

September 25, 2023

Brent Parton  
Acting Assistant Secretary for Employment and Training, Labor  
U.S. Department of Labor

Re: Strada Education Foundation Response to Docket No. ETA-2023-0002 and RIN 1205-AC11

Dear Acting Assistant Secretary Parton,

We are writing on behalf of Strada Education Foundation in response to the Request for Information (RFI) issued by the U.S. Department of Labor regarding the disclosure of confidential wage records under the Department's regulations governing the confidentiality and disclosure of State Unemployment Compensation (UC) data. Enclosed with this letter are our specific recommendations for regulatory amendments.

Strada's North Star is to collaborate with learners, educators, employers, and policymakers across the U.S. to bring to life a postsecondary education and training (PSET) ecosystem that provides equitable pathways to opportunity. Among the greatest barriers to advancing our North Star is that students often are unable to access programs that lead to good jobs and economic mobility, in part because policymakers lack supply and demand data that would highlight opportunity gaps, and employers too often base their hiring decisions on degrees rather than skills and experiences. We firmly believe that enhancing UC data systems and improving the integration of UC and PSET data are essential for expanding pathways to opportunities for individuals as well as better addressing the talent needs of employers. By expanding the collection and utilization of comprehensive wage records, we can better evaluate the outcomes of PSET programs, identify areas in need of expansion to address employer demand, and empower individuals with the information they need to make informed educational and career choices. In addition, enhanced wage records can strengthen UC system administration by improving the data available for career advising functions performed by state UC systems and for detecting and reducing fraud.

Strada is committed to partnering with state agencies, employers, other foundations, and PSET stakeholders to align and improve data across postsecondary education and employment systems. However, for these efforts to achieve national scale and sustainability, federal government investment is essential. We encourage continued collaboration across the federal government and all stakeholders to establish funding programs to strengthen our nation's UC and PSET data systems, and integration efforts among them.

We appreciate the U.S. Department of Labor's commitment to enhancing and improving our nation's UC data systems and thank you for considering our input. We look forward to the opportunity to collaborate with the Department and other stakeholders to enable the more effective use of UC data to improve our nation's PSET systems.

Sincerely,

Stephen Moret  
President and Chief Executive Officer

Jonathan Furr  
SVP & Chief Data Ecosystem Officer

Enclosure: Attachment with Recommendations and Responses

## Attachment 1

### Overview of Strada Recommendations for UC Regulatory Amendments

Strada's recommendations for amending the Department's Unemployment Compensation (UC) regulations are centered on three key themes:

1. **Expand State UC Information Collection:** We recommend expanding the data collected by state UC agencies to include job title, pay rate, and location. These additional elements can unlock valuable insights into education-to-employment outcomes.
2. **Promote UC Data Sharing Among State Agencies:** The UC regulations should expect state UC agencies to share UC data with state longitudinal data systems and other state agencies evaluating and improving postsecondary education and training (PSET) programs. This sharing should be made more seamless by removing existing regulatory barriers while maintaining focus on privacy and security of data.
3. **Provide Access to Verified Employment History:** Individuals should have the ability to access their verified employment history from state UC agencies upon request, thereby empowering individuals to make informed decisions about their education and career opportunities.

These themes are detailed below, with our specific amendatory suggestions included in Attachment 2.

#### 1. Expand State UC Information Collection to Include Three Priority Enhanced Elements

Currently, all state unemployment compensation (UC) agencies collect essential information for UC administration such as wages, social security numbers, and employer data. Additionally, 21 states and the District of Columbia gather some combination of the following three elements:

- *Job title:* information about people's roles within an industry, collected as either the job title used by the employer or Standard Occupational Classification (SOC) Code
- *Pay rate:* standardized data about earnings during a certain period of time, enabling understanding of full- or part-time status
- *Location:* Information about each employee's primary work location

*See Attachment 3 - Map of States Collecting Enhanced UC Information*

These additional elements can yield valuable insights into education-to-employment outcomes, including:

- Determining whether learners are in the occupations they intended after completing education or workforce training programs.
- Identifying potential job opportunities for the unemployed based on their previous occupations.
- Mapping occupational trajectories to help individuals understand how particular occupations represent springboards to other good job opportunities.
- Addressing the under-reporting of wage outcomes for PSET programs due to individuals working partial quarters or part-time jobs.
- Enabling regional PSET supply and employer demand analysis and measuring the contributions of PSET programs to regional economic development.

