

CREDITS AGAINST SOCIAL SECURITY TAX

Act Aug. 10, 1939, ch. 666, title IX, §902(a)-(d), (h), 53 Stat. 1399, provided for a credit against the social security tax of certain contributions made with respect to employment during calendar years 1936, 1937, or 1938. Said act Aug. 10, 1939, was affected by act Sept. 20, 1941, ch. 412, title VII, §701(c), 55 Stat. 728.

Act May 28, 1938, ch. 289, §810, 52 Stat. 576, related to credits against Social Security Tax for 1936. It was affected by act Sept. 20, 1941, ch. 412, title VII, §701(c), 55 Stat. 728, relating to credit against Federal unemployment taxes.

§ 1101. Employment security administration account

(a) Establishment

There is hereby established in the Unemployment Trust Fund an employment security administration account.

(b) Amount credited to Account; transfer of funds; adjustments; repayment of internal revenue refunds

(1) There is hereby appropriated to the Unemployment Trust Fund for credit to the employment security administration account, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1961, and for each fiscal year thereafter, an amount equal to 100 per centum of the tax (including interest, penalties, and additions to the tax) received during the fiscal year under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] and covered into the Treasury.

(2) The amount appropriated by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Unemployment Trust Fund and credited to the employment security administration account. Each such transfer shall be based on estimates made by the Secretary of the Treasury of the amounts received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred, to the extent prior estimates (including estimates for the fiscal year ending June 30, 1960) were in excess of or were less than the amounts required to be transferred.

(3) The Secretary of the Treasury is directed to pay from time to time from the employment security administration account into the Treasury, as repayments to the account for refunding internal revenue collections, amounts equal to all refunds made after June 30, 1960, of amounts received as tax under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] (including interest on such refunds).

(c) Administrative expenditures; necessary expenses; quarterly transfer of funds; adjustments; limitation; estimate of net receipts

(1) There are hereby authorized to be made available for expenditure out of the employment security administration account for the fiscal year ending June 30, 1971, and for each fiscal year thereafter—

(A) such amounts (not in excess of the applicable limit provided by paragraph (3) and, with respect to clause (ii), not in excess of the limit provided by paragraph (4)) as the Congress may deem appropriate for the purpose of—

(i) assisting the States in the administration of their unemployment compensation

laws as provided in subchapter III of this chapter (including administration pursuant to agreements under any Federal unemployment compensation law),

(ii) the establishment and maintenance of systems of public employment offices in accordance with the Act of June 6, 1933, as amended (29 U.S.C., secs. 49-49n), and

(iii) carrying into effect section 4103 of title 38;

(B) such amounts (not in excess of the limit provided by paragraph (4) with respect to clause (iii)) as the Congress may deem appropriate for the necessary expenses of the Department of Labor for the performance of its functions under—

(i) this subchapter and subchapters III and XII of this chapter,

(ii) the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.],

(iii) the provisions of the Act of June 6, 1933, as amended [29 U.S.C. 49 et seq.],

(iv) chapter 41 (except section 4103) of title 38, and

(v) any Federal unemployment compensation law.

The term "necessary expenses" as used in this subparagraph (B) shall include the expense of reimbursing a State for salaries and other expenses of employees of such State temporarily assigned or detailed to duty with the Department of Labor and of paying such employees for travel expenses, transportation of household goods, and per diem in lieu of subsistence while away from their regular duty stations in the State, at rates authorized by law for civilian employees of the Federal Government.

(2) The Secretary of the Treasury is directed to pay from the employment security administration account into the Treasury as miscellaneous receipts the amount estimated by him which will be expended during a three-month period by the Treasury Department for the performance of its functions under—

(A) this subchapter and subchapters III and XII of this chapter, including the expenses of banks for servicing unemployment benefit payment and clearing accounts which are offset by the maintenance of balances of Treasury funds with such banks,

(B) the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.], and

(C) any Federal unemployment compensation law with respect to which responsibility for administration is vested in the Secretary of Labor.

If it subsequently appears that the estimates under this paragraph in any particular period were too high or too low, appropriate adjustments shall be made by the Secretary of the Treasury in future payments.

