Compensated Work Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs

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Summary

Short-time compensation (STC) is a program within the federal-state unemployment compensation system. In the 20 states that operate STC programs, workers whose hours are reduced under a formal work sharing plan may be compensated with STC, which is a regular unemployment benefit that has been pro-rated for the partial work reduction.

Although the terms "work sharing" and "short-time compensation" are sometimes used interchangeably, the term "work sharing" refers to any arrangement under which workers' hours are reduced in lieu of a layoff. Under a work sharing arrangement, a firm faced with the need to downsize temporarily chooses to reduce work hours across the board for all workers instead of laying off a smaller number of workers. For example, an employer might reduce the work hours of the entire workforce by 20%, from five to four days a week, in lieu of laying off 20% of the workforce.

Employers have used STC combined with work sharing arrangements to reduce labor costs, sustain morale compared to layoffs, and retain highly skilled workers. Work sharing can also reduce employers' recruitment and training costs by eliminating the need to recruit new employees when business improves. On the employee's side, work sharing spreads more moderate earnings reductions across more employees—especially if work sharing is combined with STC—as opposed to imposing significant hardship on a few. Many states also require that employers who participate in STC programs continue to provide health insurance and retirement benefits to work sharing employees as if they were working a full schedule.

Work sharing and STC cannot, however, avert layoffs or plant closings if a company's financial situation is dire. In addition, some employers may choose not to adopt work sharing because laying off workers may be a less expensive alternative. This may be the case for firms whose production technologies make it expensive or impossible to shorten the work week. For other firms, it may be cheaper to lay off workers than to continue paying health and pension benefits on a full-time equivalent basis. Work sharing arrangements in general also redistribute the burden of unemployment from younger to older employees, and for this reason they may be opposed by workers with seniority who are less likely to be laid off.

From the perspective of state governments, concerns about the STC program have included the program's high administrative costs. Massachusetts has made significant strides in automating STC systems and reducing costs, but other states still manage much of the STC program on paper.

Currently, only 20 states operate STC programs to support work sharing arrangements. Three of the 20 STC states—Colorado, New Hampshire, and Oklahoma—enacted their STC programs in 2010. Through the end of 2008, the STC program rarely reached 1% of unemployment benefits paid annually across the United States. This ratio was 2% in 2009 and 1.2% in 2010. The reasons for low state and employer take-up of the STC program are not completely clear, but a key cause would appear to be ambiguity in the 1992 federal law that authorizes STC. Because of this ambiguity, the U.S. Department of Labor (DOL) has not provided guidance or technical assistance on STC to the states since 1992. A more active public policy would require either DOL reinterpretation of the 1992 law or congressional action to either clarify federal law or give the Secretary of Labor authority to determine needed additional provisions.

The President's budget for FY2012 would provide temporary federal financing of work sharing benefits and would encourage states to adopt and expand their use of the program, at an estimated cost of $641 million from 2012 to 2021.

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The recession that began in December 2007 has reopened discussions about short-time compensation (STC) and work sharing. In his inaugural address, President Barack Obama said, "It is the kindness to take in a stranger when the levees break, the selflessness of workers who would rather cut their hours than see a friend lose their job, which sees us through our darkest hours."[1]

STC, sometimes called work sharing, is a program within the federal-state unemployment compensation system that provides pro-rated unemployment benefits to workers whose hours have been reduced in lieu of a layoff. STC may be helpful to a firm and its workers during an economic downturn or other periods when employers determine that a temporary reduction in work hours is necessary.

Arrangements that combine work sharing with STC have never reached many workers. As will be discussed below, only one-third of states have enacted STC legislation and, within these states, few firms and workers have participated. The reasons for this seem to be a combination of difficulty the U.S. Department of Labor (DOL) has had in implementing the authorizing legislation, lack of awareness on the part of employers, unsuitability of work sharing arrangements for some firms or workers, and concerns in some states about the administrative costs of the program.

What Are Short-Time Compensation and Work Sharing?

In a typical example of work sharing, a firm that must temporarily reduce its 100-person workforce by 20% would accomplish this by reducing the work hours of the entire workforce by 20%—from five to four days a week—in lieu of laying off 20 workers. Workers whose hours are reduced are sometimes compensated with STC, which is regular unemployment benefits that have been pro-rated for the partial work reduction.[2]

Working reduced hours because of economic conditions is currently quite common. In December 2010, an estimated 6 million workers were employed part-time because of slack work or business conditions.[3]

The terms "short-time compensation" and "work sharing" are used interchangeably in the promotional materials that many states have developed. The term "work sharing," however, refers more broadly to any arrangement under which a firm chooses to reduce work hours across the board for many or all workers instead of permanently laying off a smaller number of workers.[4]

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[1] President Barack Obama, Inaugural Address, January 21, 2009, available at http://www.whitehouse.gov/the_press_office/President_Barack_Obamas_Inaugural_Address.

[2] For more on the federal-state unemployment compensation system, see CRS Report RL33362, *Unemployment Insurance: Available Unemployment Benefits and Legislative Activity*, by Katelin P. Isaacs and Julie M. Whittaker.

[3] U.S. Bureau of Labor Statistics, *Employment Situation News Release*, *January 2011*, Table A-8, "Employed Persons by Class of Worker and Part-time Status," at http://www.bls.gov/news.release/empsit.t08.htm.

[4] Work sharing should be distinguished from "job sharing," which usually involves splitting a single position among two or more part-time workers.

Work sharing has a decades-long history in the United States. For example, in the early 1930s, President Hoover encouraged employers to reduce employees' hours instead of laying them off. In 1932, the President's Organization on Unemployment Relief issued a report that concluded, "Reduction in the working time is the principal method of spreading employment" through such means as reduced days per week, reduced hours per day, or rotating time off.[5]

The basic outlines of STC programs are similar among the 20 states that have implemented STC. To ensure that employees in a work sharing arrangement receive STC, an employer develops a formal work sharing plan and submits it for approval to the relevant state agency. The employer certifies to the state agency that the reduction in work hours is in lieu of temporary layoffs. If the workforce is covered by a collective bargaining agreement then states generally require that the relevant union(s) consent to the employer's plan. In a typical program, workers will retain their employer-provided health and retirement benefits as if they continued to work a full week.

