

**SOCIAL SECURITY ADMINISTRATION**

Payments to Social Security Trust Funds

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## SOCIAL SECURITY ADMINISTRATION

## Payments to Social Security Trust Funds

*For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, \$28,140,000.*

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.

Payments to Social Security Trust Funds

Amounts Available for Obligation

<b>Appropriation</b>	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>
<u>Appropriation</u>			
Annual	\$58,470,000	\$1,318,030,000	\$28,140,000
Permanent	<u>\$16,357,387,253</u>	<u>\$18,042,000,000</u>	<u>\$19,936,000,000</u>
Subtotal, Adjusted appropriation	\$16,415,857,253	\$19,360,030,000	\$19,964,140,000
Unobligated balance, start-of-year	+\$14,442,720	+\$14,162,437	+\$13,462,437
Recovery of prior-year obligations	---	---	---
Unobligated balance, end-of-year	-\$14,162,437	-\$13,462,437	-\$12,762,437
Unobligated balance, lapsing	<u>-\$9,168,928</u>	<u>---</u>	<u>---</u>
Total, obligations	\$16,406,968,608	\$19,360,730,000	\$19,964,840,000

Payments to Social Security Trust Funds

Summary of Changes  
(Annual Appropriation)

<b>FY 2007 Current Estimate (Obligations)</b>	\$1,318,030,000 (\$1,318,730,000)
<b>FY 2008 Estimate (Obligations)</b>	\$28,140,000 (\$28,840,000)
<b>Net Change (Obligations)</b>	+\$1,289,890,000 (+\$1,289,890,000)

	<b><u>FY 2007</u> Current Estimate Base</b>	<b>Change from Base</b>
<u>Increases</u>		
Reimbursement to the Disability Insurance Trust Fund for the quinquennial adjustment for military wage credits. Assumes reimbursement takes place December 31, 2007.	\$0	<u>+\$7,727,000</u>
Total Increases		+\$7,727,000
<u>Decreases</u>		
Reimbursement to the Social Security trust funds for overpayment to the Internal Revenue Service for Voluntary Income Tax Withholding. This is a one-time payment. Payments to beneficiaries were not impacted.	\$1,297,614,000	-\$1,297,614,000
Reimbursement to the Old-Age and Survivors Insurance Trust Fund for special payments for certain uninsured persons made in FY 2006. This is a continually declining population. Assumes reimbursement takes place December 31, 2007.	\$16,000	<u>-\$3,000</u>
Total Decreases		<u>-\$1,297,617,000</u>
Net Change		-\$1,289,890,000

Payments to Social Security Trust Funds

Budget Authority by Activity  
(Dollars in thousands)

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>
<b><u>Current Authority</u></b>			
Special payments for certain uninsured persons	\$70	\$16	\$13
(Obligations)	(\$69)	(\$16)	(\$13)
Pension reform	6,400	6,400	6,400
(Obligations)	(1,942)	(6,400)	(6,400)
Unnegotiated checks	14,000	14,000	14,000
(Obligations)	(9,290)	(14,000)	(14,000)
Quinquennial adjustment for military service wage credits	---	---	7,727
(Obligations)	(---)	(---)	(7,727)
Hurricane supplemental	---	---	---
(Obligations)	(38,000)	(---)	(---)
Coal industry retiree health benefits <sup>1</sup>	---	---	---
(Obligations)	(280)	(700)	(700)
Voluntary Income Tax Withholding	---	\$1,297,614	---
(Obligations)	<u>(---)</u>	<u>(\$1,297,614)</u>	<u>(---)</u>
Subtotal, current authority	\$58,470	\$1,318,030	\$28,140
(Obligations)	(\$49,581)	(\$1,318,730)	(\$28,840)

<sup>1</sup> Budget authority from prior years will remain available until expended to reimburse the trust funds for administrative expenses to carry out section 19141 of the Energy Policy Act of 1992.