(3)(A) For purposes of paragraph (1)(A), the limitation on the amount authorized to be made available for any fiscal year after June 30, 1970, is, except as provided in subparagraph (B) and in the second sentence of subsection (f)(3)(A) of this section, an amount equal to 95 percent of the amount estimated and set forth in the budget of the United States Government for such fiscal year as the amount by which the net receipts

during such year under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] will exceed the amount transferred under section 1105(b) of this title during such year to the extended unemployment compensation account.

(B) The limitation established by subparagraph (A) is increased by any unexpended amount retained in the employment security administration account in accordance with subsection (f)(2)(B) of this section.

(C) Each estimate of net receipts under this paragraph shall be based upon a tax rate of 0.6 percent.

(4) For purposes of paragraphs (1)(A)(ii) and (1)(B)(iii) the amount authorized to be made available out of the employment security administration account for any fiscal year after June 30, 1972, shall reflect the proportion of the total cost of administering the system of public employment offices in accordance with the Act of June 6, 1933, as amended [29 U.S.C. 49 et seq.], and of the necessary expenses of the Department of Labor for the performance of its functions under the provisions of such Act, as the President determines is an appropriate charge to the employment security administration account, and reflects in his annual budget for such year. The President's determination, after consultation with the Secretary, shall take into account such factors as the relationship between employment subject to State laws and the total labor force in the United States, the number of claimants and the number of job applicants, and such other factors as he finds relevant.

(5)(A) There are authorized to be appropriated out of the employment security administration account to carry out program integrity activities, in addition to any amounts available under paragraph (1)(A)(i)—

- (i) \$89,000,000 for fiscal year 1998;
- (ii) \$91,000,000 for fiscal year 1999;
- (iii) \$93,000,000¹ fiscal year 2000;
- (iv) \$96,000,000 for fiscal year 2001; and
- (v) \$98,000,000 for fiscal year 2002.

(B) In any fiscal year in which a State receives funds appropriated pursuant to this paragraph, the State shall expend a proportion of the funds appropriated pursuant to paragraph (1)(A)(i) to carry out program integrity activities that is not less than the proportion of the funds appropriated under such paragraph that was expended by the State to carry out program integrity activities in fiscal year 1997.

(C) For purposes of this paragraph, the term "program integrity activities" means initial claims review activities, eligibility review activities, benefit payments control activities, and employer liability auditing activities.

(d) Additional tax attributable to reduced credits; transfer of funds

(1) The Secretary of the Treasury is directed to transfer from the employment security administration account—

(A) To the Federal unemployment account, an amount equal to the amount by which—

- (i) 100 per centum of the additional tax received under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.] with respect to

any State by reason of the reduced credits provisions of section 3302(c)(3) of such Act [26 U.S.C. 3302(c)(3)] and covered into the Treasury for the repayment of advances made to the State under section 1321 of this title, exceeds

(ii) the amount transferred to the account of such State pursuant to subparagraph (B) of this paragraph.

Any amount transferred pursuant to this subparagraph shall be credited against, and shall operate to reduce, that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(B) To the account (in the Unemployment Trust Fund) of the State with respect to which employers paid such additional tax, an amount equal to the amount by which such additional tax received and covered into the Treasury exceeds that balance of advances, made under section 1321 of this title to the State, with respect to which employers paid such additional tax.

(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) of this section.

(e) Revolving fund; appropriations; advances to Account; repayment; interest

(1) There is hereby established in the Treasury a revolving fund which shall be available to make the advances authorized by this subsection. There are hereby authorized to be appropriated, without fiscal year limitation, to such revolving fund such amounts as may be necessary for the purposes of this section.

(2) The Secretary of the Treasury is directed to advance from time to time from the revolving fund to the employment security administration account such amounts as may be necessary for the purposes of this section. If the net balance in the employment security administration account as of the beginning of any fiscal year equals 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the preceding fiscal year, no advance may be made under this subsection during such fiscal year.

(3) Advances to the employment security administration account made under this subsection shall bear interest until repaid at a rate equal to the average rate of interest (computed as of the end of the calendar month next preceding the date of such advance) borne by all interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest shall be the multiple of one-eighth of 1 per centum next lower than such average rate.

(4) Advances to the employment security administration account made under this subsection, plus interest accrued thereon, shall be repaid by the transfer from time to time, from the employment security administration account to the revolving fund, of such amounts as the Secretary of the Treasury, in consultation

¹ So in original. Probably should be followed by "for".

with the Secretary of Labor, determines to be available in the employment security administration account for such repayment. Any amount transferred as a repayment under this paragraph shall be credited against, and shall operate to reduce, any balance of advances (plus accrued interest) repayable under this subsection.