Many of these programmatic elements are not required by the 1992 law that permanently authorized the STC program, as discussed below. Instead, states retain these features from a temporary STC program that Congress authorized from 1982 to 1985. USDOL oversees the STC program as part of the larger federal-state unemployment program.

In the example above, workers' STC benefits would be 20% of the unemployment benefit they would have been entitled to had they been laid off. As unemployment benefits generally replace about half of a worker's wages (with variation among states),[6] STC benefits for a worker who has experienced a 20% reduction in hours would amount to about 10% of the worker's wages before the reduction in hours. Employees would therefore receive a combined income of about 90% of their full-time wages as compensation for four days of work: 80% as wages plus 10% as STC.

All states require eligible STC beneficiaries to have had their workweeks reduced by 10% or more. Eligible employees are not required to meet the "able and available for work" requirement of regular unemployment compensation, but they must be available for their normal workweek. Finally, eligible employees may participate in an employer-sponsored training program.

Currently, only 20 states operate STC programs. These states are Arizona, Arkansas, California, Colorado, Connecticut, Florida, Iowa, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New York, Oklahoma, Oregon, Rhode Island, Texas, Vermont, and Washington. The STC programs in Colorado, New Hampshire, and Oklahoma were enacted in 2010. A description of STC programs in the 20 states that currently operate them can be found in the **Appendix**.[7]

STC benefits are financed the same way that regular unemployment benefits are financed (i.e., through state unemployment taxes on employers). An employer's unemployment tax rate is determined from a schedule of possible rates depending on the firm's experience with

[5] William J. Barrett, *Spreading Work: Methods and Plans in Use,* The President's Organization on Unemployment Relief, Washington, DC, April 1932.

[6] U.S. Department of Labor, *Unemployment Insurance Chartbook*, Replacement Rates, U.S. Average, http://www.doleta.gov/unemploy/chartbook.cfm.

[7] North Dakota enacted a one-year STC demonstration project in 2006 but did not implement it and the program expired. Illinois enacted STC in 1983, but the law expired in 1988. Louisiana enacted the program in 1986, but no longer implements it because Louisiana's requirements for weekly reporting on hours worked and vacation time were found to be administratively expensive.

unemployment, including STC. This is known as "experience rating." Seven states impose supplemental tax provisions on STC employers to ensure that employers who already pay the maximum state unemployment tax rate also pay their share of the cost of STC benefits. By taxing STC employers based on their experience with STC in addition to regular unemployment, states ensure that the cost of STC is not passed on to non-STC firms.

Short-Time Compensation Versus Partial Unemployment Benefits

The federal-state unemployment system also permits payment of "partial unemployment benefits" to a worker whose hours have been reduced significantly or to an unemployed worker who has accepted a part-time job while searching for a permanent, full-time job. To qualify for partial unemployment benefits, however, a worker must generally experience a significant reduction in work hours and pay.

States provide partial unemployment benefits to part-time workers who are earning less than their weekly benefit amount (which is based on previous earnings). States reduce a worker's unemployment benefit by the amount of earnings from work, usually less a small disregard such as $25 or $100 of earnings per week, with the result that a person receives no benefit if he or she has part-time earnings greater than the benefit amount. Unemployment benefits generally replace about 50% of wages, up to a cap. As a result, in order to qualify for partial unemployment benefits a worker generally must have experienced a reduction of 50% or more in his or her normal hours. For higher-income employees this may translate into even deeper cuts in work hours.

Partial unemployment benefits may help employees whose hours are reduced by 50% or more, but they offer little incentive for employees to accept voluntarily a smaller reduction in work hours. By comparison, most state STC programs cap work hour reductions under a qualified work sharing plan at 40% or 50%. STC benefits are available to employees whose work hours have been cut by as little as 10% and are not reduced to offset work earnings.

Program Reach and Beneficiaries

Two-thirds of states (33 of the 53 states and territories that operate UC programs) do *not* have STC programs, and employers in many states that do have the program make limited use of it. From 1982 through 2008, the ratio of STC beneficiaries to regular unemployment compensation beneficiaries among all states attained 1% only twice, in 1992 and in 2001. In 2009, however, the ratio of STC beneficiaries to regular unemployment compensation beneficiaries rose to 2%, and this ratio was 1.2% for 2010, as shown in **Table 1**.

Use of STC is highly countercyclical to business conditions: this is because employers are more likely to be interested in work sharing when they need to manage labor costs in the face of relatively low demand for their products. The local peaks in 1992, 2001, and 2009-2010 correspond with the recessions of July 1990 to March 1991, March 2001 to November 2001, and again with the recession that ran from December 2007 to June 2009. Almost 98,000 workers received STC in 1992, about 111,000 received STC in 2001, about 289,000 workers received STC in 2009, and about 128,000 workers received STC benefits in 2010. The number of STC beneficiaries often rises near or following the end of a recession, as employers regain confidence in the economy.

Table 1. Short-Time Compensation (STC) and Regular Unemployment Insurance (UI) Beneficiaries, 1982 to 2010

Year	STC Beneficiaries	Regular UI Beneficiaries	STC Beneficiaries as a Percentage of Regular UI beneficiaries
1982	2,649	11,648,448	0.02%
1983	1,593	8,907,190	0.02%
1984	3,189	7,742,547	0.04%
1985	4,387	8,363,380	0.05%
1986	12,956	8,360,752	0.15%
1987	23,019	7,203,357	0.32%
1988	25,588	6,860,662	0.37%
1989	32,474	7,368,766	0.44%
1990	44,922	8,628,557	0.52%
1991	94,813	10,074,550	0.94%
1992	97,619	9,243,338	1.06%
1993	65,557	7,884,326	0.83%
1994	53,410	7,959,281	0.67%
1995	45,942	8,035,229	0.57%
1996	41,567	7,995,135	0.52%
1997	32,494	7,325,093	0.44%
1998	47,728	7,341,903	0.65%
1999	36,666	6,967,840	0.53%
2000	32,916	7,035,783	0.47%
2001	111,202	9,868,193	1.13%
2002	93,795	10,092,569	0.93%
2003	83,783	9,935,108	0.84%
2004	42,145	8,368,623	0.50%
2005	40,238	7,917,301	0.51%
2006	39,854	7,350,734	0.54%
2007	48,924	7,652,634	0.64%
2008	96,388	10,059,554	0.96%
2009	288,618	14,172,822	2.04%
2010	128,476	10,738,550	1.20%

Source: Unemployment Insurance Database, U.S. Department of Labor, Employment and Training Administration, ETA report no. 5–159.