Budget Authority by Activity  
(Dollars in thousands)

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>
<b><u>Permanent or Indefinite Authority</u></b> (not subject to annual appropriations)			
Reimbursement for union administrative expenses (Obligations)	\$ 6,475 ( \$ 6,475)	\$11,000 ( \$11,000)	\$11,000 ( \$11,000)
Taxation of benefits, U.S. (Obligations)	16,201,687 (16,201,687)	17,875,000 (17,875,000)	19,761,000 (19,761,000)
Taxation of benefits, nonresident aliens (Obligations)	149,000 (149,000)	156,000 (156,000)	164,000 (164,000)
FICA tax credits (Obligations)	--- (---)	--- (---)	--- (---)
SECA tax credits (Obligations)	225 (225)	--- (---)	--- (---)
Subtotal, permanent authority (Obligations)	\$16,357,387 ( \$16,357,387)	\$18,042,000 ( \$18,042,000)	\$19,936,000 ( \$19,936,000)
Total, budget authority (Obligations)	\$16,415,857 ( \$16,406,968)	\$19,360,030 ( \$19,360,730)	\$19,964,140 ( \$19,964,840)

Payments to Social Security Trust Funds

Budget Authority by Object

	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
Insurance claims and indemnities	\$19,342,630,000	\$19,946,740,000	+\$604,110,000
Other services	<u>\$17,400,000</u>	<u>\$17,400,000</u>	<u>---</u>
Total, budget authority by object	\$19,360,030,000	\$19,964,140,000	+\$604,110,000



Payments to Social Security Trust Funds

Authorizing Legislation  
(Dollars in thousands)

	<b>FY 2007 Amount Authorized</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Amount Authorized</b>	<b>FY 2008 Estimate</b>
1. Special payments for certain uninsured persons (Prouty): Social Security Act (S.S. Act), section 228(g)	Indefinite	\$16	Indefinite	\$13
2. Pension reform: S.S. Act, section 1131(b)(2)	Indefinite	\$6,400	Indefinite	\$6,400
3. Unnegotiated checks: S.S. Act, section 201(m); Social Security Amendments of 1983, section 152	Indefinite	\$14,000	Indefinite	\$14,000
4. Coal industry retiree health benefits: Internal Revenue Code of 1986, sections 9704 and 9706; Energy Policy Act of 1992, section 19141	Indefinite	---	Indefinite	---
5. Quinquennial adjustment for military service wage credits: S.S. Act, section 217(g)	Indefinite	---	Indefinite	\$7,727
6. Voluntary Income Tax Withholding refund: The Social Security Restoration Act of 2006, Public Law 109-20	Indefinite	<u>\$1,297,614</u>	Indefinite	---
Subtotal, annual appropriation		\$1,318,030		\$28,140
7. Reimbursement for union administrative expenses: FY 2006 Social Security Appropriations Act (and anticipated for FY 2007 and FY 2008) <sup>1</sup>	Indefinite	\$11,000	Indefinite	\$11,000
8. Taxation of benefits, U.S.: Social Security Amendments of 1983, section 121	Permanent Indefinite	\$17,875,000	Permanent Indefinite	\$19,761,000
9. Taxation of benefits, nonresident aliens: Social Security Amendments of 1983, section 121	Permanent Indefinite	<u>\$156,000</u>	Permanent Indefinite	<u>\$164,000</u>
Total, appropriation		\$19,360,030		\$19,964,140

<sup>1</sup> The FY 2007 appropriation has not yet been enacted; therefore, SSA is operating under a continuing resolution.

