

EMPLOYMENT STANDARDS ADMINISTRATION

BLACK LUNG DISABILITY TRUST FUND

BLACK LUNG DISABILITY TRUST FUND

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BLACK LUNG DISABILITY TRUST FUND

(Including Transfer of Funds)

APPROPRIATION LANGUAGE

In fiscal year [2008]2009 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 [shall be available] may be expended from the Fund for fiscal year [2008]2009 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] \$32,308,000 for transfer to the Employment Standards Administration, “Salaries and Expenses”; not to exceed [\$24,785,000]\$24,694,000 for transfer to Departmental Management, “Salaries and Expenses”; not to exceed [\$335,000]\$325,000 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, 2008.)

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EXPLANATION OF LANGUAGE CHANGE

The change in the Black Lung Disability Trust Fund (BLDTF) appropriation 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.

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ANALYSIS OF APPROPRIATION LANGUAGE

"*In* fiscal year 2009 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..."

This language provides indefinite budget authority for the payment of all benefits from the Trust Fund.

"... and interest on advances as authorized by section 9501(c)(2) of that Act..."

This language provides for interest payments on advances from the Trust Fund.

"... for expenses of operation and administration of the Black Lung Benefits program as authorized by Section 9501(d)(5) of that Act..."

This language provides for the payment of administrative costs associated with the operation and administration of the Trust Fund.

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AMOUNTS AVAILABLE for OBLIGATION						
(Dollars in Thousands)						
	FY 2007 Comparable		FY 2008 Estimate		FY 2009 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
A. Appropriation	0	0	0	0	0	0
Definite	0	59,535	0	58,237	0	57,683
Indefinite	0	1,005,465	0	1,009,763	0	1,014,317
Subtotal	0	1,065,000	0	1,068,000	0	1,072,000
B. Gross Budget	0	0	0	0	0	0
Authority	0	1,065,000	0	1,068,000	0	1,072,000
C. Budget Authority	0	0	0	0	0	0
Before Committee	0	1,065,000	0	1,068,000	0	1,072,000
D. Total, estimated	0	0	0	0	0	0
Obligations	0	1,065,000	0	1,068,000	0	1,072,000

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SUMMARY OF CHANGES

(Dollars in thousands)

Budget Authority	FY 2008 Estimate	FY 2009 Request	Net Change
Budget Authority	\$1,068,000	\$1,072,000	\$4,000
Total	\$1,068,000	\$1,072,000	\$4,000

Explanation of Change	FY 2008 Base Amount	FY 2009 Change Amount
Increases:		
A. Built-Ins:		
	\$0	\$0
Subtotal	0	0
B. Programs:		
To provide for an increase for Interest on BLDTF Debt	737,000	21,000
Programs Subtotal	0	21,000
C. Financing:		
Financing Subtotal	0	0
Total Increase	0	21,000
Decreases:		
A. Built-Ins:		
Built Ins Subtotal	0	0
B. Programs:		
To provide for:		
Reduction in program overhead	58,237	-554
Benefits payments	272,763	-16,446
Programs Subtotal	0	-17,000
C. Financing:		
Financing Subtotal	0	0
Total Decrease	0	-17,000
Total Change	0	\$4,000

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BUDGET AUTHORITY by OBJECT CLASS (Dollars in Thousands)				
	FY 2007 Comparable	FY 2008 Estimate	FY 2009 Request	FY 09 Request/FY 08 Estimate
Other Services	\$59,535	\$58,237	\$57,683	-\$554
Benefits 1/	288,483	272,763	256,317	-16,446
Interest and dividends 1/ 2/	716,982	737,000	758,000	21,000
Bond Redemption Payment to Treasury 2/	0	0	0	0
One-time intergovernmental transfer to Treasury 2/	0	0	0	0
Total	\$1,065,000	\$1,068,000	\$1,072,000	\$4,000

^{1/} Beginning in FY 2003, the benefit and interest amounts became indefinite appropriations and all administrative costs, definite appropriations.

