

<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Unemployment Insurance
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**ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 18-20, Change 2**

**TO: STATE WORKFORCE AGENCIES**

**FROM: SUZAN G. LEVINE /s/**  
Principal Deputy Assistant Secretary

**SUBJECT: American Rescue Plan Act of 2021 (ARPA) – Amendments to the Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes**

1. **Purpose.** To provide states with instructions for implementing the recent statutory changes to the emergency unemployment relief for state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian Tribes provided in ARPA, Public Law (Pub. L.) 117-2, which amends Section 903(i) of the Social Security Act (SSA) (42 U.S.C. § 1103(i)).
2. **Action Requested.** The U.S. Department of Labor’s (Department’s) Employment and Training Administration (ETA) requests State Workforce Administrators to provide the information contained in this Unemployment Insurance Program Letter (UIPL) to appropriate program and other staff in state workforce systems as they implement the unemployment insurance (UI)-related provisions that respond to the economic effects of the Coronavirus Disease 2019 (COVID-19) pandemic.
3. **Summary and Background.**
  - a. Summary – On March 11, 2021, the President signed ARPA into law. ARPA amends Section 903(i) of the Social Security Act (SSA) (42 U.S.C. § 1103(i)) to provide emergency unemployment relief for state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian Tribes.

In relevant part, ARPA amends Section 2103 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), as previously amended by the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (Protecting Nonprofits Act) (Pub. L. 116-151) and the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260).

Most notably, ARPA extends the period of availability of the emergency relief provided to these reimbursing employers through the week ending on or before September 6, 2021, and increases the amount of emergency relief for weeks of unemployment beginning after

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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March 31, 2021, from 50 percent of compensation paid to 75 percent of compensation paid.

- b. Background – Section 903(i) was added to the SSA (42 U.S.C. § 1103(i)) with the enactment of the CARES Act, providing emergency relief by way of reimbursement for amounts owed for paid unemployment compensation (UC) (in lieu of contributions as state unemployment taxes) by state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian Tribes (“reimbursing employers”). On August 3, 2020, the Protecting Nonprofits Act was enacted, which amended Section 903(i), SSA, by changing the method of emergency relief provided to reimbursing employers, and by making a small number of technical amendments. *See* UIPL No. 18-20, Change 1, for additional details. Section 4.a. of UIPL No. 18-20, Change 1, discusses the transition period for states to move from a reimbursement to reduction methodology.

Initially, Section 903(i) required that reimbursing employers first pay the amount due in lieu of contributions, and then be reimbursed 50 percent of the amount of UC paid. The Protecting Nonprofits Act eliminated the requirement in section 903(i), SSA, that the reimbursing employer must first pay the amount due in lieu of contributions before obtaining emergency relief under the CARES Act. (*See* UIPL No. 18-20 for more information.) Under the Protecting Nonprofits Act, states are required to use the federal funds provided under Section 903(i), SSA, exclusively to reduce the amount required to be paid by the reimbursing employer in lieu of contributions. Additionally, the Protecting Nonprofits Act provided each state with a choice on how to implement the emergency relief for weeks of unemployment beginning after March 12, 2020, and ending before the date of enactment, August 3, 2020. (*See* UIPL No. 18-20, Change 1 for more information.)

The Continued Assistance Act, enacted on December 27, 2020, extended the applicable period for emergency unemployment relief through weeks of unemployment ending on or before March 14, 2021.

The enactment of ARPA on March 11, 2021, further extends the applicable period for emergency unemployment relief through weeks of unemployment ending on or before September 6, 2021. Additionally, the amendments made by ARPA increase the amount of emergency relief for weeks of unemployment beginning after March 31, 2021, from 50 percent of UC paid to 75 percent of UC paid.

This UIPL discusses the amendments made by ARPA and provides operating guidance to states. Attachment I provides the statutory language. Attachment II provides examples demonstrating the practical effects of such emergency relief to reimbursing employers. Tables 1 and 2 in Attachment II display the application to weeks subject to 50 percent relief and 75 percent relief respectively, and Table 3 displays how the calculations shown in Tables 1 and 2 work when combined.

