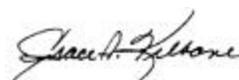


<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> OWS
	<b>CORRESPONDENCE SYMBOL</b> OIS/DFAS
	<b>DATE</b> April 24, 2002

**ADVISORY** : UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 22-02

**TO** : ALL STATE WORKFORCE AGENCIES

**FROM** : GRACE A. KILBANE  
Administrator  
Office of Workforce Security



**SUBJECT** : Procedures for Requesting and Repaying Title XII Advances from the Federal Unemployment Account(FUA)

1. Purpose. Provide updated requirements and procedures for requesting advances and making voluntary repayments of funds from the FUA in the Unemployment Trust Fund (UTF).

2. References. Title XII, Social Security Act (SSA); section 3302 Federal Unemployment Tax Act; Unemployment Insurance Program Letter (UIPL) 3-91; UIPL 39-97; 20 CFR Part 606.

3. Background. Section 1201 of the SSA permits the Governor of a state to request repayable advances from the FUA for any three consecutive month period during which reserves in the state account in the UTF are insufficient to pay benefits.

4. Delegation of Authority to Request Advances and Voluntary Repayments. The Governor may delegate the authority to request Title XII advances and make voluntary repayments to another state official, if permitted by state law. The Department must be notified of this delegation by a letter from the Governor to the Secretary of Labor, (attention: Administrator, Office of Workforce Security (OWS)), enclosing a certified copy of the document evidencing such delegation, together with a facsimile signature of the official to whom such authority has been delegated. Additional evidence or certification of the Governor=s authority to so delegate will not be necessary; such authority will be assumed from the certified document.

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> April 30, 2003
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A revised authorization or redelegation of authority when a new Governor takes office is not necessary unless required by state law. A new redelegation of authority must be submitted by the Governor if the person occupying the position to which the original (or subsequent) delegation was made has changed.

5. Requests for Advances. Procedures to be followed in requesting advances are outlined below:

Section 1201(a)(1)(A) of the SSA provides that advances shall be made to a state for the payment of compensation in any 3-month period if the Governor of the state applies no earlier than the first day of the month preceding the first month of such 3-month period; and provided further that all other qualifying requirements for obtaining advances are met.

*Loan Requests.* The Governor, or the person to whom such authority has been delegated by the Governor, will submit a single request to the Secretary of Labor covering a 3-consecutive-month period. If an advance is required for one or two months of the 3-consecutive-month period, the request must cover the entire 3 months. Months during which no advances are required should indicate zero dollars needed. If it later becomes necessary to borrow for these months, an amended or supplemental request must be submitted.

Requests for advances are to be addressed to the Secretary of Labor to the attention of the Administrator of OWS, and received no earlier than the first day of the month preceding the first month for which authorization is requested and no later than 15 working days before the first day a loan is actually required in order to provide sufficient time for processing. The letter should be faxed to OWS (202-693-3229).

The Administrator of OWS will review the request to ensure it meets the requirements of section 1201 of the SSA and will certify to the Secretary of the Treasury the maximum amount to be transferred during each of the 3 months covered in the request. Transfer of funds to the state=s account in the UTF will be made on a daily basis, as needed to meet requisitions for benefit payments, based on the state=s balance in the UTF less amounts previously certified as valid Reed Act obligations and therefore considered not available for the payment of benefits (see UIPL 5-90 dated November 15, 1989), and including all confirmed deposits received by Treasury through the date of transfer. Reed Act distributions made under the Balanced Budget Act - given to the states on October 1, 1999, 2000, and 2001 - are considered not available for payment of benefits since they must be used solely for UI administration. (See UIPL 39-97.)

Amounts certified as available to a state in any month which are not required to meet that month's requisitions for payment of benefits will cease to be certified as available as of the close of business the last day of that month. Unused balances will not be carried forward into the next month. The state will be charged interest only on that portion of certified advances that the state actually draws down.

The Governor or his/her delegate may submit a supplemental request for any month in which it is later determined that the previously approved amount is insufficient to meet benefit payment obligations. A Governor or his/her delegate will fax (202-693-3229) a copy of supplemental or emergency advance requests to the Secretary of Labor attention: Administrator, OWS.

Emergency requests should include (1) the dollar amount requested, and (2) the date on which the Governor or his/her delegate estimates the funds will be needed.