Table 2 shows first payments of STC benefits during selected years from 1997 to 2010 in states with STC programs (certain non-recession years have been deleted) for which data is available. STC usage varies significantly among the states with STC programs. In 2010, for example, the ratio of STC beneficiaries to beneficiaries of regular unemployment compensation ranged from negligible usage in several states to 7.1% in Rhode Island.

Table 2. State Legislation and Short-Time Compensation (STC) First Payments as Percentage of Regular Unemployment Compensation First Payments

State	Year STC Program Enacted	1997	2001	2007	2008	2009	2010
Arizona	1982	1.7%	4.9%	1.9%	1.7%	3.6%	1.9%
Arkansas	1985	a	a	0.2%	1.3%	1.0%	0.9%
California	1978	1.6%	3.2%	1.8%	2.2%	5.2%	3.6%
Colorado	2010	b	b	b	b	b	c
Connecticut	1991	c	d	d	d	d	c
Florida	1983	0.5%	1.0%	0.1%	0.3%	0.8%	0.5%
Iowa	1991	a	c	a	a	3.0%	2.0%
Kansas	1988	3.8%	6.0%	3.2%	a	a	8.8%
Maryland	1984	c	c	c	c	c	0.8%
Massachusetts	1988	0.2%	1.1%	0.9%	1.1%	5.6%	2.0%
Minnesota	1994	0.1%	2.1%	1.5%	2.2%	5.6%	1.7%
Missouri	1987	2.5%	6.1%	4.9%	6.2%	8.5%	5.1%
New Hampshire	2010	b	b	b	b	b	0.1%
New York	1985	0.8%	3.6%	1.3%	1.3%	5.0%	2.6%
Oklahoma	2010	b	b	b	b	b	c
Oregon	1982	0.1%	1.5%	0.9%	1.6%	5.5%	2.9%
Rhode Island	1991	1.0%	6.2%	4.5%	8.1%	15.9%	7.1%
Texas	1985	0.2%	1.1%	1.7%	2.2%	2.8%	1.9%
Vermont	1985	0.9%	5.5%	2.9%	5.0%	6.9%	2.6%
Washington	1983	1.0%	2.0%	1.0%	2.8%	5.6%	5.5%

Source: Unemployment Insurance Database, U.S Department of Labor, Employment and Training Administration. Data for 2009 and 2010 are from ETA report no. 5-159. Data for prior years were provided by DOL staff.

a. State continues to have an STC program but has stopped reporting on it or did not report on it in this year.

b. State did not have an STC program in this year.

c. Less than 0.1%.

d. State reports on other STC activity, but generally does not report STC first payments.

During 2008 through 2010, Rhode Island used STC to a greater extent than other states. Rhode Island's STC beneficiaries during 2009 represented almost 16% of all the state's beneficiaries of unemployment benefits. This is largely due to the fact that Rhode Island promoted STC much more aggressively than other states, by suggesting STC to companies that are engaged in layoffs and by publicizing STC in newspapers.[8] A broad range of firms are using STC in Rhode Island in 2009. These firms include banks, mortgage brokers, car dealerships, manufacturing companies, law firms, and doctors' offices.[9]

A 2002 study (hereinafter, MaCurdy et al.) in California, the largest (numerically) user of STC, found that manufacturing firms were more likely than other firms to use STC. Manufacturing firms accounted for only 11% of firms generating unemployment benefits of all kinds but they accounted for 62% of STC firms. Wholesale trade was the other sector more likely than average to use STC. Firms that used STC were generally older and larger than non-STC users. The average employment in STC firms was 239, compared to average employment of only 40 workers in firms that generated UI charges through layoffs in 2002. Older and larger firms were also more likely to have human resources departments to assist with implementing STC.[10] In Connecticut in 2009, manufacturing firms were more likely than other firms to use STC.[11]

An interesting finding in the California study is that STC firms often have jobs that require lengthy apprenticeships or on-the-job training programs in which workers learn skills not taught in school. Within the manufacturing sector, the industries that used STC the most were manufacturers of electronics, industrial machinery, fabricated metals, instruments, furniture, primary metals, leather, rubber and plastics, and paper products. Within the construction sector, STC firms were more likely than other construction firms to be "specialty trades contractors" such as plumbers and electricians.

Benefits and Concerns

A firm's decision to seek STC as part of a work sharing arrangement hinges on a number of factors, not just the benefits and concerns about STC but also whether work sharing itself is appropriate for a firm and its employees. The low usage rate of STC, even in states that offer the program, may be due in part to the fact that work sharing itself is not appropriate for all firms or all employees.

State Governments and State Unemployment Trust Funds

Work sharing programs in combination with STC can provide macroeconomic benefits to a state by preserving jobs during cyclical downturns, maintaining consumption through continued wages and STC, and ensuring the continuation of employer-sponsored health insurance and pensions

[8] Telephone conversations with Steve Wandner, U.S. Department of Labor, June 28, 2009, and Ray Filippone, Rhode Island Department of Labor and Training, June 30, 2009.

[9] Benjamin N. Gedan, "WorkShare Helping Workers and Employers," *The Providence Journal*, May 22, 2009.

[10] Thomas MaCurdy, James Pearce, and Richard Kihlthau, "An Alternative to Layoffs: Work Sharing Unemployment Insurance," *California Policy Review*, August 2004.

[11] George M. Wentworth, "The Connecticut Shared Work Program and the Future of Short-time Compensation," presentation to the U.S. Department of Labor's conference on "Recovery and Reemployment Research," Washington, DC, September 16, 2009.

thereby reducing reliance on state-provided services and supports. As is well known, widespread unemployment leads to lower consumer spending and sales tax revenues. In addition, state employment services realize savings through work sharing because they are not called on to provide job search and other assistance. In 2002, the National Governors' Association promoted STC as one of a number of "best practices" for assisting workers in an economic downturn.[12]

The administrative costs of STC programs have been a concern for state labor agencies. In many states, STC is still paper-based and states approve employers' work sharing plans on a case-by-case basis. In addition, STC may increase processing costs for the state agency relative to layoffs because, for a given firm, work sharing affects a larger number of workers than if the firm were to lay off workers.[13] Some suggest that states would experience at least partially offsetting savings as a result of not having to administer certain components of the regular unemployment system, such as the requirements that a worker be actively seeking work and that he or she not refuse suitable work. No studies have attempted to quantify STC's net administrative cost to states, however.