Payments to Social Security Trust Funds

Appropriation History Table  
(Annual Appropriation)

<b>Fiscal Year</b>	<b>Budget Estimate to Congress</b>	<b>House Allowance</b>	<b>Senate Allowance</b>	<b>Appropriation</b>
1999	\$19,689,000	\$19,689,000	\$19,689,000	\$19,689,000
2000	\$20,764,000	\$20,764,000	\$20,764,000	\$20,764,000
2001	\$20,400,000	\$20,400,000	\$20,400,000	\$20,400,000
2002	\$434,400,000 <sup>1</sup>	\$434,400,000	\$434,400,000	\$434,400,000
2003	\$20,400,000	\$20,400,000	\$20,400,000	\$20,400,000
2004	\$21,658,000	\$21,658,000	\$21,658,000	\$21,658,000
2005	\$20,454,000	\$20,454,000	\$20,454,000	\$20,454,000
2006	\$20,470,000	\$20,470,000	\$20,470,000	\$20,470,000
2006	\$38,000,000 <sup>2</sup>	\$38,000,000	\$38,000,000	\$38,000,000
2007	\$27,756,000 <sup>3</sup>			
2007	\$1,297,614,000 <sup>4</sup>			
2008	\$28,140,000 <sup>5</sup>			

<sup>1</sup> Includes \$414,000,000 for the quinquennial adjustment to the Federal Old-Age and Survivors Insurance Trust Fund for the costs of granting noncontributory credit for military service.

<sup>2</sup> FY 2006 Supplemental Appropriation providing for hurricane relief.

<sup>3</sup> Includes \$7,340,000 for the quinquennial adjustment to the Federal Disability Insurance Trust Fund for the costs of granting noncontributory credit for military service. This has not yet been appropriated for FY 2007.

<sup>4</sup> Appropriation provided by the Social Security Trust Funds Restoration Act of 2006, P.L. 109-465 to repay the Social Security trust funds for an overpayment to the Internal Revenue Service for Voluntary Income Tax Withholding.

<sup>5</sup> Includes \$7,727,000 for the quinquennial adjustment to the Federal Disability Insurance Trust Fund for the costs of granting noncontributory credit for military service, if this is not appropriated in FY 2007.

## Payments to Social Security Trust Funds

### Justification

	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Appropriation request (Obligations)</b>	\$1,318,030,000 (\$1,318,730,000)	\$28,140,000 (\$28,840,000)	-\$1,289,890,000 (-\$1,289,890,000)

### **GENERAL STATEMENT**

This account includes several Federal fund payments to the Social Security trust funds for a variety of distinct purposes. Amounts appropriated to this account as permanent indefinite authority that are not addressed in this justification include receipts from Federal income taxation of Social Security benefits and reimbursement for union administrative expenses.<sup>1</sup> In addition, there are two one-time payments appropriated to this account. One of these payments was in FY 2006 for hurricane relief (\$38,000,000), and the other was an appropriation to refund the trust funds, in FY 2007, for an overpayment to the Internal Revenue Service for Voluntary Income Tax Withholding from Social Security benefits. Three of the payments included in this appropriation request are authorized to be appropriated annually and one is authorized to be appropriated each fifth year if it is determined to be necessary. The purpose of each requested payment is to put the trust funds in the same financial position they would have been in had they not borne the cost of certain benefits or administrative expenses which are chargeable to Federal funds. These four payments are for special payments for certain uninsured persons, pension reform, interest on unnegotiated checks, and pre-1957 military service wage credits (quinquennial adjustment).

<sup>1</sup> A brief description of the payments included in this account as permanent indefinite appropriations follows:

The Social Security Amendments of 1983 provide for taxation of up to one-half of Social Security benefits in excess of certain income thresholds. The Omnibus Reconciliation Act of 1993, P.L. 103-66, amended this provision so that up to 85 percent of benefits could be subject to taxation. The additional amounts collected from the 1993 taxation provision are paid to the Hospital Insurance Trust Fund; no additional income is due the Social Security trust funds as a result of the enactment of the 1993 law.

The taxes are collected as Federal income taxes; then an equivalent payment to the Social Security trust funds is made from the general funds of the Treasury. Transfers of estimated aggregate tax liabilities arising from Social Security benefits of U.S. citizens are made quarterly and then adjusted as actual receipts are known. The estimated income from these taxes is \$17,875 million in FY 2007 and \$19,761 million in FY 2008 from U.S. citizens; taxes imposed on aliens are transferred monthly and will generate estimated income of \$156 million in FY 2007, and \$164 million in FY 2008. The estimates for taxation of benefits reflect normal growth related to benefit levels. Current estimates for FY 2006 reflect adjustments for prior years.

