

EMPLOYMENT STANDARDS ADMINISTRATION

Black Lung Disability Trust Fund

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BLACK LUNG DISABILITY TRUST FUND

GENERAL STATEMENT

Introduction

The Black Lung Disability Trust Fund (BLDTF) was established by the Black Lung Benefits Revenue Act of 1977, as amended December 29, 1981, companion legislation to the Black Lung Benefits Reform Act of 1977, to implement the shift of fiscal responsibility for Black Lung benefit payments from the Federal Government to the coal industry. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), enacted April 7, 1986, through December 31, 1995, raised excise tax rates from \$1.00 to \$1.10 per ton on underground-mined coal and from 50 to 55 cents per ton on surface-mined coal, in either case not to exceed 4.4% of the sale price. The legislation also provided for a five-year moratorium on interest payments that ended on September 30, 1990. The Omnibus Budget Reconciliation Act of 1987 continued the current tax structure until 2014; it will then revert to the 1978 levels.

The Trust Fund pays all Part C Black Lung benefits, including income maintenance and medical benefits, when no coal mine operator can be held liable for payments. Income maintenance payments are based on thirty-seven and a half percent of the GS-2, Step 1 salary level. The Fund also pays all Social Security Administration costs in administering Part C of the Black Lung benefits program and the costs incurred by the Department of the Treasury in the collection of the coal excise tax and for managing the Trust Fund.

Issues, Outcomes, and Strategies

The most pressing challenge facing the Black Lung Trust Fund is its continued and growing indebtedness. Since 1990, coal tax receipts have been greater than benefit payments and administrative costs, but not adequate to cover the interest on its indebtedness. The Trust Fund has been required to borrow from the Treasury to pay the interest on the debt. Under current law, coal tax assessments will resume the lower rate in 2014. Without debt restructuring, the Trust Fund will never achieve solvency and will continue borrowing due to the compounding effect of the interest charges on earlier loans.

To address this problem the Department will propose legislation that comprises three principal, inseparable provisions:

- Restructuring of the debt at currently lower Treasury interest rates.
- Extension of the current Trust Fund excise tax rates that are set to expire December 31, 2013, until the year following debt retirement.
- A one-time intergovernmental transfer to the Trust Fund to cover the loss to the Treasury as a result of the restructuring.

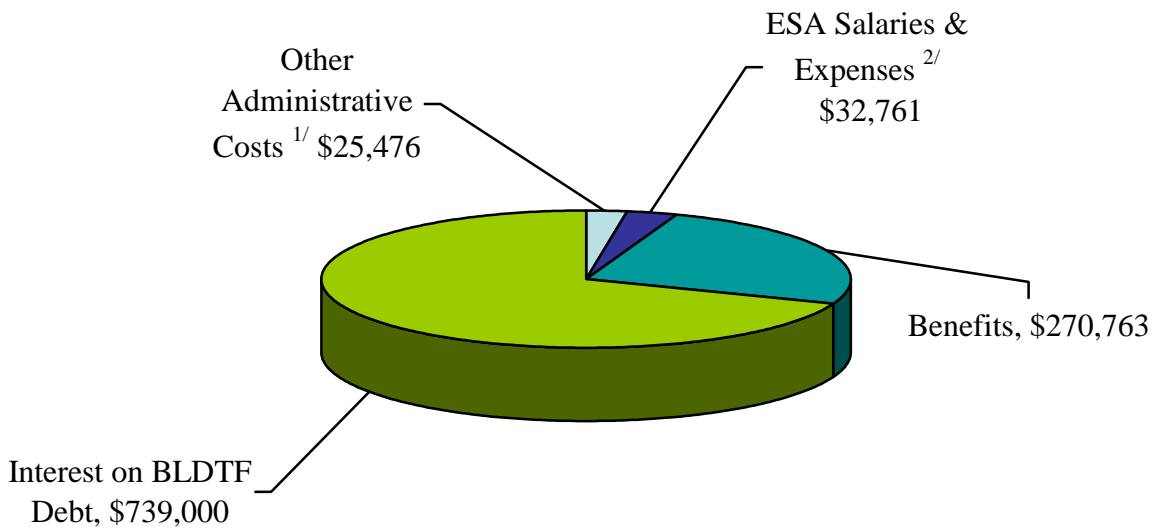
Legislation to restructure the debt will be submitted again to Congress in 2008 jointly by the Department of Labor and the Treasury.