Some states have responded to high administrative costs by reducing the layers of approval for plan submissions, by automating the claims process and by switching from employee-filed claims to employer-filed claims. States that have developed strategies to automate STC filing, approval, and ongoing claims have been able to reduce administrative costs, according to a study by Berkeley Planning Associates and Mathematica Policy Research, Inc. (hereinafter, Berkeley Planning Associates and Mathematica).[14] Massachusetts has gone the furthest by fully automating its STC program in 2001 and 2002. The system is Internet-based, and employers use it to submit their work sharing plans and their weekly STC transactions. Massachusetts has offered to make its software available at no cost to other states.

The impact of STC benefits on the solvency of state unemployment programs, as reflected in the balance of state unemployment trust funds,[15] is probably small. The immediate impact is negative as STC benefit payments increase with the onset of a recession. Increased state unemployment tax receipts respond with a lag. STC benefits are experience-rated[16] in approximately the same

[12] Neil Ridley, *Assisting Laid-off Workers in a Changing Economy*, National Governors Association, Center for Best Practices, February 26, 2002.

[13] STC is provided to a relatively larger number of work sharing employees, and 100% of these would be expected to qualify for STC. By contrast, laying off a smaller number of employees results in fewer initial claims for regular unemployment benefits and ultimately in even fewer beneficiaries, because some of those laid off are likely to fail eligibility tests. For example, newer workers, who are more vulnerable in layoffs, are more likely to fail requirements for regular unemployment benefits that are related to wages earned in the base period. A worker's "base period" is the time period over which his wages earned and hours/weeks worked are examined to determine his monthly unemployment insurance benefit. In many states, the base period is the first four of the last five completed calendar quarters preceding the filing of the claim.

[14] Berkeley Planning Associates and Mathematica Policy Research, Inc., *Evaluation of Short-Time Compensation Programs: Final Report*, U.S. Department of Labor, Employment and Training Administration, Washington, DC, March 1997.

[15] For more information on how states' unemployment trust funds are used to fund unemployment benefits, see CRS Report RS22077, *Unemployment Compensation (UC) and the Unemployment Trust Fund (UTF): Funding UC Benefits*, by Julie M. Whittaker.

[16] All states use a system called "experience rating" to relate an employer's state unemployment tax rate to its experience with the payment of unemployment benefits to former workers. For more information, see CRS Report RL33362, *Unemployment Insurance: Available Unemployment Benefits and Legislative Activity*, by Katelin P. Isaacs and Julie M. Whittaker.

manner as regular unemployment benefits. As a result, the study by Berkeley Planning Associates and Mathematica concluded that the long-run effect on a state's trust fund, relative to layoffs, is probably minimal, although the impact could potentially be more serious if STC participation rates were very high and tax schedules were constrained.

When STC was first implemented in the late 1970s and 1980s, proponents argued that it would promote work sharing and thereby help protect the gains made by affirmative action. Because women and minorities were newer to the workforce, they were more vulnerable to layoffs than workers with seniority. However, the 1997 study by Berkeley Planning Associates and Mathematica found no evidence that STC disproportionately benefits ethnic or racial minorities, or women, although it is still possible that the program could help entry-level and newer workers in general.

Employers

For employers, the decision between layoffs and an arrangement combining work sharing with STC may rest on both financial and non-quantifiable factors such as employee morale. Some firms may find that the combination of work sharing and STC helps reduce total costs during a downturn; however, other firms may find that layoffs are more cost-effective.

Immediate cost savings to employers under a work sharing/STC arrangement come largely from reduced expenditures on wages and salaries. If a work sharing arrangement that involves all employees is the alternative to laying off low-seniority (and generally lower paid) employees, then STC would presumably save the employer more in wages.

Work sharing and STC arrangements can also reduce recruitment and training costs for employers. When business improves, employers can increase the hours of existing employees rather than recruit and train new ones.

Some employers find work sharing and STC programs attractive because they prevent the firm from losing skilled employees during an economic downturn and reduce the risk that skilled employees may leave for other companies. According to the MaCurdy et al. study of STC in California, employees of STC firms tended to be older and better paid than workers collecting regular unemployment benefits, suggesting that employers were using STC to retain highly skilled workers. Some employers use work sharing and STC to protect specific groups of highly skilled workers within a larger organization that is undergoing layoffs. For example, New York state's STC program allows employers to apply different percentage reductions to hours and wages in different departments, and STC may be implemented at the level of one or more departments, shifts, or units. Berkeley Planning Associates and Mathematica, as part of their 1997 study of STC, surveyed 500 employers who used work sharing in combination with STC and found that the ability to retain valued employees was a major attraction.

Most employers who used the STC program reported that they were satisfied and would use it again, according to the same 1997 survey. In fact, many firms used STC repeatedly, with some firms using it in every quarter over a three-year period.

Work sharing and STC arrangements may help sustain employee morale and productivity compared to layoffs. Even employees who survive a layoff may be vulnerable to "survivor's guilt" and emotional contagion (picking up on the despair of laid-off employees) that can reduce productivity.[17]

The most frequent complaint found in the survey conducted by Berkeley Planning Associates and Mathematica was that firms' state unemployment taxes increased following use of the STC program. In the survey, firms using STC experienced higher unemployment insurance (UI) charges compared to firms that had not used STC. The STC firms, however, also continued to lay off workers. One interpretation offered by the survey's authors is that STC firms were experiencing greater economic distress than similar non-participating firms.

In states where STC is charged to the firm according to the experience rating rules of the regular unemployment program, the firm incurs no more in UI tax costs by using STC than it would through layoffs. For example, MaCurdy et al. wrote about California's STC system that "it does not matter for UI tax calculations whether a firm generates $1,000 in UI benefits through work sharing or layoffs." Seven states also impose additional tax provisions on work sharing employers, in order to ensure that employers who already pay the maximum state unemployment tax rate share in the burden. According to the Berkeley Planning Associates and Mathematica study of STC, states appear to experience-rate STC claims at least as well as regular unemployment compensation claims.