The Social Security Amendments of 1983 also provided for the granting of Federal Insurance Contribution Act (FICA) and Self-Employment Insurance Contribution Act (SECA) tax credits to individuals. The tax credits are granted at the time the individual is taxed and are funded by the general funds of the Treasury. The FICA tax credit applied only to wages earned in calendar year 1984. The SECA tax credit applied from calendar year 1984 through calendar year 1989.

The appropriation for the Social Security Administration's Limitation on Administrative Expenses account includes language reimbursing the trust funds from general funds of the Treasury, with interest, for certain administrative expenses incurred in support of union activities.

## Payments to Social Security Trust Funds

**SPECIAL PAYMENTS FOR CERTAIN UNINSURED PERSONS**

**Authorizing Legislation:** Section 228(g) of the Social Security Act.

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Budget Authority</b>	\$70,000	\$16,000	\$13,000	-\$3,000

Purpose and Method of Operation

The purpose of this payment is to reimburse the Federal Old-Age and Survivors Insurance (OASI) Trust Fund for the costs of special payments made to certain persons who were not insured for regular Social Security benefits. Section 228(g) of the Social Security Act, as amended, authorizes an annual appropriation of Federal funds to reimburse the OASI Trust Fund (with interest) for special monthly benefits paid during the second preceding fiscal year to persons with fewer than three quarters of coverage.

Benefits were authorized in a 1966 amendment to the Social Security Act (the Prouty amendment) providing for special payments to persons aged 72 and over who were too elderly to have worked long enough after passage of the Act to be insured for Social Security benefits. To be eligible under the Prouty amendment, an individual must have attained age 72 before 1968, or meet certain minimal insured status requirements if he or she attained age 72 in 1968 or later. In 2006, the maximum benefit amount was \$247.40. For individuals receiving a government pension, payments under a federally-aided public assistance program, or payments under the Supplemental Security Income program, Prouty benefits are reduced or withheld, as required by law. The number of persons receiving benefits under the Prouty amendment has been decreasing gradually as the size of the aged population meeting the eligibility requirements decreases. As of September 30, 2006, there were 2 persons receiving benefits under this program, as compared to 3 on September 30, 2005.

Special payments made to persons with three or more quarters of coverage were funded from the trust funds and not reimbursed from general revenues. All Prouty benefits paid in FY 2006 were based on fewer than three quarters of coverage. The amounts appropriated in a fiscal year represent reimbursements for the second year prior to the appropriation, as well as necessary adjustments for prior years.

Funding levels for the past 5 years were as follows:

<b>Fiscal Year</b>	<b>Obligations</b>
2002	\$0
2003	\$0
2004	\$1,258,000
2005	\$54,000
2006	\$70,000
2007 (estimate)	\$16,000

#### Rationale for the Budget Request

The FY 2008 President's budget request is for payment of \$13,000 to the OASI Trust Fund for program costs incurred for FY 2006. Program costs include benefit payments actually made, related administrative expenses for maintaining the beneficiary rolls, and interest lost to the trust fund.

The FY 2007 President's budget request was for payment to the OASI Trust Fund for program costs incurred for FY 2006.

## Payments to Social Security Trust Funds

**PENSION REFORM**

**Authorizing Legislation:** Section 1131(b)(2) of the Social Security Act.

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Budget Authority</b>	\$6,400,000	\$6,400,000	\$6,400,000	---

Purpose and Method of Operation

The purpose of this payment is to reimburse the Federal Old-Age and Survivors Insurance (OASI) Trust Fund for the cost of certain pension reform activities chargeable to Federal funds.

