

FY 2011

CONGRESSIONAL BUDGET JUSTIFICATION

OFFICE OF WORKERS COMPENSATION PROGRAMS

BLACK LUNG DISABILITY TRUST FUND

BLACK LUNG DISABILITY TRUST FUND

TABLE OF CONTENTS

| | |
|---|----|
| Appropriation Language | 1 |
| Explanation of Language Change | 2 |
| Analysis of Appropriation Language..... | 3 |
| Amounts Available for Obligation..... | 4 |
| Summary of Changes | 5 |
| Budget Authority by Object Class | 6 |
| Authorizing Statutes..... | 7 |
| Appropriation History | 8 |
| Overview | 9 |
| Budget Activities | 11 |
| Black Lung Disability Trust Funds..... | 11 |

BLACK LUNG DISABILITY TRUST FUND

(Including Transfer of Funds)

APPROPRIATION LANGUAGE

In fiscal year [2010] *2011*, such sums as may be necessary from the Black Lung Disability Trust Fund (“Fund”), to remain available until expended, for payment of all benefits authorized by section 9501(d) (1), (2), [(4)] (6) and (7), of the Internal Revenue Code of 1986; and *repayment of, and payment of* interest on advances, as authorized by section 9501[(c) (2)](d)(4) of that Act. In addition, the following amounts may be expended from the Fund for fiscal year [2010]*2011* for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed[\$32,720,000] *\$33,075,000* for transfer to the [Employment Standards Administration] *Office of Workers’ Compensation Programs*, “Salaries and Expenses”; not to exceed [\$25,091,000]*\$25,394,000* for transfer to Departmental Management, “Salaries and Expenses”; not to exceed \$327,000 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, 2010.*)

BLACK LUNG DISABILITY TRUST FUND

EXPLANATION OF LANGUAGE CHANGE

The appropriations language changes the citation for repayment of advances, and payment of interest on advances from section 9501(c)(2) to 9501(d)(4) since repayment of the "Fund's" debt began in FY 2009.

BLACK LUNG DISABILITY TRUST FUND

ANALYSIS OF APPROPRIATION LANGUAGE

"In fiscal year 2011, 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 repayment of advances and payment of interest on advances, as authorized by section 9501(d)(4) of that Act..."

This language provides for repayment of advances and 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.

BLACK LUNG DISABILITY TRUST FUND

| AMOUNTS AVAILABLE FOR OBLIGATION | | | | | | | | |
|---|----------------------------|---------------|-------------------------|---------------|----------------------------|---------------|----------------------------|---------------|
| (Dollars in Thousands) | | | | | | | | |
| | FY 2009 Enacted | | Recovery Act | | FY 2010 Enacted | | FY 2011 Request | |
| | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| A. Appropriation | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Definite | 0 | 57,683 | 0 | 0 | 0 | 58,494 | 0 | 59,152 |
| Indefinite | 0 | 7,109,450 | 0 | 0 | 0 | 604,736 | 0 | 650,371 |
| Subtotal, Appropriation | 0 | 7,167,133 | 0 | 0 | 0 | 663,230 | 0 | 709,523 |
| Comparative Transfer To: | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Comparative Transfer From: | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| B. Gross Budget | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Authority | 0 | 7,167,133 | 0 | 0 | 0 | 663,230 | 0 | 709,523 |
| C. Budget Authority | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Before Committee | 0 | 7,167,133 | 0 | 0 | 0 | 663,230 | 0 | 709,523 |
| D. Total, estimated | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Obligations | 0 | 7,167,133 | 0 | 0 | 0 | 663,230 | 0 | 709,523 |

^{1/} Appropriation includes \$6,497,989 for a one-time intergovernmental transfer to Treasury for repayment on the BLDTF debt. The amount also includes payment of accrued interest on advances from 10/01/08 through 10/7/08.

