

the fiduciary in the case of a breach of a fiduciary obligation.

(Added Pub. L. 99-335, title I, §101(a), June 6, 1986, 100 Stat. 588.)

§ 8480. Subpoena authority

(a) In order to carry out the responsibilities specified in this subchapter and subchapter III of this chapter, the Executive Director may issue subpoenas commanding each person to whom the subpoena is directed to produce designated books, documents, records, electronically stored information, or tangible materials in the possession or control of that individual.

(b) Notwithstanding any Federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of any State or the United States to any individual, domestic or foreign corporation or upon a partnership or other unincorporated association for such production.

(c) When a person fails to obey a subpoena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an order directing that person to comply with the subpoena. The court may punish as contempt any disobedience of its order.

(d) The Executive Director shall prescribe regulations to carry out subsection (a).

(Added Pub. L. 111-31, div. B, title I, §107(a), June 22, 2009, 123 Stat. 1856.)

CHAPTER 85—UNEMPLOYMENT COMPENSATION

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Editorial Notes

AMENDMENTS

1992—Pub. L. 102-378, §2(73), Oct. 2, 1992, 106 Stat. 1355, added item 8509.

1975—Pub. L. 94-183, §2(42), Dec. 31, 1975, 89 Stat. 1059, substituted “Repealed” for “Accrued leave” in item 8524.

SUBCHAPTER I—EMPLOYEES GENERALLY

§ 8501. Definitions

For the purpose of this subchapter—

(1) “Federal service” means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of this chapter applies) performed—

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;

(C) by members of the Foreign Service for whom payments are provided under section 609(b)(1) of the Foreign Service Act of 1980;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Office of Personnel Management from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of \$12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(H) by a student-employee as defined by section 5351 of this title;

(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;

(K) as a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless the board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel—

(i) owned by or bareboat chartered to the United States; and

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) “Federal wages” means all pay and allowances, in cash and in kind, for Federal service;

(3) “Federal employee” means an individual who has performed Federal service;

(4) “compensation” means cash benefits payable to an individual with respect to his unemployment including any portion thereof payable with respect to dependents;

(5) “benefit year” means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agree-

ment under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;

(6) “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(7) “United States”, when used in a geographical sense, means the States; and

(8) “base period” means the base period as defined by the applicable State unemployment compensation law for the benefit year.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 585; Pub. L. 94-566, title I, § 116(e)(1), title II, § 214(b), Oct. 20, 1976, 90 Stat. 2672, 2678; Pub. L. 95-454, title IX, § 906(a)(2), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-215, § 4(a), Mar. 25, 1980, 94 Stat. 124; Pub. L. 96-465, title II, § 2314(h), Oct. 17, 1980, 94 Stat. 2168.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1361.	Sept. 1, 1954, ch. 1212, § 4(a) “Sec. 1501”, 68 Stat. 1130. Aug. 28, 1958, Pub. L. 85-848, § 2, 72 Stat. 1087. July 12, 1960, Pub. L. 86-624, § 30(g), 74 Stat. 420. Sept. 13, 1960, Pub. L. 86-778, §§ 531(e), 542(d), 74 Stat. 984, 986.

Clause (4) of former section 1361(a) is omitted as obsolete.

In paragraph (1)(A), the word “official” is substituted for “officer” because of the definition of “officer” in section 2104. The words “of the Government of the United States” are omitted as unnecessary.

In paragraph (1)(E), the words “by regulations of the Civil Service Commission from the operation of subchapter III of chapter 83 of this title” are substituted for “by Executive order from the operation of the Civil Service Retirement Act of 1930” on authority of the Civil Service Retirement Act Amendments of 1956, which are carried into subchapter III of chapter 83.

In paragraph (1)(K), the words “Agricultural Stabilization and Conservation Service” are substituted for “Production and Marketing Administration” on authority of Secretary’s memorandum 1320, supp. 4 of November 2, 1953.

