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BALANCING WORK AND FAMILY IN THE RECESSION: HOW EMPLOYEES AND EMPLOYERS ARE COPING

HEARING

BEFORE THE

JOINT ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

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FIRST SESSION

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BALANCING WORK AND FAMILY IN THE RECESSION: HOW EMPLOYEES AND EMPLOYERS ARE COPING

THURSDAY, JULY 23, 2009

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, DC.

The committee met, pursuant to call, at 10 a.m., in Room 210, Cannon House Office Building, The Honorable Carolyn B. Maloney (Chair) presiding.

Representatives present: Maloney, Hinchey, Cummings, Brady, and Snyder.

Staff present: Nan Gibson, Colleen Healy, Elisabeth Jacobs, Andrew Wilson, Robert Drago, Rachel Greszler, Chris Frenze, and Dan Miller.

OPENING STATEMENT OF THE HONORABLE CAROLYN B. MALONEY, CHAIR, A U.S. REPRESENTATIVE FROM NEW YORK

Chair Maloney. The committee will come to order. And the Chair welcomes the panel of witnesses, our distinguished panel, and thanks you for your testimony.

The American workplace has not kept up with the changing needs of workers and families. Both Ozzie and Harriet go to work now, so most families no longer have a stay-at-home parent to care for a new child, a sick spouse or an aging person. Businesses that offer policies that help employees meet the competing demands of work and family have seen the benefits to their bottom lines with increased productivity and a more committed workforce.

This is a timely hearing because employees and their families, as well as employers, need flexibility more than ever.

The value of flexibility to employers has increased because the recession has pressed all sectors of business and government to find ways to improve performance. Workplace flexibility is an inexpensive and effective way to motivate employees by humanizing jobs at times when so many aspects of our economy are so harsh.

Some businesses do understand the value of flexibility for workers. A 2007 survey conducted by this committee found that, among America's largest and most successful employers, 79 percent provide paid leave for new parents, and 45 percent provide unpaid leave beyond the 12 weeks mandated under the Family and Medical Leave Act.

Businesses that rigidly cling to policies created when employees had fewer family responsibilities have fallen behind the times.

Managers who believe there is one best way to get the job done and do not listen to their employees are missing out on valuable innovations. A lack of flexibility gives demoralized employees even less reason to help their businesses survive and thrive.

Perhaps most important in today's economic climate is that flexibility can help save jobs. Employees understand this. A survey conducted this March found that a solid majority of employees are willing to take on additional and unpaid leave or vacation or to switch to a 4-day workweek in order to prevent layoffs. Many employees are ready to share their job with another individual or to take on reduced hours with reduced pay. Employees stand ready to work with employers to use flexible workplace options to control costs and preserve jobs.

Flexibility is also crucial to the future of our economy. Employers who do not support flexible work arrangements will find valued employees fleeing at the first sign of recovery in the labor market, in addition to losing out now on the benefits of having a committed workforce.

The Working Families Flexibility Act, H.R. 1274, can help. Our best employers are already using flexibility as a strategy to weather the recession, and I hope we hear more about these employers today. The Working Families Flexibility Act, which I have sponsored in the House, will ultimately benefit all American employees, businesses, and our economy by making the strategy used by our most successful businesses into public policy. It will generate the productivity we need to propel our economy forward in these tough economic times and to sustain our competitive position as the economy recovers.

I have long championed policies to support working families, such as the Family and Medical Leave Act. That was one of the first bills that I passed in 1993. I saw President Clinton this past Monday, and he told me of all the legislation, of all the things that he worked on, to balance the budget, to bring down and control the budget and invest in education and health care, of all the initiatives in his administration, the one that the most people would walk up to him on the street and thank him for was the Family and Medical Leave Act.

But more must be done to help families, which is why I have also sponsored the Federal Employees Paid Parental Leave Act, which recently passed the House of Representatives and provides new parents with 4 weeks of paid time off.

If we as a nation truly value families, then we need new workplace policies that support our working families and set our children on a path for success early in life.

I look forward to the testimony of our distinguished witnesses today. I welcome the public. And I allow my colleague and Ranking Member Mr. Brady as much time as he may desire.

[The prepared statement of Representative Maloney appears in the Submissions for the Record on page 30.]

OPENING STATEMENT OF THE HONORABLE KEVIN BRADY, A U.S. REPRESENTATIVE FROM TEXAS

Representative Brady. Thank you, Madam Chairman. I join with you in welcoming our witnesses before us today, and I recog-

nize this is an issue near and dear to your heart that you worked on for a long time and commend you for it.

The recession continues to destroy jobs and force the unemployment rate ever higher, posing great hardships on millions of families. Unfortunately, the stimulus legislation has not yet been effective in boosting the economy. Last January two top administration economists projected the unemployment rate would not exceed 8 percent if the stimulus were enacted, but as you know, the unemployment rate has risen to 9½ percent and appears likely to climb significantly higher.

Almost all businesses are under stiff pressure, and many small businesses are struggling to survive in this very challenging economic environment. They are unable to afford the costs of expanded employer-provided benefits. An effort to force small businesses to offer specific benefits would raise costs, especially of employment, and undermine their financial position.

Before coming to Congress I worked with small businesses, ran one myself, and was director of three local Chambers of Commerce. I know how hard small businesses struggle. The recession in the '80s in Texas was particularly difficult; how they struggled to provide benefits, keep workers on the payroll, help them with their health-care costs, and it is a tough fight. Small businesses historically account for much of the job creation in the United States, about 70 percent, and undermining their ability to create new jobs and opportunities in a weak economy just isn't good economic policy. And over the longer run, an effort to mandate employee benefits will tend to reduce other forms of employee compensation, including wages. Oftentimes there is only so much money to go around, and those choices tend to offset each other in a negative way.

I remain concerned that the administration's policies to increase Federal deficits and debt will burden the economy for years to come and undermine job growth. Higher taxes, mandates, and Federal spending could lead to a future with high unemployment and lower living standards. Every new mandate or tax Congress adopts now will only make the situation worse.

