

amount to be refunded to the Employees Health Benefits Fund under this subsection—

“(A) during fiscal year 1986 shall be not less than \$800,000,000; and

“(B) during fiscal year 1987 shall be not less than \$300,000,000.

“(3) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States as a result of a refund made under this subsection.

“(4)(A) Subject to subparagraphs (B) and (C), any amounts refunded to the Employees Health Benefits Fund under this subsection may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants, as defined by section 8901(3) of title 5, United States Code, (including the Government contribution for former employees of the United States Postal Service) enrolled in health benefits plans under such chapter.

“(B) This paragraph applies to a refund to the extent that such refund represents amounts attributable to Government contributions which were made under section 8906(b) of title 5, United States Code, (including contributions made by the United States Postal Service) as determined under regulations which the Office of Personnel Management shall prescribe.

“(C) Any part of the amount in the Employees Health Benefits Fund as a result of a refund made under this subsection may be transferred—

“(i) to the government of the District of Columbia, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the government of the District of Columbia to subscription charges under this chapter (as determined by the Office of Personnel Management); and

“(ii) to the United States Postal Service, except that the amount of any such part so transferred shall not exceed the amount attributable to the contributions made by the United States Postal Service to subscription charges under this chapter (as determined by the Office).

“(5) The provisions of this subsection shall apply notwithstanding any provision of the Federal Employees Benefits Improvement Act of 1985 [probably means the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99-251, see Short Title of 1986 Amendment note set out under section 8901 of this title for classification.]”

**RESTRICTIONS RELATING TO AMOUNTS REFUNDED TO EMPLOYEES HEALTH BENEFITS FUND FROM CARRIERS' SPECIAL RESERVES**

Pub. L. 99-251, title I, § 112, Feb. 27, 1986, 100 Stat. 19, provided that:

“(a) PROHIBITED TRANSFERS.—(1) No amount in the Employees Health Benefits Fund may be transferred to the general fund of the Treasury of the United States or the United States Postal Service as a result of a refund described in paragraph (2).

“(2) This subsection applies with respect to any refund made by a carrier during fiscal year 1986 or 1987 to the Employees Health Benefits Fund to the extent that such refund represents amounts in excess of the minimum level of financial reserves necessary to be held by such carrier to ensure the stable and efficient operation of its health benefits plan.

“(b) RESTRICTION RELATING TO USE OF CERTAIN AMOUNTS IN THE FUND.—(1) Any amount which is in the Employees Health Benefits Fund, and which is described in paragraph (2), may be used solely for the purpose of paying the Government contribution under chapter 89 of title 5, United States Code, for health benefits for annuitants enrolled in health benefits plans (without regard to the health benefits plan or plans from which the refunds were received).

“(2) This subsection applies with respect to any amounts—

“(A) which are referred to in subsection (a)(2); and

“(B) which are attributable to Government contributions (other than contributions by the government of the District of Columbia, which shall be returned to such government) that were made under section 8906(b) of title 5, United States Code, as determined under regulations which the Office of Personnel Management shall prescribe.

“(c) DEFINITIONS.—For the purpose of this section—

“(1) the term 'Employees Health Benefits Fund' refers to the fund described in section 8909(a) of title 5, United States Code;

“(2) the term 'carrier' has the meaning given such term by section 8901(7) of such title; and

“(3) the term 'health benefits plan' has the meaning given such term by section 8901(6) of such title.”

**§ 8909a. Postal Service Retiree Health Benefits Fund**

(a) There is in the Treasury of the United States a Postal Service Retiree Health Benefits Fund which is administered by the Office of Personnel Management.

(b) The Fund is available without fiscal year limitation for payments required under section 8906(g)(2)(A).

(c) The Secretary of the Treasury shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. Such investments shall be made in the same manner as investments for the Civil Service Retirement and Disability Fund under section 8348.

(d)(1) Not later than June 30, 2026, and by June 30 of each succeeding year, the Office shall compute, for the most recently concluded fiscal year, the amount (if any) that Government contributions required to be paid from the Fund under section 8906(g)(2)(A) exceeded the estimated net claims costs under the enrollment of the individuals described in section 8906(g)(2)(A).

(2) Not later than September 30 of each year in which the Office makes a computation under paragraph (1), the United States Postal Service shall pay into the Fund the amount (if any) of the excess computed under such paragraph.

(e) Any computation required under section 3654(b) of title 39 shall be based on—

(1) the net present value of the future net claims costs with respect to—

(A) current annuitants of the United States Postal Service as of the end of the fiscal year ending on September 30 of the relevant reporting year; and

(B) current employees of the United States Postal Service who would, as of September 30 of that year—

(i) be eligible to become annuitants pursuant to section 8901(3)(A)(i) or (ii); and

(ii) if they were retired as of that date, meet the criteria for coverage of annuitants under section 8905(b);

(2) economic and actuarial methods and assumptions consistent with the methods and assumptions used in determining the Postal surplus or supplemental liability under section 8348(h); and

(3) any other methods and assumptions, including a health care cost trend rate, that the Director of the Office determines to be appropriate.

(f) After consultation with the United States Postal Service, the Office shall promulgate any

regulations the Office determines necessary under this subsection.

