

1 Internal Revenue Code of 1986, as amended), which are incidents
2 of employment in addition to the cash remuneration earned.

3 "Short-time compensation" means the unemployment benefits
4 payable to employees in an affected unit under an approved
5 short-time compensation plan, as distinguished from the
6 unemployment benefits otherwise payable under chapters 383 and
7 385.

8 "Short-time compensation plan" means a plan submitted by an
9 employer, for approval by the director, under which the employer
10 requests the payment of short-time compensation to workers in an
11 affected unit of the employer to avert layoffs.

12 "Usual weekly hours of work" means the usual hours of work
13 for full-time or part-time employees in the affected unit when
14 that unit is operating on its regular basis, not to exceed forty
15 hours and not including hours of overtime work.

16 "Unemployment compensation" means the unemployment benefits
17 payable under chapter 383, other than short-time compensation,
18 and includes any amounts payable pursuant to an agreement under
19 any federal law providing for compensation, assistance, or
20 allowances with respect to unemployment.



1 § -2 **Short-time compensation program; application.** (a)

2 The director shall develop an application form for an employer
3 to request approval of a short-time compensation plan. The
4 director shall develop an approval process for such
5 applications.

6 (b) An employer wishing to participate in the short-time
7 compensation program shall submit an application and written
8 short-time compensation plan to the director for approval.

9 (c) The plan shall include:

10 (1) The affected unit or units covered by the plan,
11 including the number of full-time or part-time workers
12 in each unit, the percentage of workers in the
13 affected unit covered by the plan, identification of
14 each individual employee in the affected unit by name
15 and social security number, the employer's
16 unemployment tax account number, and any other
17 information required by the director to identify plan
18 participants;

19 (2) A description of how workers in the affected unit will
20 be notified of the employer's participation in the
21 short-time compensation program if such application



1 and plan are approved, including how the employer will
2 notify those workers in a collective bargaining unit
3 as well as any workers in the affected unit who are
4 not in a collective bargaining; provided that if the
5 employer will not provide advance notice to workers in
6 the affected unit, the employer shall explain in a
7 statement in the application why it is not feasible to
8 provide such notice;

9 (3) Identification of the usual weekly hours of work for
10 employees in the affected unit and the specific
11 percentage by which their hours will be reduced during
12 all weeks covered by the plan; provided that the
13 percentage of reduction shall be not less than ten per
14 cent and not more than sixty per cent; provided
15 further that if the plan includes a week for which the
16 employer regularly provides no work, such as a holiday
17 or other closing, then such week shall be identified
18 in the application;

19 (4) Certification by the employer that, if the employer
20 provides health and retirement benefits to any
21 employee whose usual weekly hours of work are reduced



1 under the program, such benefits shall continue to be
2 provided to employees participating in the short-time
3 compensation program under the same terms and
4 conditions as though the usual weekly hours of work of
5 the employee had not been reduced, or to the same
6 extent as other employees not participating in the
7 short-time compensation program; provided that,
8 notwithstanding paragraph (4), an application may
9 contain the required certification when a reduction in
10 health and retirement benefits scheduled to occur
11 during the duration of the plan will be applicable
12 equally to employees who are not participating in the
13 short-time compensation plan and to employees who are
14 participating in the short-time compensation plan;

15 (5) Certification by the employer that the aggregate
16 reduction in work hours is in lieu of layoffs,
17 including an estimate of the number of employees who
18 would have been laid off in the absence of the short-
19 time compensation plan;

20 (6) Agreement by the employer to:



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- 1 (A) Furnish reports to the director relating to the
2 implementation of the plan;
- 3 (B) Allow the director or the director's authorized
4 representatives access to all records necessary
5 to approve or disapprove the application and plan
6 and, after approval, to monitor and evaluate the
7 plan; and
- 8 (C) Follow any other directives the director deems
9 necessary for the implementation of the plan and
10 which are consistent with the requirements for
11 applications;
- 12 (7) Certification by the employer that the short-time
13 compensation plan and its implementation are
14 consistent with the employer's obligations under
15 applicable state and federal laws;
- 16 (8) The intended effective date and duration of the plan;
17 provided that the plan shall expire no later than the
18 end of the twelfth full calendar month after the
19 plan's effective date; and
- 20 (9) Any other provisions added to the application by the
21 director that the United States Secretary of Labor



1 determines to be appropriate for the purposes of a
2 short-time compensation plan.