BLACK LUNG DISABILITY TRUST FUND

Cost Model

The Trust Fund mission supports the Department of Labor’s strategic goal to reduce the consequences of work-related injuries for workers and their families. The spread of requested funds across DCMWC’s Part C cost components is displayed below.

BLACK LUNG DISABILITY TRUST FUND
Total BLDTF Annual Income \$1,068,000
(Dollars in Thousands)



^{1/} Includes amounts transferred to: Departmental Management (\$24,785,000); Office of Inspector General (\$335,000); Treasury (\$356,000).

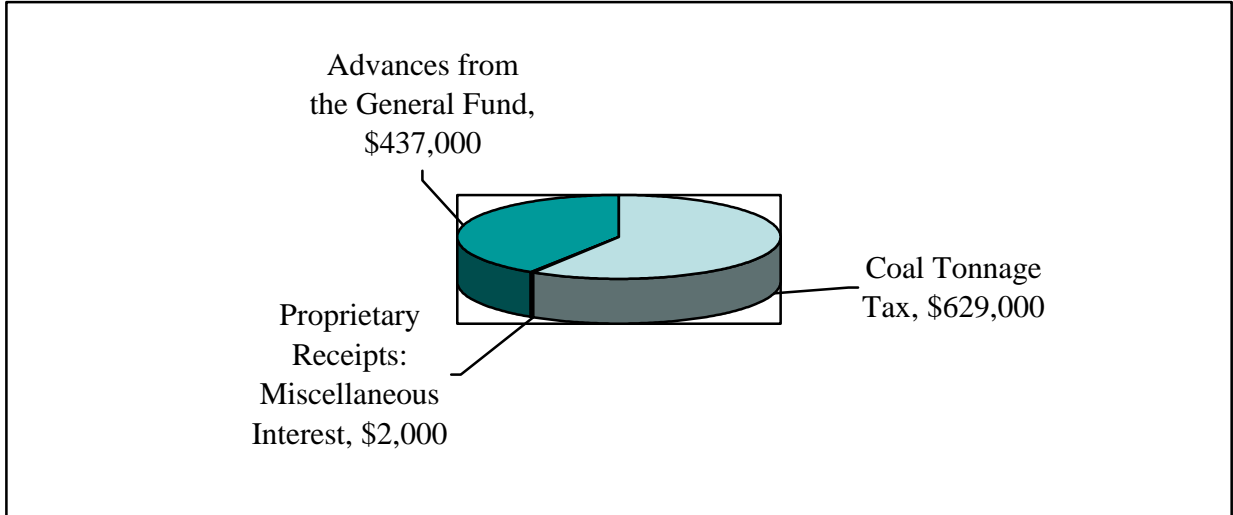
^{2/} Includes DCMWC Salaries and Expenses (\$32,365,000) and ESA Program Direction and Support-BL IV (\$396,000).

BLACK LUNG DISABILITY TRUST FUND

BLACK LUNG DISABILITY TRUST FUND

Total BLDTF Annual Income \$1,068,000

(Dollars in Thousands)



BLACK LUNG DISABILITY TRUST FUND

**BLACK LUNG DISABILITY TRUST FUND
(Including Transfer of Funds)****APPROPRIATION LANGUAGE**

In fiscal year 2008 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4) and (7), of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts may be expended from the Fund for fiscal year 2008 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed \$32,761,000 for transfer to the Employment Standards Administration, “Salaries and Expenses”; not to exceed \$24,785,000 for transfer to Departmental Management, “Salaries and Expenses”; not to exceed \$335,000 for transfer to Departmental Management, “Office of Inspector General”; and not to exceed \$356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury. (Department of Labor Appropriations Act, 2007.)