In paragraph (1)(L), the words “section 1606(g) of Title 26, Internal Revenue Code of 1939” in former section 1361(a)(13) are omitted as obsolete.

The last sentence of former section 1361 is omitted as its substance is included in paragraph (1)(D).

Former section 1361(f) is omitted as unnecessary as the full title of the Secretary of Labor is set out the first time it is used in each section.

Paragraphs (6) and (7) are added on authority of section 1101(a)(1), (2) of the Act of Aug. 14, 1935, ch. 531, 49 Stat. 647, as amended; 42 U.S.C. 1301(a)(1), (2).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

REFERENCES IN TEXT

Section 609(b)(1) of the Foreign Service Act of 1980, referred to in par. (1)(C), is classified to section 4009(b)(1) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1980—Par. (1)(B). Pub. L. 96-215 inserted “or the Commissioned Corps of the National Oceanic and Atmospheric Administration” after “armed forces”.

Par. (1)(C). Pub. L. 96-465 substituted “members of the Foreign Service for whom payments are provided under section 609(b)(1) of the Foreign Service Act of 1980” for “Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22”.

1978—Par. (1)(E). Pub. L. 95-454 substituted “Office of Personnel Management” for “Civil Service Commission”.

1976—Par. (6). Pub. L. 94-566, § 116(e)(1), added the Virgin Islands in definition of “State”.

Par. (8). Pub. L. 94-566, § 214(b), added par. (8).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

Pub. L. 96-215, § 4(c), Mar. 25, 1980, 94 Stat. 124, provided that: “The amendments made by this section [amending this section and section 8521 of this title] shall apply with respect to assignments of services and wages pursuant to any first claim (for a benefit year) which is filed after the date of the enactment of this Act [Mar. 25, 1980].”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 116(e)(1) of Pub. L. 94-566 applicable with respect to benefit years beginning on or after the later of Oct. 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of Title 26, Internal Revenue Code, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26.

Pub. L. 94-566, title II, § 214(c), Oct. 20, 1976, 90 Stat. 2678, provided that: “The amendments made by this section [amending this section and section 8505 of this title] shall apply with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977”.

TEMPORARY 1990 CENSUS SERVICES CONSTITUTING FEDERAL SERVICE

Determination respecting temporary 1990 census services as Federal service for purposes of this subchapter, see section 141 of Pub. L. 101-382, set out as a note under section 23 of Title 13, Census.

§ 8502. Compensation under State agreement

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, under which the State agency shall—

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

(b) The agreement shall provide that compensation will be paid by the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of

the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

[(c) Repealed. Pub. L. 90–83, §1(86)(B), Sept. 11, 1967, 81 Stat. 218.]

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 586; Pub. L. 90–83, §1(86), Sept. 11, 1967, 81 Stat. 218.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1362.	Sept. 1, 1954, ch. 1212, §4(a) “Sec. 1502”, 68 Stat. 1131. Sept. 13, 1960, Pub. L. 86–778, §542(b)(1)(A), 74 Stat. 985.

In subsection (a), the words “under this subchapter” are substituted for “on the basis provided in subsection (b) of this section”.

In subsection (b), the words “with respect to unemployment after December 31, 1954” are omitted as obsolete.

In subsection (c), the words “with respect to unemployment after December 31, 1960” are omitted as obsolete. In the last sentence, the application to section 8503(b) is omitted and carried into that section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 8502 to eliminate certain provisions that are now obsolete. The obsolete provisions were based on section 542(b)(1)(A) of the act of September 13, 1960, 74 Stat. 985, that amended section 1502(b) of the Social Security Act effective January 1, 1961, but only in the case of weeks of unemployment beginning before January 1, 1966. Any existing rights are preserved by section 7 of this bill.

§ 8503. Compensation absent State agreement

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him, shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.

