

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.”

§ 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 fund¹ 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) of this section: *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 this title solely for the purposes and in the amounts found necessary by the Secretary of Labor for the proper and efficient administration of such State law; and

¹So in original. Probably should be “Unemployment Trust Fund”.

(9) Effective July 1, 1941, the replacement, within a reasonable time, of any moneys received pursuant to section 502 of this title, which, because of any action or contingency, have been lost or have 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 such State law; and

(10) A requirement that, as a condition of eligibility for regular compensation for any week, any claimant who has been referred to reemployment services pursuant to the profiling system under subsection (j)(1)(B) of this section participate in such services or in similar services unless the State agency charged with the administration of the State law determines—

(A) such claimant has completed such services; or

(B) there is justifiable cause for such claimant's failure to participate in such services; and

(11)(A) At the time the State agency determines an erroneous payment from its unemployment fund was made to an individual due to fraud committed by such individual, the assessment of a penalty on the individual in an amount of not less than 15 percent of the amount of the erroneous payment; and

(B) The immediate deposit of all assessments paid pursuant to subparagraph (A) into the unemployment fund of the State.²

(12) A requirement that, as a condition of eligibility for regular compensation for any week, a claimant must be able to work, available to work, and actively seeking work.

(b) Failure to comply; payments stopped

Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a) of this section;

the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such denial or failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State: *Provided*, That there shall be no finding under clause (1) until the question of entitlement shall have been decided by the highest judicial authority given jurisdiction under such State law: *Provided further*, That any costs may be paid with respect to any claimant by a State and included as costs of administration of its law.

² So in original. The period probably should be “; and”.

(c) Denial of certification; availability of records to Railroad Retirement Board; cooperation with Federal agencies

The Secretary of Labor shall make no certification for payment to any State if he finds, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law—

(1) that such State does not make its records available to the Railroad Retirement Board, and furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board such copies thereof as the Railroad Retirement Board deems necessary for its purposes;

(2) that such State is failing to afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law; or

(3) that any interest required to be paid on advances under subchapter XII of this chapter has not been paid by the date on which such interest is required to be paid or has been paid directly or indirectly (by an equivalent reduction in State unemployment taxes or otherwise) by such State from amounts in such State's unemployment fund, until such interest is properly paid.

(d) Disclosure of unemployment compensation information; coordination with supplemental nutrition assistance program benefits agencies; non-compliance of State agency

(1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, to officers and employees of the Department of Agriculture and to officers or employees of any State supplemental nutrition assistance program benefits agency any of the following information contained in the records of such State agency—

(i) wage information,

(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

(iii) the current (or most recent) home address of such individual, and

(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.].

(2)(A) For purposes of this paragraph, the term “unemployment compensation” means any unemployment compensation payable under the State law (including amounts payable pursuant to an agreement under a Federal unemployment compensation law).

(B) The State agency charged with the administration of the State law—

(i) may require each new applicant for unemployment compensation to disclose whether the applicant owes an uncollected overissuance (as defined in section 13(c)(1) of the Food and Nutrition Act of 2008 [7 U.S.C. 2022(c)(1)]) of supplemental nutrition assistance program benefits,³

(ii) may notify the State supplemental nutrition assistance program benefits agency to which the uncollected overissuance is owed that the applicant has been determined to be eligible for unemployment compensation if the applicant discloses under clause (i) that the applicant owes an uncollected overissuance and the applicant is determined to be so eligible,

(iii) may deduct and withhold from any unemployment compensation otherwise payable to an individual—

(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

(II) the amount (if any) determined pursuant to an agreement submitted to the State supplemental nutrition assistance program benefits agency under section 13(c)(3)(A) of the Food and Nutrition Act of 2008 [7 U.S.C. 2022(c)(3)(A)], or

(III) any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to section 13(c)(3)(B) of such Act [7 U.S.C. 2022(c)(3)(B)], and

(iv) shall pay any amount deducted and withheld under clause (iii) to the appropriate State supplemental nutrition assistance program benefits agency.

(C) Any amount deducted and withheld under subparagraph (B)(iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by the individual to the State supplemental nutrition assistance program benefits agency to which the uncollected overissuance is owed as repayment of the individual's uncollected overissuance.

(D) A State supplemental nutrition assistance program benefits agency to which an uncollected overissuance is owed shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by the State agency under this paragraph that are attributable to repayment of uncollected overissuance to the State supplemental nutrition assistance program benefits agency to which the uncollected overissuance is owed.