3 (d) For defined benefit retirement plan benefits paid
4 pursuant to subsection (c)(4), the hours reduced under the
5 short-time compensation plan shall be credited for purposes of
6 participation, vesting, and accrual benefits as though the usual
7 weekly hours of work had not been reduced. For employer
8 contributions to a defined contribution plan paid pursuant to
9 subsection (c)(4), the dollar amount of the employer's
10 contributions may be less due to the reduction in the employee's
11 compensation.

12 **§ -3 Plan approval and disapproval.** (a) The director
13 shall approve or disapprove a short-time compensation plan in
14 writing within days of receipt of the plan and promptly
15 communicate the decision to the employer.

16 (b) A decision disapproving of the plan shall clearly
17 identify the reasons for the disapproval.

18 (c) If a plan is disapproved, the employer may submit a
19 new short-time compensation plan for approval no earlier
20 than days from the date of the disapproval.



1 § -4 **Plan effective date and duration.** (a) A short-
2 time compensation plan shall be effective on the date that is
3 mutually agreed upon by the employer and the director, which
4 shall be specified in the notice of approval to the employer.

5 (b) A short-time compensation plan shall expire on the
6 date specified in the notice of approval, which shall be either
7 the date at the end of the twelfth full calendar month after its
8 effective date, or an earlier date that is mutually agreed upon
9 by the employer and the director.

10 (c) If a short-time compensation plan is revoked by the
11 director pursuant to section -5, the plan shall terminate on
12 the date specified in the director's written order of
13 revocation.

14 (d) An employer may terminate a short-time compensation
15 plan at any time upon written notice to the director; provided
16 that upon receipt of notice of termination from the employer,
17 the director shall promptly notify each member of the affected
18 unit of the termination date.

19 (e) An employer may submit a new application to
20 participate in another short-time compensation plan at any time



1 after the expiration or termination date of the current short-
2 time compensation plan.

3 **§ -5 Plan revocation; review.** (a) The director may
4 revoke approval for a short-time compensation plan for good
5 cause at any time, including upon the request of any of the
6 affected unit's employees.

7 (b) The revocation order shall be in writing and shall
8 specify the reasons for the revocation and the revocation's
9 effective date.

10 (c) The director may periodically review the operation of
11 each employer's short-time compensation plan to assure that no
12 good cause exists for revocation of the approved plan.

13 (d) For the purposes of this section, "good cause" shall
14 include but not be limited to failure to comply with the
15 assurances given in the plan, unreasonable revision of
16 productivity standards for the affected unit, conduct or
17 occurrences tending to defeat the intent and effective operation
18 of the short-time compensation plan, and violation of any
19 criteria on which approval of the plan was based.

20 **§ -6 Modification of an approved short-time compensation**
21 **plan.** (a) An employer may request a modification of an



1 approved plan by filing a written request to the director. The
2 request shall identify the specific provisions proposed to be
3 modified and provide an explanation of why the proposed
4 modification is appropriate for the short-time compensation
5 plan.

6 (b) The director shall approve or disapprove the proposed
7 modification in writing within days of receipt of the
8 request and promptly communicate the decision to the employer,
9 if approved, the effective date of the modification.

10 (c) The director may, at their discretion, approve a
11 request for modification of the plan based on conditions that
12 have changed since the plan was approved; provided that the
13 modification is consistent with and supports the purposes for
14 which the plan was initially approved.

15 (d) A modification to the approved plan shall not extend
16 the original expiration date of the approved plan.

17 (e) An employer is not required to request approval of a
18 plan modification if the change is not substantial; provided
19 that if the director determines that the change is substantial,
20 the director shall require the employer to request a
21 modification of the plan.



1 (f) The employer shall notify the director, promptly and
2 in writing, of all changes to the plan. The director may
3 terminate the plan if the employer fails to report a change to
4 the plan.

5 § -7 **Eligibility for short-time compensation.** (a) An
6 individual is eligible to receive short-time compensation with
7 respect to any week only if the individual is monetarily
8 eligible for unemployment compensation, or not otherwise
9 disqualified from unemployment compensation, and:

10 (1) During the week, the individual is employed as a
11 member of an affected unit under an approved short-
12 time compensation plan, which was approved prior to
13 that week, and the plan is in effect with respect to
14 the week for which short-time compensation is claimed;
15 and

16 (2) Notwithstanding any other provisions of this chapter,
17 the individual is available for the individual's usual
18 hours of work with the short-time compensation
19 employer, which may include, for purposes of this
20 section, participating in training to enhance job
21 skills, as approved by the director.