“Note.—A regular 2007 appropriation for this account had not been enacted at the time the budget was prepared; therefore, this account is operating under a continuing resolution (P.L. 109-289, Division B, as amended). The amounts included for 2007 in this budget reflect the levels provided by the continuing resolution.”

BLACK LUNG DISABILITY TRUST FUND

BLACK LUNG DISABILITY TRUST FUND

EXPLANATION OF LANGUAGE CHANGE

The change in the Black Lung Disability Trust Fund (BLDTF) appropriations language provides a ceiling for funds to be used in administering the Black Lung benefits program rather than a fixed amount. As a result, the change allows unobligated balances to be used immediately following the end of their period of availability to offset additional borrowing by the BLDTF. By contrast, the current appropriations language has the unintended result that lapsed funds in the administrative accounts cannot be immediately returned at their expiration to the BLDTF. Under current law, those unobligated balances remain unavailable for use in defraying further BLDTF borrowing until the account is closed pursuant to 31 U.S.C. 1552, five years later.

BLACK LUNG DISABILITY TRUST FUND

ANALYSIS OF APPROPRIATION LANGUAGE

<u>Language Provision</u>	<u>Explanation</u>
<p>"In fiscal year 2008 and thereafter, such sums as may be necessary from the Black Lung Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d) (1), (2), (4) and (7), of the Internal Revenue Code..."</p>	<p>This language provides indefinite budget authority for the payment of all benefits from the Trust Fund.</p>
<p>"... and interest on advances as authorized by section 9501(c)(2) of that Act..."</p>	<p>This language provides for interest payments on advances from the Trust Fund.</p>
<p>"... for expenses of operation and administration of the Black Lung Benefits program as authorized by Section 9501(d)(5) of that Act..."</p>	<p>This language provides for the payment of administrative costs associated with the operation and administration of the Trust Fund.</p>

BLACK LUNG DISABILITY TRUST FUND

Amounts Available for Obligations				
(Dollars in Thousands)				
		FY 2006 Enacted	FY 2007 C.R.	FY 2008 Request
		Amount	Amount ^{1/}	Amount
A.	Appropriation			
	Definite	\$57,989	\$58,161	\$58,237
	Indefinite	1,002,011	1,010,559	1,009,763
	Subtotal	1,060,000	1,068,720	1,068,000
B.	Gross Budget			
	Authority	1,060,000	1,068,720	1,068,000
C.	Budget Authority			
	Before Committee	1,060,000	1,068,720	1,068,000
D.	Total, estimated			
	Obligations	1,060,000	1,068,720	1,068,000

^{1/} The 2007 level is the assumed current rate under the terms of P.L. 109-289, as amended.

BLACK LUNG DISABILITY TRUST FUND

Black Lung Disability Trust Fund			
SUMMARY OF CHANGES			
(Dollars in thousands)			
	FY 2007	FY 2008	Net
	C.R.	Request	Change

Budget Authority	<u>\$1,068,720</u>	<u>\$1,068,000</u>	<u>-\$720</u>
Total.....	\$1,068,720	\$1,068,000	-\$720

Explanation of Change	FY 2007 Base	FY 2008 Change
	Amount	Trust Fund Amount

Increases:

A. Built-In

To provide for an increase in interest on BLDTF debt.....	\$717,000	\$22,000
Total Increase	717,000	22,000

Decreases:

A. Built-in:

To provide for a reduction in program overhead.....	58,517	-280
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B. Programs:

To provide for a decrease in benefits	293,203	-22,440
Total Decrease.....	<u>\$351,720</u>	<u>-22,720</u>

Total Change.....		<u>-\$720</u>
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BLACK LUNG DISABILITY TRUST FUND

BUDGET AUTHORITY by OBJECT CLASS				
BLACK LUNG DISABILITY TRUST FUND				
(Dollars in Thousands)				
	FY 2006 Enacted	FY 2007 C.R.	FY 2008 Request	FY 08 Request / FY 07 NTE Curr.Rate
Other Services.....	\$57,989	\$58,517	\$58,237	-280
Benefits ^{1/}	\$307,011	293,203	270,763	-22,440
Interest and dividends ^{1/}	\$695,000	717,000	739,000	22,000
Total, Budget authority by object.....	\$1,060,000	\$1,068,720	\$1,068,000	-\$720

^{1/}Beginning in FY 2003, the benefit and interest amounts became indefinite appropriations and all administrative costs, definite appropriations. Amounts for benefits, interest, and bond redemption are estimates of budget authority that will be needed.