(b) A Federal employee whose claim for compensation under subsection (a) of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 587; Pub. L. 90–83, §1(87), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94–566, title I, §116(e)(2), Oct. 20, 1976, 90 Stat. 2673.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1363.	Sept. 1, 1954, ch. 1212, §4(a) “Sec. 1503”, 68 Stat. 1132. Sept. 13, 1960, Pub. L. 86–778, §542(b)(1)(B), (C), (c)(1), 74 Stat. 986.

In subsections (a) and (b), the words “with respect to unemployment after December 31, 1954” are omitted as obsolete.

In subsection (b), the last sentence is added on authority of the last sentence of former section 1362(b), which section is carried into section 8502.

In subsection (c), the words “with respect to final decisions of the Secretary of Health, Education, and Welfare under subchapter II of this chapter” are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8503(b)	[Uncodified].	Sept. 13, 1960, Pub. L. 86–778, §542(a)(1), 74 Stat. 985.

This section also amends 5 U.S.C. 8503 to eliminate certain provisions that are now obsolete. The obsolete provisions were based on section 542(b)(1)(B) and (C) of the act of September 13, 1960, 74 Stat. 986, that amended section 1503 (a) and (b) of the Social Security Act effective January 1, 1961, but only in the case of weeks of unemployment beginning before January 1, 1966. Any existing rights are preserved by section 7 of this bill.

Editorial Notes

AMENDMENTS

1976—Subsecs. (b), (c). Pub. L. 94–566, §116(e)(2), redesignated subsec. (c) as (b) and substituted “subsection (a)” for “subsection (a) or (b)”. Former subsec. (b), which made special provision for Federal employees whose Federal service and Federal wages were assigned to the Virgin Islands, was struck out.

Subsec. (d). Pub. L. 94–566, §116(e)(2)(A), struck out subsec. (d) which authorized the Secretary to use the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–566 applicable with respect to benefit years beginning on or after later of Oct. 1, 1976, or first day of first week for which compensation becomes payable under an unemployment compensa-

tion law of Virgin Islands which is approved by Secretary of Labor under section 3304(a) of Title 26, Internal Revenue Code, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26.

§ 8504. Assignment of Federal service and wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However—

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; and

(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 588; Pub. L. 90-83, §1(88), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, §116(e)(3), Oct. 20, 1976, 90 Stat. 2673.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1364.	Sept. 1, 1954, ch. 1212, §4(a) "Sec. 1504", 68 Stat. 1133. Sept. 13, 1960, Pub. L. 86-778, § 542(b)(2), 74 Stat. 986.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8504(3)	[Uncodified].	Sept. 13, 1960, Pub. L. 86-778, § 542(a)(2), 74 Stat. 985.

This section also amends 5 U.S.C. 8504 to eliminate certain provisions that are now obsolete. The obsolete provisions were based on section 542(b)(2) of the act of September 13, 1960, 74 Stat. 986, that amended section 1504 of the Social Security Act effective January 1, 1961, but only in the case of first claims filed before January 1, 1966. Any existing rights are preserved by section 7 of this bill.

Editorial Notes

AMENDMENTS

1976—Par. (3). Pub. L. 94-566 struck out par. (3) which covered the assignment to the Virgin Islands of the Federal service and Federal wages of Federal employees whose first claims were filed while residing in the Virgin Islands.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after later of Oct. 1,

1976, or first day of first week for which compensation becomes payable under an unemployment compensation law of Virgin Islands which is approved by Secretary of Labor under section 3304(a) of Title 26, Internal Revenue Code, see section 116(f)(3), set out as a note under section 3304 of Title 26.

§ 8505. Payments to States

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.

(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical, sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the Government Accountability Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(d) Money paid a State under this subchapter may be used solely for the purposes for which it is paid. Money so paid which is not used for these purposes shall be returned, at the time specified by the agreement, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

(e) An agreement may—

(1) require each State officer or employee who certifies payments or disburses funds under the agreement, or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In the absence of gross negligence or intent to defraud the United States, an individual designated by the Secretary, or designated under an agreement, as a certifying official is not liable for the payment of compensation certified by him under this subchapter.