It is not too late to reconsider our economic policies and avoid piling more costly mandates on an already overburdened economy.

And what really concerns workers and small businesses back home in Texas is the new Democrat health-care proposal and what it would do to the quality and availability of their health care. This 1,018-page proposal doesn't control costs, according to the Congressional Budget Office, and will drive the budget deficits even higher, and it would leave 17 million people uninsured. A population approaching the size of Florida will continue to come into our emergency rooms and to other health-care providers without coverage. A maze of bureaucracy would be created standing between patients and medical services.

According to the chart that the Minority staff of the Joint Economic Committee—our economists and health-care staff went through the provisions of the tricommittee bill line by line, and what this new bill establishes is 31 new commissions, agencies, and mandates that would decide what doctors you can see, what treatments you deserve, and what medicines you can receive. Medical

care would be rationed, and the wait times for even routine medical procedures would be extended. More taxes would be levied, further damaging the economy. This is an issue, Madam Chairman, that is of great concern.

Thank you.

[The prepared statement of Representative Kevin Brady appears in the Submissions for the Record on page 30.]

[The chart titled "Organizational Chart of the House Democrats' Health Plan" appears in the Submissions for the Record on page 32.]

Chair Maloney. That is an issue that is being debated on the floor. I would welcome doing a Special Order with you on it, but the focus of this hearing is on flextime, work-family balance. I appreciate your kind comments on my work in that area and request that you look at the bill that I put in. It mirrors legislation that was passed in London that would allow workers to request flextime without being fired, would not be a cost to the companies or to government, but would help working families better balance work and family life. So I request you to look at it and get back to me.

Representative Brady. I would be glad to, absolutely, Madam Chairman.

Chair Maloney. I hope you can help me pass it in this Congress and move forward to help working families.

Representative Brady. Thank you.

Chair Maloney. I would like to now introduce our panel of very distinguished witnesses today. Ellen Galinsky is president and cofounder of Families and Work Institute. She directs or codirects the National Study of the Changing Workforce, the most comprehensive nationally representative study of the U.S. workforce; the National Study of Employers, a nationally represented study tracking trends in employment benefits, policies and practices; When Work Works, a project on workplace effectiveness and flexibility now in 30 communities and three States, funded by the Alfred P. Sloan Foundation; and the Supporting Work Project, a Ford Foundation project that is funding communities across the country to connect lower- and midwage employees to publicly funded work support through their employers.

Cynthia Thomas Calvert is an employment attorney and deputy director of the Center for Worklife Law, a nonprofit program located at the University of California, Hastings College of the Law. Ms. Calvert is coauthor with Joan Williams of Worklife Law's Guide to Family Responsibilities Discrimination and of Solving the Part-Time Puzzle: The Law Firm's Guide to Balanced Hours. A graduate of Georgetown University Law Center, Ms. Calvert clerked for the Honorable Thomas Penfield Jackson and had a practice focused on counseling employers about compliance with employment laws.

Thank you for being here and send our good wishes to Joan Williams.

Karen Nussbaum has been at the AFL–CIO for over a dozen years and is now the executive director of Working America, a community affiliate of the AFL–CIO. Working America has 2.5 million members and is the fastest-growing organization for working people in the country. Ms. Nussbaum was a founder and director of

9 to 5, National Association of Working Women; president of District 925 of SEIU; and the Director of the U.S. Department of Labor Women's Bureau, the highest seat in the Federal Government devoted to women's issues, during the Clinton administration.

I want to thank you for your life's work and for being here today with your testimony.

Ms. Galinsky, you are recognized for 5 minutes.

STATEMENT OF ELLEN GALINSKY, PRESIDENT, FAMILIES AND WORK INSTITUTE, NEW YORK, NY

Ms. Galinsky. Thank you, and thank you so much for having me here to talk about a new study that we are releasing today.

The impact of the recession on employers and on their human resource policy has been widely debated and discussed in the media and in the public, but the information to date has been largely anecdotal, or it has come from consultants surveying their client base. What we wanted to know is what is really happening to employers and the way that they are dealing with people. So the purpose of this study is to provide national data. It is a nationally representative sample of U.S. employers with 50 or more employees, and the population of employers we surveyed is 400. We wanted to understand what percentage of employers have taken steps to reduce labor and operational costs in the past 12 months, and what specific cost-reduction strategies they have used; what are they doing to help their employees manage during the recession; and what is happening to workplace flexibility and other worklife policies at the same time. And then we wondered whether these strategies or steps differ from employers with different characteristics.

We found overall that the recession has taken a very severe toll on employers. The most obvious indication of the recession's impact on employers is the fact that two-thirds of them report that their revenues have declined in the last 12 months; 28 percent, or just more than a quarter, say that their revenues stayed about the same; and only 6 percent of employers—I think this is important in a nationally representative sample—say that their revenues have increased or there is growth.

Most employers have made some effort to cut costs or to control costs during the recession, 77 percent, but among those employers that have seen revenues decline, it is 9 of 10. We found that layoffs have been pervasive. For example, we found that 64 percent of employers have cut back employees. We know that, but this confirms what we read about with the unemployment figures and what we experience.

The main strategy that employers have used is to decrease or eliminate bonuses and salary increases, 69 percent; 61 percent have imposed hiring freezes; 57 percent have eliminated all travel that is not essential to business. Other strategies are less frequent, but, for example, we found that 29 percent—and this is relevant to the health-care debate—29 percent have reduced health-care benefits, or they have increased employees' copay. Among those companies that have had reductions in hours, 29 percent have had voluntary reductions in hours, and 28 percent have had involuntary reductions in hours.

We also wondered whether employers are helping employees manage during the recession, and we found that between 34 and 44 percent of employers report helping their employees manage during the recession, doing such things as helping those that they have had to lay off find jobs. Forty-three percent have done so. We asked how often they communicate about the financial situation of their companies, and 34 percent said that they do so very often. We asked whether they are helping them manage their own financial situation during the recession; 34 percent say yes. And we also wondered whether employers are connecting employees to publicly funded services or supports, both Federal or State or in their communities, and we found that 44 percent of employers are doing that.