The Governor or his/her delegate will be promptly advised of action taken on requests for Title XII advances.

6. Voluntary Repayment of Advances. The Governor or his/her delegate may at any time request that funds be transferred from the account of the state in the UTF to the FUA in repayment of part or all of advances made to the state under Section 1201 of the SSA. The procedures for voluntary repayments are outlined below.

*Voluntary Repayments Process.* Section 1202(b)(6)(A) of the SSA provides that any voluntary repayment by a state under Section 1202(a) shall be applied on a last-made, first-repaid basis. Any other repayment of advances, e.g., repayment of advances through reduced FUTA credits, shall be applied on a first made first repaid basis.

A request for voluntary repayment under Section 1202(a) of the Act must be made in a letter faxed to the Secretary of Labor, (attention: Administrator, OWS) signed by the Governor or the official to whom this authority has been delegated by the Governor of the state. Transfer of funds requested will be accomplished on the later of the date requested or the date of receipt of the letter.

The Governor or delegate may submit a specific request that does not contain specific dollar amounts, but does authorize the transfer of all available funds as of COB each day, for a specific period, from the state account to the FUA for the repayment of advances. The letter requesting the general transfer must give permission to the Secretary of Labor to authorize repayments

up to the amount of the outstanding loan balance, subject to the availability of funds in the state account, and provide specific beginning and ending dates within which the transfers will be executed. No specific dollar amounts and no individual effective dates of repayment will be included. When a state uses this process, there will be one letter from the Governor or designate to the Secretary of Labor and one letter from the Secretary of Labor to the Secretary of Treasury.

The requested amount of repayment will be certified to the Secretary of the Treasury for transfer from the state's account in the UTF to the FUA to be effective on the date as determined above. The Governor or his/her designate will be promptly advised of action taken on the request for voluntary repayment of Title XII advances.

Scheduled partial repayments may be requested if the condition of the state unemployment reserve improves sufficiently to permit programmed repayments. A state may elect to voluntarily repay interest-bearing Title XII loans on a scheduled basis. The schedule will serve to advise the Treasury Department that authorization is being given to transfer specific amounts on designated days during the period covered by the schedule. The total repayment stated in the Governor's (or his/her delegate's) letter must agree with the sum of all repayments specified in the schedule. The determination as to a state's ability to schedule repayments rests with the state. The state workforce agency is responsible for assuring that sufficient funds are available in its account in the UTF to make each scheduled repayment.

A state may receive Title XII advances and make voluntary repayments during the same month. However, such repayments must be made in accordance with the procedure contained in this advisory.

If there are insufficient funds in the state's account to make the full repayment requested on the effective date as determined above, the Bureau of Public Debt (BPD) in the U.S. Treasury will transfer, unless otherwise notified, from the account of the state in the UTF to the FUA on the effective date the amount determined by them to be available for transfer on that day. The BPD will also notify the state immediately of any reduction in requested repayments.

7. Transmitting, Addressing and Delivering Requests for Advances or Repayments. All letters requesting Title XII advances or voluntary repayments must be faxed to:

The Honorable Elaine C. Chao (or current Secretary)  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, D.C. 20210  
Attention: Grace A. Kilbane (or current OWS Administrator)  
Room S4231  
Fax number: 202-693-3229

8. Interest Payments, Federal Unemployment Tax Act Credit Reduction, Limitation on Tax Credit Reduction, Avoidance of Tax Credit Reduction. See 20 CFR Part 606 for these requirements and conditions.

9. Action required. All states should follow these procedures and submit the required documentation when requesting or repaying Title XII advances.

10. Inquiries. Direct questions to the appropriate Regional Office.

11. Attachment. Sample letters.

Attachment I

The Honorable Elaine L. Chao (or current Secretary)  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
Attention: Grace A. Kilbane (or current OWS Administrator)  
Room S4231

Dear Secretary Chao:

I hereby apply for repayable advances to the account of the state of \_\_\_\_\_ in the Unemployment Trust Fund from the Federal unemployment account in such Fund, for the months of \_\_\_\_\_ in accordance with the provisions of Section 1201 of the Social Security Act.

My estimate of the amount of advances required to pay compensation under this state's Unemployment Compensation Law is as follows:

<u>Amount Not To Exceed</u>	<u>Month of Transfer</u>
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____

To assure payment of all compensation that becomes due under the Unemployment Compensation Law of this state, it is requested that the actions provided under Section 1201 of the Social Security Act be taken as expeditiously as possible.