Collecting these elements through the UC system can also reduce employer reporting burdens by replacing other federal collections of the same information, such as the collection of occupational information through the Bureau of Labor Statistics Occupational and Wage Statistics (OEWS) survey. Finally, the collection of these elements can

reduce fraud by requiring claimants to verify additional data points, enhancing the overall administration of the UC system. Strada strongly encourages the Department to require or incentivize the collection of these three new elements in the regulatory amendments. In our response to Question 1 of the RFI, we have proposed specific amendatory language.

## **2. Facilitate the Use of UC Information in State Education-to-Employment Data Systems**

State UC agencies play a vital role in state longitudinal data systems (SLDSs) and other state agency data integration efforts. The Department and other federal agencies have advanced the strengthening of state data systems through the Workforce Data Quality Initiative and the State Longitudinal Data System grant programs. To align UC regulations with the goals of these federal programs and better ensure the inclusion of UC information into SLDSs, the UC regulations should be amended to:

- Require state UC agencies to provide UC records to an SLDS administrator or state agency overseeing PSET programs (instead of these being permissive disclosures). This shift will ensure all states can enter into collaborative data integration across their agencies responsible for PSET and UI data to generate critical insights for the field.
- Extend the definition of “performance of official duties” that involve authorized uses of UC information to encompass:
  - a broad range of evaluation activities that can be performed through an SLDS, consistent with FERPA interpretations; and
  - data matching, integration, and master identity management within integrated state data systems.
- Remove the expectation of cost recovery for analyses performed or sponsored by another state agency or SLDS administrator.
- Permit disclosures to entities sponsored by an SLDS or another state agency to support research and evaluation activities, even if they are not contractors.

These amendments will not only bolster SLDSs but also enhance UC systems. For example, integrating PSET and UC information provides insights into potential career pathways for the unemployed, thereby enhancing the career advising functions performed by state UC systems. The Department’s regulations should facilitate, rather than hinder, the integration of UC data into SLDSs.

## **3. Enable the Provisioning of Verified Employment Histories Upon an Individual Request**

Modern privacy laws prioritize an individual’s right to access and control their personal data. It is essential for individuals to have the ability to access their verified employment information, particularly in the context of advancing skills-based hiring through digital learning and employment record (LER) technologies. States like Alabama and North Dakota are at the forefront of LER systems, aiming to create more effective career pathways based on an individual’s verified skills. Additionally, Strada has recently collaborated with other funders to support the launch of [SkillsFWD](#) – a major national initiative to advance skills-based hiring and economic mobility through the development and application of LERs.

State UC systems can serve as an important source of an individual’s verified employment information. This information should be easily accessible and includable in digital LER wallets, which allow the data to be used for expanding access to education and workforce opportunities. As LER technologies continue to expand (while remaining focused on privacy and security), Strada recommends amending the UC regulations to clearly authorize UC agencies to provide individuals with access to their verified employment history. This clarity will enable state UC agencies to serve as partners for LER deployments that are emerging in many states.

## Attachment 2

### **RFI Question Responses and Specific Regulatory Amendment Suggestions**

In this Attachment 2, we offer preliminary recommendations for specific regulatory amendments that align with the key themes in Attachment 1. We recognize that the types of amendments we propose require significant consensus-building and alignment with stakeholders, and we view these proposals as only a starting point for engaging in this collaborative process.

**RFI Question 1: Are there any terms that should be added to § 603.2? If so, what is the recommended definition for any such new § 603.2 term? If you are recommending defining a new term, please provide the reason the term needs to be defined. If you are proposing a revised or new definition, please explain why you recommend this definition or changes.**

For the reasons explained in our overview, we propose that the definition of wage information be amended to include three critical enhancements: job title, pay rate, and location. We also recommend broadening the definition of public official to include entities responsible for administered state longitudinal data systems and other integrated data systems. Our proposed additions are set forth below.

#### **§ 603.2 What definitions apply to this part?**

(. . .)

(d) *Public official* means:

(1) An official, agency, or public entity within the executive branch of Federal, State, or local government who (or which) has responsibility for administering or enforcing a law, or an elected official in the Federal, State, or local government.

(2) Public postsecondary educational institutions established and governed under the laws of the State. These include the following:

(i) Institutions that are part of the State's executive branch. This means the head of the institution must derive his or her authority from the Governor, either directly or through a State WDB, commission, or similar entity established in the executive branch under the laws of the State.