We also wondered about workplace flexibility. There have been lots of articles in the media saying it is over; other people saying they are using it, but they are using it in not necessarily good ways. Perhaps one of the most surprising findings of this study is that 81 percent of employers have—are maintaining the flexibility that they offer, 13 percent are increasing it during the recession, and only 6 percent have reduced the flexibility that they offer. Perhaps that is because employers recognize that flexibility is connected to engagement, retention, health and wellness. Our studies certainly show that.

We looked to see whether employers are differing in the amount—if their composition of their workforce affects what they do. We already know that men are disproportionately affected by the recession, that the unemployment rate among men is 9.8 percent and among women 7.5 percent. And we found similarly that employers that have more than 50 percent women tend to be more supportive during the recession. For example, they are less likely to do layoffs. They are less likely to reduce working hours. They are less likely to change the scheduling of work. They are less likely to reduce salaries. We also found that employers that have more women are also more likely to communicate with their employees about what is happening with their financial situation and more likely to connect them to publicly funded benefits.

When we look at those who employ 50 percent or more of hourly workers versus fewer than 50 percent, we find that employers with more hourly workers are more likely to reduce health-care coverage or to require larger copays. We also find that, by a large margin, salaried employees who have been laid off are more likely than hourly workers to get help in finding new jobs, 55 percent versus 36 percent.

When we look at employers that have more unionized workers, we find that they are more likely, for example, to cut back flexibility, 11 percent, versus employers with fewer unionized employees, 6 percent.

When we compare for-profit and nonprofit organizations, we find that the recession has affected for-profit employers more. That was a bit surprising to us, given that we hear so much about donations, and it is true, being down in the nonprofit sector. But we found that for-profits are more likely to report lower revenues, 71 percent to 54 percent, and they are more likely to have reduced or decreased bonuses or salary increases, to lay off employees, to reduce

contributions to retirement funds; and to—or they are less likely, to help employees manage their own financial situation.

Finally, we look at the difference between large employers, those with 1,000 or more employees, and small employers, those between 50 and 99 employees, and we find that larger employers are more likely to eliminate travel. They are more likely to increase telecommuting. They are more likely to offer buyouts or other inducements for early retirement, and they are more likely to provide support to employees to manage the recession.

So, in conclusion, I think our study makes it clear that employers are reducing labor and operational costs, but it also makes it clear that many employers are keeping flexibility, and they are doing things to continue to engage and motivate the talent, the people who are most important to their success now and in their future.

Thank you.

Chair Maloney. Thank you. Thank you very much.

[The prepared statement of Ellen Galinsky appears in the Submissions for the Record on page 33.]

Chair Maloney. Ms. Calvert.

STATEMENT OF CYNTHIA THOMAS CALVERT, DEPUTY DIRECTOR, THE CENTER FOR WORKLIFE LAW, SAN FRANCISCO, CA

Ms. Calvert. Thank you. This morning I would like to share some stories from the Worklife Law hotline. These stories from the past 18 months show how some caregivers and flexible workers are faring in the recession.

Although I will be discussing the employee's perspective, I would like to note that Worklife Law includes the perspective of the employer. We have a six stakeholder model that brings together employees, employers, plaintiffs' lawyers, management-side lawyers, unions, and public policymakers around the issue of family responsibilities discrimination.

These stories involve two types of bias: caregiver bias and flexible work bias. Caregiver bias is assumptions about employees with family caregiving responsibilities, such as a the assumption that a man with a dying father will miss deadlines regardless of his actual performance. Caregiver bias includes maternal wall bias, bias against mothers, such as a pregnant woman will miss too much, or she will not be committed to her job once she has had her baby, again without regard to actual performance.

Flexible work bias mirrors and overlaps with caregiver bias. Employees who work flexibly often encounter assumptions about their commitment, dependability, ambition and competence.

The volume of calls to our hotline has more than doubled since the economic downturn began. Many calls suggest that employers are targeting caregivers and flexible workers for termination. Some of this has been blatant, such as part-timers telling us that they have been chosen for layoffs ahead of employees who are working standard schedules. Some of it has been more circumspect, such as the situation involving a scientist Tobi who worked full time from home because she had a daughter who was born with a disease that requires her to be breast fed frequently, and Tobi is unable to pump milk. The arrangement worked very well. Tobi was very productive. She had happy clients. She won awards. She later re-

ceived a new supervisor, who allegedly referred to her telecommuting arrangement as a mess she would have to fix. The supervisor moved Tobi to a new team and reportedly told her to be in the office 30 hours a week or to work part time, even though she allegedly knew that these schedules would not allow Tobi to feed her child. When they could not agree on a schedule, the company terminated Tobi, and the supervisor had indeed fixed the mess.

Another case in which a supervisor allegedly created a difficult situation for a caregiver involved a single mother who had been working successfully for nearly a year before she was placed on a schedule of rotating nighttime shifts by her new supervisor, making it impossible for her to find child care. Other callers have had their flexible work arrangements terminated, including several who were working part time when they were told they needed to return to full-time work or be terminated. The economic rationale for this is questionable. Requiring employees to return to full-time work at greater pay and with benefits costs employers money unless the employers are banking on reducing the payroll by forcing the employees to quit.

We have also received many calls from women who were terminated shortly after their maternity leaves. One of these calls was from an employee I will call Ann, who had performed well at a large company for more than 6 years. Ann had a baby. Her manager worked with her on setting her schedule, and he was happy with her performance. And there is a lesson here. A little flexibility on the part of the manager allowed the company to retain a good worker.

Ann became pregnant again. A new manager changed her schedule, putting her on late-night and very early morning hours, and that is a second lesson. There is a pattern in which flexibility works fine until a new manager arrives on the scene. The manager may have a mandate to reorganize the department. The manager may not be aware of the employee's value. Regardless, the pattern typically involves termination of flexibility and then action to terminate the employee if she won't quit.