(g) In the absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by a State agency under an

agreement is deemed a part of the administration of the State unemployment compensation law.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 588; Pub. L. 94-566, title II, §214(a), Oct. 20, 1976, 90 Stat. 2678; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1366.	Sept. 1, 1954, ch. 1212, §4(a) "Sec. 1506", 68 Stat. 1133.

In the first sentence of subsection (d), the word "may" is substituted for "shall" since the sentence does not direct the use of the money, rather it limits the purposes for which the money may be used.

In subsections (f) and (g), the word "official" is substituted for "officer" because of the definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

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

1976—Subsec. (a). Pub. L. 94-566 substituted provisions that each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages for provisions that each State is entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation in accordance with an agreement under this subchapter which would not have been made by the State but for the agreement.

Statutory Notes and Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977, see section 214(c) of Pub. L. 94-566, set out as a note under section 8501 of this title.

§ 8506. Dissemination of information

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning—

- (1) whether or not the Federal employee has performed Federal service;
- (2) the periods of Federal service;
- (3) the amount of Federal wages; and
- (4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regula-

tions of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he considers necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 589; Pub. L. 94-566, title III, §313(a), Oct. 20, 1976, 90 Stat. 2680.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1367.	Sept. 1, 1954, ch. 1212, §4(a) "Sec. 1507", 68 Stat. 1134. Aug. 28, 1958, Pub. L. 85-848, §4, 72 Stat. 1089. Sept. 13, 1960, Pub. L. 86-778, §531(f), 74 Stat. 984.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-566 struck out provision that findings made in accordance with the Secretary's regulations were final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-566, title III, §313(b), Oct. 20, 1976, 90 Stat. 2680, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to findings made after the date of the enactment of this Act [Oct. 20, 1976]."

§ 8507. False statements and misrepresentations

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual—

- (1) knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and
- (2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled;

the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 8502(d) and 8503(c) of this title.

(b) An amount repaid under subsection (a) of this section shall be—

(1) deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1368(b).	Sept. 1, 1954, ch. 1212, §4(a), "Sec. 1508(b)", 68 Stat. 1135.

In subsection (a), the words "as the case may be", "be liable to", and "of any amount" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8508. Regulations

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this chapter. The Secretary, insofar as practicable, shall consult with representatives of the State unemployment compensation agencies before prescribing rules or regulations which may affect the performance by the State agencies of functions under agreements under this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	42 U.S.C. 1369.	Sept. 1, 1954, ch. 1212, §4(a), "Sec. 1509", 68 Stat. 1135.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8509. Federal Employees Compensation Account

(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the "Account") in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of—

(1) funds appropriated to or transferred thereto, and

(2) amounts deposited therein pursuant to subsection (c).

(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this chapter and making payments of compensation under this chapter in States which do not have in effect such an agreement.

(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this chapter on account of Federal service performed by employees and former employees of that agency.

(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

(3) If any Federal agency does not deposit in the Federal Employees Compensation Account any amount before the date 30 days after the date on which the Secretary of Labor has notified such agency that it is required to so deposit such amount, the Secretary of Labor shall notify the Secretary of the Treasury of the failure to make such deposit and the Secretary of the Treasury shall transfer such amount to the Federal Employees Compensation Account from amounts otherwise appropriated to such Federal agency.

(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to the date and amount of any deposit made to such Account by any such agency.

(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate—

(1) the amount of expenditures which will be made from the Account during such year, and

(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary—

(3) to meet the expenditures described in paragraph (1), and

(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from

time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.

(h) For purposes of this section, the term “Federal service” includes Federal service as defined in section 8521(a).

(Added Pub. L. 96-499, title X, §1023(b), Dec. 5, 1980, 94 Stat. 2657; amended Pub. L. 97-362, title II, §202(a), Oct. 25, 1982, 96 Stat. 1732; Pub. L. 102-318, title V, §532(a), July 3, 1992, 106 Stat. 317.)