1 (b) Notwithstanding any other provision of law, an
2 individual covered by a short-time compensation plan is deemed
3 unemployed in any week during the duration of such plan if the
4 individual's remuneration as an employee in an affected unit is
5 based on a reduction of the individual's usual weekly hours of
6 work under an approved short-time compensation plan.

7 § -8 **Benefits.** (a) In a short-time compensation plan,
8 the weekly benefit amount shall be the product of the regular
9 weekly unemployment compensation amount for a week of total
10 unemployment multiplied by the percentage of reduction in the
11 individual's usual weekly hours of work.

12 (b) An individual may be eligible for short-time
13 compensation or unemployment compensation, as appropriate,
14 except that no individual shall be eligible for combined
15 benefits in any benefit year in any amount more than the maximum
16 entitlement established for regular unemployment benefits.

17 (c) No individual shall be paid short-time compensation
18 benefits for more than fifty-two weeks under a short-time
19 compensation plan.

20 (d) The short-time compensation paid to an individual
21 shall be deducted from the maximum entitlement amount of regular



1 unemployment compensation established for that individual's
2 benefit year.

3 (e) Provisions applicable to unemployment compensation
4 shall apply to short-time compensation employees to the extent
5 that they are not inconsistent with the provisions of this
6 chapter; provided that an employee who files an initial claim
7 for short-time compensation benefits shall receive a monetary
8 determination.

9 (f) If an individual works for both a short-time
10 compensation employer and another employer during the weeks
11 covered by the approved short-time compensation plan, the
12 following provisions shall apply:

13 (1) If the combined hours of work in a week for both
14 employers does not result in a reduction of at least
15 ten per cent of the usual weekly hours of work with
16 the short-time employer, the individual shall not be
17 entitled to benefits under this chapter;

18 (2) If the combined hours of work in a week for both
19 employers results in a reduction equal to or greater
20 than ten per cent of the usual weekly hours of work
21 for the short-time compensation employer, the short-



1 time compensation benefit amount payable to the
2 individual shall be reduced for that week and is
3 determined by multiplying the weekly unemployment
4 benefit amount for a week of total unemployment by the
5 percentage by which the combined hours of work have
6 been reduced by ten per cent or more of the
7 individual's usual weekly hours of work; provided that
8 a week for which benefits are paid under this
9 provision shall be reported as a week of short-time
10 compensation;

- 11 (3) If an individual worked the reduced percentage of the
12 usual weekly hours of work for the short-time
13 compensation employer and is available for all the
14 individual's usual hours of work with the short-time
15 compensation employer, and the individual did not work
16 any hours for the other employer, either because of
17 lack of work with that employer or because the
18 individual is excused from work with the other
19 employer, the individual shall be eligible for short-
20 time compensation for that week; provided that the



1 benefit amount for such week shall be calculated
2 according to subsection (a).

3 (g) An individual who is not provided any work during a
4 week by the short-time compensation employer, or any other
5 employer, and who is otherwise eligible for unemployment
6 compensation shall be eligible for the amount of regular
7 unemployment compensation to which they would otherwise be
8 eligible.

9 (h) An individual who is not provided any work by the
10 short-time compensation employer during a week, but who works
11 for another employer and is otherwise eligible, may be paid
12 unemployment compensation for that week subject to the
13 disqualifying income and other provisions applicable to claims
14 for regular unemployment compensation.

15 § -9 **Charges for benefits.** (a) Short-time compensation
16 shall be charged to the short-time compensation employer in the
17 same manner as unemployment compensation is charged section 383-
18 65.

19 (b) Employers liable for payments in lieu of contributions
20 shall have short-time compensation attributed to service in



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1 their employ in the same manner as unemployment compensation is
2 attributed.


3 § -10 **Extended benefits.** An individual who has received
4 all of the short-time compensation, or combined unemployment
5 compensation and short-time compensation, available in a benefit
6 year shall be considered an exhaustee for purposes of the
7 extended benefits program, sections 383-168 to 383-174, and, if
8 otherwise eligible under the program, shall be eligible to
9 receive extended benefits.

10 § -11 **Rules.** The director shall adopt rules pursuant to
11 chapter 91 to carry out the purposes of this chapter."

12 SECTION 2. This Act shall take effect upon its approval.

13

INTRODUCED BY:



JAN 25 2023



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Report Title:

Short-Time Compensation Program; DLIR

Description:

Establishes the short-time compensation program to allow employees to receive reduced compensation when employers reduce work hours in lieu of layoffs.

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