^{2/} Does not assume passage of legislation to restructure the debt of the BLDTF. Currently, a one-time intergovernmental transfer of \$2,288,000,000 to the BLDTF would be necessary to cover the loss to the Treasury as a result of the restructuring. Amounts for benefits and interest are estimates of budget authority that will be needed.

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AUTHORIZING STATUTES

Public Law / Act	Legislation	Statute No. / US Code	Volume No.	Page No.	Expiration Date
PUB. L. 91-173	Federal Coal Mine Health and Safety Act of 1969, (now called Federal Mine Safety and Health Act of 1977), Title IV, Black Lung Benefits Act, PUB. L. 91-173, Black Lung Benefits Revenue Act of 1977, PUB. L. 95-227, as amended in 1981 by PUB. L. 97-119	30 U.S.C. 901, et seq.			N/A
PUB. L. 107-275	Black Lung Consolidation of Administrative Responsibility Act and Section 3615 of the Emergency Supplemental Appropriations Act, 2003, PUB. L. 108-83				N/A

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APPROPRIATION HISTORY (Dollars in Thousands)

	Budget Estimates to Congress	House Allowance	Senate Allowance	Appropriations	FTE
1999.... ^{1/}	1,020,644	1,020,644	1,020,644	1,020,446	0
2000	1,013,644	1,012,910	1,013,644	1,013,277	0
2001.... ^{2/}	1,028,000	1,028,000	995,310	1,027,544	0
2002.... ^{3/4/}	1,036,000	1,036,115	1,036,115	1,035,878	0
2003	1,035,000	1,035,000	1,035,000	1,043,247	0
2004	1,043,000	1,043,000	1,043,000	1,055,000	0
2005	1,059,000	1,059,000	1,059,000	1,059,701	0
2006	1,068,000	1,068,000	1,068,000	1,068,000	0
2007	1,070,432	1,070,432	1,070,432	1,070,432	0
2008	1,068,000	0	0	1,068,000	0
2009	1,072,000	0	0	0	0

^{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.

BLACK LUNG DISABILITY TRUST FUND

Overview

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 continues the current tax structure until 2014, at which point it will 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.

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PERFORMANCE GOAL AND INDICATORS										
	FY 2004		FY 2005		FY 2006		FY 2007		FY 2008	FY 2009
	Goal Achieved		Goal Achieved		Goal Achieved		Goal Achieved			
	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Average number of days to process Black Lung claims	--	--	--	--	--	--	247	224	220	218
Change in Average Black Lung Medical Treatment Costs	--	--	--	--	--	--	Set Baseline	\$3,281	+6.1%	+6.4%

