

DESCRIPTION OF H.R. 5159  
BLACK LUNG BENEFITS REVENUE ACT OF 1981

I. 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 certain 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 filed after June 30, 1973, provided that the miner's last coal mine employment was before January 1, 1970. Also, 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 program financed through the trust fund are paid out of trust monies. The fund also bears the cost of its own administration as well as the costs of administering 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 (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. Monies 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 (sec. 4951), expenditures for an improper purpose (sec. 4952) or excessive contributions to the trust (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 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.

## II. Explanation of the Bill

### Excise tax on coal

Under the bill, the manufacturers excise tax on coal would be 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 would revert to present law rates on January 1, 1996, 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 would also appropriate to the Black Lung Disability Trust Fund amounts equal to the excise taxes collected under the operation of sections 4951 (relating to self-dealing) and 4953 (relating to excess contributions) in addition to the amounts appropriated under present law under the operation of section 4952 (relating to taxable expenditures by a coal mine operator's self-insurance trust).

#### Obligations of the trust fund

Under the bill, certain claims which had been assigned to individual coal operators would 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).

In addition, for claims filed after the date of enactment, the bill would eliminate 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 would not affect the present law obligation of the fund to pay benefits that accrue after this initial determination.

The bill provides that fund monies would 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 enactment of the bill. This provision would require that the expenditure purposes of the fund be conformed 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.

#### 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 would generally be computed at the interest rate that applies for the period to tax deficiencies and overpayments under section 6621. However, for any period during calendar year 1982, this interest rate would be 15 percent.

In addition, the bill would amend the method for computing interest payable by the fund to the general fund on repayable advances. Under the bill, the interest rate that would 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.

## 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 would become provisions of the Internal Revenue Code of 1954. Also, the bill would standardize and update provisions of the fund to conform to the language of other trust funds. The Black Lung Disability Trust Fund that would be established by the bill would be treated for all purposes of law as the continuation of the Black Lung Disability Trust Fund established by section 3 of the Black Lung Benefits Revenue Act of 1977.

### Effective dates

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

### III. Revenue Effect

The increased excise tax on coal is estimated to increase receipts of the Black Lung Disability Trust Fund by \$193 million in fiscal year 1982, \$299 million in 1983, \$313 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 due to the coal excise tax) by \$141 million in fiscal year 1982, \$218 million in 1983, \$228 million in 1984, \$239 million in 1985 and \$255 million in 1986.