

**EXPLANATION OF S. 1957 (BLACK LUNG
BENEFITS REVENUE ACT OF 1981)**

As Ordered Reported by the

COMMITTEE ON FINANCE
ROBERT J. DOLE, *Chairman*
UNITED STATES SENATE

**PREPARED BY THE STAFFS OF THE COMMITTEE ON FINANCE
AND THE JOINT COMMITTEE ON TAXATION**



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INTRODUCTION

This pamphlet describes the provisions of the Black Lung Benefits Revenue Act of 1981, S. 1957, an original bill, as ordered reported by the Committee on Finance on December 14, 1981. There was no printed report for S. 1957. When the Senate considered H.R. 5159, the Black Lung Benefits Revenue Act of 1981 as passed by the House of Representatives and the amendments thereto, this explanation was available to Members and their staffs.

This explanation includes a description of a committee amendment terminating authority for the Black Lung Disability Trust Fund to borrow from the general fund of the Treasury, an amendment that was not considered by the Senate in amending and adopting H.R. 5159. This explanation does not describe the provisions of Subtitle B of Title I of H.R. 5159 as passed by the Senate (Miscellaneous Revenue Amendments) nor does it describe Title II (Black Lung Benefits Amendments of 1981) of the Act, also added by the Senate.

This pamphlet is prepared for the use of the Committee on Finance and the Senate, and it includes the material normally presented in Finance Committee reports filed with the Senate, such as budget effects, vote of the Committee, etc.

The first part of the pamphlet is a summary of S. 1957. The second part is the explanation of the provisions of the bill. The third part is the discussion of the budget effects and vote of the committee. Part four discusses the regulatory impact and other matters required for committee reports under Senate rules, and part five notes that the changes to existing law made by the bill are not included in this document.

I. SUMMARY

Under present law, an excise tax is imposed on a coal producer's sale or use of coal (except lignite) equal to 50 cents per ton for underground-mined coal and 25 cents per ton for surface-mined coal. However, the tax cannot exceed 2 percent of the price for which the coal is sold. Amounts equal to the revenues of the excise tax on coal are automatically appropriated to the Black Lung Disability Trust Fund, as established by the Black Lung Benefits Revenue Act of 1977.

Under the bill, the coal excise tax is increased, on January 1, 1982, to one dollar per ton for underground-mined coal and 50 cents per ton for surface-mined coal, with a cap of 4 percent of the price for which the coal is sold. The tax will revert to present law levels by January 1, 1986, or, if earlier, when the trust fund has repaid all advances and interest from the general fund of the Treasury.

In addition, the bill modifies the computation of interest on certain amounts owed to or by the trust fund. The bill also terminates authority to appropriate advances to the trust fund from the general fund of the Treasury after September 30, 1985. The bill amends the obligations of the fund to include certain claims that had been previously denied and subsequently approved and to exclude payments of certain retroactive lump sum benefits. Finally, the bill transfers provisions which establish the Black Lung Disability Trust Fund to the Internal Revenue Code.

II. EXPLANATION OF THE BILL

A. Present Law

Excise tax on coal

Under present law, a manufacturers excise tax is imposed on domestically mined coal (other than lignite) which is sold or used by the producer (Code secs. 4121 and 4218). The rate of tax is the lesser of (1) 50 cents per ton for coal from underground mines and 25 cents per ton for coal from surface mines or (2) 2 percent of the price for which the coal is sold.

Amounts equal to the revenues from this excise tax (plus any revenues from the penalty tax on taxable expenditures from a coal mine operator self-insurance trust, described below) are automatically appropriated to the Black Lung Disability Trust Fund.

Black Lung Disability Trust Fund

The Black Lung Disability Trust Fund was created in 1978 pursuant to the Black Lung Benefits Revenue Act of 1977 (Public Law 95-227). The trustees of the fund are the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services. The Secretary of the Treasury is the managing trustee.