(f) Determination of excess in Account; limitation on amount to be retained; use of balance in Account during certain fiscal years; net balance

(1) The Secretary of the Treasury shall determine as of the close of each fiscal year (beginning with the fiscal year ending June 30, 1961) the excess in the employment security administration account.

(2) The excess in the employment security administration account as of the close of any fiscal year is the amount by which the net balance in such account as of such time (after the application of section 1102(b) of this title and paragraph (3)(C) of this subsection) exceeds the net balance in the employment security administration account as of the beginning of that fiscal year (including the fiscal year for which the excess is being computed) for which the net balance was higher than as of the beginning of any other such fiscal year.

(3)(A) The excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, shall be retained (as of the beginning of the succeeding fiscal year) in the employment security administration account until the amount in such account is equal to 40 percent of the amount of the total appropriation by the Congress out of the employment security administration account for the fiscal year for which the excess is determined. Three-eighths of the amount in the employment security administration account as of the beginning of any fiscal year after June 30, 1972, or \$150 million, whichever is the lesser, is authorized to be made available for such fiscal year pursuant to subsection (c)(1) of this section for additional costs of administration due to an increase in the rate of insured unemployment for a calendar quarter of at least 15 percent over the rate of insured unemployment for the corresponding calendar quarter in the immediately preceding year.

(B) If the entire amount of the excess determined as provided in paragraph (2) as of the close of any fiscal year after June 30, 1972, is not retained in the employment security administration account, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the balance of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to the limit provided in section 1105(b)(2) of this title.

(C) If as of the close of any fiscal year after June 30, 1972, the amount in the extended unemployment compensation account exceeds the limit provided in section 1105(b)(2) of this title, such excess shall be transferred to the employment security administration account as of the close of such fiscal year.

(4) For the purposes of this section, the net balance in the employment security administra-

tion account as of any time is the amount in such account as of such time reduced by the sum of—

- (A) the amounts then subject to transfer pursuant to subsection (d) of this section, and
- (B) the balance of advances (plus interest accrued thereon) then repayable to the revolving fund established by subsection (e) of this section.

The net balance in the employment security administration account as of the beginning of any fiscal year shall be determined after the disposition of the excess in such account as of the close of the preceding fiscal year.

(Aug. 14, 1935, ch. 531, title IX, §901, as added Aug. 5, 1954, ch. 657, §2, 68 Stat. 668; amended Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74 Stat. 970; Pub. L. 87-31, §7, May 8, 1961, 75 Stat. 78; Pub. L. 88-31, §1, May 29, 1963, 77 Stat. 51; Pub. L. 91-53, §3, Aug. 7, 1969, 83 Stat. 93; Pub. L. 91-373, title III, §303, Aug. 10, 1970, 84 Stat. 713; Pub. L. 94-273, §39, Apr. 21, 1976, 90 Stat. 381; Pub. L. 94-566, title II, §211(e)(1) [(c)(1)], Oct. 20, 1976, 90 Stat. 2676; Pub. L. 97-248, title II, §271(b)(2)(A), (c)(3)(D), Sept. 3, 1982, 96 Stat. 554, 555; Pub. L. 98-369, div. B, title VI, §2663(d)(1), (2), July 18, 1984, 98 Stat. 1167; Pub. L. 100-203, title IX, §9154(a), (c)(2), Dec. 22, 1987, 101 Stat. 1330-326; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-318, title V, §531(d)(1), (2), July 3, 1992, 106 Stat. 316, 317; Pub. L. 105-33, title V, §5408, Aug. 5, 1997, 111 Stat. 605.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsecs. (b)(1), (3), (c)(1)(B)(ii), (2)(B), (3)(A), and (d)(1)(A)(i), is act Aug. 16, 1954, ch. 736, §§3301 to 3311, 68A Stat. 439, as amended, which is classified generally to chapter 23 (§3301 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3311 of Title 26 and Tables.