(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

(4) For purposes of this subsection, the term "State supplemental nutrition assistance program benefits agency" means any agency described in section 3(t)(1)⁴ of the Food and Nutrition Act of 2008 which administers the supplemental nutrition assistance program established under such Act.

(e) Disclosure of wage information; non-compliance of State agency

(1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of establishing and collecting child support obligations from, and locating, individuals owing such obligations.

For purposes of this subsection, the term "child support obligations" only includes obligations which are being enforced pursuant to a plan described in section 654 of this title which has been approved by the Secretary of Health and Human Services under part D of subchapter IV of this chapter.

(2)(A) The State agency charged with the administration of the State law—

(i) shall require each new applicant for unemployment compensation to disclose whether or not such applicant owes child support obligations (as defined in the last sentence of paragraph (1)),

(ii) shall notify the State or local child support enforcement agency enforcing such obligations, if any applicant discloses under clause (i) that he owes child support obligations and he is determined to be eligible for unemployment compensation, that such applicant has been so determined to be eligible,

(iii) shall deduct and withhold from any unemployment compensation otherwise payable to an individual—

(I) the amount specified by the individual to the State agency to be deducted and withheld under this clause,

(II) the amount (if any) determined pursuant to an agreement submitted to the State agency under section 654(19)(B)(i) of this title, or

(III) any amount otherwise required to be so deducted and withheld from such unemployment compensation through legal process (as defined in section 662(e)⁴ of this title), and

(iv) shall pay any amount deducted and withheld under clause (iii) to the appropriate State or local child support enforcement agency.

Any amount deducted and withheld under clause (iii) shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the

³ So in original.

⁴ See References in Text note below.

State or local child support enforcement agency in satisfaction of his child support obligations.

(B) For purposes of this paragraph, the term “unemployment compensation” means any compensation payable under the State law (including amounts payable pursuant to agreements under any Federal unemployment compensation law).

(C) Each State or local child support enforcement agency shall reimburse the State agency charged with the administration of the State unemployment compensation law for the administrative costs incurred by such State agency under this paragraph which are attributable to child support obligations being enforced by the State or local child support enforcement agency.

(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1) or (2), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

(4) For purposes of this subsection, the term “State or local child support enforcement agency” means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1).

(5) A State or local child support enforcement agency may disclose to any agent of the agency that is under contract with the agency to carry out the purposes described in paragraph (1)(B) wage information that is disclosed to an officer or employee of the agency under paragraph (1)(A). Any agent of a State or local child support agency that receives wage information under this paragraph shall comply with the safeguards established pursuant to paragraph (1)(B).

(f) Income and eligibility verification system

The State agency charged with the administration of the State law shall provide that information shall be requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1320b-7 of this title.

(g) Recovery of unemployment benefit payments

(1) A State shall deduct from unemployment benefits otherwise payable to an individual an amount equal to any overpayment made to such individual under an unemployment benefit program of the United States or of any other State, and not previously recovered. The amount so deducted shall be paid to the jurisdiction under whose program such overpayment was made. Any such deduction shall be made only in accordance with the same procedures relating to notice and opportunity for a hearing as apply to the recovery of overpayments of regular unemployment compensation paid by such State.

(2) Any State may enter into an agreement with the Secretary of Labor under which—

(A) the State agrees to recover from unemployment benefits otherwise payable to an individual by such State any overpayments

made under an unemployment benefit program of the United States to such individual and not previously recovered, in accordance with paragraph (1), and to pay such amounts recovered to the United States for credit to the appropriate account, and

(B) the United States agrees to allow the State to recover from unemployment benefits otherwise payable to an individual under an unemployment benefit program of the United States any overpayments made by such State to such individual under a State unemployment benefit program and not previously recovered, in accordance with the same procedures as apply under paragraph (1).

(3) For purposes of this subsection, “unemployment benefits” means unemployment compensation, trade adjustment allowances, Federal additional compensation, and other unemployment assistance.