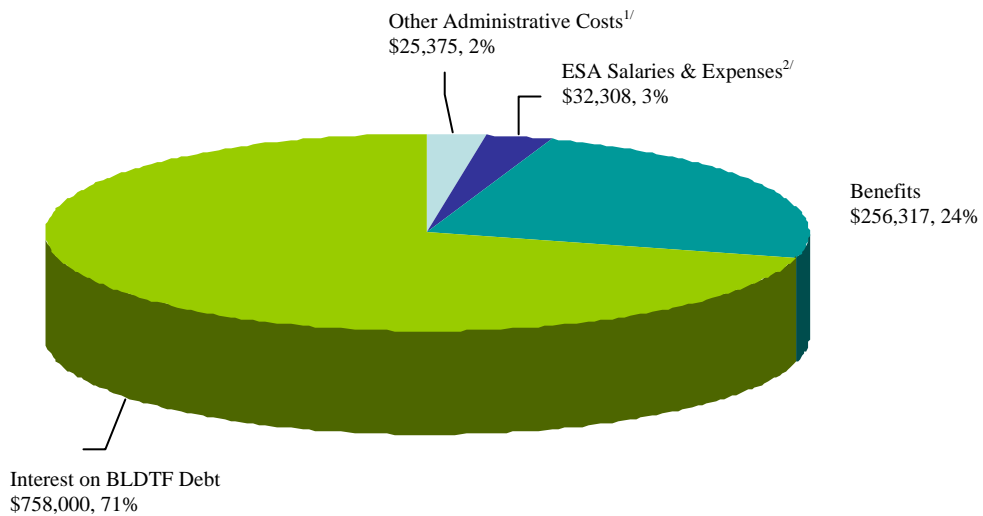
BLACK LUNG DISABILITY TRUST FUND

Cost Model

ESA requests a total of \$1,072,000,000 to meet FY 2009 obligations for Part C, an increase of \$4,000,000 below the FY 2008 request level, including: \$256,317,000 for benefit payments; \$758,000,000 for interest charges on the Trust Fund's debt; \$31,915,000 for Division of Coal Mine Workers' Compensation (DCMWC) Black Lung III Salaries and Expenses costs; \$393,000 for Program Direction and Support-BL IV (PDS); \$24,694,000 for the administrative costs of the Solicitor, Office of Administrative Law Judges and Benefits Review Board; \$325,000 for the Office of Inspector General; and \$356,000 for the Department of Treasury. To fund all components, \$422,000,000 in borrowing authority will be needed. The request does not assume passage of legislation to restructure the BLDTF.

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 all components of the BLDTF is displayed below.

BLACK LUNG DISABILITY TRUST FUND
Total BLDTF Annual Expenditures \$1,072,000,000
(Dollars in Thousands)

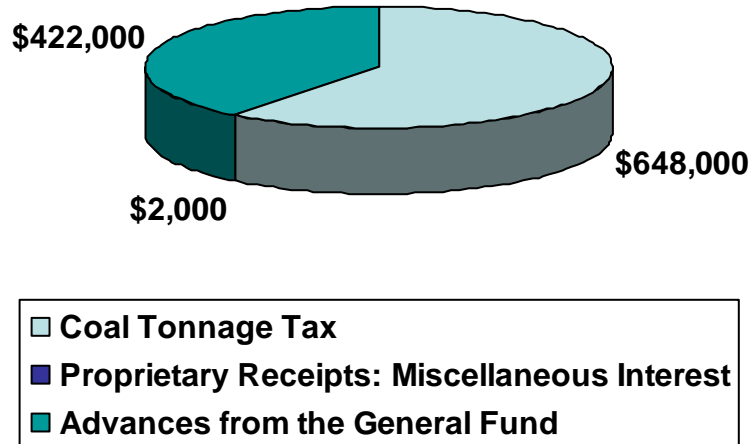


^{1/} Includes amounts transferred to: Departmental Management (\$24,694,000); Office of Inspector General (\$325,000); Treasury (\$356,000).

^{2/} Includes DCMWC Black Lung III Salaries and Expenses (\$31,915,000) and ESA Program Direction and Support-BL IV (\$393,000).

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Total BLDTF Annual Income \$1,072,000
(Dollars in Thousands)



Program Assessment Rating Tool (PART)

The Black Lung program underwent PART review in FY 2003 and was rated “Moderately Effective”. Details of the PART review can be seen at:
<http://www.whitehouse.gov/omb/expectmore/summary/10001098.2003.html>

Efficiency Measures

When determining performance targets that support the program’s strategic initiatives, the agency’s goal is to ensure that quality decisions are adjudicated and issued in a timely manner. Management has set timeliness targets for its adjudication tracking and expects to continue to meet its annual targets for reducing the average number of days for DCMWC to render a decision on a claim for Black Lung benefits as quality and timeliness continue to improve. DCMWC will also begin reporting in FY 2008 on medical cost containment using as its cost index the National Health Expenditure Projection (NHEP) published by the Centers for Medicare and Medicaid Services. The purpose of this measure is to keep the rate of change in Black Lung average medical treatment costs for eligible miners at or below the NHEP cost index. Program management will continue to regularly review both its strategic plan performance indicators and its management performance goals to ensure they remain challenging and encourage performance improvement. The program will continue to explore and implement feasible and appropriate automated solutions that improve service delivery, performance and program results, and financial reporting.

