

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

**§ 8509. Federal Employees Compensation Account**

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

(1) funds appropriated to or transferred thereto, and

(2) amounts deposited therein pursuant to subsection (c).

(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

(3) If any Federal agency does not deposit in the Federal Employees Compensation Account any amount before the date 30 days after the date on which the Secretary of Labor has notified such agency that it is required to so deposit such amount, the Secretary of Labor shall notify the Secretary of the Treasury of the failure to make such deposit and the Secretary of the Treasury shall transfer such amount to the Federal Employees Compensation Account from amounts otherwise appropriated to such Federal agency.

(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate—

(1) the amount of expenditures which will be made from the Account during such year, and

(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary—

(3) to meet the expenditures described in paragraph (1), and

(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.

(h) For purposes of this section, the term "Federal service" includes Federal service as defined in section 8521(a).

(Added Pub. L. 96-499, title X, §1023(b), Dec. 5, 1980, 94 Stat. 2657; amended Pub. L. 97-362, title II, §202(a), Oct. 25, 1982, 96 Stat. 1732; Pub. L. 102-318, title V, §532(a), July 3, 1992, 106 Stat. 317.)

REFERENCES IN TEXT

Sections 909 and 904 of the Social Security Act, referred to in subsec. (a), are classified to sections 1109 and 1104, respectively, of Title 42, The Public Health and Welfare.

AMENDMENTS

1992—Subsec. (c)(3). Pub. L. 102-318 added par. (3).

1982—Subsecs. (b), (c)(1). Pub. L. 97-362, §202(a)(1), substituted "chapter" for "subchapter" wherever appearing.

Subsec. (h). Pub. L. 97-362, §202(a)(2), added subsec. (h).

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-318, title V, §532(b), July 3, 1992, 106 Stat. 317, provided that: "The amendment made by subsection (a) [amending this section] shall apply to failures outstanding on the date of the enactment of this Act [July 3, 1992] or at any time thereafter."

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-362, title II, §202(b)(1), Oct. 25, 1982, 96 Stat. 1733, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983."

TRANSFER OF APPROPRIATED UNEMPLOYMENT COMPENSATION FUNDS

Pub. L. 97-362, title II, §202(b)(2), Oct. 25, 1982, 96 Stat. 1733, provided that: "All funds appropriated which are available (on October 1, 1983) for the making of payments to States under chapter 85 of title 5, United States Code, on the basis of Federal service (as defined

in section 8521(a) of such title 5) or for the making of payments under such chapter on the basis of such service in States which do not have in effect an agreement under such chapter, shall be transferred on such date to the Federal Employees Compensation Account established by section 909 of the Social Security Act [42 U.S.C. 1109]. On and after such date, all payments described in the preceding sentence shall be made from such account as provided by section 8509 of such title 5."

Pub. L. 96-499, title X, §1023(c), Dec. 5, 1980, 94 Stat. 2658, provided that: "All funds appropriated which are available for the making of payments to States after December 31, 1980, pursuant to agreements entered into under subchapter I of chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such subchapter in States which do not have in effect such an agreement, shall be transferred on January 1, 1981, to the Federal Employees Compensation Account established by section 909 of the Social Security Act [42 U.S.C. 1109]. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code."

SUBCHAPTER II—EX-SERVICEMEN

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

(1) "Federal service" means active service (not including active duty in a reserve status unless for a continuous period of 90 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service—

(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service—

(I) for the convenience of the Government under an early release program,

(II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

(III) because of hardship (including pursuant to a sole survivorship discharge, as that term is defined in section 1174(i) of title 10), or

(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements

of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590; Pub. L. 90-83, §1(89), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, §116(e)(4), Oct. 20, 1976, 90 Stat. 2673; Pub. L. 96-215, §4(b), Mar. 25, 1980, 94 Stat. 124; Pub. L. 96-364, title IV, §415(a), Sept. 26, 1980, 94 Stat. 1310; Pub. L. 97-35, title XXIV, §2405(a), Aug. 13, 1981, 95 Stat. 876; Pub. L. 97-362, title II, §201(a), (b), Oct. 25, 1982, 96 Stat. 1732; Pub. L. 102-164, title III, §301(a), (b), Nov. 15, 1991, 105 Stat. 1059; Pub. L. 110-317, §7, Aug. 29, 2008, 122 Stat. 3529.)

HISTORICAL AND REVISION NOTES  
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row 1: ..... 42 U.S.C. 1371 (a)-(c). Aug. 28, 1958, Pub. L. 85-848, §3 "Sec. 1511(a)-(c)", 72 Stat. 1088.

In subsection (a)(1), the words "armed forces" are co-extensive with and substituted for "Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States" in view of the definition of "armed forces" in section 2101. The words "after October 27, 1958" are substituted for "after the sixtieth day after August 28, 1958".

In subsection (b), the words "with respect to weeks of unemployment ending after the sixtieth day after August 28, 1958" are omitted as obsolete because the law is here stated with prospective effect.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This incorporates into 5 U.S.C. 8521 the definition of "State" which is applicable to the source statute of that section by virtue of section 1301(a)(1) of title 42.

CODIFICATION

Section 8 of Pub. L. 102-107, Aug. 17, 1991, 105 Stat. 546, which contained provisions substantially identical to those of section 301 of Pub. L. 102-164, amending this section and enacting provisions set out below, did not become effective pursuant to section 10(b) of Pub. L. 102-107, because the President did not take the action required by that section by Aug. 17, 1991.

AMENDMENTS

2008—Subsec. (a)(1)(B)(ii)(III). Pub. L. 110-317 substituted "hardship (including pursuant to a sole survivorship discharge, as that term is defined in section 1174(i) of title 10)," for "hardship,".

1991—Subsec. (a)(1). Pub. L. 102-164, §301(b), substituted "90 days" for "180 days".

Subsec. (c). Pub. L. 102-164, §301(a), struck out subsec. (c) which read as follows:

"(1) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual was discharged or released.

"(2) The aggregate amount of compensation payable on the basis of Federal service (as defined in subsection (a)) to any individual with respect to any benefit year