

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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SENATE BILL 536

Short Title: UI/Establish Short-Time Compensation in NC. (Public)

Sponsors: Senator Johnson (Primary Sponsor).

Referred to: Rules and Operations of the Senate

April 5, 2023

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE EMPLOYMENT SECURITY LAWS TO ESTABLISH A
3 SHORT-TIME COMPENSATION PROGRAM IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 96 of the General Statutes is amended by adding a new Article
6 to read:

"Article 6.

"Short-Time Compensation.

9 **"§ 96-45. Short-time compensation.**

10 (a) Definitions. – The following definitions apply in this section:

- 11 (1) Affected unit. – A specified plant, department, shift, or other definable unit of
12 two or more employees designated by the employer to participate in a
13 short-time compensation plan.
- 14 (2) Employer-sponsored training. – A training component sponsored by an
15 employer to improve the skills of the employer's workers.
- 16 (3) Normal weekly hours of work. – The number of hours in a week that an
17 individual would regularly work for the short-time compensation employer,
18 not to exceed 40 hours, excluding overtime.
- 19 (4) Short-time compensation benefits. – Benefits payable to individuals in an
20 affected unit under an approved short-time compensation plan.
- 21 (5) Short-time compensation employer. – An employer with a short-time
22 compensation plan in effect.
- 23 (6) Short-time compensation plan or plan. – An employer's written plan for
24 reducing unemployment under which an affected unit shares the work
25 remaining after its normal weekly hours of work are reduced.

26 (b) Approval of Plans. – An employer wishing to participate in the short-time
27 compensation program must submit a signed, written, short-time plan to the Division. The
28 Division shall approve the plan if all of the following criteria are met:

- 29 (1) The plan applies to and identifies each specific affected unit.
- 30 (2) The individuals in the affected unit are identified by name and social security
31 number.
- 32 (3) The normal weekly hours of work for individuals in the affected unit are
33 reduced by at least ten percent (10%) and by not more than forty percent
34 (40%).
- 35 (4) The plan includes a certified statement by the employer that the aggregate
36 reduction in work hours is in lieu of layoffs that would affect at least ten



1 percent (10%) of the employees in the affected unit and that would have
2 resulted in an equivalent reduction in work hours.

3 (5) The plan applies to at least ten percent (10%) of the employees in the affected
4 unit.

5 (6) The plan is approved in writing by the collective bargaining agent for each
6 collective bargaining agreement covering any individual in the affected unit.

7 (7) The plan does not serve as a subsidy to seasonal employers during the
8 off-season or as a subsidy to employers who traditionally use part-time
9 employees.

10 (8) The plan certifies that, if the employer provides fringe benefits to any
11 employee whose workweek is reduced under the program, the fringe benefits
12 will continue to be provided to the employee participating in the short-time
13 compensation program under the same terms and conditions as though the
14 workweek of such employee had not been reduced or to the same extent as
15 other employees not participating in the short-time compensation program. As
16 used in this subdivision, the term "fringe benefits" includes, but is not limited
17 to, health insurance, retirement benefits under defined benefit pension plans
18 as defined in the Employee Retirement Income Security Act of 1974, 29
19 U.S.C. § 1002(35), contributions under a defined contribution plan as defined
20 in section 414(i) of the Internal Revenue Code, paid vacation and holidays,
21 and sick leave.

22 (9) The plan describes the manner in which the requirements of this subsection
23 will be implemented, including a plan for giving notice, if feasible, to an
24 employee whose workweek is to be reduced, together with an estimate of the
25 number of layoffs that would have occurred absent the ability to participate in
26 short-time compensation.

27 (10) The terms of the employer's written plan and implementation are consistent
28 with employer obligations under applicable federal laws and laws of this State.

29 (11) The employer has filed all quarterly reports and other reports required under
30 this Chapter and has paid all obligation assessments, contributions,
31 reimbursements in lieu of contributions, interest, and penalties due through
32 the date of the employer's application.