Act of June 6, 1933, as amended (29 U.S.C. 49-49n), referred to in subsec. (c)(1)(A)(ii), (B)(iii), and (4), probably means act June 6, 1933, ch. 49, 48 Stat. 113, as amended, known as the Wagner-Peyser Act, which is classified generally to chapter 4B (§49 et seq.) of Title 29, Labor. Sections 49m and 49n were not part of act June 6, 1933. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 1101, act Aug. 14, 1935, ch. 531, title IX, §901, 49 Stat. 639, related to imposition of tax. For further details, see Prior Law note set out preceding this section.

AMENDMENTS

1997—Subsec. (c)(5). Pub. L. 105-33 added par. (5).

1992—Subsec. (f)(2). Pub. L. 102-318, §531(d)(1), struck out designation for subpar. (A), substituted “The” for “Except as provided in subparagraph (B), the”, and struck out subpar. (B) which read as follows: “With respect to the fiscal years ending June 30, 1970, June 30, 1971, and June 30, 1972, the balance in the employment security administration account at the close of each such fiscal year shall not be considered excess but shall be retained in the account for use as provided in paragraph (1) of subsection (c) of this section.”

Subsec. (g). Pub. L. 102-318, §531(d)(2), struck out subsec. (g) which read as follows:

“(1) With respect to calendar years 1988, 1989, and 1990, the Secretary of the Treasury shall transfer from the employment security administration account—

“(A) to the Federal unemployment account an amount equal to 50 percent of the amount of tax received under section 3301(1) of the Federal Unemployment Tax Act which is attributable to the difference in the tax rates between paragraphs (1) and (2) of such section; and

“(B) to the extended unemployment compensation account an amount equal to 50 percent of such amount of tax received.

“(2) Transfers under this subsection shall be as of the beginning of the month succeeding the month in which the moneys were credited to the employment security administration account pursuant to subsection (b)(2) of this section with respect to wages paid during such calendar years.”

1991—Subsec. (c)(1)(A)(iii), (B)(iv). Pub. L. 102-83 substituted reference to section 4103 of title 38 for reference to section 2003 of title 38.

1987—Subsec. (c)(3)(C). Pub. L. 100-203, §9154(c)(2), substituted “a tax rate of 0.6 percent” for “(i) a tax rate of 0.6 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 6.0 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 6.2 percent”.

Subsec. (g). Pub. L. 100-203, §9154(a), added subsec. (g).

1984—Subsec. (c). Pub. L. 98-369, §2663(d)(1), realigned margins of subsec. (c).

Subsec. (f). Pub. L. 98-369, §2663(d)(2), realigned margins of par. (3).

1982—Subsec. (c)(3)(C). Pub. L. 97-248, §271(c)(3)(D), substituted “0.6” for “0.5”, “6.0” for “3.2”, and “6.2” for “3.5”.

Subsec. (c)(3)(C)(ii). Pub. L. 97-248, §271(b)(2)(A), substituted “0.8” for “0.7”, struck out “3301” after “tax under such section”, and substituted “3.5” for “3.4”.

1976—Subsec. (c)(3)(C). Pub. L. 94-566 limited existing provisions by making them applicable only in the case of calendar years for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, designated the existing provisions as so amended as cl. (i) and added cl. (ii).

Subsec. (f)(3)(A). Pub. L. 94-273 struck out “fiscal” after “immediately preceding”.

1970—Subsec. (c)(1). Pub. L. 91-373, §303(a)(1), substituted “fiscal year ending June 30, 1971” for “fiscal year ending June 30, 1964”, inserted reference to par. (4), struck out reference to the Temporary Unemployment Compensation Act of 1958, as amended, and substituted “section 2003 of title 38” for “section 2012 of title 38”.

Subsec. (c)(2). Pub. L. 91-373, §303(a)(2), struck out provision for the exclusion of amounts attributable to the Temporary Unemployment Compensation Act of 1958, as amended.

Subsec. (c)(3). Pub. L. 91-373, §303(a)(3), changed the ceiling on the amount in the employment security administration account authorized for appropriation for State grants by making it 95 percent of the amount set forth in the budget of the United States Government as the amount by which the net receipts during the fiscal year are estimated to exceed the amount transferred to the extended unemployment compensation account under section 1105(b) of this title.

Subsec. (c)(4). Pub. L. 91-373, §303(a)(4), added par. (4).