(ii) Institutions which are independent of the executive branch. This means the head of the institution derives his or her authority from the State's chief executive officer for the State education authority or agency when such officer is elected or appointed independently of the Governor.

(iii) Publicly governed, publicly funded community and technical colleges.

(3) Performance accountability and customer information agencies designated by the Governor of a State to be responsible for coordinating the assessment of State and local education or workforce training program performance and/or evaluating education or workforce training provider performance.

(4) The chief elected official of a local area as defined in WIOA sec. 3(9).

(5) A State educational authority, agency, or institution as those terms are used in the Family Educational Rights and Privacy Act, to the extent they are public entities.

(6) An official, agency, or public entity designated by the Governor of a State as having responsibility for administering a longitudinal data system or other integrated data system that facilitates the use of UC information for any purpose authorized by this part.

(. . .)

(k) *Wage information* means information in the records of a State UC agency (and, for purposes of § 603.23 (IEVS)), information reported under provisions of State law which fulfill the requirements of Section 1137, SSA) about the—

(1) Wages paid to an individual,

(2) Social security account number (or numbers, if more than one) of such individual, ~~and~~

(3) Name, address, State, and the Federal employer identification number of the employer who paid such wages to such individual,

(4) Occupation of such individual, reported as either the job title or standard or occupational classification code for the position held by an individual, or both,

(5) Hourly rate of pay of the wages paid to an individual, and

(6) Primary work location of an individual.

**RFI Questions:**

**23. Are there other entities to which it would be beneficial to disclose confidential UC information under certain circumstances (including disclosures to publicly funded grantees)? If so, what are those entities and what would be the benefits and costs of disclosing confidential UC information to such entities?**

**25. Would it be beneficial for the Department to define in § 603.2 which individuals or entities constitute agents or contractors of public officials (for example, an employee of a public official carrying out their official duties as an agent, or a research agency hired by a public official to carry out their official duties as a contractor)? If so, please provide any recommended definition(s) and an explanation for why this is the recommended definition.**

**57. Are there any provisions in the current part 603 related to the payment of costs for which additional clarification or enumeration would be helpful?**

As described in our overview, amendments to the UC regulations can better facilitate the use of UC information in education-to-employment data systems, and ensure that individuals can access their own verified employment information. Below, we suggest specific amendments to §§ 603.5 and 603.6 in support of these goals.

**§ 603.5 What are the exceptions to the confidentiality requirement?**

The following are exceptions to the confidentiality requirement. Disclosure of confidential UC information is permissible under the exceptions in [paragraphs \(a\)](#) through [\(g\)](#) of this section only if authorized by State law and if such disclosure does not interfere with the efficient administration of the State UC law. Disclosure of confidential UC information is permissible under the exceptions in [paragraphs \(h\)](#) and [\(i\)](#) of this section without such restrictions.

(a) Public domain information. The confidentiality requirement of [§ 603.4](#) does not apply to public domain information, as defined at [§ 603.2\(c\)](#).

(b) UC appeals records. Disclosure of appeals records and decisions, and precedential determinations on coverage of employers, employment, and wages, is permissible provided all social security account numbers have been removed and such disclosure is otherwise consistent with Federal and State law.

(c) Individual or employer. Disclosure for non-UC purposes, of confidential UC information about an individual to that individual, or of confidential UC information about an employer to that employer, is permissible. Such disclosures can include verification of an individual's UC information by the State UC agency upon the individual's request through secure digital methods approved by the agency.

(d) Informed consent. Disclosure of confidential UC information on the basis of informed consent is permissible in the following circumstances—

(1) Agent—to one who acts for or in the place of an individual or an employer by the authority of that individual or employer if—

(i) In general—

(A) The agent presents a written release (which may include an electronically submitted release that the State determines is authentic) from the individual or employer being represented;

(B) When a written release is impossible or impracticable to obtain, the agent presents such other form of consent as is permitted by the State UC agency in accordance with State law;

(ii) In the case of an elected official performing constituent services, the official presents reasonable evidence (such as a letter from the individual or employer requesting assistance or a written record of a telephone request from the individual or employer) that the individual or employer has authorized such disclosure; or

(iii) In the case of an attorney retained for purposes related to the State's UC law, the attorney asserts that he or she is representing the individual or employer.

