MEMORANDUM

May 20, 2020

To: Governors' Offices
From: Bill McBride, Executive Director
Re: Short-Time Compensation Programs as a COVID-19 Response and Recovery Strategy

This memo provides governors and state officials with an overview of the Short-Time Compensation (STC) program – also known as work-sharing – and opportunities for developing, promoting, and expanding state STC programs during the COVID-19 crisis.

Short-Time Compensation Program Overview and Strategic Opportunity

“Short-Time Compensation (STC), also known as work sharing or shared-work programs, are an alternative to layoffs for employers experiencing a reduction in business activities and allows those employees facing a reduction in wages to collect a percentage of their unemployment compensation (UC) benefits to replace a portion of their lost wages. STC preserves employees’ jobs and employers’ skilled workforces by allowing employers to reduce work hours for some employees rather than laying them off.1 Research has demonstrated that states that utilized STC programs during the Great Recession saved tens of thousands of jobs that otherwise would have been lost.

The enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) offers an opportunity for states to develop, promote or expand STC programs during the current coronavirus pandemic to help facilitate reopening and recovery. While this program has historically provided businesses in the manufacturing sector opportunities to retain their skilled workforce during recession, there is a new opportunity for states to promote this program to new industries, especially those that have been severely impacted by the pandemic. In addition, STC under the CARES Act shifts the burden from state unemployment trust funds, especially those that are nearing insolvency, and from employers, who typically incur additional taxes due to workers filing for unemployment, to the federal government. Finally, states have access to federal grants to develop, promote, and expand STC programs during and following the pandemic, an opportunity to make the program more visible and accessible to employers that may experience future economic downturns.

Federal STC Program Requirements

Federal legislation does not require states to administer an STC program, so state participation in STC is voluntary. However, the U.S. Department of Labor (DOL) does offer resources and technical assistance for states interested in administering and operating an STC program. In addition, states have flexibility in how they operate an STC program, but all state must follow STC requirements under 3306(v), Federal Unemployment Tax Act (FUTA):

- Employer participation is voluntary.
- Employer reduces employee hours in lieu of layoffs.
- Work week reduction is at least 10 percent and no more than 60 percent.
- Employees receive a pro-rata share of their UI benefits for reduced work hours.

1 Taken directly from DOL Fact Sheet: https://oui.doleta.gov/unemploy/docs/stc_fact_sheet.pdf
Employees continue to be available to STC employer for full work hours (thereby meeting work availability and work search requirements).

Eligible employees may participate in training (employer-sponsored or state-approved Workforce Innovation and Opportunity Act funded training).

Employers must continue to provide health and retirement benefits.

Employers must submit an STC plan for state approval.

Plans must be consistent with employer obligations under applicable federal and state laws.

Other STC statute provisions may be requested by the state for approval by the U.S. Secretary of Labor.

Active State STC Programs

Prior to the outbreak of COVID-19, 27 states had STC programs established that met federal standards with 26 having operational programs (Arizona, Arkansas, California, Colorado, Connecticut, Florida, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Vermont (program scheduled to be inactivated July 1, 2020), Washington, and Wisconsin). A basic overview of each states’ operational STC program details can be found on p. 4-9 of the DOL Extensions and Special Programs report. Most recently, Michigan Governor Gretchen Whitmer announced plans for the Michigan state government to participate in their STC program to reduce the need for state government employee layoffs.

STC During COVID-19

COVID-19 and its associated economic impacts have led to the filing of more than 36 million unemployment insurance (UI) claims. State UI trust funds are nearing insolvency. Many non-essential businesses have closed and may struggle to retain or re-hire workers. STC programs can mitigate or prevent the adverse effects of the current economic crisis on workers, by keeping them connected to their employer to retain compensation and benefits, such as subsidized health care; on businesses, which will benefit from a significant savings in hiring and training costs; and on states that currently operate or are interested in developing STC programs, lessening the need to pay full UC benefits that tax state UI Trust Funds.

Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, states that have STC compensation programs can now have these programs’ benefits to workers 100 percent federally financed for up to 26 weeks through the end of 2020 (Section 2108), creating a further incentive for them to promote STC to businesses as a way to keep people off the UI rolls. DOL guidance (UIPL 21-20) provides states with additional direction regarding the 100 percent federal reimbursement of state STC payments. Employees that are covered under an STC program will receive, in addition to their partial unemployment compensation, the additional Federal Pandemic Unemployment Compensation (FPUC) $600 weekly payment. For states without existing programs, the federal government will temporarily finance 50 percent of the amount of STC paid to individuals by the state through their new program and up to 100 percent of additional administrative expenses incurred through implementation of this Act, also through 2020 (Section 2109). As of April 18, 88,447 people claimed benefits under STC programs.