4. **Guidance.** Under the CARES Act, the emergency relief to certain reimbursing employers was available for weeks of unemployment beginning after March 12, 2020, and ending on or

before December 31, 2020. The Continued Assistance Act extended the period for which emergency relief was available through weeks of unemployment ending on or before March 14, 2021. ARPA further extends the period during which the emergency relief is available through weeks of unemployment ending on or before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which funding is available is the week ending September 4, 2021. In states where the week of unemployment ends on Sunday, the last week of unemployment for which funding is available is the week ending on September 5, 2021.

Additionally, the amount of emergency relief for weeks of unemployment beginning after March 31, 2021, increases from 50 percent of UC paid to 75 percent of UC paid. For states where the week of unemployment ends on a Saturday, this begins with the week ending on April 10, 2021. In states where the week of unemployment ends on a Sunday, this increased amount begins with the week ending on April 11, 2021. Attachment II of this UIPL provides examples demonstrating the practical effects of such emergency relief to reimbursing employers.

*Error in UIPL No. 14-21.* We note an error in UIPL No. 14-21, which summarized Key UI provisions of ARPA. The error is on Attachment II, page II-2, identifying the “Statutory End Date” for “Emergency unemployment relief for reimbursing employers (50%)” as “March 31, 2021<sup>2</sup>.” The “Actual Week Ending Date” is correctly shown as “April 3, 2021”; however, the statute does not contain an explicit “Statutory End Date,” and that cell should be blank. This supersedes the information about the “Statutory End Date” for this provision on page II-2 of Attachment II to UIPL No. 14-21.

*Amount of Funds Transferred from the Federal unemployment account (FUA) (Section 903(i)(1)(B), SSA) (42 U.S.C. § 1103(i)(1)(B)).* Section 903(i)(1)(B), SSA, as amended by ARPA, authorizes transfers from FUA to state unemployment trust fund accounts for specified amounts of UC paid by the state attributable to services performed in the employ of state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian tribes that opt to make payments in lieu of contributions (*i.e.*, reimbursing employers). The process for drawing down funds remains unchanged from UIPL No. 18-20, Change 1; however, the amount of emergency relief for weeks of unemployment beginning after March 31, 2021 and ending on or before September 6, 2021 increases to 75 percent of UC paid. The percent for weeks of unemployment beginning on or after March 13, 2020 and ending on or before March 31, 2021 remains at 50 percent.

*Amount of Emergency Relief Provided to the Employer (Section 903(i)(1)(C), SSA) (42 U.S.C. § 1103(i)(1)(C)).* The Protecting Nonprofits Act amended Section 903(i)(1)(C), SSA, to read:

Notwithstanding any other provision of law, funds transferred to the account of a State under subparagraph (A) **shall be used exclusively to reduce the amounts required to be paid in lieu of contributions** into the State unemployment fund pursuant to such section by governmental entities and other organizations described in section 3309(a) of such Code. (Emphasis added).

When read in conjunction with Section 903(i)(1)(B), SSA, states may use the federal funds provided under Section 903(i), SSA, exclusively to reduce the amounts required to be paid in lieu of contributions for up to one-half (until the increase to 75 percent beginning with weeks of unemployment beginning after March 31, 2021) of the amount of UC paid.

- a. **Transition Period for State Administration.** The Protecting Nonprofits Act provides states with a choice in processing emergency relief for weeks of unemployment beginning after March 12, 2020 and ending before August 3, 2020. States may choose to (1) bill reimbursing employers, as described in UIPL No. 18-20, for the amount owed in lieu of contributions and then issue reimbursements using the federal funds provided under Section 903(i), SSA, or (2) use such federal funds to retroactively reduce the amounts required to be paid for such weeks as described in UIPL 18-20, Change 1.

States choosing to issue reimbursements as described in UIPL No. 18-20 should follow the guidance provided in UIPL No. 18-20 as it relates to processing financial transactions (Section 4.c.) and reporting (Section 4.g.) for such weeks of unemployment.

For all weeks of unemployment beginning on or after August 3, 2020, states must use the federal funds provided under Section 903(i), SSA, exclusively to reduce the amounts required to be paid in lieu of contributions as described in UIPL 18-20, Change 1.