(h) Disclosure to Secretary of Health and Human Services of wage and unemployment compensation claims information; suspension by Secretary of Labor of payments to State for noncompliance

(1) The State agency charged with the administration of the State law shall, on a reimbursable basis—

(A) disclose quarterly, to the Secretary of Health and Human Services, wage and claim information, as required pursuant to section 653(i)(1) of this title, contained in the records of such agency;

(B) ensure that information provided pursuant to subparagraph (A) meets such standards relating to correctness and verification as the Secretary of Health and Human Services, with the concurrence of the Secretary of Labor, may find necessary; and

(C) establish such safeguards as the Secretary of Labor determines are necessary to insure that information disclosed under subparagraph (A) is used only for purposes of subsections (i)(1), (i)(3), and (j) of section 653 of this title.

(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary of Labor is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, the Secretary shall make no future certification to the Secretary of the Treasury with respect to the State.

(3) For purposes of this subsection—

(A) the term “wage information” means information regarding wages paid to an individual, the social security account number of such individual, and the name, address, State, and the Federal employer identification number of the employer paying such wages to such individual; and

(B) the term “claim information” means information regarding whether an individual is receiving, has received, or has made applica-

tion for, unemployment compensation, the amount of any such compensation being received (or to be received by such individual), and the individual's current (or most recent) home address.

(i) Access to State employment records

(1) The State agency charged with the administration of the State law—

(A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development—

(i) wage information, and

(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual, and

(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

(2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A).

(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no future certification to the Secretary of the Treasury with respect to such State.

(4) For purposes of this subsection, the term "public housing agency" means any agency described in section 1437a(b)(6) of this title.

(j) Worker profiling

(1) The State agency charged with the administration of the State law shall establish and utilize a system of profiling all new claimants for regular compensation that—

(A) identifies which claimants will be likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(B) refers claimants identified pursuant to subparagraph (A) to reemployment services, such as job search assistance services, available under any State or Federal law;

(C) collects follow-up information relating to the services received by such claimants and

the employment outcomes for such claimants subsequent to receiving such services and utilizes such information in making identifications pursuant to subparagraph (A); and

(D) meets such other requirements as the Secretary of Labor determines are appropriate.

(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

(k) Transfer of unemployment experience upon transfer of business

(1) For purposes of subsection (a) of this section, the unemployment compensation law of a State must provide—

(A) that if an employer transfers its business to another employer, and both employers are (at the time of transfer) under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to (and combined with the unemployment experience attributable to) the employer to whom such business is so transferred,

(B) that unemployment experience shall not, by virtue of the transfer of a business, be transferred to the person acquiring such business if—

(i) such person is not otherwise an employer at the time of such acquisition, and

(ii) the State agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions,

(C) that unemployment experience shall (or shall not) be transferred in accordance with such regulations as the Secretary of Labor may prescribe to ensure that higher rates of contributions are not avoided through the transfer or acquisition of a business,

(D) that meaningful civil and criminal penalties are imposed with respect to—

(i) persons that knowingly violate or attempt to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

(ii) persons that knowingly advise another person to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

(E) for the establishment of procedures to identify the transfer or acquisition of a business for purposes of this subsection.

(2) For purposes of this subsection—

(A) the term "unemployment experience", with respect to any person, refers to such per-

son's experience with respect to unemployment or other factors bearing a direct relation to such person's unemployment risk;

(B) the term "employer" means an employer as defined under the State law;

(C) the term "business" means a trade or business (or a part thereof);

(D) the term "contributions" has the meaning given such term by section 3306(g) of the Internal Revenue Code of 1986;

(E) the term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

(F) the term "person" has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986.

(I) No interference with State laws regarding applicant's unlawful use of controlled substances

(1) Nothing in this chapter or any other provision of Federal law shall be considered to prevent a State from enacting legislation to provide for—

(A) testing an applicant for unemployment compensation for the unlawful use of controlled substances as a condition for receiving such compensation, if such applicant—

(i) was terminated from employment with the applicant's most recent employer (as defined under the State law) because of the unlawful use of controlled substances; or

(ii) is an individual for whom suitable work (as defined under the State law) is only available in an occupation that regularly conducts drug testing (as determined under regulations issued by the Secretary of Labor); or

(B) denying such compensation to such applicant on the basis of the result of the testing conducted by the State under legislation described in subparagraph (A).

(2) For purposes of this subsection—

(A) the term "unemployment compensation" has the meaning given such term in subsection (d)(2)(A); and

(B) the term "controlled substance" has the meaning given such term in section 802 of title 21.

