

amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph.”

Subsec. (d). Pub. L. 107-147, §209(b), added subsec. (d). 1997—Subsec. (a)(3). Pub. L. 105-33, §5403(a), added par. (3).

Subsec. (c)(2). Pub. L. 105-33, §5403(b), inserted concluding provisions.

1990—Subsec. (a)(2). Pub. L. 101-508, §5021(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Each State’s share of the funds to be transferred under this subsection as of any October 1—

“(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before September 1, and

“(B) shall bear the same ratio to the total amount to be so transferred as the amount of wages subject to contributions under such State’s unemployment compensation law during the preceding calendar year which have been reported to the State before August 1 bears to the total of wages subject to contributions under all State unemployment compensation laws during such calendar year which have been reported to the States before August 1.”

Subsec. (c)(2). Pub. L. 101-508, §5021(b), added subpars. (D) and (E) and struck out former subpar. (D) and last sentence which required a State’s appropriation law to limit the total amount which may be obligated during a twelve-month or transitional period from its account.

1987—Subsec. (a)(1). Pub. L. 100-203 inserted “and interest” after “all advances”.

1982—Subsec. (c)(2). Pub. L. 97-248, §192(a), substituted “thirty-four” for “twenty-four” wherever appearing, and “thirty-fourth” for “twenty-fourth” in provisions following subpar. (D).

Subsec. (c)(3). Pub. L. 97-248, §192(b), added par. (3).

1976—Subsec. (a)(2). Pub. L. 94-273, §3(23) substituted “October” for “July”.

Subsec. (a)(2)(A). Pub. L. 94-273, §2(20), substituted “September” for “June”.

Subsec. (a)(2)(B). Pub. L. 94-273, §23, substituted “August” for “May” wherever appearing.

Subsec. (b)(1). Pub. L. 94-273, §3(23), substituted “October” for “July”.

Subsec. (c)(2). Pub. L. 94-273, §41, in subpar. (D) and provisions following subpar. (D) substituted provisions relating to determination based on a twelve-month period (as prescribed in the law of the State), or during a transitional period of less than twelve months caused by a change in the twelve-month period (as prescribed in the law of the State), for provisions relating to determination based on a fiscal year period.

1974—Subsec. (b)(3). Pub. L. 93-368 struck out par. (3) which related to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1972—Subsec. (b)(3). Pub. L. 92-329 inserted provisions relating to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1971—Subsec. (b)(3). Pub. L. 92-224, §204(c), added par. (3).

Subsec. (c)(2). Pub. L. 92-224, §1, substituted “twenty-four preceding fiscal years” and “such twenty-five fiscal years” for “fourteen preceding fiscal years” and “such fifteen fiscal years” in subpar. (D) of first sentence and “twenty-fourth preceding fiscal year” for “fourteenth preceding fiscal year” in second sentence.

1970—Subsec. (a)(1). Pub. L. 91-373 inserted references to the limits provided in sections 1102(a) and 1105(b)(2) of this title, advances pursuant to section 1105(d) of this title, and the amount provided in section 1101(f)(3)(A) of this title.

1968—Subsec. (c). Pub. L. 90-430 substituted in par. (2)(D)(i) “fourteen” for “nine”, in par. (2)(D)(ii) “fifteen” for “ten”, and in provisions following par. (2)(D) “fourteenth” for “ninth”.

1963—Subsec. (c)(2). Pub. L. 88-31 substituted “nine preceding fiscal years” for “four preceding fiscal years”, “ten fiscal years” for “five fiscal years” in cl. (D), and “ninth preceding fiscal year” for “fourth preceding fiscal year” in last sentence.

1960—Subsec. (a). Pub. L. 86-778 substituted provisions of par. (1) for first sentence of the section which read “So much of any amount transferred to the Unemployment Trust Fund at the close of any fiscal year under section 1101(a) of this title as is not credited to the Federal unemployment account under section 1102 of this title shall be credited (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund” and designated existing provisions of second sentence as part (2), substituting “transferred” for “credited”, and striking out “on or” before “before” in subpar. (A).

Subsec. (b). Pub. L. 86-778 redesignated existing provisions as par. (1) and cls. (1) and (2) thereof as subpars. (A) and (B), substituted “section 3304 of title 26” for “section 1603 of title 26”, in two places, and “transfer to such States’ account”, “transferred”, and “transfer” for “crediting to such States’ account”, “credited” and “credit”, respectively, except where already reading “shall transfer”, and added par. (2).