Certain nonprofit organizations, state and local governments, and federally recognized Indian tribes are permitted to reimburse their state unemployment funds for unemployment benefit payments attributable to service in their employ, instead of contributing taxes to the state's trust fund. Most state laws provide that reimbursing employers will be billed at the end of each calendar quarter, or another period, for benefits paid during that period. For these "reimbursing" employers, STC is not a cost-effective option.

There likely are several reasons why most reductions in hours take the form of layoffs rather than shorter work schedules. Employers' lack of awareness of STC has been cited as one reason for low employer participation. In addition, production technologies may make it expensive or impossible to shorten the work week. This is the case in some manufacturing industries, for example, where the costs of shutting down and starting up equipment are high.[18] Moreover, a work sharing arrangement may not reduce total costs to employers in exact proportion to the reduction in work hours. Some non-wage employment costs—referred to as "quasi-fixed" costs—are largely independent of the number of hours worked. Health and pension benefits are among those that fall into this category.[19] Because most state STC programs require employers to maintain health insurance and pension benefits during the period of the work sharing arrangement as though employees still worked full time, STC firms continue to bear the full (rather than the pro-rated) costs of the two benefits.

[17] Barbara Kiviat, "After Layoffs, There's Survivor's Guilt," *Time*, February 1, 2009.

[18] For a more complete analysis, see David M. Lilien and Robert E. Hall, "Cyclical Fluctuations in the Labor Market," in *Handbook of Labor Economics*, ed. O. Ashenfelter and R. Layard, vol. 2 (Elsevier Science Publishers, 1986), pp. 1001-1035.

[19] For more information on and examples of quasi-fixed labor costs, see CRS Report 97-884, *Longer Overtime Hours: The Effect of the Rise in Benefit Costs*, by Linda Levine.

Employees

Work sharing helps workers who would have faced layoffs avoid significant hardship, while spreading more moderate earnings reductions across more working individuals and families. When work sharing is combined with STC, the income loss to work sharing employees is reduced. Many state STC programs also require that employers continue to provide health insurance and retirement benefits to work sharing employees as if they were working a full schedule.

Some employees are simply happy to have any job in a tough labor market. One worker who received STC in 2009 in conjunction with a work sharing arrangement told a Rhode Island newspaper, "Versus being totally unemployed, it's a big plus. There aren't any jobs out there."[20]

Analysts have suggested that work sharing could shift the impact of an economic downturn from younger workers to older workers because it spreads the pain of a workforce reduction among workers of all ages. Younger employees, who are often the first to be fired in a downturn, presumably have the most to gain by work sharing combined with STC. More experienced and more highly paid workers would presumably have the most to lose, particularly in firms where jobs are protected by seniority. Consequently, employees with seniority may oppose a program that shares reductions across the labor force.[21]

Some research suggests that reduced work hours may have different implications for professional employees compared to hourly workers. Professional employees sometimes welcome a better work-life balance, while in some cases hourly workers rely not just on a full work schedule but also on overtime in order to make ends meet.[22]

When STC was introduced in the 1970s and 1980s, labor groups warned that safeguards were necessary to avoid reducing workers' health insurance and pensions. One concern had been that reduced work hours and pay could result in smaller contributions to pension plans. Traditional defined benefit pension plans generally calculate benefits based in part on a worker's high three or high five earnings years, so that workers close to retirement could be directly affected by a reduction in work hours and pay. As will be discussed below, Congress included protections for health and pension benefits when it authorized a temporary STC program from 1982 to 1985. These concerns seem to have died down during the 1980s,[23] however, and Congress did not include health or pension safeguards when it passed a permanent law authorizing STC in 1992.

An argument can be made that, in declining industries, work sharing and STC arrangements may cause some workers to delay serious job searches or retraining efforts. The relative advantages and disadvantages for an individual will depend in part on his or her particular skill set. STC cannot forestall what may be an inevitable layoff, however.

[20] Benjamin N. Gedan, "WorkShare Helping Workers and Employers," *The Providence Journal*, May 22, 2009.

[21] Workers in a few industries that pay "supplemental" unemployment benefits may also oppose work sharing arrangements. These supplemental benefits, when combined with reduced earnings, may provide a greater total benefit to somebody who is completely unemployed than a work sharing arrangement that combines reduced pay with STC.

[22] Brenda A. Lautsch and Maureen A. Scully, "Restructuring Time: Implications of Work-hours Reductions for the Working Class," Human Relations, May 2007; volume 60, number 5.

[23] Telephone conversation with Steve Wandner, U.S. Department of Labor, June 22, 2009.

Legislative History and Current Issues

It is sometimes said that states are laboratories for policy, and the history of STC appears to bear this out. Following the recession of 1973-1975, state governments, businesses, and labor groups began to promote work sharing arrangements that included government-provided income support.

New York was the first state to consider STC legislation, in 1975, as part of a broader employment policy bill. The legislation died in committee.

In 1978, California became the first state to enact an STC law. California's action was in response to anticipated large-scale public sector layoffs arising from Proposition 13 tax reductions that limited state spending. Although the public sector layoffs never occurred, the private sector used the program. California was followed by Arizona in 1981. Oregon enacted STC legislation in 1982, with strong support from the Motorola Corporation. During this period of state innovation, DOL did not challenge states' STC programs, although federal unemployment compensation law did not explicitly allow states to use their unemployment trust funds to pay STC.

The federal government introduced a temporary, national STC program in 1982 with the Tax Equity and Fiscal Responsibility Act (TEFRA, P.L. 97-248). Motorola and the Committee for Economic Development[24] both lobbied in Washington for the legislation. The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), after some initial opposition, came to support STC provided that safeguards were incorporated to protect pension and health insurance benefits and to secure union certification for employers' work sharing plans.