(m) Uncollected covered unemployment compensation debt

In the case of a covered unemployment compensation debt (as defined under section 6402(f)(4) of the Internal Revenue Code of 1986) that remains uncollected as of the date that is 1 year after the debt was finally determined to be due and collected, the State to which such debt is owed shall take action to recover such debt under section 6402(f) of the Internal Revenue Code of 1986.

(Aug. 14, 1935, ch. 531, title III, §303, 49 Stat. 626; June 25, 1938, ch. 680, §13(g), 52 Stat. 1112; June 20, 1939, ch. 227, §18, 53 Stat. 848; Aug. 10, 1939, ch. 666, title III, §302, 53 Stat. 1378; 1946 Reorg. Plan No. 2, §4, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Aug. 10, 1946, ch. 951, title IV, §416(c), 60 Stat. 991; 1949 Reorg. Plan No. 2, §1, eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065; Aug. 28, 1950, ch.

809, title IV, §405(b), 64 Stat. 560; Aug. 5, 1954, ch. 657, §5(a)(1), 68 Stat. 673; Pub. L. 96-249, title I, §127(b)(1), May 26, 1980, 94 Stat. 366; Pub. L. 96-265, title IV, §408(b)(1), June 9, 1980, 94 Stat. 468; Pub. L. 96-473, §6(e)(1), Oct. 19, 1980, 94 Stat. 2265; Pub. L. 97-35, title XXIII, §2335(b), Aug. 13, 1981, 95 Stat. 863; Pub. L. 97-248, title I, §§171(b)(3), 175(a)(2), Sept. 3, 1982, 96 Stat. 401, 403; Pub. L. 98-21, title V, §§515(a), 523(b), Apr. 20, 1983, 97 Stat. 147, 148; Pub. L. 98-369, div. B, title VI, §§2651(d), 2663(b)(2)-(5), July 18, 1984, 98 Stat. 1149, 1165; Pub. L. 99-198, title XV, §1535(b)(3), Dec. 23, 1985, 99 Stat. 1584; Pub. L. 99-272, title XII, §12401(a), Apr. 7, 1986, 100 Stat. 297; Pub. L. 100-485, title I, §124(b)(1), Oct. 13, 1988, 102 Stat. 2353; Pub. L. 100-628, title IX, §904(c)(1)(A), Nov. 7, 1988, 102 Stat. 3260; Pub. L. 102-318, title IV, §401(a)(3), July 3, 1992, 106 Stat. 298; Pub. L. 103-152, §4(a)(1), (b), Nov. 24, 1993, 107 Stat. 1517; Pub. L. 103-182, title V, §507(b)(3), Dec. 8, 1993, 107 Stat. 2154; Pub. L. 103-465, title VII, §702(c)(3), Dec. 8, 1994, 108 Stat. 4997; Pub. L. 104-193, title III, §§313(d), 316(g)(3), Aug. 22, 1996, 110 Stat. 2212, 2219; Pub. L. 105-33, title V, §5201, Aug. 5, 1997, 111 Stat. 597; Pub. L. 105-65, title V, §542(a)(1), Oct. 27, 1997, 111 Stat. 1412; Pub. L. 107-147, title II, §209(d)(2), Mar. 9, 2002, 116 Stat. 33; Pub. L. 108-295, §2(a), Aug. 9, 2004, 118 Stat. 1090; Pub. L. 110-234, title IV, §§4002(b)(1)(A), (B), (D), (2)(V), 4115(c)(1)(A)(i), (B)(iii), (2)(F), May 22, 2008, 122 Stat. 1095-1097, 1109, 1110; Pub. L. 110-246, §4(a), title IV, §§4002(b)(1)(A), (B), (D), (2)(V), 4115(c)(1)(A)(i), (B)(iii), (2)(F), June 18, 2008, 122 Stat. 1664, 1857, 1858, 1870, 1871; Pub. L. 112-40, title II, §251(a), Oct. 21, 2011, 125 Stat. 420; Pub. L. 112-96, title II, §§2101(a), 2103(a), (b), 2105, 2161(b)(2), Feb. 22, 2012, 126 Stat. 159, 161, 162, 172; Pub. L. 113-67, div. A, title II, §201(a), Dec. 26, 2013, 127 Stat. 1176.)

