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H. R. 1105

One Hundred Eleventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the sixth day of January, two thousand and nine

An Act

Making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Appropriations Act, 2009".

SEC. 2. TABLE OF CONTENTS.

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DIVISION J—FURTHER PROVISIONS RELATING TO THE DEPARTMENT OF HOMELAND SECURITY AND OTHER MATTERS

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.

SEC. 4. EXPLANATORY STATEMENT.

The explanatory statement regarding this Act printed in the House of Representatives section of the Congressional Record on or about February 23, 2009 by the Chairman of the Committee on Appropriations of the House shall have the same effect with respect to the allocation of funds and implementation of this Act as if it were a joint explanatory statement of a committee of conference.

SEC. 5. STATEMENT OF APPROPRIATIONS.

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2009.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275, $188,130,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of such Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2010, $56,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Program Act, $49,654,000, to remain available until expended: *Provided*, That the Secretary of Labor may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

In fiscal year 2009 and thereafter, 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), and (7) of the Internal Revenue Code of 1954; 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 2009 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): not to exceed $32,308,000 for transfer to the Employment Standards Administration "Salaries and Expenses"; not to exceed $24,694,000 for transfer to Departmental Management, "Salaries and Expenses"; not to exceed $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.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $513,042,000, including not to exceed $92,593,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act ("Act"), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary of Labor under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and

education grants: *Provided*, That, notwithstanding 31 U.S.C. 3302, the Secretary is authorized, during the fiscal year ending September 30, 2009, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of the Act, except—

(1) to provide, as authorized by the Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by the Act with respect to imminent dangers;

(4) to take any action authorized by the Act with respect to health hazards;

(5) to take any action authorized by the Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by the Act; and

(6) to take any action authorized by the Act with respect to complaints of discrimination against employees for exercising rights under the Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: *Provided further*, That $10,000,000 shall be available for Susan Harwood training grants, of which $3,144,000 shall be used for the Institutional Competency Building training grants awarded in February 2008, provided that a grantee has demonstrated satisfactory performance: *Provided further*, That such grants shall be awarded not later than 30 days after the date of enactment of this Act.

[House Appropriations Committee Print]

Omnibus Appropriations Act, 2009
(H.R. 1105; Public Law 111–8)

DIVISION F—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2009

ter of fiscal year 2009. The total program level of $250,130,000 is $26,091,000 below the program level for fiscal year 2008 and the same as the budget request. In addition, the bill provides an advance appropriation of $56,000,000 for the first quarter of fiscal year 2010, which is the same as the budget request.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES

OCCUPATIONAL ILLNESS COMPENSATION FUND

The bill includes $49,654,000, to remain available until expended, for the Energy Employees Occupational Illness Compensation Fund. This amount is $267,000 above the comparable fiscal year 2008 funding level and the same as the budget request. The bill conforms with the budget request to provide an additional $55,358,000 for the activities performed under this program by the National Institute for Occupational Safety and Health directly to the Centers for Disease Control and Prevention.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

The bill includes such sums as necessary for payment of benefits and interest on advances for the Black Lung Disability program. The recommendation assumes that $1,072,000,000 will be required for this account, which is $4,000,000 above the fiscal year 2008 funding level and the same as the budget request. The bill provides for transfers from the trust fund for administrative expenses for Department of Labor agencies and for the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

The bill includes $513,042,000 for the Occupational Safety and Health Administration (OSHA), which is $27,041,000 above the fiscal year 2008 funding level and $11,368,000 above the budget request.

The Department should use the increase above the fiscal year 2008 funding level to begin rebuilding OSHA's enforcement capacity and to increase the pace of standard setting. An important component of this mission is to enhance enforcement and oversight of injury and illness recordkeeping to ensure complete and accurate recording and reporting by employers. OSHA should use $1,000,000 of the funds provided above the request for a recordkeeping enforcement initiative on injury and illness reporting, addressing the apparent lack of completeness of the OSHA Log of Work-related Injuries and Illnesses. The Department shall provide a letter report on OSHA's current and planned activities in this area to the Committees on Appropriations of the House of Representatives and the Senate not later than 90 days after enactment of this Act.

The increase above the request for State Programs is intended to support the efforts of the Illinois Department of Labor to become a State-plan State for public worksites.