TEFRA, which expired in 1985 after three years, authorized states to use monies in their state accounts in the Unemployment Trust Fund to pay STC benefits to eligible employees whose work hours had been reduced by at least 10% under a qualified employer work sharing plan.[25] The law required the employer to draw up a formal work sharing plan and to seek the relevant state agency's approval of the plan as well as certification by the relevant union(s) if applicable. TEFRA also provided that employees who received STC benefits would not be required to meet a state's work search and refusal of suitable work requirements for unemployment benefits. Employees would, however, be required to be available to work a normal work week. TEFRA required employers to continue to provide health and pension benefits to employees whose workweek was reduced as if the employees worked their normal hours. The act required that employers who used STC be charged in the same manner as other UI taxes, in order to ensure that STC costs were paid by participating employers instead of being passed on to other employers. TEFRA directed the Secretary of Labor to develop model STC legislation for use by the states and also to provide technical assistance to states. Finally, P.L. 97-248 directed the Secretary of Labor to submit a final report evaluating the program and making recommendations.

DOL published model state legislative language and guidelines in July 1983. During TEFRA's three-year experimental period, eight additional states enacted STC programs.

[24] The Committee for Economic Development is a non-profit, business-led organization that has addressed economic and social issues since 1942.

[25] States pay unemployment benefits from state accounts in the Unemployment Trust Funds. These funds cannot be used by a state for any purpose other than the payment of unemployment benefits, with certain exceptions including short-time compensation.

Following the expiration of the three-year temporary program in 1985, the existing state programs continued. DOL stopped promoting STC when its mandate to act expired with the end of the temporary federal law. However, DOL did not curtail the program's operation in existing states, nor did it stop seven new states from adopting the program. DOL allowed states to use the expired 1983 federal guidance and continued to collect reporting data on STC programs in the states.

The recession of 1990-1991 renewed attention to STC, leading Congress to enact permanent STC legislation, the Unemployment Compensation Amendments of 1992 (UCA, P.L. 102-318). The 1992 law amended the Internal Revenue Code[26] to authorize states to pay STC benefits from their accounts in the Unemployment Trust Fund. UCA essentially consists of a five-point definition of STC as a program under which (1) individuals' workweeks have been reduced by at least 10%; (2) STC is paid as a pro rata portion of the full unemployment benefit that an individual would have received if totally unemployed; (3) STC beneficiaries are not required to meet availability for work and work search requirements, unlike beneficiaries of regular unemployment compensation, but they are required to be available for their normal work week; (4) STC beneficiaries may participate in employer-sponsored training programs; and (5) the reduction in work hours is in lieu of layoffs. UCA also directed the Secretary of Labor to assist states in establishing and implementing STC programs by developing model legislative language and providing technical assistance and guidance to the states. Finally, UCA directed DOL to report on implementation of the STC program.

UCA does not contain the employee and employer safeguards that had been present in TEFRA. In particular, UCA does not require employers to do the following: submit work sharing plans to the state for approval; certify to the relevant state agency that the reduction in work hours is in lieu of temporary layoffs; win consent from the relevant union(s); or contribute to health insurance or pension plans as if the employee continued to be fully employed. UCA also does not contain the TEFRA provision that STC be charged to employers "in a manner consistent with the State law" for the purposes of determining state unemployment taxes on employers (P.L. 97-248 §194(e)). Finally, UCA did not give the U.S. Secretary of Labor the ability to determine what program elements would be appropriate beyond the 1992 law's five definitional items. These provisions were removed by committee staff in order to give states more flexibility.[27]

Since 1992, DOL has sidestepped implementation of STC, neither developing new model state legislative language nor providing new guidance to the states. DOL did, however, support a study of the program (the 1997 study by Berkeley Planning Associates and Mathematica).

Shortly after enactment of the 1992 law, DOL and Clinton Administration officials claimed the permanent federal law was "unworkable," according to an article by David E. Balducchi and Steven Wandner (hereinafter, Balducchi and Wandner).[28] At the time, government officials argued that the 1992 law was restrictive in application and would have put many existing state STC programs out of compliance. For example, Clinton Administration and DOL officials were concerned that existing state provisions requiring employers to continue to provide health and

[26] 26 U.S.C. § 3304.

[27] Telephone conversation with Rich Hobbie, National Association of State Workforce Agencies, June 24, 2009.

[28] David E. Balducchi and Stephen A. Wandner, "Work Sharing Policy: Power Sharing and Stalemate in American Federalism," *Publius: The Journal of Federalism*, Winter 2008, p. 21.

pension benefits were out of compliance with UCA's definition of STC, and DOL would need to require states to roll back these provisions.[29]

As a result, DOL has remained silent about STC programs in the states, neither encouraging program participation nor issuing guidance. DOL has not, however, challenged state programs that retain provisions from the 1982 temporary law, and it continues to collect state STC program reports. Since 1992, four additional states (Colorado, New Hampshire, Minnesota and Oklahoma) have enacted STC legislation.

Since 1992, several attempts have been made in Congress to introduce legislation to address these concerns. In 1994, during the 103rd Congress, H.R. 4040 would have reintroduced much of the 1982 TEFRA language into permanent law, although it departed from TEFRA language in allowing state agencies to determine whether to require employers to submit formal work sharing plans or to continue to provide full health and retirement benefits. H.R. 4040 also would have given the U.S. Secretary of Labor broad authority to determine "such other requirements" as might be appropriate. Also in 1994, S. 1951 would have modified UCA's essentially definitional approach by expanding the definition of STC to include, at states' option, employer submission of a written plan and/or continued provision of full health and retirement benefits. S. 1951 also would have given broad authority to the U.S. Secretary of Labor to determine other program requirements. Since 1994, bills to modify the STC program have followed very closely the approach taken by S. 1951. These subsequent bills include H.R. 1789 in the 104th Congress (1995), H.R. 3697 in the 105th Congress (1998), H.R. 1830 in the 106th Congress (1999), H.R. 2962 in the 107th Congress (2001), H.R. 5418 in the 107th Congress (2002). In the 111th Congress (2009-2010), Members introduced H.R. 4135, H.R. 4179, H.R. 4183, S. 1646, and S. 2831. All bills that addressed STC have died without action.

An advocacy group proposed that the federal government establish a temporary, federally managed STC program.[30] Under the group's proposal the federal government would temporarily fund STC in states that operate STC programs. The federal government would also provide federal monies to help states administer the increased number of participating employers and beneficiaries. The advocacy group argues that a temporary federal STC program of this type might encourage expansion of state STC programs, and would also help relieve pressure on state unemployment trust funds during the current recession. Other potential enhancements to the program proposed by the group could include a requirement that STC employers provide adequate notice to employees about a planned reduction in hours, expansion of the STC program to part-time workers whose hours have been reduced in lieu of layoffs, and state provision of training to beneficiaries of STC.