Editorial Notes

REFERENCES IN TEXT

Sections 909 and 904 of the Social Security Act, referred to in subsec. (a), are classified to sections 1109 and 1104, respectively, of Title 42, The Public Health and Welfare.

AMENDMENTS

1992—Subsec. (c)(3). Pub. L. 102-318 added par. (3).

1982—Subsecs. (b), (c)(1). Pub. L. 97-362, §202(a)(1), substituted “chapter” for “subchapter” wherever appearing.

Subsec. (h). Pub. L. 97-362, §202(a)(2), added subsec. (h).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-318, title V, §532(b), July 3, 1992, 106 Stat. 317, provided that: “The amendment made by subsection (a) [amending this section] shall apply to failures outstanding on the date of the enactment of this Act [July 3, 1992] or at any time thereafter.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-362, title II, §202(b)(1), Oct. 25, 1982, 96 Stat. 1733, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1983.”

TRANSFER OF APPROPRIATED UNEMPLOYMENT COMPENSATION FUNDS

Pub. L. 97-362, title II, §202(b)(2), Oct. 25, 1982, 96 Stat. 1733, provided that: “All funds appropriated which are available (on October 1, 1983) for the making of payments to States under chapter 85 of title 5, United States Code, on the basis of Federal service (as defined in section 8521(a) of such title 5) or for the making of payments under such chapter on the basis of such service in States which do not have in effect an agreement under such chapter, shall be transferred on such date to the Federal Employees Compensation Account established by section 909 of the Social Security Act [42 U.S.C. 1109]. On and after such date, all payments described in the preceding sentence shall be made from such account as provided by section 8509 of such title 5.”

Pub. L. 96-499, title X, §1023(c), Dec. 5, 1980, 94 Stat. 2658, provided that: “All funds appropriated which are available for the making of payments to States after December 31, 1980, pursuant to agreements entered into under subchapter I of chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such subchapter in States which do not have in effect such an agreement, shall be transferred on January 1, 1981, to the Federal Employees Compensation Account established by section 909 of the Social Security Act [42 U.S.C. 1109]. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.”

SUBCHAPTER II—EX-SERVICEMEN

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

(1) “Federal service” means active service (not including active duty in a reserve status unless for a continuous period of 180 days or more) in the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration if with respect to that service—

(A) the individual was discharged or released under honorable conditions (and, if an officer, did not resign for the good of the service); and

(B)(i) the individual was discharged or released after completing his first full term of active service which the individual initially agreed to serve, or

(ii) the individual was discharged or released before completing such term of active service—

(I) for the convenience of the Government under an early release program,

(II) because of medical disqualification, pregnancy, parenthood, or any service-incurred injury or disability,

(III) because of hardship (including pursuant to a sole survivorship discharge, as that term is defined in section 1174(i) of title 10), or

(IV) because of personality disorders or inaptitude but only if the service was continuous for 365 days or more;

(2) “Federal wages” means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) “State” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590; Pub. L. 90-83, §1(89), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, §116(e)(4), Oct. 20, 1976, 90 Stat. 2673; Pub. L. 96-215, §4(b), Mar. 25, 1980, 94 Stat. 124; Pub. L. 96-364, title IV, §415(a), Sept. 26, 1980, 94 Stat. 1310; Pub. L. 97-35, title XXIV, §2405(a), Aug. 13, 1981, 95 Stat. 876; Pub. L. 97-362, title II, §201(a), (b), Oct. 25, 1982, 96 Stat. 1732; Pub. L. 102-164, title III, §301(a), (b), Nov. 15, 1991, 105 Stat. 1059; Pub. L. 110-317, §7, Aug. 29, 2008, 122 Stat. 3529; Pub. L. 114-92, div. A, title V, §513(a), Nov. 25, 2015, 129 Stat. 809.)