The bill provides $10,000,000 for Susan Harwood Training grants, and designates $3,144,000 within this amount for the continuation of Institutional Competency Building training grants awarded in February 2008, provided that a grantee has demonstrated satisfactory performance.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

The bill includes $347,003,000 for the Mine Safety and Health Administration (MSHA), which is $15,156,000 above the fiscal year 2008 funding level and $14,942,000 above the budget request. The funds over the request are provided to accelerate the implementation of the MINER Act and to improve the health and safety of miners. These funds are specifically directed toward ensuring that MSHA is able to conduct and follow up on 100 percent of its mandatory inspections; adequately train and hire coal mine safety enforcement personnel; improve the infrastructure of the National Mine Health and Safety Academy; accelerate the certification and approval of safety and health equipment, including communication and tracking technologies required in the MINER Act; and ensure the compliance with and effectiveness of statutory training requirements. In each of these areas and others specifically required by the MINER Act, the Department shall submit an overall operating plan within 60 days of enactment of this Act, and quarterly progress reports thereafter, to the Committees on Appropriations of the House of Representatives and the Senate.

Within the amount provided for Coal Enforcement, $2,000,000 shall be used to increase spot inspections of respirable dust levels in the active workings of coal mines. MSHA shall report to the Committees on Appropriations of the House of Representatives and the Senate not later than March 31, 2009 on the feasibility and efficacy of MSHA assuming responsibility for collecting dust samples, and using single, full-shift measurements instead of averages to ensure compliance with current law regarding the exposure limit for respirable dust.

Within Educational Policy and Development, $2,000,000 above the budget request is provided to improve the infrastructure and expand on-line training programs at the National Mine Health and Safety Academy.

Within the funds provided for Technical Support, $1,000,000 above the budget request is included for equipment and infrastructure at the Approval and Certification Center, which together with funds in the request that support additional staffing, will allow for progress in addressing the backlog of approval actions.

Within the amount provided for Program Administration, $1,808,000 is provided for an award to the United Mine Workers of America to continue a project, initiated with the fiscal year 2008 appropriation, for classroom and simulated rescue training for mine rescue teams.

The MSHA Office of Accountability was established to provide focus and oversight to ensure that MSHA policies, enforcement procedures, and guidance are being complied with consistently and that the agency is accomplishing its mission-critical activities.

Department of Education—National Projects	Special Education	Washington Educational Television Association for a national program to provide information on diagnosis, intervention, and teaching strategies for children with disabilities authorized under Public Law 105-78	$737,000		Cochran
Department of Education—National Projects	Special Education	Special Olympics for Special Olympics educational programs that can be integrated into classroom instruction and for activities to increase the participation of individuals with intellectual disabilities, as authorized under the Special Olympics Sport and Empowerment Act	$8,095,000	DeLauro, Rosa L.; Honda, Michael M.; Hoyer, Steny H.; Price, David E.; Terry, Lee	Harkin; Craig; Ben Nelson
Department of Health & Human Services—National Projects	ACF	National Association of Child Care Resources and Referral Agencies for the Child Care Aware toll-free hotline authorized under the Child Care Development Block Grant Act	$1,000,000	Moran, James	
Department of Health & Human Services—National Projects	HRSA	Native Hawaiian Health Care to provide primary health promotion and disease prevention services to Native Hawaiians through regional clinics under the Native Hawaiian Health Care Act of 1988	$14,200,000	Abercrombie, Neil; Hirono, Mazie K.; Honda, Michael M.	Inouye; Akaka
Department of HHS—National Projects	HRSA	Delta Health Alliance, Inc. to improve the delivery of public health services in the Mississippi Delta region under title III of the Public Health Service Act	$26,000,000		Cochran
Department of HHS—National Projects	HRSA	Denali Commission to support health projects and economic development activities for the arctic region under the Denali Commission Act of 1998	$19,642,000		Murkowski
Department of Labor—National Projects	Departmental Management	International Program for the Elimination of Child Labor for the U.S. contribution to a multinational effort to combat child labor, consistent with Executive Order 12216 and the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008	$39,260,000		Harkin
Department of Labor—National Projects	ETA	Denali Commission for job training activities under the Denali Commission Act of 1998	$3,378,000		Murkowski
Department of Labor—National Projects	OSHA	Institutional Competency Grants under the Susan Harwood Training Program authorized under the Occupational Safety and Health Act	$3,144,000	Miller, George	Harkin; Specter