As the sole breadwinner, Ann had to stay employed. She returned from maternity leave, and she asked for flexibility. Instead she was laid off in a companywide RIF. She was the only person in her department who was laid off despite her seniority. And that is lesson three here: Having a child and asking for flexibility are two key trigger points for bias and discrimination.

In conclusion, research and experience show that, in the absence of bias, employees will resolve work-family conflicts through flexible schedules. Where the bias is strong, they cannot. For this reason, we would encourage any policymaker who is considering legislation to address the issue of bias. Thank you.

[The prepared statement of Cynthia Thomas Calvert appears in the Submissions for the Record on page 64.]

Chair Maloney. Ms. Nussbaum.

STATEMENT OF KAREN NUSSBAUM, EXECUTIVE DIRECTOR, WORKING AMERICA, WASHINGTON, DC

Ms. Nussbaum. Thank you, Chair Maloney and Congressman Brady. I am privileged to be here today in the company of Ellen

Galinsky and Cynthia Calvert to discuss the important issue of work-family balance.

For generations, the problem of work and family was solved simply by paying a family wage to a single breadwinner. Accepted norms governed employer-employee relationships, strengthened by unions. This solution was not available to everyone, especially African Americans. But the post-World War II economic boom saw a common increase in the standard of living across all income groups. Families were tended to, and communities benefited from the volunteer activities of their members.

However, a 1974 *Business Week* editorial signaled a shift in the employers' strategy. They advised cutting wages and benefits and warned, quote, "it will be a bitter pill for most Americans to swallow, the idea of doing with less so that banks and big businesses can have more." And indeed over the next 35 years, most Americans did end up doing with less. Median family incomes stagnated and actually dropped in recent years. Twenty-five years ago more than 80 percent of firms offered defined benefit pensions; today less than a third do. Today nearly half of private-sector workers have no paid sick leave, and nearly a quarter of workers have no paid vacation or holidays. And working swing shifts has become the cruel response to the need for flexible work hours. Nearly half of all women work different schedules than their spouses or partners.

The second part of the *Business Week* strategy also came true. Banks and big businesses, until they crashed recently, did get more. Since World War II, corporate profits grew at twice the rate of workers' salaries. Between 2001 and 2004, while workers' income fell slightly, corporate profits grew 62 percent. The number of working Americans without health insurance falls every year, while from 2002 to 2005 alone, insurance company profits soared by nearly 1,000 percent.

Former GE CEO Jack Welch, for one, says that there is, quote, "no such thing as work-life balance; that working women have no choice but to sacrifice either work or family." But Ellen Galinsky's impressive work has demonstrated over time that work-life policies are viable and widespread, increase productivity and personal satisfaction.

However, after 30 years of voluntary adoption of work-family measures, we also know that these policies will not become a reality for most workers if they are left up to voluntary action. This moment combines the economic crisis, the history of success where work-life balance issues have been implemented and the outstanding need. It is the perfect opportunity for us to take the next step and to create standards. Two policy recommendations would create the foundation for productive workplaces.

The most effective and flexible way to create customized improvements at the workplace is by enabling working people to talk directly to their employer. This is sometimes known as collective bargaining. The Employee Free Choice Act would restore the right to collective bargaining, which would help create ever-evolving work-life balance.

Uncontrolled health-care costs have crowded out the possibility of other workplace improvements, so solving the health-care crisis would create a new floor for work-family balance.

In addition, there are key standards that would help create a new framework.

Congress should support the Healthy Families Act, which would provide full-time employees with 7 paid sick days per year.

The Family and Medical Leave Act that you cited, Chair Maloney, has been a great success; yet half of all private-sector workers don't even have access to it, and four out of five who do have access report that they can't take it because it is unpaid. So we should expand it, and we should provide wage replacement.

I would like to recognize your work, Chair Maloney, for your leadership on the issue of flexible work hours—the Working Families Flexibility Act, which seeks to advance that cause.

The government should correct the misclassification of employees as independent contractors, which allows employers to avoid taxes and benefits altogether on growing numbers of workers.

And finally, child care and preschool were successful corporate and government policies in World War II and have been sorely needed ever since and somehow have just dropped out of the public debate.

In conclusion, it has taken years to achieve basic workplace standards, in some cases a century of struggle. Many benefits workers took for granted in the 1950s are now seriously eroded. We are far behind all other industrial countries in both standards and practice, and we have seen that without standards we will not have the practice. Now is the time to put the next generation of workplace standards in place.

Thank you.

[The prepared statement of Karen Nussbaum appears in the Submissions for the Record on page 69.]

Chair Maloney. Thank you all for your testimony.

The economic downturn is hurting both employers and employees. The unemployment rate is now at 9.5 percent. Can you each elaborate on how flexibility policies can help businesses and workers balance competing demands between work and family?

Ms. Galinsky.

Ms. Galinsky. A number of employers have recognized that, if they provide flexibility, they can save jobs, and at the same time they can help people manage their work and family lives. We found in the study when the interviewers asked employers in the interviews how they were managing the recession, that some employers had informal ways. They had sort of the proverbial suggestion box for how to cut costs. And often those suggestions led to saving jobs and led to greater flexibility. Other employers had more formal standards, a labor-management committee, for example, to come up with these kinds of solutions, and they found that both reducing hours or they found that compressed workweek might make a difference.

I think the important thing and part of our definition of flexibility is that it has to work for both the employer and the employee. If it only works for the employee, in our view, it is not right, and if it only works for the employer, it is not right. We found in our study that 57 percent of employers give employees some or a lot of choice about the flexible schedules that they work, and it is critical to me that, if we are going to use flexibility to deal

with issues of the recession, that employers need to be a part of the discussion and a part of the solution.

Ms. Calvert. I would echo that you have to have a solution that meets the needs of both employers and employees. We spend a significant amount of time at Worklife Law and at our Project for Attorney Retention, which is one of our initiatives crafting business-based solutions to flexibility. And we have come up with a number of best practices for employers that will help them to retain valued employees, which has been proven to increase client satisfaction or customer satisfaction; improve profits; of course, improve productivity, morale, retention, things of that nature. But in crafting these best practices, we have worked very closely with the employers to ensure that we are not suggesting things that are unworkable in the workplace.

