

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Unemployment Insurance
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ADVISORY: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 10-20, Change 2

TO: STATE WORKFORCE AGENCIES

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

SUBJECT: Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19) – Short-Time Compensation (STC) for Reopening the Economy

1. **Purpose.** To provide guidance to states regarding UC flexibilities related to COVID-19, specifically on how states can use the STC program to support reopening the economy.
2. **Action Requested.** The Department of Labor’s (Department) Employment and Training Administration (ETA) requests that State Workforce Administrators provide the information in this Unemployment Insurance Program Letter (UIPL) to appropriate program and other staff in state workforce systems as they respond to the economic effects of COVID-19.
3. **Summary and Background.**
 - a. Summary – The Unemployment Insurance (UI) program is facing an unprecedented demand due to the economic effects of efforts to mitigate the spread of COVID-19. Many businesses were temporarily closed or forced to operate at a reduced capacity in order to curb the spread of COVID-19 or due to the economic impact of the pandemic.

As mentioned in UIPL No. 21-20, states may use STC to help employers who are reopening business operations. Use of the STC program in this manner is limited to those individuals who worked for an employer prior to being temporarily laid off due to COVID-19, and who the employer brings back with reduced hours in order to reemploy a greater number of employees than the employer would otherwise have been able to. This UIPL provides guidance on how states may use the STC program to support employers in reopening as the economic impacts of the pandemic subside.

- b. Background – The STC program (also known as “worksharing” or “shared work”) is a layoff aversion program in which an employer, under a state-approved plan, reduces the hours for a group of workers in lieu of layoffs and these workers in turn receive a reduced unemployment benefit payment. This program preserves employees’ jobs and employers’ trained workforces during a disruption to the firm’s regular business activity

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by reducing hours of work for an entire group of affected employees, rather than by laying off some employees while others continue to work full time. The STC benefit payment cushions the adverse effect of the reduction in business activity on workers and, by maintaining their connection to their employers, increases the likelihood that these workers will be available to resume their prior employment when business demand increases.

States may take advantage of the incentives in the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law (Pub. L.) 116-136), as amended. Sections 2108 and 2109 of the CARES Act provided for full federal funding of STC payments and federal STC benefit costs through December 31, 2020 (*see* UIPL No. 21-20). This funding was extended through March 14, 2021, with enactment of the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260) (*see* Section 4.b.vi. of UIPL No. 09-21). This funding was further extended through September 6, 2021, with enactment of the American Rescue Plan Act of 2021 (ARPA) (Pub. L. 117-2) (*see* Section 4.c.vi. of UIPL No. 14-21).

States are reminded that the CARES Act also provides states with grant funds to implement or improve administration of an STC program and to promote and enroll employers. The deadline to apply for these grants is December 31, 2023. *See* UIPL No. 22-20.

- 4. Guidance.** The Department is committed to promoting state adoption of the STC program and to meeting the requirements of Section 2111 of the CARES Act. The purpose of this UIPL is to provide states with guidance on how to effectively leverage the STC program as local economies are reopening. For a business that was partially or fully closed because of COVID-19, STC can serve as a means of bringing most or all of its laid-off workforce back to the job, even if social distancing measures, a decline in business, and/or other factors prevent the employer from operating at normal, full-time staffing levels.

As states have reopened their local economies in phases, many businesses have been unable to bring all staff back at full capacity and full hours right away. STC can provide, and in some states has provided, an important bridge to support both employers and workers in these circumstances. More than half the states offer an STC program in their state law.¹

States with existing STC programs are strongly encouraged to quickly assess how they can implement STC within the context of businesses reopening and reach out to employers who have taken, or are most likely to be able to take, advantage of this approach.

States without STC programs should consider whether to enact legislation to implement an STC program using grant funds made available in the CARES Act, and if so, how quickly, or

¹For a list of states with STC laws, see Table 4-5 of the Extensions and Special Programs Chapter in the most recent *Comparison of State Unemployment Insurance Laws* at <https://oui.doleta.gov/unemploy/statelaws.asp#RecentStatelaw>.

if they should take advantage of the temporary STC program authorized in Section 2109 of the CARES Act.