Under the CARES Act, the federal government will also provide up to $100 million in grants to any state to implement, improve and promote STC programs and enroll employers. States can submit grant applications through the end of 2023 (Section 2110) and DOL guidance (UIPL 22-20) provides states with additional direction on how to apply for these grants and encourages states to apply for them. Suggested use of these funds from Section 2110 of the CARES Act include:

2 National Conference of State Legislatures website “Workshare Programs.”
• The creation or support of rapid response teams to advise employers about alternatives to layoffs;
• The provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and
• The development or enhancement of systems to automate the submission and approval of employer plans and the filing and approval of new and ongoing STC claims.

This extended timeline for STC grants provides an opportunity for states to strengthen pre-existing STC programs and create new ones with federal support. States considering resiliency and recovery strategies can consider these additional available funds. In the context of re-opening businesses closed temporarily by a pandemic, STC can also serve as a means of bringing most or all of a temporarily laid off workforce back to the job, even if social-distancing measures, a decline in business or other factors prevent operating at full staffing levels immediately.

How Employers Opt in to STC

Employers interested in participating in a state’s STC program must apply through their state’s Unemployment Insurance agency. They must submit a plan to the agency that includes the following:

• How many employees will be impacted;
• How many hours will be reduced;
• A description of how many employees will be notified of the plan in advance;
• An estimate of the number of employees that would be laid off if a shared work program is not implemented;
• Confirmation that employee benefits will continue to be provided; and
• Certification that affected employees may participate in training to enhance their job skills during the program.

Addressing Common Barriers to STC Implementation

Even in the 26 states that have STC programs, not all eligible businesses participate because of the following challenges:

• There is a general lack of awareness about STC programs. The below section highlights how Rhode Island countered this through an effective marketing strategy.
• STC program requirements can differ per state, making it complicated for employers that operate in multiple states to navigate and apply for access to STC. States could consider aligning program requirements to streamline the application process.
• These same requirements and state approval process that vary by state may not offer sufficient flexibility for the employer’s operations. For example, states typically require approval for participating employers to adjust hours or add and remove participants. States could consider ways to make it easier for employers to adjust operations while remaining eligible for STC.
• Participation in STC programs may increase an employer’s state unemployment insurance tax rate. To eliminate this disincentive, states are issuing executive orders to prevent employers from being penalized with higher UI tax rates in future years if participation in STC is related to COVID-19.

Example of a Successful STC Program During the Great Recession

Rhode Island successfully leveraged its STC program to reduce unemployment during a previous economic downturn. Between 2007 and 2009, Rhode Island increased the number of individuals receiving STC benefits, from roughly one in 20 new UI claims to one in six. The state credits its marketing campaign to employers as key to its success in ramping up the use of STC. The following are elements of this state’s successful marketing as outlined by the former UI director in Rhode Island in a Hamilton Project paper entitled “Encouraging Work Sharing to Reduce Unemployment.”
• Involve a variety of agencies and stakeholders, for example: the governor’s office, legislative offices, and chambers of commerce. Employers’ first point of contact in a layoff may not be the agency that houses the STC program.
• Have a dedicated person who can efficiently answer employers’ questions about the program at the state UI office.
• Have good presentation materials that are shared with stakeholders for consistency.
• Proactively contact employers engaged in layoffs to share benefits of STC program.
• Automate the application and claims process for employers to make it a more attractive option.

Additional Research and Resources

• NGA TA Memo on Unemployment Insurance During COVID-19
• U.S. DOL Directive “UI Program Letter No. 22-12, Change 2”
• U.S. DOL Report “Employer Views about the Short-Time Compensation Program: A Survey and Analysis in Four States.”
• U.S. DOL Report “Demonstration and Evaluation of the Short-Time Compensation Program in Iowa and Oregon.”
• Inside Compensation Article “The CARES Act and Short-Time Compensation Programs.”

For questions or concerns related to the content of this memo, please contact:
• Kimberly Hauge (khauge@nga.org; 202.624.5252)
• Loren Shimanek (lshimanek@nga.org; 202.624.5306)
• Rachael Stephens (rstephens@nga.org; 202.624.3545)