The Center for Economic Policy and Research (CEPR) proposed a tax credit that is intended to compensate employers for shortening work hours while keeping compensation unchanged.[31] For employers considering the need to lay off workers, the credit could provide an incentive to decrease total hours worked instead of laying off employees. For other employers, the CEPR

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[29] Telephone conversation with David Balducchi, U.S. Department of Labor, June 24, 2009.

[30] Neil Ridley, *Work Sharing - an Alternative to Layoffs for Tough Times*, Center for Law and Social Policy (CLASP), March 26, 2009.

[31] Dean Baker, *Job Sharing: Tax Credits to Prevent Layoffs and Stimulate Employment*, Center for Economic Policy and Research, Issue Brief, Washington, DC, October 2009, http://www.cepr.net/documents/publications/job-sharing-tax-credit-2009-10.pdf.

argues that the tax credit could provide an incentive to hire additional workers to make up for the reduced hours among the employer's existing workforce. There is some risk of employers gaming the tax credit system; this risk could be reduced by requiring that the workforce adjustment be made relative to a well-defined base period or that employers post any workforce reductions for the credit on a website.

International Experience

Over 20 countries have formal work sharing programs. The great majority of countries with work sharing programs are industrialized, although in recent years a few developing and transition countries, such as Chile, Costa Rica, the Czech Republic, Hungary, Slovakia, Slovenia, and Uruguay have begun to discuss and experiment with work sharing.[32] Not all programs, and not all programs in industrialized countries, provide compensation to work sharing employees.

Canada has had a work sharing program since 1977, which is available to firms with drop in orders or sales of 10% or more who can demonstrate that the work-hour reduction is temporary and unavoidable. Canadian work sharing employees receive a pro-rata share of regular employment benefits (the equivalent of U.S. unemployment benefits) for work sharing hours. Compensated work sharing was extended to 52 weeks in April 2010. As of September 2009, about 6,000 Canadian companies, and about 105,000 Canadian workers, participated in work sharing arrangements.

France's *chômage partiel* (partial unemployment) program provides partial wage compensation equal to 75% (effective from April 2009) of the affected workers' gross wages for up to six weeks. *Chômage partiel* is paid directly by employers to employees along with regular wages. In turn, employers receive a fixed subsidy per employee hour of work sharing (€3.84 per hour for firms with 250 employees or less and €3.33 per hour for firms with more than 250 employees). These subsidies are exempt from some, although not all, social insurance contributions.[33]

Korea has experienced rapid growth in work sharing during 2009 as a result of a range of measures. The Republic of Korea offers subsidies to companies that adopt work sharing programs, tax cuts, reductions in contributions to social security schemes, and support for training and workplace innovation programs.[34]

Germany's work sharing program (*Kurzarbeit*) is the largest in the world, with 1.4 million workers participating in mid-2009. Compensated work sharing is available in response to a drop in work hours of at least 10% (the average reduction in work hours has been about 30%-40% in the German work sharing system). Germany provides an STC allowance of 60% of foregone wages (67% if the worker's household includes a child), up to a monthly maximum, and for periods of short-time work of up to 24 months. Employers' social insurance contributions are reduced when their STC employees participate in training or qualification programs. Germany

[32] Jon C. Messenger, *Work Sharing: A Strategy to Preserve Jobs During the Global Jobs Crisis*, International Labor Organization, Travail Policy Brief No. 1, Geneva, Switzerland, June 2009.

[33] Messenger, op. cit.

[34] Messenger, op. cit.

credits its compensated work sharing program with preventing 432,000 job losses through October 2009 and with holding down growth in the national unemployment rate.[35]

The Fair Labor Standards Act and Overtime Pay for Salaried Employees

Work sharing programs may include both wage and salaried workers. Some employers have expressed concern that reducing the hours of certain salaried workers could put their exemption from overtime pay into question. Section 13(a)(1) of the Fair Labor Standards Act (FLSA) provides an exemption from overtime pay for executive, administrative, professional, and certain computer and outside sales employees. To qualify for the exemption, these employees must be paid on a salary basis at not less than $455 per week.[36] A work sharing agreement that caused affected salaried employees' wages to fall below the $455 weekly figure could affect an employee's exempt status. One approach would be to add a provision to the FLSA clarifying that a reduction in pay under a state-approved work sharing plan would be permissible and would not affect an employee's exempt status under the FLSA.

Provision in the Administration's FY2012 Budget

The Administration's FY2012 budget would provide temporary federal financing of STC benefits for those states that have STC programs and meet certain guidelines. The budget proposal would also create a temporary federal program that would be available in other states, and would provide funds for states to operate the program and conduct outreach to employers. The estimated cost of the work sharing provisions from 2012 to 2021 is $641 million.[37]

Concluding Remarks

As noted above, DOL has not issued model state legislation or provided guidance to states since 1992, although it has not challenged state programs. Most states do not actively promote STC either, with some notable exceptions like Rhode Island. STC is currently only implemented in about one-third (20) of the 53 states and territories that have UC programs, and in those states it has never reached a large number of workers, although there is evidence of increased use in 2009 and 2010. The Balducchi and Wandner study concluded that, "Federal work sharing [STC] policy is at a stalemate and dormant until political leaders elevate the apparent statutory deficiency and either the executive branch reinterprets federal law or the Congress passes legislation to address the policy concerns."

[35] For more information on work sharing in OECD countries, see *OECD Employment Outlook 2010* at, http://www.oecd.org/document/46/0,3343,en_2649_34747_40401454_1_1_1_1,00.html.

[36] For more information on the Fair Labor Standards Act and overtime for salaried employees, see the following Fact Sheet from the U.S. Department of Labor, at http://www.dol.gov/whd/regs/compliance/fairpay/fs17a_overview.htm.

[37] Office of Management and Budget, Fiscal Year 2012 Budget of the U.S. Government, table S-8, at http://www.gpo.gov/fdsys/pkg/BUDGET-2012-BUD/pdf/BUDGET-2012-BUD.pdf. See also Office of Management and Budget, Congressional Budget Justification: Employment and Training Administration, at http://www.dol.gov/dol/budget/2012/PDF/CBJ-2012-V1-09.pdf.