Attachment I provides the statutory text for Section 3306(v) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. § 3306(v)). Attachment II provides a description of how important requirements of the STC program may be satisfied in a plan to support an employer's reopening. Attachment III provides several examples of how states may use STC as a tool for reopening. Attachment IV provides a summary of the Department's key guidance related to the economic effects of COVID-19 and STC.

- a. **Conformity with Section 3306(v) of the Federal Unemployment Tax Act (FUTA).** A state's STC law must conform to Section 3306(v), FUTA, in order for the state to use state unemployment trust fund dollars to pay STC costs, or to receive federal reimbursement for such costs under the CARES Act. States without an existing STC program may provide STC benefits under an agreement with the Secretary of Labor to administer STC benefits in accordance with Section 3306(v), FUTA, and receive partial reimbursement for such benefit costs, pursuant to Section 2109 of the CARES Act.

This guidance applies when an employer has an affected unit within its operations. It does not require that the employer itself is fully closed. As provided in the draft legislative language of the attachment to UIPL No. 22-12, Change 1, the term "affected unit" may mean a specified plant, department, shift, or other definable unit which includes more than one worker to which an approved STC plan applies.

The state must consider certain parameters within the context of reopening:

- The state must approve the employer's STC plan in accordance with its applicable state law **prior** to the employer bringing back the employees to be included in an STC plan.
 - The STC plan may only cover employees that the employer employed in the affected unit **immediately prior** to the temporary closure or reduction in staff. The STC plan within the context of a reopening economy cannot cover individuals who were not working for an employer at the time of the temporary closure.
- b. **Action required by the state.** The Department has not previously provided specific guidance to states about using the STC program within the context of businesses reopening and states may need some time to make adjustments to accommodate this new guidance. No changes are necessary for an STC plan that was previously approved by the state in accordance with state law within the context of a business reopening.

States are expected to ensure adherence to the guidance contained in this UIPL for all STC plans approved on or after August 30, 2021 (three months from the date of publication).

5. **Inquiries.** States should direct inquiries to 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);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance Act for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);
- Sections 3304(a) and 3306(v) of the Federal Unemployment Tax Act (FUTA), 26 U.S.C. §§ 3304(a) and 3306(v);
- Section 303(a) of the Social Security Act (SSA), 42 U.S.C. § 503(a);
- 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;
- UIPL No. 09-21, *Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) - Summary of Key Unemployment Insurance (UI) Provisions*, issued December 30, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3831;
- UIPL No. 22-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Grants*, issued on May 10, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6220;
- UIPL No. 21-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Short-Time Compensation (STC) Program Provisions and Guidance Regarding 100 Percent Federal Reimbursement of Certain State STC Payments*, issued on May 3, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9622;
- UIPL No. 15-20, Change 4, *American Rescue Plan Act of 2021 (ARPA) – Extensions to the Federal Pandemic Unemployment Compensation (FPUC) Program and Mixed Earners Unemployment Compensation (MEUC) Program*, issued March 26, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?docn=3728;
- UIPL No. 15-20, Change 3, *Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions*, issued January 5, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6122;
- UIPL No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, issued on April 4, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297;
- UIPL No. 14-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Questions and Answers*, issued August 12, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3791;

- UIPL No. 14-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Summary of Key Unemployment Insurance (UI) Provisions and Guidance Regarding Temporary Emergency State Staffing Flexibility*, issued April 2, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3390;
- UIPL No. 10-20, *Unemployment Compensation (UC) for Individuals Affected by the Coronavirus Disease 2019 (COVID-19)*, issued March 12, 2020, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=8893;
- UIPL No. 22-12, Change 2, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on February 7, 2014, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7832;
- UIPL No. 22-12, Change 1, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on December 21, 2012, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5754; and
- UIPL No. 22-12, *Short-Time Compensation Provisions in the Middle Class Tax Relief and Job Creation Act of 2012*, issued on June 18, 2012, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9382.

7. **Attachment(s).**

- Attachment I: Section 3306(v) of the Federal Unemployment Tax Act (FUTA) (26 U.S.C. § 3306(v)).
- Attachment II: Important Requirements of a Short-Time Compensation (STC) Program for Reopening Businesses.
- Attachment III: Examples of Using Short-Time Compensation (STC) as a Tool for Reopening.
- Attachment IV: Summary of the Department’s Key Short-Time Compensation (STC) Guidance.