Subsec. (c). Pub. L. 86-778 substituted “transferred” for “credited”, wherever appearing, “obligation” for “expenditure” in par. (2)(B), “obligated” for “so used” in par. (2)(D), and “obligated for administration” for “used” in concluding par., inserted references to subsection (b) in pars. (1) and (2)(D), and struck out “any of” before “such five fiscal years” in par. (2)(D).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §7(b), Nov. 6, 2009, 123 Stat. 2988, provided that: “The amendment made by this section [amending this section] shall apply with respect to State applications submitted on and after January 1, 2010.”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5021(c), Nov. 5, 1990, 104 Stat. 1388-223, provided that: “The amendments made by this section [amending this section] shall apply to fiscal years beginning after the date of the enactment of this Act [Nov. 5, 1990].”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9155(d), Dec. 22, 1987, 101 Stat. 1330-327, provided that: “The amendments made by this section [amending this section and sections 1105 and 1323 of this title] shall apply to advances made on or after the date of the enactment of this Act [Dec. 22, 1987].”

#### REGULATIONS

Pub. L. 111-5, div. B, title II, §2003(b), Feb. 17, 2009, 123 Stat. 443, provided that: “The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a) [amending this section].”

Pub. L. 109-91, title II, §203, Oct. 20, 2005, 119 Stat. 2094, provided that: “The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this title [amending this section] and any amendment made by this title.”

### § 1104. Unemployment Trust Fund

#### (a) Establishment

There is hereby established in the Treasury of the United States a trust fund to be known as the “Unemployment Trust Fund”, hereinafter in this subchapter called the “Fund”. The Sec-

retary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury, with any depository designated by him for such purpose, or with any Federal Reserve Bank.

**(b) Investments**

It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest 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 issue, borne by all interest-bearing obligations of the United States then forming 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 of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition. Advances made to the Federal unemployment account pursuant to section 1323 of this title shall not be invested.

**(c) Sale or redemption of obligations**

Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

**(d) Treatment of interest and proceeds**

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

**(e) Separate book accounts**

The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the employment security administration account, the Federal unemployment account, the railroad unemployment insurance account, and the railroad unemployment insurance administration fund and shall credit quarterly (on March 31, June 30, September 30, and

December 31, of each year) to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the balance of advances made to the State under section 1321 of this title, and

(2) in the case of the Federal unemployment account—

(A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and

(B) by subtracting from the sum so obtained the balance of advances made under section 1323 of this title to the account.

**(f) Payment to State agencies and Railroad Retirement Board**

The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.

**(g) Federal unemployment account; establishment**

There is hereby established in the Unemployment Trust Fund a Federal unemployment account.

(Aug. 14, 1935, ch. 531, title IX, §904, 49 Stat. 640; June 25, 1938, ch. 680, §10(e)-(g), 52 Stat. 1104, 1105; Oct. 3, 1944, ch. 480, title IV, §401, 58 Stat. 789; Aug. 6, 1947, ch. 510, §5(a), 61 Stat. 794; Aug. 28, 1950, ch. 809, title IV, §404(b), 64 Stat. 560; Aug. 5, 1954, ch. 657, §5(b)-(f), 68 Stat. 673; Pub. L. 85-927, pt. II, §204, Sept. 6, 1958, 72 Stat. 1782; Pub. L. 86-346, title I, §104(3), Sept. 22, 1959, 73 Stat. 622; Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74 Stat. 976; Pub. L. 98-369, div. B, title VI, §2663(d)(3), July 18, 1984, 98 Stat. 1167; Pub. L. 102-318, title V, §531(d)(3), July 3, 1992, 106 Stat. 317.)

AMENDMENTS

1992—Subsec. (g). Pub. L. 102-318 struck out after the first sentence the following: “There is hereby authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under title IX of this Act or under the Federal Unemployment Tax Act, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected under the Federal Unemployment Tax Act after June 30, 1946, and prior to July 1, 1953, over the unemployment administrative expenditures made after June 30, 1946, and prior to July 1, 1953. As used in this subsection, the term ‘unemployment administrative expenditures’ means expenditures for grants under subchapter III of this chapter, expenditures for the administration of that subchapter by the Secretary of Health and Human

Services, or the Secretary of Labor, and expenditures for the administration of title IX of this Act, or of the Federal Unemployment Tax Act, by the Department of the Treasury, the Secretary of Health and Human Services, or the Secretary of Labor. For the purposes of this subsection, there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under title IX of this Act, the sum of \$40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754), and the sum of \$18,451,846 which was authorized to be appropriated by section 361(b) of title 45."

1984—Subsec. (b). Pub. L. 98-369 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as amended".

1960—Subsec. (a). Pub. L. 86-778 substituted "with any depository designated by him for such purpose, or with any Federal Reserve Bank" for "or with any Federal Reserve bank or member bank of the Federal Reserve System designated by him for such purpose".