(2) Third party (other than an agent) or disclosure made on an ongoing basis —to a third party that is not acting as an agent or that receives confidential information following an informed consent disclosure on an ongoing basis (even if such entity is an agent), but only if that entity obtains a written release from the individual or employer to whom the information pertains.

(i) The release must be signed and must include a statement—

(A) Specifically identifying the information that is to be disclosed;

(B) That State government files will be accessed to obtain that information;

(C) Of the specific purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and

(D) Indicating all the parties who may receive the information disclosed.

(ii) The purpose specified in the release must be limited to—

(A) Providing a service or benefit to the individual signing the release that such individual expects to receive as a result of signing the release; or

(B) Carrying out administration or evaluation of a public program to which the release pertains.

(e) Public official. Disclosure of confidential UC information to a public official for use in the performance of his or her official duties is permissible.

(1) "Performance of official duties" means administration or enforcement of law or the execution of the official responsibilities of a Federal, State, or local elected official. Administration of law includes research, evaluation, or data management related to the law administered by the public official. "Evaluation" means all manners of studies, assessments, measurements, appraisals, research, and other efforts, including analyses of statistical or numerical data derived from UC information. "Data management" means all manner of data matching, data integration, data preparation, master identity management, and other activities relating to the preparation of UC information for future research or evaluation. Execution of official responsibilities does not include solicitation of contributions or expenditures to or on behalf of a candidate for public or political office or a political party.

(2) For purposes of [§ 603.2\(d\)\(2\)](#) through [\(5\)](#), "performance of official duties" includes, in addition to the activities set out in [paragraph \(e\)\(1\)](#) of this section, use of the confidential UC information for the following limited purposes:

(i) State and local performance accountability under WIOA sec. 116, including eligible training provider performance accountability under WIOA secs. 116(d) and 122;

(ii) The requirements of discretionary Federal grants awarded under WIOA; or

(iii) As otherwise required for education or workforce training program performance accountability, ~~and~~ reporting, research, evaluation, or data management under Federal or State law.

(f) Agent, ~~or~~ contractor, or sponsored recipient of public official. Disclosure of confidential UC information to an agent, ~~or~~ contractor, or sponsored recipient of a public official to whom disclosure is permissible under [paragraph \(e\)](#) of this section. The term "sponsored recipient" means any public or private entity authorized by a public official to receive confidential UC information in connection with the performance of official duties, and where the disclosure is done in accordance with appropriate privacy and confidentiality protections established in this part.

(g) Bureau of Labor Statistics. The confidentiality requirement does not apply to information collected exclusively for statistical purposes under a cooperative agreement with the Bureau of Labor Statistics (BLS). Further, this part does not restrict or impose any condition on the transfer of any other information to the BLS under an agreement, or the BLS's disclosure or use of such information.

(h) Court order; official with subpoena authority. Disclosure of confidential UC information in response to a court order or to an official with subpoena authority is permissible as specified in [§ 603.7\(b\)](#).

(i) UC Program Oversight and Audits. The confidentiality requirement does not apply to any disclosure to a Federal official for purposes of UC program oversight and audits, including disclosures under [20 CFR part 601](#) and [29 CFR parts 96](#) and [97](#).

#### **§ 603.6 What disclosures are required by this subpart?**

(a) The confidentiality requirement of 303(a)(1), SSA, and [§ 603.4](#) are not applicable to this [paragraph \(a\)](#) and the Department of Labor interprets Section 303(a)(1), SSA, as requiring disclosure of all information necessary for the proper administration of the UC program. This includes disclosures to claimants, employers, the Internal Revenue Service (for purposes of UC tax administration), and the U.S. Citizenship and Immigration Services (for purposes of verifying a claimant's immigration status).

(b) In addition to Section 303(f), SSA (concerning an IEVS), which is addressed in subpart C, the following provisions of Federal UC law also specifically require disclosure of State UC information and State-held information pertaining to the Federal UC and benefit programs of Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex-Servicemembers (UCX), Trade Adjustment Assistance (TAA) (except for confidential business information collected by States), Disaster Unemployment Assistance (DUA), and any Federal UC benefit extension program:

(1) Section 303(a)(7), SSA, requires State law to provide for making available, upon request, to any agency of the United States charged with the administration of public works or assistance through public employment, disclosure of the following information with respect to each recipient of UC—

(i) Name;

(ii) Address;

(iii) Ordinary occupation;

(iv) Employment status; and

(v) A statement of such recipient's rights to further compensation under the State law.

