

## § 502. Payments to States; computation of amounts

### (a) Certification of amounts

The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary of Labor determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made, including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1320b-7(d) of this title. The Secretary of Labor's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper and efficient administration of such law; and (3) such other factors as the Secretary of Labor finds relevant. The Secretary of Labor shall not certify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

### (b) Payment of amounts

Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a), pay, through the Fiscal Service of the Department of the Treasury and prior to audit or settlement by the Government Accountability Office, to the State agency charged with the administration of such law the amount so certified.

### (c) Mailing costs

No portion of the cost of mailing a statement under section 6050B(b) of the Internal Revenue Code of 1986 (relating to unemployment compensation) shall be treated as not being a cost for the proper and efficient administration of the State unemployment compensation law by reason of including with such statement information about the earned income credit provided by section 32 of the Internal Revenue Code of 1986. The preceding sentence shall not apply if the inclusion of such information increases the postage required to mail such statement.

(Aug. 14, 1935, ch. 531, title III, §302, 49 Stat. 626; Aug. 10, 1939, ch. 666, title III, §301, 53 Stat. 1378; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1949 Reorg. Plan No. 2, §1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; Pub. L. 98-369, div. B, title VI, §2663(b)(1), July 18, 1984, 98 Stat. 1165; Pub. L. 99-603, title I, §121(b)(3), Nov. 6, 1986, 100 Stat. 3390; Pub. L. 102-318, title III, §302(a), July 3, 1992, 106 Stat. 297; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

### Editorial Notes

#### REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsec. (a), comprised subchapter C (§§1600 to 1611) of chapter 9 of the Internal Revenue Code of 1939. Chapter 9 of the 1939 Code was repealed (subject to certain ex-

ceptions) by section 7851(a)(3) of the Internal Revenue Code of 1954, Title 26. The Internal Revenue Code of 1954 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095. The Federal Unemployment Tax Act also comprises chapter 23 (§3301 et seq.) of the Internal Revenue Code of 1986. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of Title 26, Internal Revenue Code. See also section 7852(b) of Title 26 for provision that references in any other law to a provision of the 1939 Code, unless expressly incompatible with the intent thereof, shall be deemed a reference to the corresponding provision of the 1986 Code.

#### AMENDMENTS

2004—Subsec. (b). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

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

1986—Subsec. (a). Pub. L. 99-603 inserted at end of first sentence " , including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1320b-7(d) of this title".

1984—Subsec. (b). Pub. L. 98-369 substituted "the Fiscal Service of the Department of the Treasury" for "the Division of Disbursement of the Treasury Department".

1939—Subsec. (a). Act Aug. 10, 1939, substituted "Federal Unemployment Tax Act" for "sections 1101-1110 of this title," and inserted "efficient" before "administration".

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-318, title III, §302(b), July 3, 1992, 106 Stat. 297, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [July 3, 1992]."

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-603, title I, §121(c)(2), Nov. 6, 1986, 100 Stat. 3391, provided that: "The amendments made by subsection (b) [enacting section 1437r of this title, amending this section and sections 303, 603, 1203, 1353, and 1396b of this title, section 2025 of Title 7, Agriculture, and section 1096 of Title 20, Education, and amending provisions set out as a Puerto Rico, Guam, and Virgin Islands note under section 1383 of this title] take effect on October 1, 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.

#### REPORT ON METHOD OF ALLOCATING ADMINISTRATIVE FUNDS AMONG STATES

Pub. L. 102-164, title III, §304, Nov. 15, 1991, 105 Stat. 1061, as amended by Pub. L. 102-318, title V, §533, July 3, 1992, 106 Stat. 317, provided that:

"(a) IN GENERAL.—The Secretary of Labor shall submit to the Congress, before December 31, 1994, a comprehensive report setting forth a proposal for revising the method of allocating grants among the States under section 302 of the Social Security Act [42 U.S.C. 502].

"(b) SPECIFIC REQUIREMENTS.—The report required by subsection (a) shall include an analysis of—

"(1) the use of unemployment insurance workload levels as the primary factor in allocating grants among the States under section 302 of the Social Security Act [42 U.S.C. 502],

“(2) ways to ensure that each State receive not less than a minimum grant amount for each fiscal year,

“(3) the use of nationally available objective data to determine the unemployment compensation administrative costs of each State, with consideration of legitimate cost differences among the States,

“(4) ways to simplify the method of allocating such grants among the States,

“(5) ways to eliminate the disincentives to productivity and efficiency which exist in the current method of allocating such grants among the States,

“(6) ways to promote innovation and cost-effective practices in the method of allocating such grants among the States, and

“(7) the effect of the proposal set forth in such report on the grant amounts allocated to each State.

“(c) CONGRESSIONAL REVIEW PERIOD.—The Secretary of Labor may not revise the method in effect on the date of the enactment of this Act [Nov. 15, 1991] for allocating grants among the States under section 302 of the Social Security Act [42 U.S.C. 502], until after the expiration of the 12-month period beginning on the date on which the report required by subsection (a) is submitted to the Congress.”

### Executive Documents

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of Labor, with certain exceptions, to Secretary of Labor, with power to delegate, see Reorg. Plan No. 6 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Federal Security Administrator with respect to unemployment compensation transferred to Secretary of Labor by Reorg. Plan No. 2 of 1949, set out in the Appendix to Title 5.

Section 1 of Reorg. Plan No. 2 of 1949, also provided that functions transferred by this section shall be performed by Secretary of Labor, or subject to his direction and control, by such officers, agencies, and employees of Department of Labor as he shall designate.

“Administrator” substituted for “Board” by section 4 of Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5.

### § 503. State laws

#### (a) Provisions required

The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act [26 U.S.C. 3301 et seq.], includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices or such other agencies as the Secretary of Labor may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State (except for

refunds of sums erroneously paid into such fund and except for refunds paid in accordance with the provisions of section 3305(b) of the Federal Unemployment Tax Act [26 U.S.C. 3305(b)]), immediately upon such receipt, to the Secretary of the Treasury to the credit of the unemployment trust fund<sup>1</sup> established by section 1104 of this title; and

(5) Expenditure of all money withdrawn from an unemployment fund of such State, in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund and refunds paid in accordance with the provisions of section 3305(b) of the Federal Unemployment Tax Act [26 U.S.C. 3305(b)]: *Provided*, That an amount equal to the amount of employee payments into the unemployment fund of a State may be used in the payment of cash benefits to individuals with respect to their disability, exclusive of expenses of administration: *Provided further*, That the amounts specified by section 1103(c)(2) or 1103(d)(4) of this title may, subject to the conditions prescribed in such section, be used for expenses incurred by the State for administration of its unemployment compensation law and public employment offices: *Provided further*, That nothing in this paragraph shall be construed to prohibit deducting an amount from unemployment compensation otherwise payable to an individual and using the amount so deducted to pay for health insurance, or the withholding of Federal, State, or local individual income tax, if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor: *Provided further*, That amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g): *Provided further*, That amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986): *Provided further*, That amounts may be withdrawn for the payment of allowances under a self-employment assistance program (as defined in section 3306(t) of the Internal Revenue Code of 1986); and

(6) The making of such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and compliance with such provisions as the Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law; and

(8) Effective July 1, 1941, the expenditure of all moneys received pursuant to section 502 of

<sup>1</sup>So in original. Probably should be “Unemployment Trust Fund”.