One of the best practices that we suggest is that employees be allowed to craft individually tailored schedules to meet their unique family situations rather than having certain types of flexibility prescribed by the employer or perhaps mandated by legislation. The employers we are aware of who have implemented this have done so with great success and have very satisfied employees.

One of the things we have been exploring recently is the use of reduced hours as an alternative to layoffs, and we have heard some encouraging reports from some employers who have done that. As work levels drop off, the employers can match supply and demand by also reducing the hours worked by the employees, reduce the salaries, save on payroll without having to lay people off.

Chair Maloney. Ms. Nussbaum.

Ms. Nussbaum. I would agree that we need to find solutions that work within each individual workplace, and I would echo my earlier comments about the most effective way of accomplishing that is when employees and employers can meet together to work out those solutions in a collective bargaining framework. That provides the greatest flexibility and making sure that we meet the needs of the employer and the employee.

A recent report by the Labor Project for Working Families finds that, in fact, workers with unions on the job are far more likely to have a whole host of flexible arrangements or leave provisions that allow them to meet their family needs.

But I would also like to say that the problem—the magnitude of the problem goes beyond what individual employers and employees may be able to work out on their own. We have seen a shift in the burden of the cost of achieving work-life balance over the last 35 or 40 years that has all gone on the shoulders of working families, and it is not sustainable. And the costs then accrue to society as a whole. As children get less attention, they do less well in school. Parents have to leave the workforce to attend to family medical needs. These are huge costs that lead to greater losses in productivity in the future. And that is why we need underlying standards.

Chair Maloney. My time has expired.

Mr. Brady is recognized for 5 minutes.

Representative Brady. Thank you, Madam Chairman.

I agree that I think workforce bias does exist, but not just within the business community. There are thousands and thousands of complaints against the Federal Government for gender bias, age

bias, poor supervisory decisions when it relates to families and workers. Small businesses, in my experience, want to hire and keep good employees. In recessions they find it very difficult to do both.

What we don't often hear in hotlines is I know of a 17-worker organization in the Eighth Congressional District who one of the workers had a second child, a 3-year-old and then a second child, and couldn't afford the health care for the second child. So the employer made arrangements to have the infant in the office for the first year until the family could afford to get the day care that they needed. It took adjustments. It was good for the office, I think, and they kept a very valued employee, and I think there is a lot of that flexibility going on.

The problem is small businesses need to have the flexibility. One size doesn't fit all, and my concern again is what is the cost of this? Larry Summers, who is one of the President's key advisors, said, quote, Mandated benefits are like a public program financed by benefit taxes. There is no sense in which benefits become free just because government mandates that employers offer them to workers. So my belief is that we ought to retain that flexibility for especially our small-business community.

So I wanted to ask our panelists, that is one of the key concerns of the small-business community of mine; so would you tackle that head on and give us your thoughts? Why don't we go back the other way. Why don't we start with Ms. Nussbaum and work our way down the panel.

Ms. Nussbaum. I would appreciate the concerns for small business and the tremendous pressures that they are under, and I do think that we need to find solutions that take that into account.

I do think, though, that as we have brought in generations of new policies, there have been at times a concern that was not really in relation to the actual implementation of a new policy, and that we may find that by setting some new standards, such as the Workplace Flexibility Act, or extending leave, unpaid family leave, to far greater numbers of employees will not have a negative effect. I think that we have to look at that experience and see how we can create a higher floor for most workers, including those in small business, and then make exemptions where we need to.

Representative Brady. Thanks, Ms. Nussbaum.

Ms. Calvert.

Ms. Calvert. If I understand your question, you are asking how we can tackle the flexibility issue and flexibility bias without a mandate on employers; is that correct?

Representative Brady. Yes.

Ms. Calvert. One of the key ways is a right-to-request law, and I should preface my response by saying Worklife Law does not promote any particular legislation. We provide technical guidance to policyholders based on our research. But based on our research, based on what we know also from what we are seeing at the hotline, a bill such as H.R. 1274 balances the interests of employers and employees and encourages them to engage in a dialogue without mandating certain types of flexibility to be given. The employers remain free to fashion with the employee what will work for that particular workplace. Fortunately, we do see in a number of

best practices workplaces that type of back and forth already going on, and we know that it can be very successful.

In terms of things such as expanding the FMLA, which certainly I know certainly a lot of people want to do, I think we need to look at whether extending the FMLA benefits to smaller employers would substantially increase their costs or their burdens, and it is too early at this point for me to give much information on that. But I would note that a number of the small employers that I have worked with in my private practice already provide FMLA-type benefits to their employees. A lot of these are 10-employee organizations, 15, 20. And the reason they do so is it is good for business. They want to be able to keep their employees, and they realize that it is the right thing to do. So for employers of that sort, there would not be any additional cost to them.

Mr. Brady. Thanks, Ms. Calvert.

Ms. Galinsky.

Ms. Galinsky. We have been tracking what employers are doing for the last decade. When we began to look at this, our assumption was that smaller employers would be less flexible, and that it was the large employers, because it was the large employers who were getting written about in most of the media reports, and they are easier to find and, therefore, obviously easier to write about.

We found that, in fact, to our surprise, smaller employers were, in fact, more flexible when we first started to look at this than larger employers. And it is probably because people all knew each other, and so it would be harder to say no to the kinds of stories that you were telling if—when you probably know that aunt or that father or that child or that sort of thing.

We found that the culture of flexibility, which is what is really important—it is how people—despite what the policies are, it is how people really treat each other, it is whether there is jeopardy for using the flexibility that you have—was more pervasive among smaller employers. We are looking at this from an employee perspective; so I am talking about any size. When we do surveys of employers, we look at employers with 50 or more. We found the last time we looked at this issue, that smaller employers were no longer more flexible than larger employers, and the main reason—one of the main reasons is that large employers were catching up to smaller employers.