REFERENCES IN TEXT

The Federal Unemployment Tax Act, referred to in subsec. (a), is act Aug. 16, 1954, ch. 736, §§3301-3311, 68A Stat. 439, which is classified generally to chapter 23 (§3301 et seq.) of Title 26, Internal Revenue Code. For complete classification of this Act to the Code, see section 3311 of Title 26 and Tables.

The Internal Revenue Code of 1986, referred to in subsecs. (a)(5), (k)(2)(D), (F), and (m), is classified generally to Title 26, Internal Revenue Code.

The Food and Nutrition Act of 2008, referred to in subsec. (d)(1)(B), (4), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. Section 3(t)(1) of the Act was redesignated section 3(s)(1) by Pub. L. 113-79, title IV, §4030(a)(4), Feb. 7, 2014, 128 Stat. 813, and is classified to section 2012(s)(1) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

Section 662 of this title, referred to in subsec. (e)(2)(A)(iii)(III), was repealed by Pub. L. 104-193, title III, §362(b)(1), Aug. 22, 1996, 110 Stat. 2246.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

AMENDMENTS

2013—Subsec. (m). Pub. L. 113-67 added subsec. (m).

2012—Subsec. (a)(5). Pub. L. 112-96, §2161(b)(2), substituted "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)” for “the payment of short-time compensation under a plan approved by the Secretary of Labor”.

Subsec. (a)(12). Pub. L. 112-96, §2101(a), added par. (12).

Subsec. (g)(1). Pub. L. 112-96, §2103(a), substituted “shall deduct” for “may deduct”.

Subsec. (g)(3). Pub. L. 112-96, §2103(b), inserted “Federal additional compensation,” after “trade adjustment allowances,”.

Subsec. (l). Pub. L. 112-96, §2105, added subsec. (l).

2011—Subsec. (a)(11). Pub. L. 112-40 added par. (11).

2008—Subsec. (d)(1)(A). Pub. L. 110-246, §4002(b)(1)(D), (2)(V), substituted “supplemental nutrition assistance program benefits” for “food stamp” in introductory provisions.

Subsec. (d)(1)(B). Pub. L. 110-246, §4002(b)(1)(A), (B), (2)(V), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (d)(2)(B). Pub. L. 110-246, §4002(b)(1)(B), (D), (2)(V), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977” in two places and “supplemental nutrition assistance program benefits” for “food stamp” wherever appearing.

Subsec. (d)(2)(B)(i). Pub. L. 110-246, §4115(c)(1)(A)(i), (B)(iii), substituted “benefits” for “coupons” before comma at end.

Subsec. (d)(2)(C), (D). Pub. L. 110-246, §4002(b)(1)(D), (2)(V), substituted “supplemental nutrition assistance program benefits” for “food stamp” wherever appearing.

Subsec. (d)(4). Pub. L. 110-246, §4115(c)(2)(F), substituted “section 3(t)(1)” for “section 3(n)(1)”.

Pub. L. 110-246, §4002(b)(1)(A), (B), (D), (2)(V), substituted “supplemental nutrition assistance program benefits agency” for “food stamp agency”, “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”, and “supplemental nutrition assistance program established” for “food stamp program established”.

2004—Subsec. (k). Pub. L. 108-295 added subsec. (k).

2002—Subsec. (a)(5). Pub. L. 107-147 substituted “section 1103(c)(2) or 1103(d)(4) of this title” for “section 1103(c)(2) of this title”.

1997—Subsec. (h)(1)(C). Pub. L. 105-33 substituted “subsections (i)(1), (i)(3), and (j) of section 653 of this title” for “section 653(i)(1) of this title in carrying out the child support enforcement program under subchapter IV of this chapter”.

Subsec. (i)(5). Pub. L. 105-65 struck out par. (5) which read as follows: “The provisions of this subsection shall cease to be effective beginning on October 1, 1994.”

1996—Subsec. (e)(5). Pub. L. 104-193, §313(d), added par. (5).

Subsec. (h). Pub. L. 104-193, §316(g)(3), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows:

“(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 653(e)(3) of this title) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent’s employer) for use by the Secretary of Health and Human Services, for purposes of section 653 of this title, in carrying out the child support enforcement program under subchapter IV of this chapter.

“(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied,

such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.”

1994—Subsec. (a)(5). Pub. L. 103-465 inserted “, or the withholding of Federal, State, or local individual income tax,” after “health insurance”.

1993—Subsec. (a)(5). Pub. L. 103-182 substituted “; *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” for “; and” at end.

