

**Statutory Language of Title II, Subtitle A, Sections 2108-2111 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act**

**Coronavirus Aid, Relief, and Economic Security Act (CARES Act)**

**TITLE II--ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES**

**Subtitle A--Unemployment Insurance Provisions**

**SEC. 2108. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION PAYMENTS IN STATES WITH PROGRAMS IN LAW.**

(a) Payments to States.--

(1) In general.--Subject to paragraph (3), there shall be paid to a State an amount equal to 100 percent of the amount of short-time compensation paid under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986) under the provisions of the State law.

(2) Terms of payments.--Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) Limitations on payments.--

(A) General payment limitations.--No payments shall be made to a State under this section for short-time compensation paid to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) Employer limitations.--No payments shall be made to a State under this section for benefits paid to an individual by the State under a short-time compensation program if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(b) Applicability.--Payments to a State under subsection (a) shall be available for weeks of unemployment--

(1) beginning on or after the date of the enactment of this Act; and

(2) ending on or before December 31, 2020.

(c) New Programs.--Subject to subsection (b)(2), if at any point after the date of the enactment of this Act the State enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, the State shall be eligible for payments under this section after the effective date of such enactment.

(d) Funding and Certifications.--

(1) Funding.--There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(2) Certifications.--The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(e) Definitions.--In this section:

(1) Secretary.--The term "Secretary" means the Secretary of Labor.

(2) State; state agency; state law.--The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(f) Technical Correction to Definition.--Section 3306(v)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 3306) is amended by striking "Workforce Investment Act of 1998" and inserting "Workforce Innovation and Opportunity Act".

## **SEC. 2109. TEMPORARY FINANCING OF SHORT-TIME COMPENSATION AGREEMENTS.**

(a) Federal-State Agreements.--

(1) In general.--Any State which desires to do so may enter into, and participate in, an agreement under this section with the Secretary provided that such State's law does not provide for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986).

(2) Ability to terminate.--Any State which is a party to an agreement under this section may, upon providing 30 days' written notice to the Secretary, terminate such agreement.

(b) Provisions of Federal-State Agreement.--

(1) In general.--Any agreement under this section shall provide that the State agency of the State will make payments of short-time compensation under a plan approved by the State. Such plan shall provide that payments are made in accordance with the requirements under section 3306(v) of the Internal Revenue Code of 1986.

(2) Limitations on plans.--

(A) General payment limitations.--A short-time compensation plan approved by a State shall not permit the payment of short-time compensation to an individual by the State during a benefit year in excess of 26 times the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for a week of total unemployment.

(B) Employer limitations.--A short-time compensation plan approved by a State shall not provide payments to an individual if such individual is employed by the participating employer on a seasonal, temporary, or intermittent basis.

(3) Employer payment of costs.--Any short-time compensation plan entered into by an employer must provide that the employer will pay the State an amount equal to one-half of the amount of short-time compensation paid under such plan. Such amount shall be deposited in the State's unemployment fund and shall not be used for purposes of calculating an employer's contribution rate under section 3303(a)(1) of the Internal Revenue Code of 1986.

(c) Payments to States.--

(1) In general.--There shall be paid to each State with an agreement under this section an amount equal to--

(A) one-half of the amount of short-time compensation paid to individuals by the State pursuant to such agreement; and

(B) any additional administrative expenses incurred by the State by reason of such agreement (as determined by the Secretary).

(2) Terms of payments.--Payments made to a State under paragraph (1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(3) Funding.--There are appropriated, out of moneys in the Treasury not otherwise appropriated, such sums as may be necessary for purposes of carrying out this section.

(4) Certifications.--The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section.

(d) Applicability.--An agreement entered into under this section shall apply to weeks of unemployment--

(1) beginning on or after the date on which such agreement is entered into; and

(2) ending on or before December 31, 2020.

(e) Special Rule.--If a State has entered into an agreement under this section and subsequently enacts a State law providing for the payment of short-time compensation under a short-time compensation program that meets the definition of such a program under section 3306(v) of the Internal Revenue Code of 1986, the State--

(1) shall not be eligible for payments under this section for weeks of unemployment beginning after the effective date of such State law; and

(2) subject to section 2108(b)(2), shall be eligible to receive payments under section 2108 after the effective date of such State law.

(f) Definitions.--In this section:

(1) Secretary.--The term "Secretary" means the Secretary of Labor.

(2) State; state agency; state law.--The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

## **SEC. 2110. GRANTS FOR SHORT-TIME COMPENSATION PROGRAMS.**

(a) Grants.--

(1) For implementation or improved administration.--The Secretary shall award grants to States that enact short-time compensation programs (as defined in subsection (i)(2)) for the purpose of implementation or improved administration of such programs.

(2) For promotion and enrollment.--The Secretary shall award grants to States that are eligible and submit plans for a grant under paragraph (1) for such States to promote and enroll employers in short-time compensation programs (as so defined).

(3) Eligibility.--

(A) In general.--The Secretary shall determine eligibility criteria for the grants under paragraphs (1) and (2).