Now, smaller employers are less likely to have programs and policies and written procedures. Whether or not you have programs or policies in a company, it is whether people talk to each other, it is how they talk to each other, it is how they solve their problems that really make the difference, and whether there is jeopardy for using what happens. So you can have a wonderful policy, but I think, as Ms. Calvert said, if there is jeopardy for using it, it doesn't work. We found that the level of jeopardy in the United States for the last two decades that we have been tracking, it has not gone down. About two in five employees feel that there is jeopardy for using the flexibility that their employers offer.

So we need to create a way of having dialogue so that employers and employees can work out these issues in the way that this bill proposes, for example. But we also need to ensure that there is not jeopardy for using it, because then it really doesn't achieve the

kind of productivity effects, the kind of loyalty engagement effects that most people want.

Mr. Brady. I have not read your survey in depth, but what you are saying, I think, is reflective. Larger corporations have better benefits. Small businesses can be a little more flexible. Although as you get smaller, you get to 10 employees, 8 employees, 5 employees, providing time off, losing an employee for an extended time just either shifts the burden or has a real direct impact on that small business. So in some ways there is sort of a middle ground on this, and, again, a reason why the one-size-fits-all doesn't work quite as well. But I think your survey results are really interesting.

Madam Chairman, I apologize. We have a Ways and Means hearing, and I apologize for leaving.

Chair Maloney. Thank you for being here. We certainly understand. It is very busy at the end of the session here. But this bill is very flexible, and the employer and the employee are able to work out a flexible time schedule, and the employer can turn down the request, but the employee will not be fired for having requested it. So I hope you will consider it. Thank you for being here.

Mr. Hinchey—excuse me. Mr. Cummings was here earlier.

Representative Cummings. Thank you very much. Thank you, Madam Chair.

Chair Maloney. I am used to Mr. Hinchey's sitting next to me.

Representative Cummings. No problem.

To all of you, without adequate protections in place, work-life conflicts are potentially more severe for low-wage workers than they are for higher-wage workers. An employer may be less likely to make accommodations for an employee viewed as less critical to the operations.

Could you describe in greater detail the key obstacles that low-wage workers are challenged with versus middle-wage earners?

Ms. Calvert.

Ms. Calvert. A number of obstacles. One is just simply access to alternatives for things like child care and elder care, care of a sick spouse. Low-wage workers do not have as many resources available to them.

Another is an issue that you just flagged, which is the issue of value to the organization. An employer may be a lot less likely to—might be a lot less likely to accommodate or to make some provisions for someone who is easily replaced.

The other is the nature of the work. We like to see employers be creative in coming up with ways to do different types of jobs flexibly, but there are some jobs that just require you to be physically present for a certain number of hours in a certain place, and that does limit the amount of flexibility that is available. That tends to fall more in the low-wage category. So a number of these obstacles make it a little bit more difficult, certainly not impossible, to provide flexibility to low-wage workers. It is absolutely critical. These people need their jobs. Without the flexibility many of them can't work. We hear that on our hotline all the time.

Representative Cummings. One of the things, very quickly, is in talking to some employers in my district, they tell me that with this recession, the situation that we have here today, they are more likely to let people go; in other words, to fire them and hire some-

body else that will fit. In other words, if there are people who are absent, they are less—the employer is less likely to go along with X amount of absentees. In other words, they will reduce those absentees and say, okay, since so many people are not working, I can get somebody to do this job, they will come. So that creates a problem, too, because you have got a workforce that is in—particularly for a, quote, noncritical-type employee.

Ms. Galinsky.

Ms. Galinsky. When we look at both employers that employ low-wage workers or we look at employees and their experiences, because we do studies of both employers and employees, we find what you are saying is absolutely true. Lower-wage employees or low-wage employees who live in low-income households tend to have much less access to flexibility.

My own view is that we are living in the 21st century with 20th century attitudes, and part of that is the fact that—we have been talking about a number of them—that flexibility will only work for the employer or the employee. It has to work for both. Or that the Congresswoman began with the Ozzie and Harriet story. Eighty percent of couples in the workforce are now dual-earner couples, and women bring in 44 percent of family income now. We find that one in four women, 26 percent, is earning more—at least 10 percent or more than her husband. So that is another outmoded view.

I think an outmoded view is that low-wage workers are less valuable to their employer. They are the backbone often. They are the customer service person who answers the phone, the person who takes the reservation, the person at the call center, the person who checks you into the hotel. They are the frontline people at most businesses. And even though it may be quicker to hire someone else and get rid of the person who is not working out, I think that in the end that doesn't serve the employer very well, because employees look around and see how each other is being treated, and they are less willing to give their all for an employer who doesn't treat employees well.

Now, that is not to say that in a tough time that tough decisions don't have to get made, but I think that we need to move to a 21st century recognition that our economy very much depends on the diversity of different kinds of people, all different kinds of backgrounds, all different generations, but also all different kinds of jobs, and that there are many industries—the industries where lower-wage workers are treated well are the industries that tend to be more successful—or the companies. I don't mean the industries. The companies.

Representative Cummings. Thank you.

[The prepared statement of Representative Cummings appears in the Submissions for the Record on page 74.]

Chair Maloney. Mr. Hinchey for 5 minutes. Thank you.

Representative Hinchey. Thank you very much, Madam Chairman.

And thank you very much for being here. I just have a couple of questions.

I wanted to ask Ms. Galinsky, you talked about the fact that there were 57 percent of the employers who were engaged in flexibility, and that was having a positive effect to some extent.

Ms. Galinsky. No. This particular study looks at how the recession is affecting employers. It is a study that we just released earlier this morning. We found in that study that 81 percent of employers had maintained the flexibility that they offered, 13 percent had increased it, and 6 percent had reduced it during the recession. And my point was that I guess, because we didn't ask, but I guess that they see that there is a value to having flexibility. That is why they are not dropping it at this point.