Subsec. (a)(10). Pub. L. 103-152, §4(b), added par. (10).

Subsec. (j). Pub. L. 103-152, §4(a)(1), added subsec. (j).

1992—Subsec. (a)(5). Pub. L. 102-318 inserted “; *Provided further*, That amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor” before “; and” at end.

1988—Subsec. (h). Pub. L. 100-485 added subsec. (h).

Subsec. (i). Pub. L. 100-628 added subsec. (i).

1986—Subsec. (a)(5). Pub. L. 99-272, §12401(a)(1), inserted provision at end that amounts may be deducted from unemployment benefits and used to repay overpayments as provided in subsection (g) of this section.

Subsec. (g). Pub. L. 99-272, §12401(a)(2), added subsec. (g).

1985—Subsec. (d)(2) to (4). Pub. L. 99-198 added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1984—Subsec. (a)(4). Pub. L. 98-369, §2663(b)(2), substituted “section 3305(b)” for “section 1606(b)”.

Subsec. (a)(5). Pub. L. 98-369, §2663(b)(3), substituted “section 3305(b)” for “section 1606(b)” and before last proviso substituted a colon for erroneous punctuation.

Subsec. (c)(1), (2). Pub. L. 98-369, §2663(b)(4), substituted “that” for “That”.

Subsec. (e)(2)(A)(i). Pub. L. 98-369, §2663(b)(5), substituted “child support obligations” for “child support obligations”.

Subsec. (f). Pub. L. 98-369, §2651(d), added subsec. (f).

1983—Subsec. (a)(5). Pub. L. 98-21, §523(b), inserted provision 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 if the individual elected to have such deduction made and such deduction was made under a program approved by the Secretary of Labor.

Subsec. (c)(3). Pub. L. 98-21, §515(a), added par. (3).

1982—Subsec. (e)(2)(A)(i). Pub. L. 97-248, §175(a)(2), substituted “of paragraph (1)” for “of this subsection”.

Subsec. (e)(2)(A)(iii)(II). Pub. L. 97-248, §171(b)(3), substituted “(19)” for “(20)”.

1981—Subsec. (e)(1). Pub. L. 97-35, §2335(b)(3), in provision following subpar. (B) substituted “this subsection” for “the preceding sentence”.

Subsec. (e)(2). Pub. L. 97-35, §2335(b)(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e)(3), (4). Pub. L. 97-35, §2335(b)(1), (2), redesignated former par. (2) as (3) and substituted “paragraph (1) or (2)” for “paragraph (1)”. Former par. (3) redesignated (4).

1980—Subsec. (d). Pub. L. 96-249 added subsec. (d). Another subsec. (d), as added by Pub. L. 96-265, was redesignated (e) by Pub. L. 96-473.

Subsec. (e). Pub. L. 96-473 redesignated former subsec. (d) as added by Pub. L. 96-265 as subsec. (e).

1954—Subsec. (a)(5). Act Aug. 5, 1954, made it clear that the funds credited to the State account may, subject to certain restrictions, be used for administrative expenses of the State in connection with its unemployment compensation law.

1950—Subsec. (b). Act Aug. 28, 1950, inserted provisos.

1946—Subsec. (a)(5). Act Aug. 10, 1946, inserted proviso allowing payment of disability benefits.

1939—Subsec. (a). Act Aug. 10, 1939, substituted “Federal Unemployment Tax Act” for “sections 1101-1110 of this title”, amended pars. (1), (4), and (5) generally, and added pars. (8) and (9).

Subsec. (c)(2). Act June 20, 1939, substituted “unemployment” for “employment”.

1938—Subsec. (c). Act June 25, 1938, added subsec. (c).

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-67, div. A, title II, §201(b), Dec. 26, 2013, 127 Stat. 1176, provided that: “The amendment made by subsection (a) [amending this section] shall take effect upon the date of enactment of this Act [Dec. 26, 2013].”

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-96, title II, §2101(b), Feb. 22, 2012, 126 Stat. 159, provided that: “The amendment made by subsection (a) [amending this section] shall apply to weeks beginning after the end of the first session of the State legislature which begins after the date of enactment of this Act [Feb. 22, 2012].”