Subsec. (b). Pub. L. 86-778 substituted "Second Liberty Bond Act, as amended" and "section 1323" for "section 752 of title 31" and "section 1322(c)", respectively, and inserted "made" after "Advances".

Subsec. (e). Pub. L. 86-778 provided for the maintenance of a separate book account for the employment security administration account and substituted "balance of advances made to the State under section 1321 of this title" for "aggregate of the outstanding advances under section 1321 of this title from the Federal unemployment account" in par. (1) and "balance of advances made under section 1323 of this title to the account" for "aggregate of the outstanding advances from the Treasury to the account pursuant to section 1322(c) of this title".

Subsec. (g). Pub. L. 86-778 redesignated former subsec. (h) as (g).

1959—Subsec. (b). Pub. L. 86-346 substituted "on original issue at the issue price" for "on original issue at par".

1958—Subsec. (a). Pub. L. 85-927, §204(a), inserted "or the railroad unemployment insurance administration fund".

Subsec. (e). Pub. L. 85-927, §204(b), substituted "the railroad unemployment insurance account, and the railroad unemployment insurance administration fund" for "and the railroad unemployment insurance account".

Subsec. (f). Pub. L. 85-927, §204(c), substituted "railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment" for "fund as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the railroad unemployment insurance account at the time of such payment".

1954—Subsec. (a). Act Aug. 5, 1954, §5(b), substituted "or otherwise deposited in or credited to the Fund or any account therein" for "or deposited pursuant to appropriations to the Federal unemployment account".

Subsec. (b). Act Aug. 5, 1954, §5(c), inserted provision that advances to the Federal unemployment account pursuant to section 1323 of this title shall not be invested.

Subsec. (e). Act Aug. 5, 1954, §5(d), inserted "For the purposes of this subsection, the average daily balance shall be computed—

"(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the aggregate of the outstanding advances under section 1201 from the Federal unemployment account, and

"(2) in the case of the Federal unemployment account, (A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and (B) by subtracting from the sum so obtained the aggregate of the outstanding advances from the Treasury to the account pursuant to section 1202(c)."

Subsec. (g). Act Aug. 5, 1954, §5(e), repealed subsec. (g) which authorized Secretary of Treasury to make transfers from Federal unemployment account to account of any State in Unemployment Trust Fund.

Subsec. (h). Act Aug. 5, 1954, §5(f), substituted a new cl. (2) in second sentence and repealed the third sentence: "Any amounts in the Federal unemployment account on April 1952, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury."

1950—Subsec. (h). Act Aug. 28, 1950, substituted "prior to July 1, 1951" for "prior to July 1, 1949", "on July 1, 1951, and ending on December 31, 1951" for "on July 1, 1949, and ending on December 31, 1949" in cl. (2) of second sentence, and "April 1, 1952" for "April 1, 1950" in third sentence.

1947—Subsec. (h). Act Aug. 6, 1947, amended subsec. (h) generally, and, among other changes, changed the periods for which excess of tax collections over administrative expenditures could be appropriated to the unemployment account, limited authorized appropriations for the unemployment account to the excess collections for the period ending Dec. 31, 1949, provided for amounts in such account on Apr. 1, 1950, and any repayments to the account after such date be covered into the general fund of the Treasury, and provided for an additional deduction of \$18,451,846 from the total amount of taxes collected prior to July 1, 1943.

1944—Subsec. (a). Act Oct. 3, 1944, §401(a), inserted "or deposited pursuant to appropriations to the Federal unemployment account" after "unemployment insurance account" in second sentence.

Subsec. (e). Act Oct. 3, 1944, §401(b), inserted "the Federal unemployment account" after "a separate book account for each State agency".

Subsecs. (g), (h). Act Oct. 3, 1944, §401(c), added subsecs. (g) and (h).

1938—Subsec. (a). Act June 25, 1938, §10(e), inserted "or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account".

Subsec. (e). Act June 25, 1938, §10(f), inserted "and the railroad unemployment insurance account".

Subsec. (f). Act June 25, 1938, §10(g), inserted second sentence.

#### 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 1958 AMENDMENT

Amendment by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indicated, see section 207(c) of Pub. L. 85-927, set out as a note under section 351 of Title 45, Railroads.

#### EFFECTIVE DATE OF 1950 AMENDMENT

Act Aug. 28, 1950, ch. 809, title IV, §404(c), 64 Stat. 560, provided that: "The amendments made by subsections (a) and (b) of this section [amending this section and section 1321 of this title] shall be effective January 1, 1950."