We have found in many studies that employers that are good employers, and that isn't just having flexibility, but the employers that give people learning opportunities, that help people succeed on their jobs and so forth, they are effective employers and they have flexibility, tend to be much more—to have more employees who are more engaged, who want to stay on the job, who are more loyal, those sorts of things. So being an effective and flexible employer tends to pay off for the business.

Representative Hinchey. Thank you. Thanks very much for clearing that up.

The situation that we are dealing with, of course, in the context of this economy is something that we have to try to deal with more effectively. One of the aspects of that in an interesting way is how the number of women in the working force has continued to grow. The information we have, for example, is back in '75 was less than half; just 2 years ago it was up above 71 percent, and that number is continuing. So—and that 71 percent is 70 percent of mothers in the labor force.

So this is a situation that is having an interesting effect on families and, of course, an interesting effect on women, and I think to a large extent the effect it is having on women and to some extent at least is positive, because it enables them to be out there in the world, doing things that may be creative or in some case maybe not, but in any case that is the situation.

What are we going to do to deal with this more effectively? One of the things that is happening now is that the wage increase has gone up. Do you think it should go up even more? That wage increase was increased 2 years ago. Now I think it is taking effect. I think it takes effect this week, maybe today. Should we be increasing that more?

Ms. Galinsky. I want to say one thing about women before I talk about wages, which is that, interestingly enough, we tend to think of work-life or work-family issues as being a women's issue. And yes, women tend to take the majority of responsibility for their family, although men are increasingly taking more. According to women now, 31 percent of their husbands are taking as much or more responsibility for their children as they are.

Men are feeling more work-life conflict these days than women, and I just want to make sure to say that the work-life conflict is an equal opportunity problem. And we need to pay attention to older people, younger people, women and men, in all of the aspects of their work and family life.

I think the issues of poverty are very pervasive and difficult issues in our country, and particularly for women who earn less, on average, for many reasons. But we are now in a situation where women are about half of the labor force. The recession has brought

up women's levels in the labor force undoubtedly. And one in four of them are earning at least 10 percent or more than their husbands. So we cannot look at women's earnings as pin money or second earnings or that sort of thing.

We have to understand that families wouldn't be surviving in this economy often—if there are two people in the family—if both of them weren't working. And not only do we need to pay attention to how much money they are earning, which was your question, but I think we need to—and we have a project concerned with this—that we need to pay attention to taking advantage of things like the Earned Income Tax Credit and other things that the government offers that can help low-income families to have more money in their pockets.

And we need to create a system, particularly in this bad economy where middle-income and low-income people are suffering and people are suffering throughout the economy, where people can not only earn more money and have some sort of economic stability—being worried about losing your job is probably the biggest predictor we see of poor health, poor mental, poor physical health, and so it is going to cost us money in health care; but we also need to make sure that employees can take advantage of the things the government or their communities have provided for them.

Ms. Nussbaum. Minimum wage, I believe, is going up today. More women than men work at the minimum wage. I would recommend that we do increase the minimum wage to make it more of a living wage. When the minimum wage is so low that workers can't support themselves or their families, it is unsustainable. And I do think that the Congress should index it, and then not have to worry about it again in the future, not have to take those votes and take their attention away from other really important issues.

I would like to also comment on the low-wage worker problem, where any difficulty encountered in the workforce is devastating for a family operating on low wages without the resources that Ms. Calvert was referring to to solve a problem. But we found, in practical experience, that there is nothing about low-wage jobs that makes them not available to flexible work arrangements or being able to take use of leave provisions; that there is nothing endemic about the work, it is about whether you have the bargaining power to make it happen in your workplace. And that if there were any place to concentrate to create greater flexibility and a higher floor, it would be among low-wage workers because when they encounter a problem, it becomes a spiral where a family requires greater government services, has greater difficulty reentering the workforce, and it is much more costly.

Chair Maloney. Thank you.

Mr. Snyder.

Representative Snyder. Thank you, Madam Chairman. I am sorry I was late for the beginning of the hearing.

Mr. Brady has left, but he spent most of his—at least the written statement I have—talking about health care. So I wanted to ask you all about health care.

I have to make one comment. In his written statement he says that the Democratic plan, I guess Mr. Waxman's proposal, would leave 17 million people uninsured. And he is lamenting that, which

we all do. I think a significant number of those people are in an illegal status, and so they would not be covered by the bill. We will always have people be out of it.

But my guess is that in the final version of the bill that actually gets signed into law by President Obama, we will find that we drop that number down even further. But I just don't understand lamenting the fact that 30-plus million people will get health insurance, even by his analysis, which seems like a great victory when you have almost 50 million without health insurance, and that means for longer than a year without health insurance.

The question I would ask you is if you all have any comments or expertise on the area of small business and their ability to provide health insurance for themselves and their employees; and what has the trend been and what direction do you see the trend going with regard to the ability of small businesses to provide health insurance to their employees, which includes themselves in most cases? If you all would comment on that issue.

Ms. Nussbaum. We can provide information for you. I don't have information directly available at this moment.

Ms. Galinsky. We have the information, too. And I don't have it memorized, but I think that there are a lot of—I think that it is not just small business, but we have an increasing number of contract workers, too, who lose their jobs and then come back as working for the employer but not covered by any benefits.

I know that when employees don't have health insurance and when they worry about losing their jobs, that that is so critical to family well-being. It is so highly correlated with everything negative that you want to look at—worry, depression, lack of engagement at work, all those sorts of things. So that is kind of, to me, a floor of taking care of families is providing for them economically and helping them take care of their families and their health.

Representative Snyder. If you all have that information, I think it would be helpful. I agree.

You know, we talk about the number one thing that Americans want is they want a good job and a good economy—which we all want, right? In fact, what we want is the money that comes from that good job and a good economy. It is what we want to buy. And the number one thing we want to buy as best we can with that money is good health for our family, good health for our family members. And even those with good jobs in small business, a lot of them are not able to do that because small businesses are increasingly bailing out on health insurance because their rates go up higher, because of small groups and all those things that you are familiar with.