Amendment by section 2103(a), (b), of Pub. L. 112-96 applicable to weeks beginning after the end of the first session of the State legislature which begins after Feb. 22, 2012, see section 2103(c) of Pub. L. 112-96, set out as a note under section 3304 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-40, title II, §251(c), Oct. 21, 2011, 125 Stat. 421, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to erroneous payments established after the end of the 2-year period beginning on the date of the enactment of this Act [Oct. 21, 2011].

“(2) AUTHORITY.—A State may amend its State law to apply such amendments to erroneous payments established prior to the end of the period described in paragraph (1).”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-246, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by sections 4002(b)(1)(A), (B), (D), (2)(V), and 4115(c)(1)(A)(i), (B)(iii), (2)(F) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2004 AMENDMENT; DEFINITIONS

Pub. L. 108-295, §2(c), (d), Aug. 9, 2004, 118 Stat. 1091, provided that:

“(c) EFFECTIVE DATE.—The amendment made by subsection (a) [amending this section] shall, with respect to a State, apply to certifications for payments (under section 302(a) of the Social Security Act [42 U.S.C. 502(a)]) in rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment of this Act [Aug. 9, 2004].

“(d) DEFINITIONS.—For purposes of this section—

“(1) the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

“(2) the term ‘rate year’ means the rate year as defined in the applicable State law; and

“(3) the term ‘State law’ means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986 [26 U.S.C. 3304].”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-65, title V, §542(a)(2), Oct. 27, 1997, 111 Stat. 1412, provided that: “The amendment made by this subsection [amending this section] shall apply to any request for information made after the date of the enactment of this Act [Oct. 27, 1997].”

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date of amendment by Pub. L. 104-193, see section 395(a)–(c) of Pub. L. 104-193, set out as a note under section 654 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 applicable to payments made after Dec. 31, 1996, see section 702(d) of Pub. L. 103-465, set out as a note under section 3304 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-152, §4(f), Nov. 24, 1993, 107 Stat. 1518, provided that:

“(1) The amendments made by subsections (a) and (b) [amending this section and section 504 of this title] shall take effect on the date one year after the date of the enactment of this Act [Nov. 24, 1993].

“(2) The provisions of subsections (c), (d), and (e) [enacting provisions set out as notes below and repealing provisions set out as a note under section 3304 of Title 26, Internal Revenue Code] shall take effect on the date of enactment of this Act.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-628 effective Sept. 30, 1989, with provision for optional early implementation and provision for States whose legislatures have not been in session for at least 30 days between Nov. 7, 1988, and Sept. 30, 1989, see section 3544(d) of this title.

Amendment by Pub. L. 100-485 effective on first day of first calendar quarter beginning one year or more after Oct. 13, 1988, see section 124(c)(1) of Pub. L. 100-485, set out as a note under section 653 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-272, title XII, §12401(c), Apr. 7, 1986, 100 Stat. 298, provided that: “The amendments made by this section [amending this section and sections 3304 and 3306 of Title 26, Internal Revenue Code] shall apply to recoveries made on or after the date of the enactment of this Act [Apr. 7, 1986] and shall apply with respect to overpayments made before, on, or after such date.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2651(d) of Pub. L. 98-369 effective Apr. 1, 1985, except as otherwise provided, see section 2651(f)(2) of Pub. L. 98-369, set out as an Effective Date note under section 1320b-7 of this title.

Amendment by section 2663(b)(2)–(5) of 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 1983 AMENDMENT

Amendment by section 523(b) of Pub. L. 98-21 effective Apr. 20, 1983, see section 523(c) of Pub. L. 98-21 set out as a note under section 3304 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title I, §171(c), Sept. 3, 1982, 96 Stat. 401, provided that: “The amendments made by this section [amending this section and sections 653, 654, and 655 of this title] shall be effective on and after August 13, 1981.”

Pub. L. 97-248, title I, §175(b), Sept. 3, 1982, 96 Stat. 403, provided that: “The amendments made by this section [amending this section and section 652 of this title] shall be effective as of October 1, 1981.”

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title XXIII, §2335(c), Aug. 13, 1981, 95 Stat. 864, provided that: “The amendments made by

this section [amending this section and section 654 of this title] shall take effect on the date of the enactment of this Act [Aug. 13, 1981], except that such amendments shall not be requirements under section 454 or 303 of the Social Security Act [42 U.S.C. 654, 503] before October 1, 1982.”

