

108TH CONGRESS
2D SESSION

S. 2366

To resolve the structural indebtedness of the Black Lung Disability Trust Fund and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2004

Mr. GRASSLEY (by request) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To resolve the structural indebtedness of the Black Lung Disability Trust Fund and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Black Lung Disability
5 Trust Fund Debt Restructuring Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Black Lung Disability Trust Fund (in
9 this Act referred to as the “Trust Fund”) was cre-
10 ated in 1978 as part of the Black Lung Benefits

1 Revenue Act of 1977, with the goal of shifting, from
2 the Federal Government to the coal mining industry,
3 the cost of compensating victims of occupational
4 black lung disease.

5 (2) The Trust Fund draws its principal revenue
6 from excise taxes on coal. The Black Lung Benefits
7 Revenue Act of 1977 authorized repayable advances
8 from the Treasury to the Trust Fund, in such sums
9 as may be necessary to make benefit payments and
10 other authorized expenditures. Any such advances
11 are required to be repaid, with interest at the rate
12 prescribed in section 9501(c)(3) of the Internal Rev-
13 enue Code of 1986 to the general fund of the Treas-
14 ury when the Secretary of the Treasury determines
15 that monies are available in the Trust Fund for such
16 purposes.

17 (3) In each year prior to 1990, the Trust Fund
18 revenues were insufficient to satisfy all benefit pay-
19 ments and other authorized expenditures, resulting
20 in the need for repayable advances from the Treas-
21 ury to the Trust Fund.

22 (4) Since 1990, the Trust Fund revenues from
23 excise taxes on coal have generally been sufficient to
24 cover current benefit payments and administrative
25 costs, but have not been sufficient to repay any por-

1 tion of the outstanding principal that the Trust
 2 Fund owes to the Treasury. Instead, that indebted-
 3 ness has grown each year as additional advances
 4 were taken to pay the portion of the interest charges
 5 not covered by the Trust Fund's revenues.

6 (5) Beginning in 1998, the annual interest
 7 charges on the debt alone have exceeded benefit pay-
 8 ments made by the Trust Fund.

9 (6) The annual interest charges to the Trust
 10 Fund now exceed its total annual excise tax reve-
 11 nues.

12 (7) Without action, the Trust Fund's indebted-
 13 ness to the Treasury, which totals approximately
 14 \$8,200,000,000, will continue to grow and the Trust
 15 Fund will never become solvent, even when benefit
 16 outlays have declined to a level approaching zero.

17 (8) It is in the public interest to refinance the
 18 Trust Fund debt and to restore long-term fiscal sol-
 19 vency to the Trust Fund.

20 **SEC. 3. DEFINITIONS.**

21 For purposes of this Act:

22 (1) **REPAYABLE ADVANCE.**—The term “repay-
 23 able advance” means an amount that has been ap-
 24 propriated to the Trust Fund in order to make ben-
 25 efit payments and other expenditures that are au-

1 thorized under section 9501 of the Internal Revenue
 2 Code of 1986 and are required to be repaid when
 3 the Secretary of the Treasury determines that mon-
 4 ies are available in the Trust Fund for this purpose.

5 (2) MARKET VALUE OF THE OUTSTANDING RE-
 6 PAYABLE ADVANCES, PLUS ACCRUED INTEREST.—

7 The term “market value of the outstanding repay-
 8 able advances, plus accrued interest” means the
 9 present value (determined by the Secretary of the
 10 Treasury as of the refinancing date and using the
 11 Treasury rate as the discount rate) of the stream of
 12 principal and interest payments derived assuming
 13 that each repayable advance that is outstanding on
 14 the refinancing date is due on the thirtieth anniver-
 15 sary of the end of the fiscal year in which the ad-
 16 vance was made to the Trust Fund, and that all
 17 such principal and interest payments are made on
 18 September 30 of the applicable fiscal year.

19 (3) REFINANCING DATE.—The term “refi-
 20 nancing date” means the date occurring 2 days after
 21 the date of the enactment of this Act.

22 (4) TREASURY 1-YEAR RATE.—The term
 23 “Treasury 1-year rate” means a rate determined by
 24 the Secretary of the Treasury, taking into consider-
 25 ation current market yields on outstanding market-

1 able obligations of the United States with remaining
 2 periods to maturity of approximately 1 year, to have
 3 been in effect as of the close of business 1 business
 4 day before the date on which the Trust Fund issues
 5 obligations to the Secretary of the Treasury under
 6 section 4(b).