The Employee Retirement Income Security Act of 1974, P.L. 93-406 (Pension Reform Act, also known as ERISA), established section 1131 of the Social Security Act. This section requires the Commissioner of Social Security to furnish information regarding deferred vested pension rights to pension plan participants (and their dependents or survivors), either upon request or automatically upon application for retirement, survivors, or disability insurance benefits. The Social Security Administration (SSA) receives the necessary information from the Internal Revenue Service each time an employee leaves employment which earned the worker vested rights to a pension. SSA controls, microfilms and keys data into the Lifeworks system, which further verifies identifying information against the NUMIDENT (SSN record) database and the data is entered on an Employee Master File (EMF). Each month, an activity file of new benefit applications is compared to the EMF. Any individual in this activity file that shows a corresponding record for the worker in the EMF is sent the required ERISA notice of pension plan eligibility, which includes the information they need to contact the pension plan administrator. SSA staff also resolves exceptions and responds to inquiries from employers and the public.

Section 1131(b)(1) permits the administrative expenses of carrying out this pension reform work to be funded initially from the OASI Trust Fund through SSA's Limitation on Administrative Expenses. Section 1131(b)(2) authorizes an annual appropriation of Federal funds to reimburse the OASI Trust Fund. To the extent that resources needed to process this workload exceed the budget authority available for reimbursement in the current year, reimbursement is made to the OASI Trust Fund at the beginning of the subsequent year, including interest as appropriate. SSA began to incur pension reform administrative expenses in FY 1977.

Funding levels for the past 5 years were as follows:

<b>Fiscal Year</b>	<b>Obligations</b>
2002	\$953,000
2003	\$455,000
2004	\$6,400,000
2005	\$4,291,000
2006	\$1,942,000
2007 (estimate)	\$6,400,000

Rationale for the Budget Request

The FY 2008 budget requests \$6,400,000 to reimburse the OASI Trust Fund for the cost of carrying out SSA's responsibilities under the Pension Reform Act. This includes adjustments for interest, if necessary, for FY 2007 pension reform costs in excess of the FY 2007 pension reform activity in this appropriation. The FY 2008 request is the same as in the FY 2007 budget. SSA has continued to receive a large volume of pension coverage reports from the IRS. The table below summarizes the recent trend:

<b>Fiscal Year</b>	<b>Pension Coverage Report Receipts</b>
1999	4,094,000
2000	3,763,000
2001	2,016,000
2002	3,003,000
2003	1,570,000
2004	5,621,371
2005	5,363,409
2006	6,003,014

## Payments to Social Security Trust Funds

**UNNEGOTIATED CHECKS**

**Authorizing Legislation:** Section 201(m) of the Social Security Act and Section 152 of P.L. 98-21.

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Budget Authority</b>	\$14,000,000	\$14,000,000	\$14,000,000	---

Purpose and Method of Operation

The purpose of this payment is to reimburse the Federal Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) Trust Funds for the value of interest on benefit checks that remain uncashed after 6 months.

This activity was originally established to reimburse the trust funds for uncashed benefit checks and accrued interest. Beginning October 1, 1989, Social Security checks, like those issued by other Federal agencies, are negotiable for only 12 months from their date of issue under the provisions of the Competitive Equality Banking Act (CEBA) of 1987 (P.L. 100-86). In the 14<sup>th</sup> month after issue, the Department of the Treasury prepares a listing of checks outstanding from each agency, cancels those checks, and refunds the value of checks canceled to the authorizing agencies. Under this "Limited Payability" procedure, the value of unnegotiated checks issued on or after October 1, 1989 are credited directly to the trust funds from Treasury's general fund when the checks are canceled, pursuant to P.L. 100-86. These funds do not pass through the Payments to Social Security Trust Funds account. However, the interest adjustment must be paid through this account because CEBA made no provision for it. This appropriation funds the estimated ongoing level of activity and represents the value of interest for unnegotiated OASDI benefit checks.

Funding levels for the past 5 years were as follows:

<b>Fiscal Year</b>	<b>Obligations</b>
2002	\$10,713,886
2003	\$9,643,404
2004	\$7,545,490
2005	\$8,662,115
2006	\$9,289,828
2007 (estimate)	\$14,000,000



Rationale for the Budget Request

The FY 2008 request is for \$14,000,000 to reimburse the OASDI Trust Funds for the value of interest on unnegotiated checks.

