Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210	**CLASSIFICATION** Withdrawal Standard
	CORRESPONDENCE SYMBOL OUI/DL
	DATE May 11, 2010

ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER No. 7-04, Change 1

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Payment of Interest and Other Administrative Costs on Loans Used to Pay Unemployment Compensation

1. Purpose. To clarify the Department of Labor's position about the use of unemployment fund moneys to pay interest and other administrative costs on non-federal loans used to pay unemployment compensation (UC) under state law.

2. References. The Federal Unemployment Tax Act (FUTA); Titles III, IX and XII of the Social Security Act (SSA); Unemployment Insurance Program Letter (UIPL) Nos. 39-97, 7-04, and 14-09; and Training and Employment Guidance Letters Nos. 18-01 and 18-01, Change 1.

3. Background. UIPL No. 7-04 addressed situations where, instead of obtaining advances from the Federal Unemployment Account as provided under Title XII of the SSA, states obtained loans from other, non-federal sources to pay UC. These non-federal loans may, for example, come from state revenues or from selling bonds. UIPL No. 7-04 provided the Department's position on the use of unemployment fund moneys to repay these non-federal loans (including bonds) or to pay associated costs such as interest, fees, or other administrative costs.

   UIPL No. 7-04 stated that, with an exception, unemployment fund moneys may not be used to pay interest, loan/bond fees, or other administrative costs on these non-federal loans. The exception, the UIPL explained, was that a certain type of unemployment fund moneys, commonly called Reed Act moneys, may be used for these purposes. In light of the prohibition in Federal law on the use of unemployment fund moneys to pay interest on Title XII loans, questions have arisen as to why the use of Reed Act moneys for this purpose is permissible.

RESCISSIONS	**EXPIRATION DATE**
None	Continuing

This UIPL explains the Department's position on this use of Reed Act moneys and other unemployment fund moneys, such as the recent UC Modernization Incentive Payments, which are available for administrative purposes.

4. Use of Reed Act and Other Unemployment Fund Moneys. The term "Reed Act" describes moneys transferred to state accounts in the Unemployment Trust Fund (UTF) under Sections 903(a) and (d), SSA. These moneys may, under statutorily-prescribed conditions, be used for certain administrative expenses, including the administration of the state's UC law. Similarly, UC Modernization Incentive Payments are transferred to state accounts under Section 903(f), SSA, and are available, under statutorily-prescribed conditions, for the payment of costs of administration of the state's UC law. Finally, the $500 million Special Administrative Transfers made to state accounts under Section 903(g), SSA, in 2009 is also available for the payment of certain UC administrative costs. Since the funds described in Sections 903(a), (d), (f), and (g) are transferred to the states' accounts in the UTF from which UC is paid, these funds are "unemployment funds" subject to Federal law restrictions.

   Section 3304(a)(17), FUTA, requires, as a condition of employers in a state receiving credit against the Federal unemployment tax, that—

   > any interest required to be paid on *advances under title XII of the Social Security Act* . . . shall not be 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; . . . . [Emphasis added.]

   (Similar prohibitions are found at Sections 303(c)(3) and 1202(b)(5), SSA.)

   As a result of this restriction, states may not use Reed Act moneys, UC Modernization Incentive Payments, or the 2009 Special Administrative Transfer to pay interest on a state's Title XII loan.

   This limitation is, however, expressly limited to interest due on Title XII advances. It does not apply to non-federal loans. Also, although Federal law restricts the use of Reed Act and UC Modernization Incentive Payments, it does not prohibit payment of interest, loan/bond fees, or other administrative costs associated with non-federal loans. Thus, a state may, if the moneys are appropriated by the state legislature consistent with Section 903, SSA, use Reed Act or UC Modernization Incentive Payments to pay these costs.

   The 2009 Special Administrative Transfer may not, however, be used for these costs. Unlike the Reed Act and UC Modernization Incentive Fund provisions, which broadly allow use for any purpose related to administration of a state's UC law, the 2009 Special Administrative Transfer is limited to specific administrative provisions related to UC Modernization, improving state operations, and providing staff-assisted reemployment services. Since the payment of costs associated with loans for the payment of UC is not one of these permissible uses, the 2009 Transfer may not be used for the payment of these costs.

The following table summarizes the permissible uses of unemployment fund moneys as they relate to interest and administration of Title XII advances and non-Title XII loans.

UC Advances and Loans					
Funding Source		Permissible Uses			
		Federal (Title XII) Advances		Non-federal Loans	
Description	SSA Reference	Interest Costs	Administrative Costs	Interest Costs	Administrative Costs
1. UC Administrative Grant	Section 302	No	Yes	No	Yes
2. Reed Act	Sections 903(a) and (d)	No	Yes	Yes	Yes
3. UC Modernization Incentive Payments	Section 903(f)	No	Yes	Yes	Yes
4. Special Administrative Transfers 2009	Section 903(g)	No	No	No	No
5. All unemployment fund moneys not listed in lines 2-4 above		No	No	No	No

5. Action. State administrators should distribute this advisory to appropriate staff.

6. Inquiries. Questions should be addressed to your Regional Office.