BLACK LUNG DISABILITY TRUST FUND

**BLACK LUNG DISABILITY TRUST FUND
APPROPRIATION HISTORY
(Dollars in Thousands)**

	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriation	FTE
1998	\$1,006,644	\$1,006,644	\$1,006,644	\$1,006,644	0
1999	1,020,644	1,020,644	1,020,644	1,020,446 ^{1/}	0
2000	1,013,644	1,012,910	1,013,644	1,013,277	0
2001	1,028,000	1,028,000	995,310	1,027,544 ^{2/}	0
2002	1,036,000	1,036,115	1,036,115	1,035,878 ^{3/4/}	0
2003	1,035,000	1,035,000	1,035,000	1,032,000	0
2004	1,043,000	1,043,000	1,043,000	1,025,000	0
2005	3,822,644 ^{5/}	1,058,644	1,058,644	1,058,644	0
2006	1,060,000	1,060,000	1,060,000	1,060,000	0
2007	1,068,364				
2008	\$1,068,000				

^{1/} Reflects a reduction of \$198,000 pursuant to P.L. 106-51.

^{2/} Reflects a reduction of \$100,000 pursuant to P.L. 106-554.

^{3/} Reflects a reduction of \$181,000 pursuant to P.L. 107-116.

^{4/} Reflects a reduction of \$51,000 pursuant to P.L. 107-206.

^{5/} This number includes proposed Black Lung Disability Trust Fund Debt Restructuring.

BLACK LUNG DISABILITY TRUST FUND

(Dollars in Thousands)							
	FY 2006 Enacted	FY 2007 C.R.	Diff FY 06 Enact./ FY 07 C.R.	FY 2008 Request	FY 2008 Leg. Prop. Request	Diff. FY 07 C.R. / FY 08 Req	Diff FY07 C.R. / FY08 Leg. Prop. Req
Activity Appropriation:	\$1,060,000	\$1,068,720	\$8,720	\$1,068,000	\$2,946,000	-720	\$1,877,280
Benefits	307,011	293,203	-13,808	270,763	270,763	-22,440	-22,440
Admin. Expenses ^{1/}	57,989	58,517	528	58,237	58,237	280	-280
Interest on Advances	695,000	717,000	22,000	739,000	0	22,000	-717,000
Bond Redemption Payment to Treasury	0	0	0	0	302,000	0	302,000
One-time Appropriation for Treasury	0	0	0	0	\$2,315,000	0	\$2,315,000
FTE ^{2/}	205	191	-14	184	184	-7	-7

^{1/} Includes administrative funding for the Division of Coal Mine Workers' Compensation and the Program Direction and Support (PDS) activities in ESA, Departmental Management, Office of Inspector General, and Treasury.

^{2/} FTE figures are for the Division of Coal Mine Workers' Compensation.

Introduction

The Black Lung Disability Trust Fund (BLDTF) is jointly administered by the Secretaries of Labor, Treasury, and Health and Human Services. The Fund provides for payment of benefits, administrative expenses, and interest on advances related to the operation of the program. Resources for the Fund are derived from an excise tax on each ton of coal sold or used, reimbursements and interest, fines and penalties assessed responsible mine operators, and funds transferred from the Advances to the Unemployment Trust Fund and Other Funds appropriations account.