	<b>FY 2008 Estimate</b>
OASI Trust Fund	\$11,000,000
DI Trust Fund	<u>\$3,000,000</u>
Total	\$14,000,000

The FY 2008 request is the same as the FY 2007 estimate. The actual interest reflects the ongoing shift of beneficiaries away from the paper check method of benefit payment to direct deposit. Benefits paid via direct deposit bypass the mechanism in which there is the possibility of an uncashed check. However, the growth in direct deposit participation is somewhat offset by increases in the number of beneficiaries and in the average monthly benefit payments. The following table summarizes the recent trend in the percentage of OASDI beneficiaries enrolled in the direct deposit payment program.

<b>Date</b>	<b>Direct Deposit Participation Rate</b>
December 2002	81%
December 2003	82%
December 2004	82%
December 2005	83%
December 2006	84%

## Payments to Social Security Trust Funds

**COAL INDUSTRY RETIREE HEALTH BENEFITS**

**Authorizing Legislation:** Sections 9704 and 9706 of the Internal Revenue Code of 1986 as amended by section 19141 of the Energy Policy Act of 1992.

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Budget Authority (Obligations)</b>	---	---	---	---
	(\$280,283)	(\$700,000)	(\$700,000)	(---)

Purpose and Method of Operation

The purpose of this payment is to reimburse the Federal Old-Age and Survivors and Federal Disability Insurance Trust Funds for work carried out under section 19141 of the Energy Policy Act of 1992 (Public Law 102-486), which established the Coal Industry Retiree Health Benefit Act of 1992 (CIRHBA). CIRHBA combined two existing United Mine Workers of America pension plans into a single fund and required that certain existing coal mine operators pay health benefit premiums for the new combined plan. The law directed the Commissioner of Social Security to:

- ◆ search the earnings records of the group of retired coal miners covered by the combined plan;
- ◆ determine which retirees should be assigned to which mine operators;
- ◆ notify the involved mine operators of the names and Social Security numbers of eligible beneficiaries who have been assigned to them;
- ◆ process appeals from operators who believe that assignments have been made incorrectly; and
- ◆ compute the premiums based on a formula established in the Act.

Progress to Date

The Social Security Administration (SSA) has made initial decisions on all of the retired miners covered under these provisions of the 1992 CIRHBA (the Coal Act) and continues to provide requested earnings records and review the appeals made by the assigned coal operators. In addition, SSA is also in the process of analyzing new legislation which significantly impacts and restructures the Coal Act. On December 20, 2006, the President signed the Tax Relief and Health Care Act of 2006 (P.L. 109-432). Subtitle B of this bill, entitled the "Coal Industry Retirement Health Benefit Act", contains numerous provisions affecting how SSA makes assignments of retired miners to coal companies. One provision specifically directs the

Commissioner to “revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on or after October 1, 2007.” SSA needs to review the legislation, obtain legal advice on required actions, and determine how P.L. 109-432 will affect existing policies and procedures, as well as to determine the resources required to implement this legislative change.

While SSA is in the process of assessing this new legislation, it remains actively involved in three Coal Act cases that are pending final adjudication in the Federal Courts. The three cases are as follows:

- ◆ In A.T. Massey, et al., v. Barnhart (A.T. Massey), 119 plaintiffs have challenged the higher premium calculation method SSA used to determine the annual per-beneficiary premium that assigned operators (residing outside the Eleventh Circuit) must pay under the provisions of the Coal Act. This complaint concerns SSA’s 2003 decision to calculate and issue two premium amounts (one higher than the other) pursuant to the November 8, 2002 ruling in Michael H. Holland, et al., v. Apfel and National Mining Association (Holland). The Holland ruling stated that the higher premium calculation method that SSA initially computed in 1993 is correct and pertains to all assigned operators except those that were plaintiffs in National Coal Association, et al., v. Shalala (NCA). Thus, the A.T. Massey plaintiffs brought suit against SSA because they want the ruling in NCA (e.g., the lower premium amount) to be applied to them.