(2) Section 303(c)(1), SSA, requires each State to make its UC records available to the Railroad Retirement Board, and to furnish such copies of its UC records to the Railroad Retirement Board as the Board deems necessary for its purposes.

(3) Section 303(d)(1), SSA, requires each State UC agency, for purposes of determining an individual's eligibility benefits, or the amount of benefits, under a food stamp program established under the Food Stamp Act of 1977, to disclose, upon request, to officers and employees of the Department of Agriculture, and to officers or employees of any State food stamp agency, any of the following information contained in the records of the State UC agency—

(i) Wage information,



(ii) Whether an individual is receiving, has received, or has made application for, UC, 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 therefore.

(4) Section 303(e)(1), SSA, requires each State UC agency to disclose, upon request, directly to officers or employees of any State or local child support enforcement agency, any wage information contained in the records of the State UC agency for purposes of establishing and collecting child support obligations (not to include custodial parent support obligations) from, and locating, individuals owing such obligations.

(5) Section 303(h), SSA, requires each State UC agency to disclose quarterly, to the Secretary of Health and Human Services (HHS), wage information and claim information as required under Section 453(i)(1) of the SSA (establishing the National Directory of New Hires), contained in the records of such agency, for purposes of Subsections (i)(1), (i)(3), and (j) of Section 453, SSA (establishing the National Directory of New Hires and its uses for purposes of child support enforcement, Temporary Assistance to Needy Families (TANF), TANF research, administration of the earned income tax credit, and use by the Social Security Administration).

(6) Section 303(i), SSA, requires each State UC agency to disclose, upon request, to officers or employees of the Department of Housing and Urban Development (HUD) and to representatives of a public housing agency, for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of HUD, any of the following information contained in the records of such State agency about any individual applying for or participating in any housing assistance program administered by HUD who has signed a consent form approved by the Secretary of HUD—

(i) Wage information, and

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

(7) Section 3304(a)(16), FUTA requires each State UC agency—

(i) To disclose, upon request, to any State or political subdivision thereof administering a Temporary Assistance to Needy Families Agency (TANF) program funded under part A of Title IV of the SSA, wage information contained in the records of the State UC agency which is necessary (as determined by the Secretary of HHS in regulations) for purposes of determining an individual's eligibility for TANF assistance or the amount of TANF assistance; and

(ii) To furnish to the Secretary of HHS, in accordance with that Secretary's regulations at [45 CFR 303.108](#), wage information (as defined at [45 CFR 303.108\(a\)\(2\)](#)) and UC information (as defined at [45 CFR 303.108\(a\)\(3\)](#)) contained in the records of such agency for the purposes of the National Directory of New Hires established under Section 453(i) of the SSA.

(8) To comply with WIOA sec. 116(e)(4), States must, to the extent practicable, cooperate in the conduct of evaluations (including related research projects) provided for by the Secretary of Labor or the Secretary of Education under the provisions of Federal law identified in WIOA sec. 116(e)(1); WIOA secs. 169 and 242(c)(2)(D); sec. 12(a)(5), 14, and 107 of the Rehabilitation Act of 1973 ([29 U.S.C. 709\(a\)\(5\)](#), [711](#), [727](#)) (applied with respect to

programs carried out under title I of that Act ([29 U.S.C. 720 et seq.](#))); and the investigations provided for by the Secretary of Labor under sec. 10(b) of the Wagner-Peyser Act ([29 U.S.C. 49i\(b\)](#)). For purposes of this part, States must disclose confidential UC information to a Federal official (or an agent or contractor of a Federal official) requesting such information in the course of such evaluations. This disclosure must be done in accordance with appropriate privacy and confidentiality protections established in this part. This disclosure must be made to the “extent practicable”, which means that the disclosure would not interfere with the efficient administration of the State UC law, as required by [§ 603.5](#).