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-265, title IV, § 408(b)(3), June 9, 1980, 94 Stat. 469, provided that: “The amendments made by this subsection [amending this section and section 504 of this title] shall take effect July 1, 1980.”

Pub. L. 96-249, title I, § 127(b)(3), May 26, 1980, 94 Stat. 367, provided that: “The amendments made by this subsection [amending this section and section 504 of this title] shall take effect on January 1, 1983.”

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary of Labor under subsec. (a)(1) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to Office of Personnel Management, see section 4728(a)(2)(B) of this title.

For transfer of functions of other officers, employees, and agencies of Department of Labor, with certain exceptions, to Secretary of Labor, with 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 section 1 of 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 2 of Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5.

APPLICATION TO FEDERAL PAYMENTS

Pub. L. 112-40, title II, § 251(b), Oct. 21, 2011, 125 Stat. 421, provided that:

“(1) IN GENERAL.—As a condition for administering any unemployment compensation program of the United States (as defined in paragraph (2)) as an agent of the United States, if the State determines that an erroneous payment was made by the State to an individual under any such program due to fraud committed by such individual, the State shall assess a penalty on such individual and deposit any such penalty received in the same manner as the State assesses and deposits such penalties under provisions of State law implementing section 303(a)(11) of the Social Security Act [42 U.S.C. 503(a)(11)], as added by subsection (a).

“(2) DEFINITION.—For purposes of this subsection, the term ‘unemployment compensation program of the United States’ means—

“(A) unemployment compensation for Federal civilian employees under subchapter I of chapter 85 of title 5, United States Code;

“(B) unemployment compensation for ex-service-members under subchapter II of chapter 85 of title 5, United States Code;

“(C) trade readjustment allowances under sections 231 through 234 of the Trade Act of 1974 (19 U.S.C. 2291-2294);

“(D) disaster unemployment assistance under section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177(a));

“(E) any Federal temporary extension of unemployment compensation;

“(F) any Federal program which increases the weekly amount of unemployment compensation payable to individuals; and

“(G) any other Federal program providing for the payment of unemployment compensation.”

CLARIFYING PROVISION RELATING TO BASE PERIODS

Pub. L. 105-33, title V, § 5401, Aug. 5, 1997, 111 Stat. 603, provided that:

“(a) IN GENERAL.—No provision of a State law under which the base period for such State is defined or otherwise determined shall, for purposes of section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), be considered a provision for a method of administration.

“(b) DEFINITIONS.—For purposes of this section, the terms ‘State law’, ‘base period’, and ‘State’ shall have the meanings given them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 [Pub. L. 91-373] (26 U.S.C. 3304 note).

“(c) EFFECTIVE DATE.—This section shall apply for purposes of any period beginning before, on, or after the date of the enactment of this Act [Aug. 5, 1997].”

PROFILING SYSTEM TECHNICAL ASSISTANCE

Pub. L. 103-152, § 4(c), Nov. 24, 1993, 107 Stat. 1518, provided that: “The Secretary of Labor shall provide technical assistance and advice to assist the States in implementing the profiling system required under the amendments made by subsection (a) [amending this section and section 504 of this title]. Such assistance shall include the development and identification of model profiling systems.”

PROFILING SYSTEM REPORT TO CONGRESS

Pub. L. 103-152, § 4(d), Nov. 24, 1993, 107 Stat. 1518, provided that, not later than 3 years after Nov. 24, 1993, the Secretary of Labor was to report to the Congress on the operation and effectiveness of the profiling system required under the amendments made by section 4(a) of Pub. L. 103-152 (amending this section and section 504 of this title) and the participation requirement provided by the amendments made under section 4(b) of Pub. L. 103-152 (amending this section).

§ 504. Judicial review

(a) Finding by Secretary of Labor; petition for review; filing of record

Whenever the Secretary of Labor—

(1) finds that a State law does not include any provision specified in section 503(a) of this title, or

(2) makes a finding with respect to a State under subsection (b), (c), (d), (e), (h), (i), or (j) of section 503 of this title,

such State may, within 60 days after the Governor of the State has been notified of such action, file with the United States court of appeals for the circuit in which such State is located or with the United States Court of Appeals for the District of Columbia, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary of Labor. The Secretary of Labor thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28.

(b) Findings of fact by Secretary of Labor; new or modified findings

The findings of fact by the Secretary of Labor, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary of Labor to take further evidence and the Secretary of Labor may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.