Sincerely,

The Honorable \_\_\_\_\_  
Governor of \_\_\_\_\_ (appropriate inside address and salutation)

Dear Governor \_\_\_\_\_ :

Your application for repayable advances during the months of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, from the Federal unemployment account in the Unemployment Trust Fund to the account of your state in such Fund, meets the requirements of Section 1201 of the Social Security Act.

I have certified to the Secretary of the Treasury for advance to the account of your state, subject to the availability of funds an amount up to, but not to exceed, the amount requested for each month as follows:

<u>Amount Not To Exceed</u>	<u>Month of Transfer</u>
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____

An advance will consist of funds actually used during each month, which may be less than, but will not exceed, the amount certified for that month. If the amount used during the month is less than the amount certified, the unused portion will revert to the Federal unemployment account.

The Funds Accounting Branch in the U.S. Treasury Department will notify the state directly of the amount of interest-bearing advance actually made during each month.

All repayable Title XII advances are subject to the interest-charging provisions of Section 1202(b) of the Social Security Act. The rate of interest to be charged during calendar year \_\_\_\_\_ is \_\_\_\_\_ percent.

Acceptance of an advance is deemed to constitute acceptance of the obligation to pay any interest that may become due no later than the due date for such payment. Sections 303(c)(3) and 1202(b) of the Social Security Act and Section 3304(a)(17) of the Internal Revenue Code of 1954 apply to the timeliness and source of money for payment of interest on Title XII advances.

Sincerely,

GRACE A. KILBANE  
Administrator  
Office of Workforce Security

**Facsimile – Formal Letter Requesting  
Voluntary Repayment of Title XII Advances**

**The Honorable Elaine L. Chao (or current Secretary)  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210  
Attention: Grace A. Kilbane (or current OWS Administrator)  
Room S4231**

**Dear Secretary Chao:**

**In accordance with the provisions of Section 1202 (a) of the Social Security Act, I hereby request the transfer of \$ \_\_\_\_\_ from the account of the State of \_\_\_\_\_ in the Unemployment Trust Fund to the Federal unemployment account, to be effective on \_\_\_\_\_.**

**This requested transfer of funds represents voluntary repayment (in full or partial repayment) of repayable Title XII advances made to the State of \_\_\_\_\_ during the period \_\_\_\_\_.**

**Sincerely,**

**GRACE A. KILBANE  
Administrator  
Office of Workforce Security**

Attachment IV

The Honorable \_\_\_\_\_  
Governor of \_\_\_\_\_ (appropriate inside address and salutation)

Dear Governor \_\_\_\_\_:

This will respond to your recent letter to Secretary Chao requesting a transfer of funds from the account of your state in the Unemployment Trust Fund to the Federal unemployment account in repayment of advances made to your state under Title XII of the Social Security Act.

I am certifying to the Secretary of the Treasury the following amount (s) for transfer on the date(s) shown:

<u>Amount</u>	<u>Effective Date</u>
\$ _____	\$ _____
\$ _____	\$ _____
\$ _____	\$ _____

A voluntary repayment will be applied to advances on a last made-first repaid basis to the extent sufficient funds are available in your state's account in the Unemployment Trust Fund after deducting scheduled withdrawals. Any amount of a loan repayment which cannot be completed on the date specified in this letter will be disallowed.

The agency administering your State unemployment fund will be advised by the Fund Accounting Branch in the U.S. Treasury Department of the actual application of the requested repayment(s) and the remaining balance of advances after the transaction(s) is (are) completed.

Sincerely,

GRACE A. KILBANE  
Administrator  
Office of Workforce Security

Attachment V

The Honorable Elaine L. Chao (or current Secretary)  
Secretary of Labor  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, D.C. 20210  
Attention: Grace A. Kilbane (or current OWS Administrator)  
Room: S4231

Dear Secretary Chao:

In accordance with Section 1202(a) of the Social Security Act, I hereby request the transfer of all available close of business funds from the account of the state of \_\_\_\_\_ in the Unemployment Trust Fund to the federal unemployment account for the period \_\_\_\_\_ to \_\_\_\_\_.

The amounts transferred will not exceed the outstanding loan balance of \_\_\_\_\_.

Sincerely,

GRACE A. KILBANE  
Administrator  
Office of Workers' Security