(g) For purposes of this section, the term “estimated net claims costs” shall mean the difference between—

(1) the sum of—

(A) the estimated costs incurred by a carrier in providing health services to, paying for health services provided to, or reimbursing expenses for health services provided to, annuitants of the United States Postal Service and any other persons covered under the enrollment of such annuitants; and

(B) an amount of indirect expenses reasonably allocable to the provision, payment, or reimbursement described in subparagraph (A), as determined by the Office; and

(2) the amount withheld from the annuity of or paid by annuitants of the United States Postal Service under section 8906.

(Added Pub. L. 109-435, title VIII, § 803(a)(1)(B), Dec. 20, 2006, 120 Stat. 3251; amended Pub. L. 111-68, div. B, § 164(a), Oct. 1, 2009, 123 Stat. 2053; Pub. L. 112-33, § 124, Sept. 30, 2011, 125 Stat. 366; Pub. L. 112-74, div. C, title VI, § 632, Dec. 23, 2011, 125 Stat. 928; Pub. L. 117-108, title I, § 102(b), Apr. 6, 2022, 136 Stat. 1138.)

#### Editorial Notes

##### AMENDMENTS

2022—Pub. L. 117-108, § 102(b)(2), substituted “Benefits” for “Benefit” in section catchline.

Subsecs. (d) to (g). Pub. L. 117-108, § 102(b)(1), added subsecs. (d) to (g) and struck out former subsec. (d) which related to various computations of net present value of future payments, payments into the Postal Retiree Health Benefits Fund, and promulgation of regulations.

2011—Subsec. (d)(3)(A)(v). Pub. L. 112-74 substituted “August 1, 2012” for “October 4, 2011”. See below.

Pub. L. 112-33 substituted “October 4, 2011”, which is the date specified in section 106(3) of Pub. L. 112-33, for “September 30, 2011”.

2009—Subsec. (d)(3)(A)(iii). Pub. L. 111-68 amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “\$5,400,000,000, not later than September 30, 2009;”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-68, div. B, § 164(b), Oct. 1, 2009, 123 Stat. 2053, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as if included in the enactment of section 803(a)(1)(B) of the Postal Accountability and Enhancement Act (Public Law 109-435; 120 Stat. 3251).”

##### EFFECTIVE DATE

Section effective Oct. 1, 2006, see section 805(a) of Pub. L. 109-435, set out as a Effective Date of 2006 Amendment note under section 8834 of this title.

##### APPLICATION OF PUB. L. 117-108

Pub. L. 117-108, title I, § 102(c), Apr. 6, 2022, 136 Stat. 1139, provided that:

“(1) CANCELLATION OF PAYMENTS.—Any payment required from the Postal Service under section 8909a of title 5, United States Code, as in effect on the day before the date of enactment of this Act [Apr. 6, 2022] that remains unpaid as of such date of enactment is canceled.

“(2) EFFECT OF THIS ACT.—In any determination relating to the future liability for retiree health benefits of

the United States Postal Service or the Postal Service Retiree Health Benefits Fund, the Office of Personnel Management shall take into account the actual and reasonably expected effects of this Act [see Tables for classification].”

[For definition of “Postal Service” as used in section 102(c) of Pub. L. 117-108, set out above, see section 102 of Title 39, Postal Service, as made applicable by section 2(b) of Pub. L. 117-108, which is set out as a note under section 501 of Title 39.]

#### REVIEW BY POSTAL REGULATORY COMMISSION

Pub. L. 109-435, title VIII, § 803(b), Dec. 20, 2006, 120 Stat. 3252, provided that:

##### “(1) IN GENERAL.”

“(A) REQUEST FOR REVIEW.—Any regulation established under section 8909a(d)(5) of title 5, United States Code (as added by subsection (a)), shall, upon request of the United States Postal Service, be subject to a review by the Postal Regulatory Commission under this paragraph.

“(B) REPORT.—Upon receiving a request under subparagraph (A), the Commission shall promptly procure the services of an actuary, who shall hold membership in the American Academy of Actuaries and shall be qualified in the evaluation of healthcare insurance obligations, to conduct a review in accordance with generally accepted actuarial practices and principles and to provide a report to the Commission containing the results of the review. The Commission, upon determining that the report satisfies the requirements of this paragraph, shall approve the report, with any comments it may choose to make, and submit it with any such comments to the Postal Service, the Office of Personnel Management, and Congress.

“(2) RECONSIDERATION.—Upon receiving the report under paragraph (1), the Office of Personnel Management shall reconsider its determination or redetermination in light of such report, and shall make any appropriate adjustments. The Office shall submit a report containing the results of its reconsideration to the Commission, the Postal Service, and Congress.”

#### § 8910. Studies, reports, and audits

(a) The Office of Personnel Management shall make a continuing study of the operation and administration of this chapter, including surveys and reports on health benefits plans available to employees and on the experience of the plans.

(b) Each contract entered into under section 8902 of this title shall contain provisions requiring carriers to—

(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Office and representatives of the Government Accountability Office to examine records of the carriers as may be necessary to carry out the purposes of this chapter.

(c) Each Government agency shall keep such records, make such certifications, and furnish the Office with such information and reports as may be necessary to enable the Office to carry out its functions under this chapter.

(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social