BLACK LUNG DISABILITY TRUST FUND

SUMMARY OF CHANGES

(Dollars in Thousands)

| | FY 2010 Enacted | FY 2011 Request | Net Change |
|------------------------------|--------------------|--------------------|------------|
| Budget Authority | | | |
| General Funds | 0 | 0 | 0 |
| Trust Funds | 663,230 | 709,523 | +46,293 |
| Total | 663,230 | 709,523 | +46,293 |
| Full Time Equivalents | | | |
| General Funds | 0 | 0 | 0 |
| Trust Funds | 0 | 0 | 0 |
| Total | 0 | 0 | 0 |

| Explanation of Change | FY 2010 Base | | Trust Funds | | FY 2011 Change General Funds | | Total | |
|-------------------------------------|--------------|----------------|-------------|----------------|---------------------------------|----------|----------|----------------|
| | FTE | Amount | FTE | Amount | FTE | Amount | FTE | Amount |
| Increases: | | | | | | | | |
| A. Built-Ins: | | | | | | | | |
| To Provide For: | | | | | | | | |
| Administrative Expenses | 0 | 58,494 | 0 | 658 | 0 | 0 | 0 | 658 |
| Payments on Bond Principal | | 353,424 | | 25,862 | | | | 25,862 |
| Payments on Bond Interest | | 11,333 | | 10,286 | | | | 10,286 |
| Repayment of Short-term Advances | | 0 | | 21,077 | | | | 21,077 |
| Built-Ins Subtotal | 0 | 423,251 | 0 | 57,883 | 0 | 0 | 0 | 57,883 |
| B. Program: | | | | | | | | |
| C. Financing: | | | | | | | | |
| Total Increase | 0 | 423,251 | 0 | +57,883 | 0 | 0 | 0 | +57,883 |
| Decreases: | | | | | | | | |
| A. Built-Ins: | | | | | | | | |
| To Provide For: | | | | | | | | |
| Benefit Payments | 0 | 239,979 | 0 | -11,590 | 0 | 0 | 0 | -11,590 |
| Built-Ins Subtotal | 0 | 239,979 | 0 | -11,590 | 0 | 0 | 0 | -11,590 |
| B. Program: | | | | | | | | |
| C. Financing: | | | | | | | | |
| Total Decrease | 0 | 241,605 | 0 | -11,590 | 0 | 0 | 0 | -11,590 |
| Total Change | 0 | 663,230 | 0 | +46,293 | 0 | 0 | 0 | +46,293 |

BLACK LUNG DISABILITY TRUST FUND

| BUDGET AUTHORITY by OBJECT CLASS (Dollars in Thousands) | | | | |
|---|----------------------------|----------------------------|----------------------------|--|
| | FY 2009 Enacted | FY 2010 Enacted | FY 2011 Request | Change FY 11 Req. / FY 10 Enacted |
| Other Services | \$57,683 | \$58,494 | \$59,152 | \$658 |
| Benefits 1/ | \$255,317 | \$239,979 | \$228,389 | -\$11,590 |
| Payments on Bond Principal | \$337,472 | \$353,424 | \$379,286 | \$25,862 |
| Payments on Bond Interest | \$4,672 | \$11,333 | \$21,619 | 10,286 |
| Repayment of Short Term Advances | \$0 | \$0 | \$21,077 | \$21,077 |
| Repayment of Interest on former debt (10-1-08 to 10-7-08) | \$14,000 | \$0 | \$0 | \$0 |
| One-time intergovernmental transfer to Treasury | \$6,497,989 | 0 | 0 | 0 |
| Total | \$7,167,133 | \$663,230 | \$709,523 | \$46,293 |
| <p>^{1/} Beginning in FY 2003, the benefit and interest amounts became indefinite appropriations and all administrative costs, definite appropriations.</p> | | | | |

BLACK LUNG DISABILITY TRUST FUND

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 |
| PUB. L. 110-343 | Emergency Economic Stabilization Act of 2008 | | | | N/A |