7 (5) TREASURY RATE.—The term “Treasury
 8 rate” means a rate determined by the Secretary of
 9 the Treasury, taking into consideration current mar-
 10 ket yields on outstanding marketable obligations of
 11 the United States of comparable maturities.

12 **SEC. 4. REFINANCING OF OUTSTANDING PRINCIPAL OF RE-**
 13 **PAYABLE ADVANCES AND UNPAID INTEREST**
 14 **ON SUCH ADVANCES.**

15 (a) IN GENERAL.—On the refinancing date, the
 16 Trust Fund shall pay the market value of the outstanding
 17 repayable advances, plus accrued interest, by transferring
 18 into the general fund of the Treasury the following sums:

19 (1) The proceeds from obligations that the
 20 Trust Fund shall issue to the Secretary of the
 21 Treasury in such amounts as the Secretaries of
 22 Labor and the Treasury shall determine and bearing
 23 interest at the Treasury rate, and that shall be in
 24 such forms and denominations and be subject to

1 such other terms and conditions, including maturity,
2 as the Secretary of the Treasury shall prescribe.

3 (2) All, or that portion, of the appropriation
4 made to the Trust Fund pursuant to section 5 that
5 is needed to cover the difference defined in that sec-
6 tion.

7 (b) ADDITIONAL ISSUANCE OF OBLIGATIONS.—In
8 the event that the Trust Fund is unable to repay the obli-
9 gations that it has issued to the Secretary of the Treasury
10 under subsection (a)(1) and this subsection, or is unable
11 to make benefit payments and other authorized expendi-
12 tures, the Trust Fund shall issue obligations to the Sec-
13 retary of the Treasury in such amounts as may be nec-
14 essary to make such repayments, payments, and expendi-
15 tures, with a maturity of 1 year, and bearing interest at
16 the Treasury 1 year rate. These obligations shall be in
17 such forms and denominations and be subject to such
18 other terms and conditions as the Secretary of the Treas-
19 ury shall prescribe.

20 (c) AUTHORIZATION TO ISSUE OBLIGATIONS.—The
21 Trust Fund is authorized to issue obligations to the Sec-
22 retary of the Treasury under subsections (a)(1) and (b).
23 The Secretary of the Treasury is authorized to purchase
24 such obligations of the Trust Fund. For the purposes of
25 making such purchases, the Secretary of the Treasury

1 may use as a public debt transaction the proceeds from
 2 the sale of any securities issued under chapter 31 of title
 3 31, United States Code, and the purposes for which secu-
 4 rities may be issued under such chapter are extended to
 5 include any purchase of such Trust Fund obligations
 6 under this subsection.

7 **SEC. 5. APPROPRIATIONS.**

8 There is hereby appropriated to the Trust Fund an
 9 amount sufficient to pay to the general fund of the Treas-
 10 ury the difference between—

11 (1) the market value of the outstanding repay-
 12 able advances, plus accrued interest, and

13 (2) the proceeds from the obligations issued by
 14 the Trust Fund to the Secretary of the Treasury
 15 under section 4(a)(1).

16 **SEC. 6. PREPAYMENT OF TRUST FUND OBLIGATIONS.**

17 The Trust Fund is authorized to repay any obligation
 18 issued to the Secretary of the Treasury under subsections
 19 (a)(1) and (b) of section 4 before its maturity date by pay-
 20 ing a prepayment price that would, if the obligation being
 21 prepaid (including all unpaid interest accrued thereon
 22 through the date of prepayment) were purchased by a
 23 third party and held to the maturity date of such obliga-
 24 tion, produce a yield to the third-party purchaser for the
 25 period from the date of purchase to the maturity date of

1 such obligation substantially equal to the Treasury yield
 2 on outstanding marketable obligations of the United
 3 States having a comparable maturity to this period.

4 **SEC. 7. EXTENSION OF EXCISE TAX LEVELS.**

5 Paragraph (2) of section 4121(e) of the Internal Rev-
 6 enue Code of 1986 (relating to reduction in amount of
 7 tax) is amended to read as follows:

8 “(2) TEMPORARY INCREASE TERMINATION
 9 DATE.—For purposes of paragraph (1), the tem-
 10 porary increase termination date is the first January
 11 1 following a determination by the Secretary that
 12 there are—

13 “(A) no outstanding obligations of the
 14 Black Lung Disability Trust Fund held by the
 15 Secretary; and

16 “(B) no unpaid interest on such obliga-
 17 tions.”.

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