

JUSTIFICATION OF ESTIMATES

The Administration's Proposed Appropriation Language

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, [\$72,000,000] \$64,000,000, which shall include amounts becoming available in fiscal year [2009] 2010 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year. (*Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2009.*)

Explanation of Proposed Appropriation Language

<u>Appropriation language</u>	<u>Explanation</u>
<p>For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, [\$72,000,000] <i>\$64,000,000</i>, which shall include amounts becoming available in fiscal year [2009] <i>2010</i> pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits: <i>Provided</i>, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.</p>	<p>The proposed appropriation language provides \$64,000,000 to the Dual Benefits Payments Account for payment of vested dual benefits. Of the \$64,000,000, it is estimated that \$3 million will be derived from income tax revenues as provided by Section 224(c)(1)(B) of Public Law 98-76. Also, an additional reserve amount not to exceed \$1,280,000 ($\\$64,000,000 \times 2\%$) will be made available only if the product of recipients and the average benefit received exceeds the amount available. The monies provided to the Dual Benefits Payments Account are to be made available to the account on a monthly basis in 12 approximately equal amounts.</p>

Authorizing Legislation

Legislation	2009		2010	
	Authorized	Current estimate	Authorized	Appropriation request
Railroad Retirement Act of 1974 as amended: Sections 15(d)(1), 7(c)(1), and 15(i)(2)				
Dual Benefits Payments	Indefinite	\$72,000,000	Indefinite	\$64,000,000

Section 15(d)(1):

"There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. There is hereby authorized to be appropriated to such account for each fiscal year beginning with the fiscal year ending September 30, 1982, such sums as are necessary to pay during such fiscal year the amounts of annuities estimated by the Board to be paid under sections 3(h), 4(e), and 4(h) of this Act and under sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445."

Section 7(c)(1):

"In any fiscal year, the total amounts paid under such sections shall not exceed the total sums appropriated to the Dual Benefits Payments Account for that fiscal year."

Section 15(i)(2):

"The Secretary of the Treasury shall, on a monthly basis, credit each account established in the Treasury for the payment of benefits under this Act for the proportionate amount of benefit checks (including interest thereon) drawn on each such Account more than six months previously but not presented for payment and not previously credited to such Account, to the extent provided in advance in appropriation Acts."

Appropriations History Table

Dual Benefits Payments Account a/

<u>Year</u>	<u>Budget estimate to the Congress</u>	<u>House allowance</u>	<u>Senate allowance</u>	<u>Appropriation/ continuing resolution</u>
2001	\$160,000,000	\$160,000,000	\$160,000,000	\$160,000,000
2002	146,000,000	146,000,000	146,000,000	146,000,000
2003	132,000,000	132,000,000	132,000,000	131,142,000 <u>b/</u>
2004	119,000,000	119,000,000	119,000,000	118,298,000 <u>c/</u>
2005	108,000,000	108,000,000	108,000,000	107,136,000 <u>d/</u>
2006	97,000,000	97,000,000	97,000,000	96,030,000 <u>e/</u>
2007	88,000,000	88,000,000	88,000,000	88,000,000
2008	79,000,000	79,000,000	79,000,000	79,000,000 <u>f/</u>
2009	72,000,000	72,000,000	72,000,000	72,000,000
2010	64,000,000			

a/ For all amounts on the following table, the appropriation language provides that an additional amount, not to exceed 2 percent of the appropriation amount, shall become available under certain conditions to provide for full payment of vested dual benefits. The appropriation language also specifies that the amount made available will be credited to the account on a monthly basis in 12 approximately equal amounts.

b/ Amount reflects appropriation received under P.L. 108-7, after the rescission of \$858,000.

c/ Amount reflects the level of funding provided by the Consolidated Appropriations Act, 2004 (P.L. 108-199). This amount reflects an appropriation of \$119,000,000, less a rescission of \$702,000.

d/ Amount reflects the level of funding provided by the Consolidated Appropriations Act, 2005 (P.L. 108-447). This amount reflects an appropriation of \$108,000,000, less a rescission of \$864,000.

e/ Amount reflects an appropriation of \$97,000,000 provided by the Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006 (P.L. 109-149), less a rescission of \$970,000 in accordance with P.L. 109-148. Pursuant to P.L. 109-234, an additional \$970,000 was allocated from the contingency reserve to ensure full payment of vested dual benefits.

f/ Amount reflects an appropriation of \$79,000,000 provided by the Consolidated Appropriations Act, 2008 (P.L. 110-161), less a rescission of \$1,380,130 in accordance with P.L. 110-161. Additional funding was allocated from the contingency reserve to restore the funding level to \$79,000,000 and ensure full payment of vested dual benefits.

Funding Sources

The proposed appropriation language calls for funding from the following source.