- b. **Update on Processing Financial Transactions.** After March 31, 2021, monthly transfers to the state unemployment trust fund accounts will represent 75 percent of the benefit disbursements for state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian tribes reported on lines 33, 34, and 35 of the ETA 2112 report. Upon receipt of the report, the Department will certify to the Secretary of Treasury for the transfer of amounts from FUA to the unemployment fund account of the state in the unemployment trust fund.

Withdrawal from the state unemployment trust fund account can be accomplished by using the transaction “EMERGENCY US RELIEF” account on Treasury’s Automated Standard Application for Payments (ASAP) system, or if a state is reducing billings to reimbursing employers, it may credit the state unemployment trust fund account for the reduced billings by executing a book transfer of funds from the “EMERGENCY US RELIEF” to the “STATE UI ACCOUNT”.

Upon expiration of the applicable period for the provisions of Section 903(i), SSA, and state reconciliation of authorized amounts, unused amounts of transferred funding remaining in state accounts will be transferred back to FUA.

- c. **Effect of State Liability Relief Provisions.** As described in Section 5.b. of UIPL No. 21-80: “Liability or non-liability of reimbursing employers is to be determined under principles, as applied in the State law, of attribution of benefits to service in the employ of particular reimbursing employers as provided in Section 3309(a)(2) of [the Federal Unemployment Tax Act (FUTA)]. Such principles may be analogous to noncharging,

but they should be implementations under the State law of Section 3309(a)(2).” State liability relief effectively reduces the “amounts required to be paid” on a state-by-state basis because of the fact that Section 3309(a)(2), FUTA, determines the “amount” of UC “attributable” to reimbursing employers under state law, not as the full UC paid, under UIPL No. 18-20, Change 1.

As explained above in this UIPL, federal funds provided under Section 903(i), SSA, shall be used exclusively to reduce the amounts required to be paid in lieu of contributions for up to the appropriate percent of compensation paid. This amount equals 50 percent for weeks of unemployment beginning on or after March 13, 2020 and ending on or before March 31, 2021, and 75 percent for weeks of unemployment beginning after March 31, 2021 and ending on or before September 6, 2021. As under the version of Section 903(i), SSA, before enactment of the Protecting Nonprofits Act, states that choose to relieve employers of more than the appropriate percent of the amount owed will be required to return the balance of the federal funds to FUA. The Department encourages states to contact ETA through the [covid-19@dol.gov](mailto:covid-19@dol.gov) inbox (with a copy to the appropriate ETA Regional Office) for technical assistance as they consider any changes.

- d. **Federal Government as an Employer.** As noted in UIPL No. 18-20, the Federal Government is not an employer included in Section 3309(a), FUTA (26 U.S.C. § 3309(a)), and, therefore, is not included in the emergency relief under Section 903(i), SSA. Thus, and except for the limited circumstances discussed in the next paragraph, Section 903(i), SSA, has no impact on claims under the Unemployment Compensation for Federal Employees (UCFE) and Unemployment Compensation for Ex-Servicemembers (UCX) programs.

However, Section 264 of the Continued Assistance Act extended emergency relief to services attributable to entities created by Pub. L. 85-874, which includes the John F. Kennedy Center, which is a federal trust instrumentality. This is retroactively effective to weeks of unemployment beginning after March 12, 2020 (week ending March 21, 2020 for states with a Saturday week ending date, and week ending March 22, 2020 for states with a Sunday week ending date). States can identify affected benefit costs using the Federal Identification Code (FIC) 619. This remains unchanged with the enactment of ARPA.

- e. **Update on the Applicability to Other UI Provisions in the CARES Act.** As noted in UIPL No. 18-20, Change 1, payments under the federal programs created by the CARES Act are not covered under this provision because those amounts are not owed by the reimbursing employer. These include Pandemic Unemployment Assistance (PUA) under Section 2102 of the CARES Act, Federal Pandemic Unemployment Assistance (FPUC) under Section 2104 of the CARES Act, and Pandemic Emergency Unemployment and Compensation (PEUC) under Section 2107 of the CARES Act. These programs do not result in assessments of payments due in lieu of contributions from employers, and, thus, payments under these programs are not subject to emergency relief under Section 903(i), SSA.