BLACK LUNG DISABILITY TRUST FUND

| APPROPRIATION HISTORY | | | | | |
|------------------------------|---|----------------------------|-----------------------------|-----------------------|------------|
| (Dollars in Thousands) | | | | | |
| | Budget Estimates to Congress | House Allowance | Senate Allowance | Appropriations | FTE |
| 2001.... ^{1/} | 1,028,000 | 1,028,000 | 995,310 | 1,027,544 | 0 |
| 2002.... ^{2/3/} | 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 | 1,066,000 | 0 | 0 | 1,066,000 | 0 |
| 2009.... ^{4/} | 1,072,000 | 0 | 1,072,000 | 7,167,133 | 0 |
| 2010 | 663,230 | 663,230 | 663,230 | 663,230 | 0 |
| 2011 | 709,523 | 0 | 0 | 0 | 0 |

^{1/} Reflects a reduction of \$100,000 pursuant to P.L. 106-554.

^{2/} Reflects a reduction of \$181,000 pursuant to P.L. 107-116.

^{3/} Reflects a reduction of \$51,000 pursuant to P.L. 107-206.

^{4/} Appropriation includes \$6,497,989 for a one-time intergovernmental transfer to Treasury for repayment on the BLDTF debt.

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 percent 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 that tax structure until 2014.

The Emergency Economic Stabilization Act of 2008 (the EES Act), enacted on October 3, 2008, authorized restructuring of the BLDTF debt by (1) extending current coal excise tax rates of \$1.10 per ton on underground-mined coal and \$0.55 per ton on surface-mined coal until December 31, 2018 (and then reverting to the 1978 levels, or \$0.50 per ton on underground coal, and \$0.25 per ton on surface coal); (2) providing a one-time appropriation for the BLDTF to repay the market value of parts of the outstanding repayable advances and accrued interest; and (3) refinancing the remainder of the outstanding debt through the issuance of zero-coupon bonds. Pursuant to the Act, these amounts are to be retired using the BLDTF's annual operating surpluses until all of its remaining obligations have been paid. Pre-payments will be made when operating surpluses exceed the amount of the zero-coupon bond, and short-term borrowing authority will be utilized if operating surpluses are not sufficient.

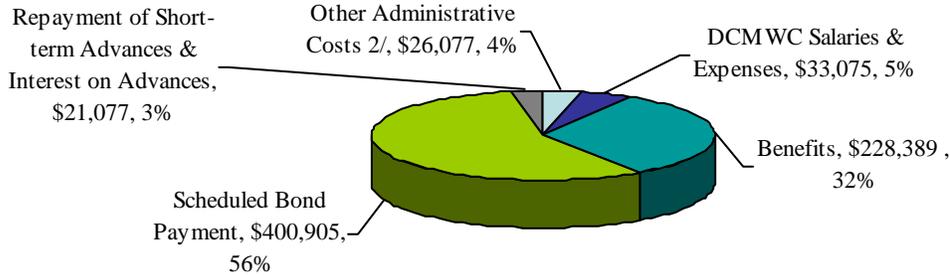
Cost Model

The Office of Workers' Compensation Program (OWCP) requests a total of \$709,523,000 to meet FY 2011 obligations for Part C, an increase of \$46,293,000 above the FY 2010 enacted level. This request includes \$228,389,000 for benefit payments; \$400,905,000 for a scheduled bond payment including \$379,286,000 on the bond principal and \$21,619,000 in interest on the bond; \$21,077,000 for repayment of advances including \$147,000 in interest on those advances; \$33,075,000 for Division of Coal Mine Workers' Compensation (DCMWC) Salaries and Expenses costs; \$25,394,000 for the administrative costs of the Solicitor, Office of Administrative Law Judges, and Benefits Review Board; \$327,000 for the Office of Inspector General; and \$356,000 for the Department of Treasury. Pursuant to the debt restructuring provisions in the EES Act, operating surpluses from coal excise tax revenues and short term borrowing authority when necessary will be used to retire zero-coupon bonds. The FY 2011 estimate includes \$58,323,000 in short-term borrowing.

The spread of requested funds across all components of the BLDTF is displayed below.