On December 21, 2006, the United States Court of Appeals for the Fourth Circuit decided this case in favor of the plaintiffs and upheld the calculation that resulted in the lower premium for all parties. SSA is in the process of determining whether it will seek further court review of this decision. Regardless of the outcome, this case will have very little impact on SSA because the billing for (and collection of) Coal Act premiums is the responsibility of the Combined Benefit Fund (a private-sector entity).

- ◆ Peabody Coal Company, LLC, and Eastern Associated Coal Corporation v. Barnhart is pending in the United States District Court for the District of Delaware. The plaintiffs in Peabody allege that, “to justify her unlawful assignments to Plaintiffs, the Commissioner adopted the fiction that Eastern and all other super-reachback operators to whom she had assigned beneficiaries were out of business.” On March 14, 2006, the Commissioner filed a motion to dismiss this case; the court has not yet issued a decision.
- ◆ United States Steel Corporation and U.S. Steel Mining Company v. Barnhart is pending in the United States Court of Appeals for the Eleventh Circuit. While this case involved specific challenges to individual miner assignments, the dominant issue pertains to SSA’s interpretation of the Supreme Court’s 1998 decision in Eastern Enterprises v. Apfel (Eastern). The specific issue is whether the Supreme Court’s decision invalidated all (or only part of) the Coal Act at § 9706(a). SSA’s position is that the Supreme Court’s decision only invalidated one portion of § 9706(a)(3), and that after the invalidated portion is excised, what remains “continue[s] to function.” Thus, Eastern-type operators cannot be assigned any beneficiaries, or be *considered* when determining the appropriate Coal Act assignee. However, plaintiffs argue that although a beneficiary cannot be *assigned* to an Eastern-type operator, SSA must still *consider* the miner’s employment by the Eastern-type operators as part of the assignment process. Therefore, they claim that they are not responsible for the miners who were assigned to

them following their withdrawal from their Eastern-type operators. To date, all of the final court decisions that have addressed this issue have ruled in favor of SSA.

This account provides general fund reimbursement to the trust funds to the extent that the Limitation on Administrative Expenses account advances funds for SSA to carry out this work. Additional funds are not requested for FY 2008 because the \$10,000,000 per year appropriated in FY 1996 and in FY 1997 remains available until expended to reimburse the trust funds. However, SSA needs to fully assess the provisions in the Tax Relief Health Care Act of 2006 which affect the Coal Act, since this may have an impact on the need for additional funding.

Payments to Social Security Trust Funds

**MILITARY SERVICE WAGE CREDITS**

**Authorizing Legislation:** Section 217(g) of the Social Security Act.

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Budget Authority</b>	---	---	\$7,727,000	+\$7,727,000

Purpose and Method of Operation

The purpose of this payment is to reimburse the Federal Old-Age and Survivors Insurance (OASI) and Disability Insurance (DI) trust funds, as necessary, for the costs of granting noncontributory wage credits for military service. Section 217(g) addresses pre-1957 military service, and this appropriation request will reimburse the DI trust fund for wage credits granted for pre-1957 military service.

Pre-1957 Military Service: The 1946 Social Security Amendments provided for payment of Social Security benefits to World War II veterans and their survivors based upon noncontributory wage credits of \$160 for each month of the veteran's active military service. Subsequent amendments extended the period for which these credits were granted through December 1956. For that period, the Social Security Act did not require contributions to the trust funds based on the wages of individuals in the military service.