The current BLDTF revenues are more than enough to pay for benefits and administration of the program, however, they are not enough to pay the annual interest charges on the existing BLDTF debt. The FY 2008 budget includes plans to reintroduce legislation to restructure the BLDTF debt. The legislation includes three principal provisions, which are inseparable. The legislation would (1) convert the current indebtedness into a series of zero coupon bonds which would be retired using revenues from the excise tax on coal which exceed the amounts needed for payment of program benefits and administrative expenses, (2) compensate the Treasury for its loss of interest income through an intergovernmental transfer, and (3) maintain the current excise tax rates, which are now scheduled to drop at the end of 2013, until the restructured bonds are paid off. The extension of the current tax rates is intended to ensure that the Trust Fund expenditures revenues are sufficient to cover benefit payments and other Trust Fund expenditures until solvency is reached. The tax rates will revert to the lower 1978 rates in the year following the elimination of the debt.

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Five-Year Budget History

Fiscal Year	Funding
2003	\$1,043,247,000
2004	\$1,055,000,000
2005	\$1,059,701,000
2006	\$1,060,000,000
2007	\$1,068,720,000

FY 2008

A total of \$1,068,000,000 is needed to meet FY 2008 obligations for Part C, including: \$270,763,000 for benefit payments; \$739,000,000 for interest charges on the Trust Fund's debt; \$32,365,000 for Division of Coal Mine Workers' Compensation (DCMWC) Salaries and Expenses costs; \$396,000 for Program Direction and Support-BL IV (PDS); \$24,785,000 for the administrative costs of the Solicitor, Office of Administrative Law Judges and Benefits Review Board; \$335,000 for the Office of Inspector General; and \$356,000 for the Department of Treasury. Also requested is \$437,000,000 in borrowing authority. This request does not assume passage of legislation to restructure the BLDTF debt in FY 2007. In FY 2008, the Division will pay monthly compensation and ongoing medical treatment benefits to an estimated 32,020 recipients under Part C, and will continue to monitor cash and medical treatment benefits disbursed by coal mine operators in the private sector to approximately 5,700 additional recipients under Part C. DCMWC will also process an estimated 4,800 incoming claims.

FY 2007

In FY 2007, the Division will pay monthly compensation and ongoing medical treatment benefits to an estimated 35,000 recipients under Part C, and will continue to monitor cash and medical treatment benefits disbursed by coal mine operators in the private sector to approximately 5,450 additional recipients under Part C. DCMWC will also process an estimated 4,950 claims.

FY 2006

In FY 2006, the Division paid monthly compensation and ongoing medical treatment benefits to 37,273 recipients under Part C, and monitored cash and medical treatment benefits disbursed by coal mine operators in the private sector to 6,020 additional recipients under Part C. DCMWC also processed 4,762 claims.

The Division, as a part of the Department's Compliance Assistance initiative, continued expanding and enhancing its compliance assistance activities in FY 2006 in two areas. The program performed a comprehensive evaluation of its efforts to reach uninsured operators and focused on increasing voluntary compliance by smaller, uninsured operators with the statutory insurance requirements. The program also expanded its outreach efforts to authorized diagnostic providers to emphasize the need for complete and accurate medical reports that satisfy program requirements and further support understanding and acceptance of initial program adjudication decisions. The Division also strengthened its mandate to ensure proper payment of benefits by

BLACK LUNG DISABILITY TRUST FUND

tracking payments to representative payees. DCMWC will continue to enhance and improve upon these initiatives in program years going forward.

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WORKLOAD SUMMARY			
	2006 Actual	2007 Target	FY 2008 Target
Claims Received	4,762	4,950	4,800
Claims in payment status			
Trust Fund Beneficiaries	37,273	34,850	32,820
Beneficiaries Paid by Responsible Operators	6,020	5,600	4,900
Medical benefits only recipients	3,830	3,550	3,300

1/ The Schedule for Submission of Additional Evidence document provides a preliminary analysis of the initial medical evidence considered by the District Office (DO), indicates whether the claimant would be eligible for benefits and identifies the party potentially liable for the payment of benefits. The SSAE also describes what additional evidence may be submitted by the parties and the timeframes for submission.