WEST VIRGINIA CODE CHAPTER 21A ARTICLE 9

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§21A-9-1. Creation; use of federal moneys.

There is hereby created in the State Treasury a special fund to be known as the employment security administration fund. All moneys in this fund which are received from the federal government or any agency thereof or which are appropriated by this state for the purposes described in section seven of this article shall be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter.

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§21A-9-2. Appropriation.

The moneys deposited with this fund are hereby appropriated and made available to the order of the commissioner.

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§21A-9-3. Contents of fund.

The fund shall consist of:

(1) Moneys appropriated by the state.

(2) Moneys received from the United States or any agency thereof, for the administration of this article.

(3) Moneys received from any other source.

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§21A-9-4. Disbursements.

This fund shall be administered and disbursed in the same manner and under the same conditions as other special funds of the State Treasury.

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§21A-9-5. Balances not to lapse.

Balances to the credit of the administration fund shall not lapse at any time, but shall be continuously available to the commissioner for expenditure consistent with this chapter.

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§21A-9-5a. Special administration fund.

There is hereby created in the State Treasury a fund to be known as the employment security special administration fund, which shall consist of interest collected on delinquent payments pursuant to section seventeen, article five of this chapter. The moneys deposited with this fund are hereby appropriated and made available to the order of the commissioner for the purpose of (a) replacements in the employment security administration fund as provided in section eight of this article, (b) to meet special, extraordinary, and contingent expenses not provided for in the employment security administration fund, (c) refunds pursuant to section nineteen of article five, of interest erroneously collected, and (d) cover expenditures for which federal funds have been authorized but not yet received, subject to repayment to the fund. This fund shall be administered and disbursed in the same manner and under the same conditions as other special funds of the State Treasury. Balances to the credit of the special administration fund shall not lapse at any time but shall be continuously available to the commissioner for expenditures consistent with this chapter: Provided, That (1) not more than $750,000 shall be expended from said fund in any fiscal year; (2) that at the beginning of each calendar quarter the commissioner shall estimate the amount that may be required in that quarter for refunds of interest erroneously collected; (3) that thereupon the excess, if any, over the amounts provided to be expended under this section shall be paid into the unemployment compensation trust fund.

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§21A-9-6. Treasurer's bond.

The treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties with regard to the administration fund. The bond shall be in the amount of $15,000 and in the form prescribed by the Attorney General and approved by the Governor. Premiums on the bond shall be a charge on the administration fund.

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§21A-9-7. Employment service account.

For the purpose of maintaining the employment offices established by this chapter and for the purpose of cooperating with the United States employment service, a special employment service account shall be maintained as a part of the administration fund.

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§21A-9-8. Reimbursement of fund.

If any moneys received after June 30, 1941, pursuant to Title III of the Social Security Act, or any unencumbered balances in the employment security administration fund as of that date, or any moneys granted after that date to this state pursuant to the provisions of the Wagner-Peyser Act, or any moneys made available by this state or its political subdivisions and matched by such moneys granted to this state pursuant to the provisions of the Wagner-Peyser Act, are found by the secretary of labor, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the secretary of labor for the proper administration of this chapter, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the General Funds of this state to the employment security administration fund for expenditure as provided by the Unemployment Compensation Law. Upon receipt of notice of such a finding by the secretary of labor, the commissioner shall promptly report the amount required for such replacement to the Governor and the Governor shall, at the earliest opportunity, submit to the Legislature a request for the appropriation of such amount. This article shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.

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§21A-9-9. Reed Act appropriations.

(a) Pursuant to 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, funds may become available to the state. The provisions of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, impose certain requirements that affect the state's use of the funds. It is the purpose of this section to ensure that the state meets each requirement imposed by the provisions of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, to enable the state to expend the funds for the purposes intended by federal law.

(b) The Bureau of Employment Programs is designated as the state agency authorized to receive funds made available pursuant to 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended.

(c) Expenditure of any funds made available to the state pursuant to 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, shall be for the specific purposes and in the amounts authorized under 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and are to be made only in accordance with appropriation by the Legislature.

(d) The specific purpose and amount of an appropriation of funds received under 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, is, by operation of this section, the specific purpose and amount stated in the act of the Legislature appropriating the funds. Where the specific purpose or amount stated in the act of this Legislature appropriating the funds is not consistent with the provisions of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, the provisions of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, shall control and the specific purpose or amount authorized by those provisions are hereby incorporated into the appropriations act and, by the operation of this section, shall be the specific purpose or amount of the appropriation as if fully set forth in the appropriations act.

(e) Any restriction, limitation or obligation imposed by 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, upon the use of funds made available to the state or upon the purposes for which they may be expended is hereby incorporated and made a part of this subsection as if fully set forth herein, and is hereby incorporated into the act of the Legislature appropriating the funds and, by the operation of this section, the appropriations act shall impose each and every restriction, limitation or obligation imposed by 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, upon the use of the funds as if fully set forth in the appropriations act.

(f) Notwithstanding any other provision of this section to the contrary, moneys credited to the state under Section 903 of the Social Security Act, as codified in 42 U.S.C. §1103, with respect to federal fiscal years 1999, 2000 and 2001 are authorized to be used only for the administration of the state's unemployment compensation program.