BLACK LUNG DISABILITY TRUST FUND

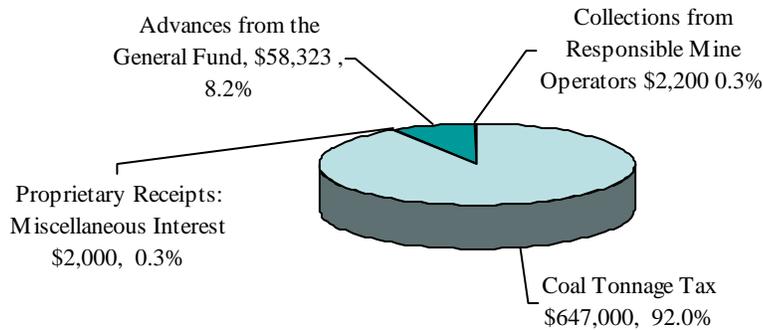
BLACK LUNG DISABILITY TRUST FUND Total BLDTF Annual Expenditures \$709,523^{1/} (Dollars in Thousands)



^{1/} Pursuant to the Emergency Economic Stabilization Act of 2008, enacted on October 3, 2008, the amounts for repayment of zero coupon bonds were derived from coal excise tax revenue estimates and are funded from the BLDTF's annual operating surpluses and short-term advances borrowing authority.

^{2/} Includes amounts transferred to: Departmental Management (\$25,394,000); Office of Inspector General (\$327,000); Treasury (\$356,000).

BLACK LUNG DISABILITY TRUST FUND Total BLDTF Annual Income \$709,523 (Dollars in Thousands)



BLACK LUNG DISABILITY TRUST FUND

| BUDGET AUTHORITY BEFORE THE COMMITTEE | | | | | |
|---|----------------------------|-------------------------|----------------------------|----------------------------|---|
| (Dollars in Thousands) | | | | | |
| | FY 2009 Enacted | Recovery Act | FY 2010 Enacted | FY 2011 Request | Diff. FY11 Req / FY10 Estimate |
| Activity Appropriation | \$7,167,133 | 0 | \$663,230 | \$709,523 | \$46,293 |
| Benefits | \$255,317 | 0 | \$239,979 | \$228,389 | -\$11,590 |
| Admin. Expenses | \$57,683 | 0 | \$58,494 | \$59,152 | \$658 |
| Payments on Bond Principal | \$337,472 | 0 | \$353,424 | \$379,286 | \$25,862 |
| Payments on Bond Interest | \$4,672 | 0 | \$11,333 | \$21,619 | \$10,286 |
| Repayment of Short-term Advances | 0 | 0 | 0 | \$21,077 | \$21,077 |
| Payment of Interest on former debt (10-1-08 to 10-7-08) | \$14,000 | 0 | 0 | \$0 | \$0 |
| One-time Appropriation for Treasury | 6,497,989 | 0 | 0 | 0 | 0 |
| FTE | 0 | 0 | 0 | 0 | 0 |

Introduction

The Black Lung Disability Trust Fund (BLDTF) is jointly administered by the Secretaries of Labor, Treasury, and Health and Human Services. The BLDTF was established by the Black Lung Benefits Revenue Act of 1977 to assign responsibility for Black Lung benefit payments with the coal industry. The Trust Fund provides for payment of benefits, administrative expenses, and interest on advances related to the operation of the program. Resources for the Trust 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 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 payment of benefits directly supports the Secretary's vision of "*good jobs for everyone*" and *Strategic Goal 4: Secure health benefits and, for those not working, provide income security* by providing income support and medical care for beneficiaries who are unable to perform their previous coal mine work due to occupational lung disease. The Trust 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 Funds.

BLACK LUNG DISABILITY TRUST FUND

Five-Year Budget Activity History

| <u>Fiscal Year</u> | <u>Funding</u> (Dollars in Thousands) | <u>FTE</u> |
|--------------------|--|------------|
| 2006 | 1,068,000 | 0 |
| 2007 | 1,070,432 | 0 |
| 2008 | 1,066,000 | 0 |
| 2009 | 7,167,133 | 0 |
| 2010 | 663,230 | 0 |

NOTE: Excludes Recovery Act Funding. See budget activity head table.

