# 9 Steps to Revitalize America's Manufacturing Communities

## *Action 1: Avert Layoffs*

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### *Rationale*

Job insecurity is not only an enormous stressor on working people: it also undermines our economy's ability to maintain, or regain, its competitive leadership on the world stage. By investing in tools that help workers to keep their jobs, we invest in our nation's stability as a whole. One key tool available to us for this purpose is called layoff aversion.

Many shutdowns and mass layoffs can be averted with sufficient early warning, especially when coupled with a well-organized and expedient business turnaround or buyout effort. States and local workforce development boards should establish layoff aversion programs in good times as well as in hard times because small business owners, managers, and workers need dependable business and jobs retention policies, initiatives, and capacities, not intermittent actions by government. A sustained aversion initiative should include early identification of firms at risk of layoffs; a quick response to assess at-risk firms' needs and options; the delivery of investment and financial restructuring; economic development and adjustment; and employment and training services that address risk factors. Early warning is crucial not only to prevent dislocations, but also to help workers who need critical transition services.

### *Key Actions*

The Workforce Innovation and Opportunity Act (WIOA) requires states and local workforce boards to commit part of their rapid response program for economic dislocation to efforts that prevent layoffs.[1] However, the fine print of those requirements gave states wide latitude, and implementation has lagged. This trend must be reversed. States should establish the capacity to provide proactive business turnaround assistance in partnership with skilled organizations outside the workforce system. This should include assistance to businesses in economic distress and helping retiring owners convert to employee or alternative ownership, and should ensure that women and minority shareholders' interests are fully accounted for.

### *Issues to Remember*

- States and communities need to establish core turnaround services (e.g. financial restructuring and production process interventions, shared-work systems, market diversification, and buy-outs), which are integral to an effective layoff aversion system.

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- There are several bedrock policies that bolster layoff aversion. States can give workers and communities more notice by improving on the federal Worker Adjustment and Retraining Notification Act. For example, New York requires ninety days' notice (as opposed to sixty federally) and applies to layoffs of twenty-five workers or more (versus 50 federally).[2] Similarly, thirty states have established shared work/short time compensation programs, which allow firms to make workers part-time rather than laying them off and to use partial unemployment insurance payments to make up the difference.[3] Furthermore, courts have upheld the rights of municipalities to use their power of eminent domain to buy time to examine alternatives to the liquidation of prospectively viable manufacturing firms.[4]

- There are new, exciting developments in the broader arsenal of layoff aversion tools: ramping up sector partnerships and incumbent worker strategies; engaging with broader value chains; providing ownership transition guidance; and business sustainability strategies. However, these aversion services alone generally will not prevent the closure of distressed enterprises, and must complement bedrock policies like those described above.

## *Recent Progress*

A number of states have recently established layoff aversion programs, and local workforce areas have experimented with models as well.

- In the last two years, the North Carolina Department of Commerce has established the Business Edge (BE) program, bringing together local Workforce Investment Boards (WIBs), state agencies, and other partners to identify at-risk firms and utilize a variety of resources, including Certified Turnaround Professionals (CTPs), to prevent layoffs and closures.[5]

- California consolidated the federal WIOA Rapid Response into a single guidance, providing a policy framework for local WIBs to design and implement sub-state business engagement and layoff aversion.[6]

## *Model Program*

In Pennsylvania, the Steel Valley Authority (SVA) has implemented the Strategic Early Warning Network (SEWN), a successful layoff aversion initiative with five offices that integrates into the commonwealth's overall dislocated worker services system.[7] Since 1993, SEWN has engaged 1,100 at-risk small and medium enterprises and averted or deferred the loss of 26,000 manufacturing jobs.[8] SEWN, through a regional retention team and other partners, monitors industries and provides services to retain and assist at-risk manufacturing businesses. Here are three key facets of the initiative:

- *Timely identification of at-risk businesses:* SEWN utilizes numerous intelligence gathering tools, including early warning research sources (WARN notices, Dun and Bradstreet reports on company problems, newspaper notices, etc.). It has nurtured a diverse and extensive public referral network, and an informal network of banks, CPAs, and attorneys acts as both a conduit for early warning intelligence and as a leverageable resource to coordinate responses to both mass layoffs and distressed firms.

- *Initial viability assessments:* Within forty-eight hours of a request, SEWN staff cooperates with the requesting firm's management and its workforce to provide an evaluation and a situational analysis of the company. It also makes referrals to other public or private agencies where indicated and appropriate.

- *Delivery of key services:* SEWN provides five core services: financial restructuring; operational restructuring and cost management; market diversification; ownership transition (employee stock ownership plans, etc.); and high-performance workplace strategies.

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## Notes

1 "Workforce Innovation and Opportunity Act," final rule, U.S. Department of Labor, Federal Register, volume 81, number 161, August 19, 2016, 56071, https://www.federalregister.gov/d/2016-15975.

2 New York State Department of Labor, "Worker Adjustment and Retraining Notification," accessed February 13, 2019, https://labor.ny.gov/workforcenypartners/warn/warnportal.shtm.

3 George Wentworth, Clare McKenna, and Lynn Minick, "Lessons Learned: Maximizing the Potential of Work-Sharing in the United States," National Employment Law Project, October, 2014, https://nelp.org/wp-content/uploads/2015/03/Lessons-Learned-Maximizing-Potential-Work-Sharing-in-US.pdf.

4 Steel Valley Authority, Appellant, v. Union Switch and Signal Division, American Standard, Inc., Westinghouse Air Brake Division, et al, Appellees, 809 F.2d 1006 (3d Cir. 1987), https://law.justia.com/cases/federal/appellate-courts/F2/809/1006/385531/.

5 "Workforce Solutions Division," North Carolina Department of Commerce, https://www.nccommerce.com/about-us/divisions-programs/workforce-solutions-division.

6 "Rapid Response and Layoff Aversion Activities," California Employment and Development Department, Workforce Services, July 22, 2016, https://edd.ca.gov/Jobs_and_Training/pubs/wsd16-04.pdf.[/note]

7 New York State utilizes its ninety-day WARN Act, its business services and rapid response teams, and its Shared Work Program (SWP) to help protect workers during temporary business downturns.[note] "Worker Adjustment and Retraining Notification," New York State Department of Labor, https://www.labor.ny.gov/workforcenypartners/warn/warnportal.shtm; and "The Shared Work Program," New York State Department of Labor, https://www.labor.ny.gov/ui/employerinfo/shared-work-program.shtm.

8 See SEWN's website at https://www.steelvalley.org/sewn.