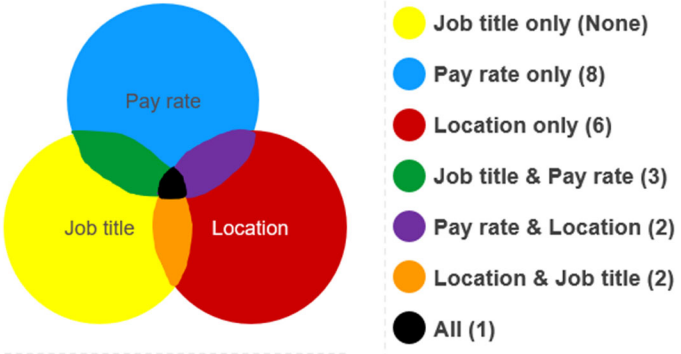
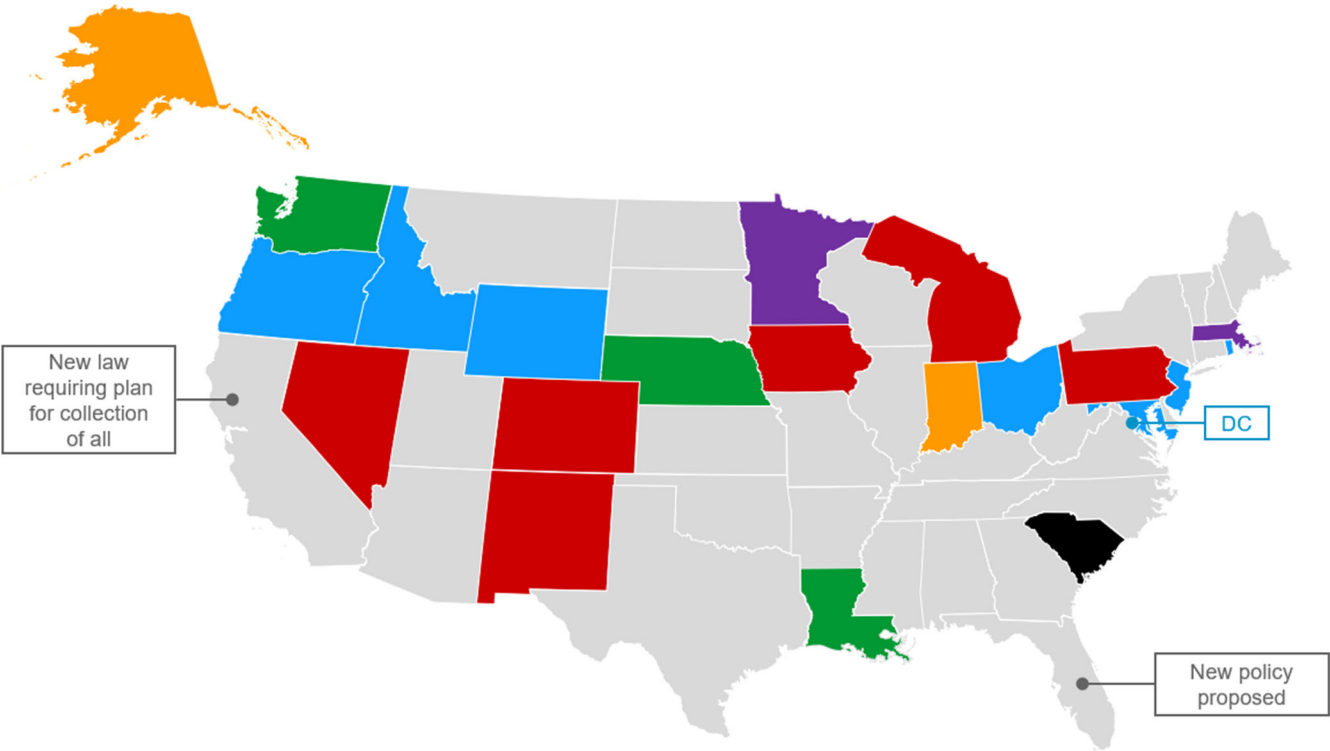
(9) States must disclose confidential UC information to any public official designated by the Governor of a State to receive disclosures of confidential UC information to conduct education or workforce training program performance accountability, reporting, research, evaluation, or data management as permissible under State law. These disclosures must be done in accordance with appropriate privacy and confidentiality protections established by this part. States may use grant funds for these disclosures and, unless otherwise directed by the Governor, the State UC agency cannot seek cost recovery under § 603.8 for the processing and handling of such requests.

(c) Each State law must contain provisions that are interpreted and applied consistently with the requirements listed in this section.

**Attachment 3**

# States Collecting Enhanced UC Information

Based on Strada Education Foundation Research and Analysis (as of September 2023)



Notes: Job title also includes SOC. Pay rate can be calculated by asking for hours worked or hours paid