FY 2011

A total of \$709,523,000 is requested to meet FY 2011 estimated obligations for Part C, including: \$33,075,000 for DCMWC Salaries and Expenses costs, \$26,077,000 for the administrative costs of the Departmental Management account, the Inspector General, and the Department of Treasury, \$228,389,000 for benefit payments, \$400,905,000 including \$379,286,000 for payments on bond principal and \$21,619,000 on payments of bond interest, and \$21,077,000 for repayment of short-term advances including \$147,000 for interest on advances. In addition to coal tax receipts and other income, an estimated \$58,323,000 in short-term advances will be required to fund the obligations.

In FY 2011, the Trust Fund request will continue to provide for the payment of benefits and ongoing medical treatment costs and the administrative expenses of Part C program operations, adjudicatory and litigation costs.

FY 2010

The FY 2010 Enacted Level was \$663,230,000 for the FY 2010 estimated obligations for Part C, including: \$32,720,000 for DCMWC Salaries and Expenses costs including \$403,000 and 3 FTE transferred along with the administrative workload from the Program Direction and Support (PDS) account due to the dissolution of the Employment Standards Administration (ESA). The request includes \$25,774,000 for the administrative costs of the Departmental Management account, the Inspector General, and the Department of Treasury, \$239,979,000 for benefit payments, and 364,757,000 for payments of bond principal and interest. Short-term advances are estimated at \$20,930,000.

In FY 2010, monthly compensation and ongoing medical treatment benefits of approximately \$240,000,000 will be paid to an estimated 28,675 recipients under Part C. The program will monitor cash and medical treatment benefits disbursed by coal mine operators in the private sector to approximately 4,825 additional recipients under Part C, and will process an estimated 4,400 incoming claims.

BLACK LUNG DISABILITY TRUST FUND

FY 2009

The Enacted Level for FY 2009 was \$7,167,133,000. This amount included: \$31,915,000 for DCMWC's Salaries and Expenses, \$393,000 and 3 FTE transferred along with the administrative workload from the PDS account due to the dissolution of ESA, \$25,375,000 for the administrative costs of the Departmental Management account, the Inspector General, and the Department of Treasury, \$255,317,000 for benefit payments, \$14,000,000 for interest payments on the former debt, \$342,144,000 for payments of bond principal and interest, and \$6,497,989,000 for a one-time intergovernmental transfer to Treasury for repayment on the BLDTF debt.

In FY 2009, the Division paid monthly compensation and ongoing medical treatment benefits to 29,404 recipients under Part C, and monitored cash and medical treatment benefits disbursed by coal mine operators in the private sector to 5,126 additional recipients under Part C. DCMWC also processed 4,354 claims.

BLACK LUNG DISABILITY TRUST FUND

| WORKLOAD SUMMARY | | | | |
|---|----------------|---------------|----------------|----------------|
| | FY 2009 | | FY 2010 | FY 2011 |
| | Target | Result | Target | Target |
| Black Lung Disability Trust Fund | | | | |
| Claims in payment status | | | | |
| Trust Fund Beneficiaries | 29,415 | 29,404 | 26,700 | 23,600 |
| Beneficiaries Paid by Responsible Operators | 5,120 | 5,126 | 4,825 | 4,550 |
| Claims Received | 4,700 | 4,354 | 4,400 | 4,300 |
| Medical benefits only recipients | 2,360 | 2,353 | 1,975 | 1,650 |

In FY 2011, monthly compensation and ongoing medical treatment benefits will be paid to an estimated 25,250 recipients under Part C. The program will monitor cash and medical treatment benefits disbursed by coal mine operators in the private sector to approximately 4,550 additional recipients under Part C; and will process an estimated 4,300 incoming claims.