Subsec. (d). Pub. L. 91-373, §303(b), struck out reference to section 3302(c)(2) of the Federal Unemployment Tax Act in par. (1)(A)(i), struck out provision for separate application of par. (1) in years in which there was both a balance described in sections 3302(c)(2) and 3302(c)(3) of the Federal Unemployment Tax Act, redesignated par. (3) as par. (2), and struck out former par. (2) covering the transfer of funds from the employment security administration account to the general fund of the Treasury and to the State account, with respect to which employers paid additional tax, received by reason of the reduced credit provisions of section 1400c of this title.

Subsec. (e)(2). Pub. L. 91-373, §303(c), substituted “equals 40 percent of the amount of the total appro-

priation by the Congress out of the employment security administration account of the preceding fiscal year” for “is \$250,000,000”.

Subsec. (f)(2)(A). Pub. L. 91-373, §303(d)(1), inserted reference to par. (3)(C) of this subsection.

Subsec. (f)(3). Pub. L. 91-373, §303(d)(2), revised provisions for the distribution of any excess in the employment security administration account at the end of any fiscal year after June 30, 1972.

1969—Subsec. (c)(3). Pub. L. 91-53, §3(a), struck out subpar. (A) provisions limiting expenditures for fiscal year ending June 30, 1964, to 95 percent of amount estimated by the Secretary of Treasury as the net receipts during such fiscal year under the Federal Unemployment Tax Act, redesignated subpar. (B) provisions as par. (3) without restricting their application to fiscal years ending after June 30, 1964, increased expenditure limitation by unexpended amount retained in the employment security administration account in accordance with subsec. (f)(2)(B) of this section, reenacted provision for estimate of net receipts, and struck out dated provisions requiring the Secretary of Treasury to report to Congress his estimate under subpar. (A) within thirty days after May 29, 1963, the date of enactment of Pub. L. 88-31, and providing for its printing as a House document.

Subsec. (f)(2). Pub. L. 91-53, §3(b), designated existing provisions as subpar. (A), inserted introductory text “Except as provided in subparagraph (B)”, and added subpar. (B).

1963—Subsec. (c). Pub. L. 88-31 substituted “June 30, 1964” for “June 30, 1961” in par. (1), “(not in excess of the limit provided by paragraph (3))” for “(not in excess of \$350,000,000 for any fiscal year)” in par. (1)(A), and added par. (3).

1961—Subsec. (c)(1)(B). Pub. L. 87-31 inserted provision relating to necessary expenses.

1960—Subsec. (a). Pub. L. 86-778 substituted provision establishing the employment security administration account for former provision making an appropriation to the Unemployment Trust Fund for fiscal year ending June 30, 1954, and for each fiscal year thereafter, providing for transfer of funds from the general fund in the Treasury to the Unemployment Trust Fund at the close of the fiscal year, and adjustments in the transfers, and requiring the Secretary of the Treasury to consult with the Secretary of Labor with respect to estimates of employment security administrative expenditures.

Subsec. (b). Pub. L. 86-778 substituted provisions crediting the employment security administration with funds, and requiring transfer of funds, adjustments and repayment of internal revenue refunds for former provisions defining “employment security administrative expenditures”, now incorporated in subsec. (c)(1)(A), (B), (2)(A) of this section.

Subsecs. (c) to (f). Pub. L. 86-778 added subsecs. (c) to (f).

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9154(d) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and sections 1102 and 1105 of this title] shall become effective on the date of the enactment of this Act [Dec. 22, 1987].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 271(b)(2)(A) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1982, and amendment by section 271(c)(3)(D) of Pub. L. 97-248 applicable to remuneration paid after Dec. 31, 1984, see section 271(d)(1), (2) of Pub. L. 97-248, as amended, set

out as a note under section 3301 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 211(d)(3) of Pub. L. 94-566 provided that: "The amendments made by subsection (c) [amending this section, section 1105 of this title, and section 6157 of Title 26, Internal Revenue Code] shall take effect on the date of enactment of this Act [Oct. 20, 1976]."

EFFECTIVE DATE OF 1970 AMENDMENT

Section 303(a) of Pub. L. 91-373 provided that the amendment made by that section is effective with respect to fiscal years after June 30, 1970.

Section 303(c) of Pub. L. 91-373 provided that the amendment made by that section is effective July 1, 1972.

Section 303(d) of Pub. L. 91-373 provided that the amendment made by that section is effective with respect to fiscal years after June 30, 1972.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 4(b) of Pub. L. 91-53 provided that: "The amendments made by section 3 [amending this section] shall take effect upon enactment of this Act [Aug. 7, 1969]."