STC is unlikely to ever play a great role in the unemployment compensation system, but there is room for it to expand. Better marketing of the program in STC states might improve awareness and use. But this is unlikely to happen unless Congress, or perhaps the executive branch, decides to take action to break the impasse over interpretation of the 1992 permanent law authorizing STC.

Appendix. State Implementation of Short-Time Compensation (STC) Programs

Table A-1 displays how STC is implemented in states that have programs. The basic program is similar among all states: eligible individuals have had their workweeks reduced by at least 10% and this reduction in work hours must be in lieu of temporary layoffs. The amount of unemployment compensation payable to an individual is a pro rata share of the unemployment compensation to which that individual would have been entitled if he or she had been totally unemployed. Eligible employees are not required to meet the “able and available for work” requirement of regular unemployment compensation, but they must be available for their normal workweek. Finally, eligible employees may participate in an employer-sponsored training program.

Within these broad outlines there is considerable variation among states. An employer’s plan cannot exceed a period of 26 weeks in Massachusetts but may span up to two years in Iowa. An individual may receive STC benefits for up to 20 weeks in New York or for up to 52 weeks in Iowa, Minnesota, Oregon, Rhode Island, Texas, or Washington. California places no limit on the number of weeks a worker may receive STC benefits, although there is a cap on total benefits paid to an individual. California and Louisiana have relaxed the requirement for payment of full health insurance and pension benefits, making this optional for employers submitting a work sharing plan.

Table A-1. States with Short-Time Compensation Programs

State	Period of Approved Plan	Required Reduction of Work	Maximum Number of Weeks Payable	Other
AZ	1 year	At least 10% but not more than 40%	26 weeks (limitation does not apply if state insured unemployment rate (IUR) for preceding 12 weeks is equal to or greater than 4%)	Tax rate increases 1% if the negative reserve ratio is less than 15%; 2% if the negative reserve ratio is 15% or more[a]
AR	12 months or date in plan, whichever is earlier	Not less than 10%, but not more than 40%	26 weeks	
CA	6 months	At least 10%	No limit on weeks, but total paid cannot exceed 26 x weekly benefit amount	Plans not required to address fringe benefits
CT	6 months	Not less than 20%, but not more than 40%	26 weeks (with 26 week extension possible)	
FL	12 months	Not less than 10%, but not more than 40%	26 weeks	1% higher max. tax rate; other part-time employment affects payment

State	Period of Approved Plan	Required Reduction of Work	Maximum Number of Weeks Payable	Other
IA	24 months	Not less than 20%, but not more than 50%	52 weeks	
KS	12 months	Not less than 20%, but not more than 40%	26 weeks	Automatic exclusion of negative balance employers[a]
LA	12 months or date in plan, whichever is earlier	At least 10%	26 weeks	Plans are not required to address fringe benefits. Has authority in law but has not implemented program.
MD	6 months	At least 10%, not to exceed 50%	26 weeks	All STC benefits charged to STC employer regardless of base period charging rule[b]
MA	26 weeks	Not less than 10%, but not more than 60%	26 weeks	Employers with negative balances are charged as though they were reimbursers [a,c]
MN	At least 60 days but not more than 1 year	At least 20%, but not more than 40%	52 weeks	Employees participating must work at least 20 hours per week
MO	12 months	Not less than 20%, but not more than 40%	52 weeks	Work sharing benefits may not be denied in any week containing a holiday for which holiday earnings are committed to be paid by the employer, unless the work sharing benefits to be paid are for the same hours as the holiday earnings
NY		Not less than 20%, but not more than 60%	20 weeks	
OR	No more than 1 year	At least 20%, but not more than 40%	52 weeks	If employer's benefit ratio is greater than its tax rate, the employer must reimburse the excess at the end of each calendar quarter[d]
RI	12 months	Not less than 10%, but not more than 50%	52 weeks	All work sharing benefits charged to work sharing employer regardless of base period charging rule[b]
TX	12 months	At least 10%, but not more than 40%	52 weeks	
VT	6 months or date in plan, whichever is earlier	Not less than 20%, but not more than 50%	26 weeks	

State	Period of Approved Plan	Required Reduction of Work	Maximum Number of Weeks Payable	Other
WA	12 months or date in plan, whichever is earlier	Not less than 10%, but not more than 50%	52 weeks	Individuals may receive shared work payments up to the maximum benefit entitlement established by law, plus any state or federal benefit extensions. Businesses with a tax rate of more than 5.4% are not eligible to participate.

Source: U.S. Department of Labor, *Comparison of State Unemployment Insurance Laws, 2010* (Washington, DC: 2010), pp. 4-10 to 4-11.

a. All states use a system of "experience rating" to relate a firm's unemployment tax to its experience with unemployed workers. The reserve-ratio formula is used by the largest number of states, although other methods may be used. An employer's "reserve ratio" is determined by first finding the difference between the employer's tax contributions and the dollar amount of benefits paid to former workers, and then dividing this amount by the employer's payroll. Unemployment tax rates are assigned according to the state's schedule of rates for specified ranges of reserve ratios, with positive and higher ratios leading to a lower tax rate. Lower or negative (if tax contributions are less than benefit payments) ratios lead to higher tax rates or, in the case of STC, may lead to a surtax or even to disqualification from the state's STC program.

b. For a worker with more than one employer in his or her base period, most states charge regular unemployment benefits against all base-period employers in proportion to wages earned by the worker with each employer. A worker's base period is the time period during which wages earned and/or hours/weeks worked are examined to determine the amount of unemployment benefits. In most states, a worker's base period is the first 4 of the last 5 completed calendar quarters preceding the filing of the claim.

c. Reimbursing employers, which include certain nonprofit organizations, state and local governments, and Indian tribes, are allowed to reimburse their state's unemployment fund instead of making tax contributions. Most state laws provide that reimbursing employers will be billed at the end of each calendar quarter, or other period, for benefits paid during the period.

d. Another form of experience rating, called the "benefit ratio" formula, is determined by dividing unemployment benefits by the employer's payroll, without including employer tax contributions in the formula.

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