#### TERMINATION DATE

Act Aug. 6, 1947, ch. 510, §4, 61 Stat. 794, provided that: "Section 603 of the War Mobilization and Reconversion Act of 1944 [section 603 of act Oct. 3, 1944, ch. 480, former 50 U.S.C. App. 1651 note] (terminating the provisions of such Act [50 U.S.C. App. 1651 et seq.] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act to the Social Security Act [amending this section and section 1321 of this title]."

#### PAYMENTS TO STATES

Act Aug. 24, 1937, ch. 755, 50 Stat. 754, provided for payments to States of 90 per cent of proceeds of the un-

employment tax collected prior to Jan. 31, 1938, where State had enacted an approved unemployment-compensation law during 1937.

**§ 1105. Extended unemployment compensation account**

**(a) Establishment**

There is hereby established in the Unemployment Trust Fund an extended unemployment compensation account. For the purposes provided for in section 1104(e) of this title, such account shall be maintained as a separate book account.

**(b) Transfers to account**

(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month) from the employment security administration account to the extended unemployment compensation account established by subsection (a) of this section, an amount (determined by such Secretary) equal to 20 percent of the amount by which—

(A) the transfers to the employment security administration account pursuant to section 1101(b)(2) of this title during such month, exceed

(B) the payments during such month from the employment security administration account pursuant to section 1101(b)(3) and (d) of this title.

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (A), proper adjustments shall be made in the amounts subsequently transferred.

(2) 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 beginning after June 30, 1972, there shall be transferred (as of the beginning of the succeeding fiscal year) to the extended unemployment compensation account the total amount of such excess or so much thereof as is required to increase the amount in the extended unemployment compensation account to whichever of the following is the greater:

(A) \$750,000,000, or

(B) 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.

(3) The Secretary of the Treasury shall make no transfer pursuant to paragraph (1) as of the close of any month if he determines that the amount in the extended unemployment compensation account is equal to (or in excess of) the limitation provided in paragraph (2).

**(c) Transfers to State accounts**

Amounts in the extended unemployment compensation account shall be available for transfer to the accounts of the States in the Unemployment Trust Fund as provided in section 204(e) of the Federal-State Extended Unemployment Compensation Act of 1970.

**(d) Advances to account; repayment**

There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, as repayable advances, such sums as may be necessary to carry out the purposes of the Federal-State Extended Unemployment Compensation Act of 1970. Amounts appropriated as repayable advances shall be repaid by transfers from the extended unemployment compensation account to the general fund of the Treasury, at such times as the amount in the extended unemployment compensation account is determined by the Secretary of the Treasury, in consultation with the Secretary of Labor, to be adequate for such purpose. Repayments under the preceding sentence shall be made whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount then in the account exceeds the amount necessary to meet the anticipated payments from the account during the next 3 months. Any amount transferred as a repayment under this subsection shall be credited against, and shall operate to reduce, any balance of advances repayable under this subsection. Amounts appropriated as repayable advances for purposes of this subsection shall bear interest 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 part of the public debt; except that in cases in which such average rate is not a multiple of one-eighth of 1 percent, the rate of interest shall be the multiple of one-eighth of 1 percent next lower than such average rate.

(Aug. 14, 1935, ch. 531, title IX, §905, as added Pub. L. 87-6, §13, Mar. 24, 1961, 75 Stat. 14; amended Pub. L. 88-31, §2(c), May 29, 1963, 77 Stat. 51; Pub. L. 91-373, title III, §305(a), Aug. 10, 1970, 84 Stat. 716; Pub. L. 92-329, §2(c), June 30, 1972, 86 Stat. 398; Pub. L. 94-566, title II, §211(e)(2) [(c)(2)], Oct. 20, 1976, 90 Stat. 2677; Pub. L. 97-248, title II, §§271(b)(2)(B), 275, Sept. 3, 1982, 96 Stat. 555, 558; Pub. L. 100-203, title IX, §§9154(b)(2), (c)(1), 9155(a), Dec. 22, 1987, 101 Stat. 1330-326; Pub. L. 102-318, title V, §531(a), July 3, 1992, 106 Stat. 315; Pub. L. 103-152, §5, Nov. 24, 1993, 107 Stat. 1518.)

REFERENCES IN TEXT

The Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsecs. (c) and (d), is Pub. L. 91-373, title II, Aug. 10, 1970, 84 Stat. 708, as amended, which is set out as a note under section 3304 of Title 26, Internal Revenue Code. Section 204(e) of that Act is part of that note. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1105, act Aug. 14, 1935, ch. 531, title IX, §905, 49 Stat. 641, related to administration, refunds and penalties. For further details, see Prior Law note set out preceding section 1101 of this title.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103-152 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from the employment security administration