To the extent that payment of the first compensable week of regular UC or payment of Short-Time Compensation (STC) results in the assessment of a payment due in lieu of contributions under state law, the amount due may be reduced using federal funds provided under Section 903(i), SSA.

- f. **Update on the Applicability to Federal Share of Extended Benefits (EB).** As noted in Section 4.f. of UIPL No. 24-20, EB costs attributable to state and local governmental entities and federally-recognized Indian tribes are not sharable and, thus, not eligible for federal funding under Section 4105 of the Families First Coronavirus Response Act as set out in Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) (Pub. L. 116-127). However, to the extent that payment of EB results in the assessment of a payment due in lieu of contributions under state law, the amount due may be reduced using federal funds provided under Section 903(i), SSA.

As noted in Section 4.d. of UIPL No. 24-20, EB costs attributable to 501(c)(3) nonprofit organizations are sharable as defined in Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) and, thus, a state may qualify for 100 percent federal funding under EUISAA for the weeks of EB attributable to such service. *See* Sections 4.d., 4.e., and 4.f. of UIPL No. 24-20, along with Section 4.a. of UIPL No. 24-20, Change 1, for additional information on 100 percent federal funding of EB.

- g. **Reporting.** States should report the amount of the federal funds provided under Section 903(i), SSA, that are transferred into the state unemployment trust account on columns C and E of line 15 in the ETA 2112 report.

5. **Inquiries.** States should direct inquiries to the [covid-19@dol.gov](mailto:covid-19@dol.gov) and copy the appropriate ETA Regional Office.

6. **References.**

- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Protecting Nonprofits from Catastrophic Case Flow Strain Act of 2020 (“Protecting Nonprofits Act”) (Pub. L. 116-151);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136), including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act;
- Families First Coronavirus Response Act, including Division D, Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA) (Pub. L. 116-127);
- Section 903, Social Security Act (SSA), 42 U.S.C. § 1103;
- Federal-State Extended Unemployment Compensation Act of 1970 (EUCA) (26 U.S.C. 3304 note);
- Section 3309, Federal Unemployment Tax Act (FUTA), 26 U.S.C. § 3309;

- Unemployment Insurance Program Letter (UIPL) No. 14-21, *American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions*, issued March 15, 2021, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5669](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5669);
- UIPL No. 24-20, Change 1, *Continued Assistance for Unemployed Workers Act (Continued Assistance Act) of 2020 – Provisions Affecting the Federal-State Extended Benefits Program*, issued December 31, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7779](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7779);
- UIPL No. 24-20, *Temporary Changes to the Federal-State Extended Benefits (EB) Program in Response to the Economic Impacts of the Coronavirus Disease 2019 (COVID-19) Pandemic Emergency*, issued May 14, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=7132](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7132);
- UIPL No. 18-20, Change 1, *Amendment to the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes*, issued August 12, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8149](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8149);
- UIPL No. 18-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes*, issued April 27, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5893](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5893);
- UIPL No. 13-20, *Families First Coronavirus Response Act, Division D Emergency Unemployment Insurance Stabilization and Access Act of 2020*, issued March 22, 2020, [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=8634](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8634); and
- UIPL No. 21-80, *Secretary’s Decision on Attribution of Benefit Liability to Reimbursing Employers in Proceedings as to Delaware, New Jersey, and New York*, issued February 29, 1980, [https://oui.doleta.gov/dmstree/uipl/uipl80/uipl\\_2180.htm](https://oui.doleta.gov/dmstree/uipl/uipl80/uipl_2180.htm).<sup>1</sup>

## 7. **Attachment(s).**

- Attachment I: Statutory Language of Section 9012 of the American Rescue Plan Act of 2021 (Pub. L. 117-2).
- Attachment II: Examples of the Impact of Section 903(i) of the Social Security Act (SSA), as amended by the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (Pub. L. 116-151) and the American Rescue Plan Act of 2021 (Pub. L. 117-2).

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<sup>1</sup> We note that the link to this document shows an expiration date of February 28, 1981. However, per Training and Employment Notice No. 15-20, issued January 14, 2021, this remains an active UIPL.