Amounts in the fund are available pursuant to appropriation acts to pay for benefits to certain coal miners who are totally disabled by pneumoconiosis ("black lung" disease) arising out of coal mine employment and to their survivors. Generally, the fund is required to pay benefits with respect to claims in which the miner's last coal mine employment was before January 1, 1970, provided the claim is filed after June 30, 1973. With respect to other claims filed after June 30, 1973, the fund pays benefits if there is no coal mine operator among the miner's employers who is responsible for paying such benefits (a "responsible operator") or if the responsible operator is in default. When an operator is determined to be responsible for the payment of benefits which in fact have been paid out of the fund, then the operator is obligated to reimburse the fund for those amounts plus interest computed at the rate of 6 percent per annum.

When receipts of the trust fund are less than its expenditures, advances are appropriated from the general fund of the Treasury to the trust fund. These advances are repayable, and interest on such advances is charged at a rate equal to the average rate of interest, computed as of the end of the calendar month preceding the month in which the advance is made, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt.

The expenses of the Department of Labor and the administrative expenses of the Department of Health and Human Services for the claims programs financed through the trust fund are paid out of trust moneys. The fund also bears the cost of its own administration as well as the costs of administering the collection of the excise tax on coal.

Coal mine operators' self-insurance trusts

Present law provides that a responsible operator may fund its liability for black lung benefits through deductible contributions to a qualified tax-exempt trust (Code sec. 501(c)(21)). To qualify, this trust must be established for the sole purpose of satisfying the operator's liability under Black Lung Acts, paying premiums for insurance exclusively covering such liability, and paying administrative expenses of the trust. Moneys of a qualified trust that are not needed to satisfy current liability may be invested only in Government securities or insured savings deposits.

Misuse of a trust due to self-dealing (Code sec. 4951), expenditures for an improper purpose (Code sec. 4952) or excessive contributions to the trust (Code sec. 4953), triggers certain excise taxes. Amounts collected under these provisions, which in the past have been very small, are deposited in the general fund, except that amounts equal to the taxes collected under the operation of Code section 4952 are appropriated to the Black Lung Disability Trust Fund.

Condition of the Black Lung Disability Trust Fund

For fiscal year 1981, it is estimated that the fund expended \$644 million for benefit payments net of reimbursements, \$36 million for administrative expenses and \$109 million for interest, or a total expenditure of \$789 million. Coal excise tax collections for fiscal year 1981 are estimated to have been \$237 million, producing a deficit of \$552 million for the year. Annual deficits of the fund were \$19 million in fiscal year 1978, \$401 million in 1979 and \$536 million in 1980. Thus, the cumulative deficit of the fund at the close of fiscal year 1981 is estimated to be approximately \$1.5 billion.

B. Reasons for Change

The committee is concerned that the Black Lung Disability Trust Fund has experienced a deficit in every year of its operation and that these deficits have been increasing. The committee believes that several amendments are required to reduce and ultimately to eliminate the deficit of the fund.

As the fund is financed principally by revenues from the excise tax on coal, the committee believes that this tax should be increased temporarily until the fund has repaid its advances from the general fund of the Treasury. In addition, the committee believes that the interest rate charged on amounts which a coal mine operator is required to reimburse to the fund should be modified to reflect more accurately the cost of borrowing money, so that any decision to contest a claim or to prolong the time taken for reaching a settlement is not biased by application of a below market interest rate. Similarly, the committee believes that the interest rate charged on a repayable advance from the Treasury should be modified to reflect more accurately the anticipated term of the advance.

The committee believes that amendments to the obligations of the fund are needed in order to distribute more equitably the costs of certain claims awarded pursuant to provisions of the Black Lung Bene-

fits Reform Act of 1977 and to reduce expenditures from the fund in cases of contested claims.

The committee believes that amendments are needed to facilitate the exercise of its responsibilities with respect to the Black Lung Disability Trust Fund. Specifically, the committee believes that provisions which establish the fund and relate to its management should be transferred to the Internal Revenue Code, that these provisions should be standardized and updated to conform to the language of other trust funds, and that the financing of the fund should be considered in connection with any expansion of the expenditure purposes of the fund. The committee also believes that authority for further borrowing by the fund from the general fund of the Treasury should be terminated after fiscal year 1985, in light of the increased taxes and other amendments provided by this bill.