(B) Clarification.--A State administering a short-time compensation program that does not meet the definition of a short-time compensation program under section 3306(v) of the Internal Revenue Code of 1986, and a State with an agreement under section 2109, shall not be eligible to receive a grant under this section until such time as the State law of the State provides for payments under a short-time compensation program that meets such definition and such law.

(b) Amount of Grants.--

(1) In general.--The maximum amount available for making grants to a State under paragraphs (1) and (2) shall be equal to the amount obtained by multiplying \$100,000,000 (less the amount used by the Secretary under subsection (e)) by the same ratio as would apply under subsection (a)(2)(B) of section 903 of the Social Security Act (42 U.S.C. 1103) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1) of such section) that would have been subject to transfer to State accounts, as of October 1, 2019, under the provisions of subsection (a) of such section.

(2) Amount available for different grants.--Of the maximum incentive payment determined under paragraph (1) with respect to a State--

(A) one-third shall be available for a grant under subsection (a)(1); and

(B) two-thirds shall be available for a grant under subsection (a)(2).

(c) Grant Application and Disbursal.--

(1) Application.--Any State seeking a grant under paragraph (1) or (2) of subsection (a) shall submit an application to the Secretary at such time, in such manner, and complete with such information as the Secretary may require. In no case may the Secretary award a grant under this section with respect to an application that is submitted after December 31, 2023.

(2) Notice.--The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements for a grant under paragraph (1) or (2) (or both) of subsection (a).

(3) Certification.--If the Secretary finds that the State law provisions meet the requirements for a grant under subsection (a), the Secretary shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the grant payment to be transferred to the State account in the Unemployment Trust Fund (as established in section 904(a) of the Social Security Act (42 U.S.C. 1104(a))) pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer to the State account within 7 days after receiving such certification.

(4) Requirement.--No certification of compliance with the requirements for a grant under paragraph (1) or (2) of subsection

(a) may be made with respect to any State whose--

(A) State law is not otherwise eligible for certification under section 303 of the Social Security Act (42 U.S.C. 503) or approvable under section 3304 of the Internal Revenue Code of 1986; or

(B) short-time compensation program is subject to discontinuation or is not scheduled to take effect within 12 months of the certification.

(d) Use of Funds.--The amount of any grant awarded under this section shall be used for the implementation of short-time compensation programs and the overall administration of such programs and the promotion and enrollment efforts associated with such programs, such as through-

(1) the creation or support of rapid response teams to advise employers about alternatives to layoffs;

(2) the provision of education or assistance to employers to enable them to assess the feasibility of participating in short-time compensation programs; and

(3) the development or enhancement of systems to automate--

(A) the submission and approval of plans; and

(B) the filing and approval of new and ongoing short-time compensation claims.

(e) Administration.--The Secretary is authorized to use 0.25 percent of the funds available under subsection (g) to provide for outreach and to share best practices with respect to this section and short-time compensation programs.

(f) Recoupment.--The Secretary shall establish a process under which the Secretary shall recoup the amount of any grant awarded under paragraph (1) or (2) of subsection (a) if the Secretary determines that, during the 5-year period beginning on the first date that any such grant is awarded to the State, the State--

(1) terminated the State's short-time compensation program; or

(2) failed to meet appropriate requirements with respect to such program (as established by the Secretary).

(g) Funding.--There are appropriated, out of moneys in the Treasury not otherwise appropriated, to the Secretary, \$100,000,000 to carry out this section, to remain available without fiscal year limitation.

(h) Reporting.--The Secretary may establish reporting requirements for States receiving a grant under this section in order to provide oversight of grant funds.

(i) Definitions.--In this section:

(1) Secretary.--The term "Secretary" means the Secretary of Labor.

(2) Short-time compensation program.--The term "short-time compensation program" has the meaning given such term in section 3306(v) of the Internal Revenue Code of 1986.

(3) State; state agency; state law.--The terms "State", "State agency", and "State law" have the meanings given those terms in section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

## **SEC. 2111. ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.**

(a) In General.--In order to assist States in establishing, qualifying, and implementing short-time compensation programs (as defined in section 3306(v) of the Internal Revenue Code of 1986), the Secretary of Labor (in this section referred to as the "Secretary") shall--

(1) develop model legislative language, or disseminate existing model legislative language, which may be used by States in developing and enacting such programs, and periodically review and revise such model legislative language;

(2) provide technical assistance and guidance in developing, enacting, and implementing such programs; and

(3) establish reporting requirements for States, including reporting on--

(A) the number of estimated averted layoffs;

(B) the number of participating employers and workers; and

(C) such other items as the Secretary of Labor determines are appropriate.

(b) Model Language and Guidance.--The model language and guidance developed under subsection (a) shall allow sufficient flexibility by States and participating employers while ensuring accountability and program integrity.

(c) Consultation.--In developing the model legislative language and guidance under subsection (a), and in order to meet the requirements of subsection (b), the Secretary shall consult with employers, labor organizations, State workforce agencies, and other program experts. Existing model legislative language that has been developed through such a consultative process shall be deemed to meet the consultation requirement of this subsection.

(d) Repeal.--Section 4104 of the Emergency Unemployment Stabilization and Access Act of 2020 (contained in division D of the Families First Coronavirus Response Act) is repealed.