To finance the additional costs incurred in paying benefits, which are based on periods of military service before 1957 for which no contributions were made, the Social Security Act provides for reimbursement to the OASI and the DI trust funds from the general fund of the Treasury. Section 217(g), revised by the Social Security Amendments of 1965, established a 50-year period for reimbursement. The Secretary of Health and Human Services (now the Commissioner of Social Security) was instructed to determine by September 1965 (and each fifth September afterwards, ending September 2010) the amount of reimbursement in equal installments necessary to place the trust funds in the same position on September 30, 2015 that they would have been in, if noncontributory military service credits had not been provided. After September 30, 2015, annual appropriations for current costs were authorized.

The Social Security Amendments of 1983 modified section 217(g) to reimburse the trust funds in a lump sum for the present value of all future benefits arising from the gratuitous credits granted for military service before 1957. This provision directed the Secretary of the Treasury to transfer the pre-1957 wage credit lump sum to the trust funds within 30 days after enactment of the legislation. This lump sum settlement, which covered periods through September 30, 2015, is subject to adjustment every fifth year beginning in 1985. The annual appropriations originally authorized for FY 2016 and beyond were eliminated by the 1983 amendments. The Commissioner of Social Security will determine these adjustments on the basis of benefits and administrative costs actually paid under section 217(g) and relevant actuarial assumptions in the Social Security Trustees Report. Under the 1983 amendments, the only costs of pre-1957

military service credits to this appropriation will be any additional payments due as a result of these adjustment determinations. Following the initial transfers from the general fund to the trust funds in 1983 and 1985, the quinquennial adjustments transferred funds from SSA's trust funds to the general fund of the Treasury each time, until the 2000 determination was prepared. In that year, it was determined that the general fund owed a payment to the OASI trust fund. The FY 2002 appropriation for this transfer, including interest, was \$414,000,000. Appropriations are not needed to effectuate quinquennial transfers from the trust funds to the general fund.

#### Rationale for the Budget Request

The Office of the Chief Actuary's most recent analysis for the quinquennial adjustment determined that \$350,000,000 should be transferred from the OASI trust fund to the general fund. This transfer was made on December 30, 2005. The actuaries also determined that \$7,727,000 should be transferred to the DI trust fund from the general fund in FY 2008, as authorized under section 217(g) for pre-1957 military service credits. SSA's appropriation request will enable SSA to implement this quinquennial adjustment. This transfer was requested for the FY 2007 appropriation. Since the FY 2007 appropriation has not yet been passed, SSA is requesting the transfer in the FY 2008 appropriation.

Payments to Social Security Trust Funds

**VOLUNTARY INCOME TAX WITHHOLDING**

**Authorizing Legislation:** The Social Security Restoration Act of 2006 (P.L. 109-465).

	<b>FY 2006 Actual</b>	<b>FY 2007 Current Estimate</b>	<b>FY 2008 Estimate</b>	<b>Increase or Decrease</b>
<b>Budget Authority</b>	---	\$1,297,614,000	---	-\$1,297,614,000

Purpose and Method of Operation

On December 22, 2006, the President signed P.L. 109-465, resulting in a payment of nearly \$1.3 billion to the Federal Old-Age and Survivors Insurance and Disability Insurance trust funds. The purpose of this payment was to reimburse the trust funds for the amount of funds needed to restore them from the consequences of a bookkeeping error. That error resulted in the overpayment of amounts transferred from each trust fund to the Internal Revenue Service (IRS) from 1999 through 2005 as transfers of anticipated taxes on Social Security benefit payments under the voluntary withholding program authorized by section 3402(p) of the Internal Revenue Code of 1986. This bookkeeping error did not affect the amounts of taxes that SSA withheld from payments made to Social Security beneficiaries.

This law appropriated an amount to be determined by the Secretary of the Treasury, in consultation with the Commissioner of Social Security, equal to the difference between:

- ◆ the total amount that the Social Security trust funds have lost (including interest that would have been earned, calculated at the statutory Social Security investment rate); and
- ◆ the total amount that the IRS has already refunded to SSA under existing Internal Revenue Code authority via an FY 2006 transfer of funds from Treasury directly into the trust funds (including interest that the IRS paid, calculated at the statutory IRS interest rate).

The reimbursement was paid to the trust funds on December 29, 2006.