor to establish necessary field offices to assist claimants with filing and processing of claims. The Department of Labor estimated 1977 costs for these field offices at \$2.5 million. Subsequent years costs are based upon this, inflated by the Federal wage deflators listed.

Although Section 10, in itself, does not have any cost implications, it merits some discussion because of its effect on Part B claims. Under Section 10, any person who filed a Part B claim in the past and whose claim was finally adjudicated as denied by the Social Security Administration, is permitted to file a new claim under Part C if they deem that they would now be entitled to services. The effect of this provision is, according to the Social Security Administration, to essentially eliminate any new entitlements under Part B and transfer all entitlements to Part C. All the costs that have been calculated under this bill that relate to entitlements will be Part C costs and therefore payable under either the trust fund or by the responsible mine operator. In a sense, this section represents a potential cost savings, for without it, all new entitlements provided under this bill could be possibly filed under Part B. Since 100 percent of the costs under Part B are paid by the Federal government as opposed to the projected 40 percent under Part C, the overall Federal costs of this bill would be significantly greater.

Section 12 requires the Department of Labor, in conjunction with the National Institute of Occupational Safety and Health, to study occupationally related lung diseases in the United States. In order to carry out this study, it is estimated that the costs—for the 18 months necessary to complete the work—would be \$1.5 million in the first year and \$800,000 in the second year.

The administrative costs to the Department of Labor to implement this bill are calculated on the basis of an assumption of a total of 100,000 claims processed in the first year, which would require approximately 120 man-years. Using \$25,000 per man-year (including support services) as an estimated cost, the overall 1977 administrative costs were estimated. Increased administrative costs due to this bill in subsequent years are assumed to be insignificant.

6. Estimate comparison: None.

7. Previous CBO estimate: A previous cost estimate was prepared for the House version of H.R. 10760. Because of major differences between that bill and the Senate version, a cost comparison would not be applicable.

8. Estimate prepared by: Jeffrey C. Merrill.

9. Estimate approved by:

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

#### IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee on the motion to report the bill. The bill was ordered reported by voice vote.

#### CHANGES IN EXISTING LAW MADE BY THE BILL

In the opinion of the committee, it is necessary, in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the committee amendment, as reported).

## MINORITY VIEWS

H. R. 10760 would amend the Black Lung Benefits Act of 1969 to greatly liberalize the eligibility requirements for black lung benefits. The bill was referred to the Committee on Finance because of its financing provisions which call for the creation of a Black Lung Disability Trust Fund to be financed by assessments on coal mine operators.

The substantial changes recommended by the Committee's majority will significantly improve the financing provisions of the bill. Nevertheless, we cannot support this bill. We should emphasize, however, that we do not oppose making disability benefits available to those who in fact suffer from black lung disease as a result of working in mines. Rather, we strongly endorse full and adequate lifetime compensation for sufferers from black lung, equated on the basis of their disability. But this bill does more than that. It will preclude doctors retained or employed by the government from reviewing cases to determine if an individual in fact has black lung disease. Moreover, it will create a presumption that if the disease is present to any extent in anyone who works in or around a mine for a specified period of years, he will be considered totally disabled and entitled to benefits.

Recognizing that changes such as those described above will cause a significant increase in benefit payments, the bill creates a benefit trust fund to be financed by so-called "assessments" (which in reality are taxes) on the coal industry. As referred to the Committee on Finance, the taxing provisions were so vague and left so much to administrative discretion that some on the Committee had concern that the provision could raise substantial constitutional questions. The Committee's changes are improvements, but much remains to be done before this bill is in a form which warrants enactment. For example, available evidence suggests that the incidence of black lung disease varies greatly with the type of coal and the type of mine involved. The Committee bill makes an attempt to recognize this fact, but it may well be that the two-tier rate of tax approved by the Committee should be further divided. At this late date, consideration of such additional refinements is virtually impossible. In our view, action next year on this bill would permit a more equitable taxing structure to be developed.

We also have a more basic question about the use of a trust fund to finance these benefits. Trust funds have in the recent past been roundly criticized as leading to uncontrolled and uncontrollable spending. Although this particular trust fund will nominally be funded by assessments on a single industry, it still involves the collection of a tax followed by a disbursement of these public funds in an "off-budget" process. Such collections and disbursements may well belong within, rather than without, the Congressional budget and appropriations process.

In our view, this bill makes some highly questionable changes in the benefit structure and thus makes it necessary to develop a new source of financing. The Finance Committee's approach is an improvement, but much needs to be done both to make any system of taxation more equitable and to assure that we are not embarking on a precedent setting system of off-budget financing for occupational diseases.

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