INCREASE IN ADMINISTRATIVE EXPENDITURES
LIMITATION FOR FISCAL YEAR 1963

Section 4 of Pub. L. 88-31 provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal year ending June 30, 1963, for the purposes specified in subsec. (c)(1)(A), was increased to \$407,148,000.

Pub. L. 87-582, title I, §101, Aug. 14, 1962, 76 Stat. 363, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal year ending June 30, 1963, for the purposes specified in subsec. (c)(1)(A), was increased to \$400,000,000.

INCREASE IN ADMINISTRATIVE EXPENDITURES
LIMITATION FOR FISCAL YEARS 1961 AND 1962

Pub. L. 87-6, §15, Mar. 24, 1961, 75 Stat. 16, provided that notwithstanding subsec. (c)(1)(A) of this section, the limitation on the amount authorized to be available for the fiscal years ending June 30, 1961 and June 30, 1962, for the purposes specified in subsec. (c)(1)(A), was increased to \$385,000,000 and \$415,000,000, respectively.

§ 1102. Transfers between Federal unemployment account and employment security administration account

(a) Determination of excess; amount transferred

Whenever the Secretary of the Treasury determines pursuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year and the entire amount of such excess is not retained in the employment security administration account or transferred to the extended unemployment compensation account as provided in section 1101(f)(3) of this title, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account the balance of such excess or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

- (1) \$550 million, or
- (2) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to 0.5 percent of the

total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(b) Unemployment account excesses

The amount, if any, by which the amount in the Federal unemployment account as of the close of any fiscal year exceeds the greater of the amounts specified in paragraphs (1) and (2) of subsection (a) of this section shall be transferred to the employment security administration account as of the close of such fiscal year.

(c) Report to Congress

Whenever the Secretary of Labor has reason to believe that in the next fiscal year the employment security administration account will reach the limit provided for such account in section 1101(f)(3)(A) of this title, and the Federal unemployment account will reach the limit provided for such account in subsection (a) of this section, and the extended unemployment compensation account will reach the limit provided for such account in section 1105(b)(2) of this title, he shall, after consultation with the Secretary of the Treasury, so report to the Congress with a recommendation for appropriate action by the Congress.

(Aug. 14, 1935, ch. 531, title IX, §902, as added Aug. 5, 1954, ch. 657, §2, 68 Stat. 669; amended Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74 Stat. 974; Pub. L. 91-373, title III, §304(a), (b), Aug. 10, 1970, 84 Stat. 715, 716; Pub. L. 100-203, title IX, §9154(b)(1), Dec. 22, 1987, 101 Stat. 1330-326; Pub. L. 102-318, title V, §531(b), July 3, 1992, 106 Stat. 316; Pub. L. 105-33, title V, §5402(a), Aug. 5, 1997, 111 Stat. 603.)

PRIOR PROVISIONS

A prior section 1102, act Aug. 14, 1935, ch. 531, title IX, §902, 49 Stat. 639, related to credit against tax. For further details, see Prior Law note set out preceding section 1101 of this title.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105-33 substituted "0.5 percent" for "0.25 percent".

1992—Subsec. (a)(2). Pub. L. 102-318 substituted "0.25 percent" for "five-eighths of 1 percent".

1987—Subsec. (a)(2). Pub. L. 100-203 substituted "five-eighths" for "one-eighth".

1970—Subsec. (a). Pub. L. 91-373, §304(a), inserted, in provisions preceding par. (1), reference to the retention of the entire amount of the excess in the employment security administration account or the transfer to the extended unemployment compensation account as provided in section 1101(f)(3) of this title and, in par. (2), substituted "one-eighth of 1 percent" for "four-tenths of 1 per centum".

Subsec. (c). Pub. L. 91-373, §304(b), added subsec. (c).

1960—Pub. L. 86-778 substituted provisions for transfers between Federal unemployment account and employment security administration account for former provisions crediting the Federal unemployment account with funds and defining "adjusted balance".

EFFECTIVE DATE OF 1997 AMENDMENT

Section 5402(b) of Pub. L. 105-33 provided that: "This section [amending this section] and the amendment made by this section—

- "(1) shall take effect on October 1, 2001, and
- "(2) shall apply to fiscal years beginning on or after that date."