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Program	Efficiency Measure	FY 2009 Target
ESA/OWCP/Division of Coal Mine Workers' Compensation	Average number of days to render a decision on a claim for Black Lung benefits	218
ESA/OWCP/Division of Coal Mine Workers' Compensation	Change in Average Black Lung Medical Treatment Costs	Remain Below National Health Expenditure Projection (NHEP) Cost Index

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Budget Authority Before the Committee (Dollars in Thousands)							
	FY 2007 Comparable	FY 2008 Current Law Estimate	Diff FY07 Comp./ FY08 Current Law Estimate	FY 2009 Request	FY 2009 Leg. Prop. Request	Diff FY08 Cur. Law Est./FY09 Req	Diff FY08 Cur. Law Est./FY09 Leg. Prop.Req
Activity Appropriation:	\$1,065,000	\$1,068,000	\$3,000	\$1,072,000	\$2,938,000	\$4,000	\$1,870,000
Benefits	288,483	272,763	-15,720	256,317	256,317	-16,446	-16,446
Admin. Expenses ^{1/}	59,535	58,237	-1,298	57,683	57,683	-554	-554
Interest on Advances	716,982	737,000	20,018	758,000	0	21,000	-737,000
Bond Redemption Payment to Treasury	0	0	0	0	336,000	0	336,000
One-time Appropriation for Treasury	\$0	\$0	\$0	\$0	\$2,288,000	\$0	\$2,288,000
FTE ^{2/}	182	184	2	178	178	-6	-6

^{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.

NOTE: FY 2007 reflects actual FTE. Authorized FTE for FY 2007 was 191.

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.

While 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 2009 budget includes plans to reintroduce legislation to restructure the BLDTF debt, if it is not enacted in FY 2008. 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

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ensure that the Trust Fund expenditure 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.

Five-Year Budget Activity History

Fiscal Year	Funding (Dollars in Thousands)	FTE
2004	1,055,000	0
2005	1,059,701	0
2006	1,068,000	0
2007	1,070,432	0
2008	1,068,000	0

FY 2009

The FY 2009 request will enable ESA to pay monthly compensation and ongoing medical treatment benefits to an estimated 30,900 recipients under Part C; continue to monitor cash and medical treatment benefits disbursed by coal mine operators in the private sector to approximately 4,300 additional recipients under Part C; and process an estimated 4,700 incoming claims.

The most pressing challenge facing the BLDTF 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 1978 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 proposed 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 was submitted to Congress in FY 2007 jointly by the Department of Labor and the Treasury and will be submitted again in FY 2008.

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WORKLOAD SUMMARY ^{1/}			
	2007 Actual	2008 Target	FY 2009 Target
Claims Received	4,913	4,800	4,700
<u>Claims in payment status</u>			
Trust Fund Beneficiaries	34,005	32,820	30,900
Beneficiaries Paid by Responsible Operators	5,525	4,900	4,300
Medical benefits only recipients	3,101	2,585	2,175

^{1/} All estimates and targets are end of fiscal year figures.

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PERFORMANCE GOAL AND INDICATORS

Performance Goal 4B, "Reduce the impact of work-related injuries"

	FY 2004		FY 2005		FY 2006		FY 2007		FY 2008	FY 2009
	Goal Achieved		Goal Achieved		Goal Achieved		Goal Achieved			
Performance Indicator	Target	Result	Target	Result	Target	Result	Target	Result	Target	Target
Average number of days for the Office of Workers' Compensation Programs to render a decision on a claim for Black Lung benefits.	320	323	315	251	250	247	247	224	220	218
Percentage increase in Black Lung average medical treatment cost from the previous year is less than the National Health Expenditure Projection (NHEP)	N/A	N/A	N/A	N/A	N/A	N/A	Baseline	\$3,281	6.1%	6.4%

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CHANGES IN FY 2009

(Dollars in Thousands)

Activity Changes

Built-In

To Provide For:

Insurance claims and indemnities

-554

Built Ins Subtotal

-554

	Estimate	FTE
Base	1,067,446	0