The committee believes that revisions to the eligibility requirements for a miner or his survivor to receive black lung benefits are required. The committee anticipates that such revisions will be proposed by the Committee on Labor and Human Resources as amendments to this bill and recommends that this bill not be passed unless so amended.

C. Explanation of Provisions

1. Excise tax on coal

Under the bill, the manufacturers excise tax on coal is increased to the lesser of (1) \$1 per ton for coal from underground mines and 50 cents per ton for coal from surface mines or (2) 4 percent of the price for which the coal is sold. These rates will revert to present law rates on January 1, 1986, or, if earlier, on the first January 1 after 1981 as of which there is no balance of repayable advances made to the Black Lung Disability Trust Fund and no unpaid interest on such balances.

The bill also appropriates to the Black Lung Disability Trust Fund amounts equal to the excise taxes collected under the operation of Code sections 4951 (relating to self-dealing) and 4958 (relating to excess contributions), in addition to the amounts appropriated under present law under the operation of section 4952 (relating to taxable expenditures from a coal mine operator's self-insurance trust).

2. Obligations of the trust fund

Under the bill, certain claims which had been assigned to individual coal operators will be transferred to the Black Lung Disability Trust Fund. In general, these are claims which had been denied prior to March 1, 1978, but which had been re-reviewed and approved under the liberalized eligibility criteria and evidentiary standards of the Black Lung Benefits Reform Act of 1977 (Public Law 95-239). It is expected that the definition of such claims will be established, consistent with that definition contained in S. 1922 (97th Congress, 1st Session), in a new section 402(i) of the Black Lung Benefits Act.

In addition, for claims filed after the date of enactment, the bill eliminates the present law obligation of the fund to pay retroactive lump sum benefits when an initial determination of eligibility is made but the responsible operator contests the award. However, the bill does not

affect the present law obligation of the fund to pay benefits that accrue after this initial determination.

The bill provides that fund moneys will be available to meet obligations incurred under sections 402(i), 422, and 435 of the Black Lung Benefits Act, as such sections are in effect immediately after the enactment of this bill. This provision requires that the expenditure purposes of the fund be conformed by the tax-writing committees of Congress to reflect substantive changes relating to eligibility and benefits made by other appropriate committees, before the fund will make payment for any such amended purpose. This provision is to insure that the fund will have sufficient revenue to satisfy obligations arising from amendments made after enactment of this bill.

3. Methods of computing interest

Under the bill, interest for any period charged by the Black Lung Disability Trust Fund on amounts which the fund has paid and for which a mine operator is liable generally will be computed at the interest rate that applies for the period to tax deficiencies and overpayments under Code section 6621. However, for any period during calendar year 1982, this interest rate will be 15 percent.

In addition, the bill amends the method for computing interest payable by the fund to the general fund on repayable advances. Under the bill, the interest rate that will be applied is a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.

4. Transfer of trust fund provisions to the Internal Revenue Code

Under the bill, provisions which establish the Black Lung Disability Trust Fund and relate to its management and provisions by which amounts appropriated to the fund are transferred from the general fund of the Treasury will become provisions of the Internal Revenue Code of 1954. The Black Lung Disability Trust Fund established by the bill will be treated for all purposes of law as the continuation of the Black Lung Disability Trust Fund established by section 8 of the Black Lung Benefits Revenue Act of 1977.

The bill will standardize and update provisions of the Black Lung Disability Trust Fund to conform to the language of other trust funds. The committee intends no substantive effect in deleting archaic language in present law, such as language which provides that the fund remain available without fiscal year limitation. In conforming language relating to the annual report of the Secretary of the Treasury to Congress on the condition of the fund, the committee does not intend to preclude inclusion in such annual report of any items of special pertinence to the Black Lung Disability Trust Fund (such as recommendations of the trustees with respect to changes in revenues to or expenditures from the fund).

5. Termination of trust fund borrowing authority

The bill terminates authority to appropriate advances to the fund from the general fund of the Treasury after September 30, 1985.