(g) The effective date of the use of any funds made available to the state under the provisions of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the

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effective date of any restriction, limitation or obligation imposed by those provisions on the use of those funds, shall be the effective date of the appropriations act of the Legislature appropriating the funds, and the use of the funds shall not extend beyond the conclusion of any time limitation imposed by 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, for the expenditure of the funds.

(h) Notwithstanding any provision of article eleven, chapter four of this code to the contrary, the Governor may not authorize the expenditure of funds received under 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, pursuant to the provisions of section five, article eleven, chapter four of this code unless otherwise permitted under federal law.

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§21A-9-9a.

Repealed.

Acts, 1996 Reg. Sess., Ch. 252.

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§21A-9-10. Unemployment Automation and Administration Fund.

(a) Definitions. — For purposes of this section:

"Employer contribution" means the employer contribution to the Unemployment Compensation Fund required by §21A-5-5 of this code.

"Fiscal year" means the 12-month period beginning on July 1 and ending on June 30 of each year.

"Unemployment Compensation Fund" means the Unemployment Compensation Fund established by §21A-8-1 of this code.

(b) Creation of fund. — There is hereby created a special trust fund which shall be designated and known as the Unemployment Automation and Administration Fund, to be administered by the Commissioner of WorkForce West Virginia. The Unemployment Automation

and Administration Fund shall be treated by the Auditor and Treasurer as a special revenue fund, and not as part of the general revenues of the state. Any funds remaining in the Unemployment Automation and Administration Fund at the end of the fiscal year shall not revert to the General Revenue Fund.

(c) Source of funding. — The fund shall consist of the following:

(1) Effective July 1, 2026, each employer liable for contributions under this chapter, except employers with a contribution rate equal to zero, shall pay an annual unemployment automation and administration fee equal to seven percent of the employer’s total taxable wages for the twelve-month period ending the preceding June 30. The Commissioner of Workforce West Virginia may reduce this percentage to ensure that the total amount of fee collected from all employers does not exceed $18 million annually. Each employer liable for the fee shall be notified of the amount due by March 31 of each year, and such amount shall be considered delinquent 30 days thereafter. Delinquent unemployment automation and administration fee amounts may be collected in the manner provided under §21A-5-16 and §21A-5-17 of this code. All funds collected under this subsection shall be deposited in the Unemployment Compensation Automation and Administration Fund.

(2) The fund may also consist of all income earned on moneys held in the fund, or from any investments related thereto.

(3) Upon the earlier of the date that the aggregate amount of collections paid into the Unemployment Automation and Administration Fund reaches $60 million or July 1, 2031, no further unemployment automation and administration fees may be collected and the Commissioner shall reimpose the applicable unemployment contribution rate for each employer liable for contributions under this chapter as are otherwise required by this chapter.

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(d) Limitations on fund contributions. —

(1) In the event that the Unemployment Automation and Administration Fund is allocated $18 million or more from employer contributions in a given fiscal year, no further employer contribution deposits to the fund shall be made for the remainder of that fiscal year, and any funds due to the Unemployment Automation and Administration Fund pursuant to the provisions of this section and of §21A-5-5 of this code will instead be deposited in the Unemployment Compensation Fund.

(2) If at any time the balance in the Unemployment Compensation Fund falls below $300 million, then any funds due to the Unemployment Automation and Administration Fund pursuant to the provisions of this section and of §21A-5-5 of this code will instead be deposited into the Unemployment Compensation Fund until the Unemployment Compensation Fund has maintained a minimum balance of $300 million for two consecutive quarters, or until the end of a given fiscal year, whichever comes later.

(e) Disbursements from the fund. – The Commissioner of WorkForce West Virginia is authorized to disburse funds from the Unemployment Automation and Administration Fund, at his or her discretion, for any of the following purposes:

(1) Modernizing the unemployment compensation system, including new technology and infrastructure, which may lead to faster processing times for claims, address vulnerabilities to fraud, integrate real-time data analytics to ensure more accurate benefit distribution, or otherwise adapt to economic shifts or policy changes;

(2) Upgrading the job search system by allowing mobile optimization, more advanced job recommendations, seamless integration with training programs, personalized career coaching tools, virtual job fairs, or partnerships with other platforms to broaden reach and improve match quality;

(3) Covering essential administrative costs, including, but not limited to, staff training, technological maintenance, or operational audits; and

(4) Engaging in additional initiatives designed to bolster workforce development initiatives, including expanded training programs, removal of barriers to entering the workforce, targeting outreach campaigns, or partnering with employers.

(f) Rulemaking. — The Commissioner of WorkForce West Virginia is authorized to promulgate legislative rules, emergency legislative rules, and procedural rules pursuant to the requirements of §29A-3-1 *et seq*. of this code.

(g) Federal compliance. — Nothing in this section shall be interpreted to allow the reduction of the maximum tax rate below the federally required levels and no transfer of funds set forth in this section shall take place if such transfers would be deemed to be out of compliance with relevant federal requirements.

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(h) Effective date. —The provisions of this section shall be effective July 1, 2026.

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