<u>Funding sources</u>	<u>Budget authority <u>a/</u></u>
General revenue	\$64,000,000
[Of the \$64,000,000 to be funded from general revenue, \$3,000,000 is expected from income taxes on vested dual benefits.]	

a/ The proposed appropriation language provides that "... an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits"

Dual Benefits Payments Account

Amounts Available for Obligation

	<u>Fiscal year 2008 actual</u>	<u>Fiscal year 2009 estimate</u>	<u>Fiscal year 2010 estimate</u>
Appropriation, excluding 2% contingency reserve (general funds of the Treasury)	\$79,000,000	\$72,000,000	\$64,000,000
Less:			
Amount rescinded from the appropriation (excluding contingency reserve) in accordance with Public Law 110-161	<u>1,380,130</u>		
Subtotal, adjusted appropriation	\$77,619,870	\$72,000,000	\$64,000,000
Plus:			
Net amount drawn from the contingency reserve in accordance with Public Law 110-161	1,380,130		
Transfer from other accounts (Federal Payments to the Railroad Retirement Accounts)	<u>3,000</u> a/	<u>3,000</u> a/	<u>3,000</u> a/
Subtotal:	\$79,003,000	\$72,003,000	\$64,003,000
Less:			
Unobligated balance	<u>\$1,342,384</u>	<u>0</u>	<u>0</u>
Total obligations (payments to beneficiaries)	<u>\$77,660,616</u>	<u>\$72,003,000</u>	<u>\$64,003,000</u>

a/ This amount represents this account's share of interest on uncashed checks.

Explanation of 2010 Request

This is the 35th request for appropriations authorized by the Railroad Retirement Act of 1974 to fund vested dual benefits received by railroad retirees who, under prior law, would have become covered by both the railroad retirement system and the social security system because railroad retirement was not fully coordinated with social security from 1937 to 1974.

Under laws in effect prior to 1975, a worker engaging in covered employment under both the Railroad Retirement Act and Social Security Act could receive benefits separately under both Acts. Because the social security benefit formula is weighted in favor of the low wage earner, the total of a worker's benefits from both systems averaged more than annuities of railroad employees who worked in the rail industry exclusively, and who had paid proportionally higher retirement taxes for the purpose of receiving higher benefits. The cost of the dual benefits was borne by the railroad retirement system since they reduced the system's income from its financial interchange with the social security system.

This situation was the major cause of the poor financial condition of the railroad retirement system in the early 1970's. In order to improve the system's financial condition, the Railroad Retirement Act of 1974 provided that the tier I component of the railroad retirement annuity be reduced by any social security benefit. This essentially integrated the two systems and eliminated the advantage of qualifying for benefits under both systems.

However, it was generally considered unfair to eliminate this advantage entirely for those already retired or close to retirement when the 1974 Act became effective. The 1974 Act, therefore, provided for a restoration of benefits which were considered vested at the end of 1974. The restored amount was known as the "vested dual benefit."

After considering various alternatives, the Congress authorized general fund appropriations to finance the cost of phasing out dual benefits. The Congress considered it unfair to impose this cost on current and future railroad employees because such employees would not be permitted to receive dual benefits upon retirement (except where vested rights were involved). Similarly, the Congress believed that it would be unfair to impose this cost on railroads because railroads had not benefitted and had consistently opposed the creation and expansion of dual benefits. Financing the vested dual benefit component of railroad retirement annuities from general revenues was supported by a precedent regarding military service and by the fact that the dual benefit problem had been brought about by prior Congressional action repealing past dual benefit restrictions over the objections of the railroads.

Under the 1974 Act, appropriations had been authorized from general revenues for the phase-out costs of vested dual benefits. The amounts were to be sufficient to fund vested dual benefits on a level payment basis over the years 1976-2000. Because there was no provision in the law to reduce vested dual benefits to a level that would be fully covered by the amount appropriated, railroad retirement taxes were being used to cover the shortfall in

the appropriation from general revenues. This led to a drain on the Railroad Retirement Account and contributed to a cash flow crisis.

To stop the resulting drain on the Railroad Retirement Account, the 1981 amendments changed vested dual benefits to a pay-as-you-go basis rather than a level-payment system. Starting in fiscal year 1982, vested dual benefits were to be reduced so as not to exceed the amount of the annual appropriation.

The Railroad Retirement Solvency Act of 1983 provided that revenues generated from income taxes on vested dual benefits be credited to the Railroad Retirement Account for fiscal years 1984 through 1988, and thereafter to the Dual Benefits Payments Account. Thus, since fiscal year 1989, these taxes have been credited to the Dual Benefits Payments Account and applied as an offset to the amount of funding needed from general revenues.

For fiscal year 2009, the Omnibus Appropriations Act, 2009 (P.L. 111-8) provided an appropriation of \$72,000,000 to fund vested dual benefit payments.

The fiscal year 2010 appropriation language provides for 12 monthly payments to this account from general revenues and specifies that \$64,000,000 be appropriated for benefits. In addition, the proposed language provides that an additional amount not to exceed 2 percent of the \$64,000,000 appropriated -- or up to \$1,280,000 -- shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds the amount available for payment of vested dual benefits.