D. Effective Dates

In general, the provisions of the bill are effective on January 1, 1982. Thus, the increased excise tax on coal is effective for sales or use by a coal producer after December 31, 1981. The modified method for computing interest payable on repayable advances applies to advances made after December 31, 1981. The modified method for computing interest on operator liabilities is effective on January 1, 1982, and applies to amounts outstanding on such date or arising thereafter.

The provision terminating authority to appropriate advances to the fund from the general fund of the Treasury is effective beginning October 1, 1985.

E. Revenue Effect

The increased excise tax on coal is estimated to increase receipts of the Black Lung Disability Trust Fund by \$198 million in fiscal year 1982, \$299 million in 1983, \$318 million in 1984, \$327 million in 1985, and \$349 million in 1986.

The increased excise tax on coal is estimated to increase net tax receipts (after accounting for lower income tax receipts) by \$141 million in fiscal year 1982, \$218 million in 1983, \$228 million in 1984, \$239 million in 1985 and \$255 million in 1986.

According to estimates of the Department of Labor, under the amendments made by the bill (in conjunction with amendments relating to benefits and eligibility as proposed by the Administration), the trust fund is projected to need no further advances from the Treasury after fiscal year 1985 and to have repaid all outstanding advances before 1996.

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING THE BILL

A. Budget Effects

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made about the effect on the budget of this bill, S. 1957, as ordered reported.

This bill is estimated to have the following effect on budget receipts.

ESTIMATED REVENUE EFFECTS OF S. 1957

AS ORDERED REPORTED BY THE COMMITTEE ON FINANCE

[Millions of dollars]

| | Fiscal year— | | | | |
|---|--------------|------|------|------|------|
| | 1982 | 1983 | 1984 | 1985 | 1986 |
| Increase in receipts to the Black Lung Disability Trust Fund..... | 193 | 299 | 313 | 327 | 349 |
| Net increase in budget receipts (after accounting for lower income tax receipts)..... | 141 | 218 | 228 | 239 | 255 |

The Treasury Department estimates that the increase in receipts to the Black Lung Disability Trust Fund will be \$200 million in fiscal year 1982, \$307 million in 1983, \$324 million in 1984, \$341 million in 1985, and \$361 million in 1986.

B. Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the committee on the motion to report the bill. S. 1957 was ordered favorably reported by voice vote.

IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

A. Regulatory Impact

Pursuant to paragraph 11 (b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of this bill.

1. Numbers of individuals and businesses who would be regulated

The bill does not involve new or expanded regulation of individuals or businesses.

2. Economic impact of regulation on individuals, consumers, and businesses

The bill does not involve economic regulation.

3. Impact on personal privacy

This bill does not relate to the personal privacy of taxpayers.

4. Determination of the amount of paperwork

The bill generally will not affect the current amount of paperwork for taxpayers.

B. Other Matters

Consultation with Congressional Budget Office on Budget Estimates

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates. The views of the CBO with respect to the budget effects of the provisions of the bill are expressed in the letter that follows:

**U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 16, 1981.**

**HON. ROBERT J. DOLE,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.**

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 1957, the Black Lung Benefits Revenue Act of 1981.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

**JAMES BLUM,
(For Alice M. Rivlin, Director).**

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number S. 1957.
2. Bill title: Black Lung Benefits Revenue Act of 1981.
3. Bill status: As reported by the Senate Committee on Finance December 14, 1981.
4. Bill purpose: This bill has four objectives. First, it would change the rate of the excise tax imposed on coal sold after December 31, 1981. Currently, the tax is equal to 50 cents per ton for underground source coal and 25 cents per ton for surface source coal, subject to a constraint of 2 percent of the price for which the coal is sold. The bill would change the rate to \$1.00 per ton for underground mined coal and 50 cents per ton for surface mined coal, but not to exceed 4 percent of the sale price of the coal. Second, the bill would change the computation of interest owed to or by the Black Lung Trust Fund. Currently, mine operators who contest Black Lung claims and who are ultimately found liable must repay the Trust Fund for the benefits that the Trust Fund has paid out in the interim plus a 6 percent interest charge. The bill would change this interest rate to that which applies to Federal tax deficiencies and overpayments for that given period. Third, the bill would transfer into the Trust Fund responsibility for payment of 10,200 cases previously the payment responsibility of mine operators. Fourth, the bill would terminate the trust fund's authority to borrow from the advance account after September 30, 1985.
5. Cost estimate: This bill would result in additional future liabilities through a change in the funding of existing entitlements that would require subsequent appropriation action to provide the necessary budget authority for fiscal year 1982. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of S. 1957.