33 The Division shall approve or disapprove a short-time compensation plan in writing within
34 15 days after its receipt. If the plan is denied, the Division shall notify the employer of the reasons
35 for disapproval. A plan takes effect on the date of its approval by the Division and expires at the
36 end of the twelfth full calendar month after its effective date.

37 (c) Revocation of Approval. – The Division shall periodically monitor the employer's
38 plan compliance and operations. Plan approval may be revoked based on good cause, including
39 the failure to comply with assurances provided in the plan such as that the aggregate reduction
40 in hours is in lieu of layoffs.

41 (d) Eligibility Requirements for Short-Time Compensation Benefits. – Except as
42 provided in this subsection, an individual is eligible to receive short-time compensation benefits
43 for any week only if the individual complies with this Chapter and the Division finds that (i) the
44 individual is employed as a member of an affected unit in an approved plan that was approved
45 before the week and is in effect for the week, (ii) the individual is able to work and is available
46 for additional hours of work or for full-time work with the short-time employer, and (iii) the
47 normal weekly hours of work of the individual are reduced by at least ten percent (10%) but not
48 by more than forty percent (40%), with a corresponding reduction in wages.

49 The Division may not deny short-time compensation benefits to an individual who is
50 otherwise eligible for these benefits for any week by reason of the application of any provision
51 of this Chapter relating to availability for work, active search for work, or refusal to apply for or

1 accept work from other than the short-time compensation employer of that individual. The
2 Division may not deny short-time compensation benefits to an individual who is otherwise
3 eligible for these benefits for any week because such individual is participating in an
4 employer-sponsored training or a training under the Workforce Innovation and Opportunity Act
5 to improve job skills when the training is approved by the department.

6 Notwithstanding any other provision of law, an individual is deemed unemployed in any
7 week for which compensation is payable to the individual, as an employee in an affected unit,
8 for less than the individual's normal weekly hours of work in accordance with an approved
9 short-time compensation plan in effect for the week.

10 (e) Weekly Benefit Amount. – The weekly short-time compensation benefit amount
11 payable to an individual is equal to the product of the individual's weekly benefit amount and the
12 ratio of the number of normal weekly hours of work for which the employer would not
13 compensate the individual to the individual's normal weekly hours of work. The benefit amount,
14 if not a multiple of one dollar (\$1.00), is rounded downward to the next lower multiple of one
15 dollar (\$1.00).

16 (f) Total Benefit Amount. – An individual may not be paid benefits under this section in
17 an amount that is more than the individual's maximum entitlement and an individual may not be
18 paid short-time compensation benefits in excess of that maximum.

19 (g) Effect of Benefit. – The short-time compensation benefits paid to an individual shall
20 be deducted from the total benefit amount established for that individual. An individual who
21 receives all of the short-time compensation or combined reemployment assistance or
22 unemployment compensation and short-time compensation available in a benefit year is
23 considered an exhaustee for purposes of the extended benefits program and, if otherwise eligible
24 under those provisions, is eligible to receive extended benefits. An otherwise eligible individual
25 may not be disqualified from benefits for leaving employment instead of accepting a reduction
26 in hours under an approved plan.

27 (h) Allocation of Charges. – Except when the result is inconsistent with the other
28 provisions of this Chapter, short-time compensation benefits shall be charged to the employment
29 record of employers.

30 (i) Seasonal, temporary, or intermittent employees are not eligible for participation in the
31 program. The following definitions apply in this subsection:

- 32 (1) Seasonal employment. – Employment with an employer who experiences at
33 least a twenty percent (20%) difference between its highest level of
34 employment during a particular season and its lowest level of employment
35 during the off-season in each of the previous three years as reported to the
36 State agency, and/or employees are hired to work on a temporary basis by
37 employers that need extra help during a particular season.
- 38 (2) Temporary employment. – Employment where an employee is expected to
39 remain in a position for only a limited period of time and/or is hired by a
40 temporary agency to fill a gap in an employer's workforce.
- 41 (3) Intermittent employment. – Employment that is not continuous but may
42 consist of periodic intervals of weekly work and intervals of no weekly work."

43 **SECTION 2.** This act is effective when it becomes law.