[By fiscal years, in millions of dollars]

| | 1982 | 1983 | 1984 | 1985 | 1986 |
|--|-------|-------|-------|--------|--------|
| Coal tax rate increase: | | | | | |
| Required budget authority..... | -9.1 | -34.2 | -66.7 | -101.3 | -136.3 |
| Estimated outlays..... | -9.1 | -34.2 | -66.7 | -101.3 | -136.3 |
| Interest rate increase: | | | | | |
| Required budget authority..... | -1.9 | -2.1 | -0.1 | -1.2 | 1.2 |
| Estimated outlays..... | -1.9 | -2.1 | -0.1 | -1.2 | 1.2 |
| Transfer of cases into trust fund: | | | | | |
| Required budget authority..... | 37.5 | 21.7 | 29.7 | 27.5 | 47.4 |
| Estimated outlays..... | 37.5 | 21.7 | 29.7 | 27.5 | 47.4 |
| Termination of borrowing authority: | | | | | |
| Required budget authority..... | | | | | |
| Estimated outlays..... | | | | | |
| Total: | | | | | |
| Net budget receipts..... | 217.6 | 306.3 | 322.5 | 341.8 | 361.4 |
| Required budget authority..... | 26.5 | -14.6 | -37.1 | -75.0 | -87.7 |
| Estimated outlays..... | 26.5 | -14.6 | -37.1 | -75.0 | -87.7 |

6. Basis of estimate: The fiscal impact of this bill was estimated using the Department of Labor's forecasting model of the Black Lung

Trust Fund's obligations. The revenues generated by the increase in the excise tax on coal are assumed to be \$217.6 million, \$306.3 million, \$323.5 million, \$341.8 million, and \$361.4 million in fiscal years 1982 through 1986, respectively. Such revenues do not affect budget authority and outlays directly, but rather reduce the need for advances from the general fund, the effect of which is to decrease the trust fund's interest obligations. Since budget authority equates with outlays in this program, a lower level of outlays translates into a lower level of budget authority. The enhanced rate of interest imposed upon mine operators who ultimately lose adjudicated claims they have contested causes mine operator reimbursements to the trust fund to rise through fiscal year 1985. Such reimbursements decline in fiscal year 1986 because the impact of fewer financially responsible mine operators resulting from the transfer provision finally outweighs the impact of the increased interest charges. Because mine operator reimbursements directly offset trust fund obligations, a higher level of such reimbursements causes a lower level of budget authority and outlays, and vice versa. The transfer of 10,200 cases into the trust fund has a dual impact. First, it directly increases outlays and budget authority. This impact is estimated to be \$36.6 million, \$19.1 million, \$17.8 million, \$17.1 million, and \$29.6 million in fiscal years 1982 through 1986, respectively. Second, it reduces the number of responsible mine operators who have financial obligations to the trust fund and, consequently, mine operator reimbursements decrease. This causes budget authority and outlays to increase. The estimated impact of this second factor is estimated to be \$0.9 million, \$2.6 million, \$11.9 million, \$20.4 million, and \$17.8 million, in fiscal years 1982 through 1986, respectively. The termination of borrowing authority is not estimated to have a fiscal impact because the trust fund is assumed not to need advances by fiscal year 1986 with the increase in the coal excise tax rate.

7. Estimate comparison: The Department of Labor has not explicitly estimated the fiscal impact of this bill; however, they have provided an estimate of an expanded version in which these particular provisions are estimated to have the same fiscal impact as those contained here.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Hendrix.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

New Budget Authority

In compliance with section 308(a)(1) of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the committee states that the bill does not create new budget authority.

Tax Expenditures

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by this bill do not involve new or increased tax expenditures.

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**V. CHANGES IN EXISTING LAW MADE BY THE BILL
AS ORDERED REPORTED**

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 bill, as ordered reported).