I yield back, Madam Chairman.

Chair Maloney. Thank you very much for raising that very important issue. And hopefully we will get health care this year.

I recently reintroduced the Working Families Flexibility Act, which would give employees the right to request flexible work arrangements and not face being fired for having asked.

How does flexible scheduling help businesses succeed? And if you have examples of firms that use a right to request process like the one my bill proposes, if you could elaborate. And it is based on a United Kingdom model that has been successful in Britain.

And basically, if I could ask, why is legislation that sets guidelines for our right to request important? And Ms. Nussbaum and Ms. Calvert and Ms. Galinsky, I am very interested in your response.

Ms. Nussbaum. I think there is a presumption on the part of employers that maintaining control over every aspect of employees is to their benefit; that if they concede the right to request—a change in schedule, for example—that they lose control and it becomes untenable. In fact, the opposite is true; that if employees have greater control over their work life, their working conditions, that it creates a more stable work environment. That has been our experience over 100 years of collective bargaining. It is certainly the case in many countries where we do see similar provisions enacted, that all industrialized countries actually have greater flexibility that is guaranteed. And I think that this is a modest but important first step and could be easily accommodated.

Chair Maloney. Thank you very much.

Ms. Calvert.

Ms. Calvert. The right to request law would, by providing guidance to employers and by stimulating conversation in the public and in the workplace about flexibility, would have, in my view, a very good effect on the overall state of flexibility in the workplace.

One of the things in the bill that I think is very important is the anti-retaliation provision. A lot of conversation right now is not happening in workplaces because of the bias against flexible workers. Workers often feel that if they even bring up the topic, it is the professional kiss of death. We certainly have seen that in our work with law firms.

In terms of employers who are already engaging in this type of process, there are a number of best practices law firms that have good, flexible work policies in their handbooks. And they have procedures whereby any lawyer, for any reason—not limited to child care, not limited to mothers—can request flexibility upon a showing of how the flexibility will benefit the employer and how it will work in practice.

If it sounds a little bit familiar, it does track some of the language in the bill. We have seen this play out for months, and in some cases years now, in these law firms. They are retaining very good workers, they are retaining women, they are advancing their women.

Importantly, they are also retaining men. A lot of men want flexibility. And the stigma against them requesting flexibility is even greater than against women because they have the double whammy. Not only are they now putting themselves in this flexible worker category, but they are now working against their sexual stereotype.

And so having a provision by which they feel free to be able to request flexibility without retaliation would have a very good effect.

Chair Maloney. Ms. Galinsky.

Ms. Galinsky. When the law was passed in the U.K. and when the law was passed in New Zealand, it interested me greatly that employers began to copy the law; it is usually the other way around. But in this case, employers began to use the provisions of those laws to create their own flexibility policies.

When the Family and Medical Leave Act was passed in 1993, there was a huge amount of business opposition to it. You can remember that and I can remember that—you can all remember that—it was seen as the "camel's nose under the tent" and so forth.

What is very different today than in 1993 is that businesses are using flexibility. They are using it for their own purposes. And there are groups here in this room today that bring in a business constituency to talk about how to create policy that works for business and works for employers.

World of Work is here, and that has been their stance. As a representative of businesses, Corporate Voices is here in this room, and that has been their stance: to have a corporate voice in the public policies that affect families. And WF 2010 from Georgetown Law Center is here, and they have brought together both employer representatives and employee representatives to come up with their platform.

So I think it is a different time. And keep introducing the bill because I think there should be a different debate because business groups and business and employee groups are now saying that they want to have a voice and be a part of the public policy discussion.

Thank you for having me.

Chair Maloney. Thank you very much. My time has expired.

Mr. Cummings.

Representative Cummings. Ms. Nussbaum, you wrote in your testimony—and I am just piggybacking on what Ms. Galinsky was just talking about—you wrote that more of the private sector should be subject to the Family and Medical Leave Act. Tell us in more detail how you suggest going about that sort of expansion; and, other than widening the scope of businesses subject to the act, the additional changes that you think we need to make.

Ms. Nussbaum. My written testimony provides detail on what kinds of changes, but they include expanding to smaller companies, lowering the amount of time a worker needs to be in the company in order to be eligible for family medical leave, and the reasons for which you can take family medical leave. All of those things would be important expansions, and I think easily accommodated, not disruptive, and incredibly important to the workers, who would then have access to it.

Additionally, I think that in order to make family medical leave really effective, we have to provide wage replacement. As I testified earlier, 80 percent of workers say that they could not take the leave because they had no wage replacement. And so unpaid leave becomes a nice sounding benefit, but not one that is really of practical use for most people.

Representative Cummings. And Ms. Calvert, legal action or the threat of legal action is an obvious recourse that employees have against a company's violation of internal policy or Federal/State labor laws. It is reasonable to assume that lower-income workers may have less access to legal representation in these cases. Are resources available for low-income workers to address discrimination or other complaints? And what role can unions play in all of that?

Ms. Calvert. You are right, there is definitely a problem of access to legal representation for lower-wage workers. On our hotline

we do our best, if someone has a claim, to find resources for them. Sometimes lawyers will take their cases on a contingency basis, depending upon the strength of the case. There are a number of pro bono services, women's law centers and the like, around the country to which we can refer these people. We also have some resources available that anyone can use to try to resolve their problems within their workplace on their own.

The role of unions is very, very important. We have resources available for unions to make sure that they understand the legal scope of family responsibilities, discrimination, how it plays out, what the remedies are that are available. And, very clearly, unions have a strong role to play.

Representative Cummings. Ms. Galinsky, I am just going to go back to some of the things that you were saying earlier. You referred back to the Ozzie and Harriet statement, and then you talked about how more folks are coming to the table, businesses and whatever. And I think that is why broad-based diversity in making decisions and policy is so important.

I have often said in my district and other places that I would hate to even imagine the Congress without women. And I am serious. Because I think it is so important—and I can say that about African-Americans and others, too. Because it is so important that if you are going to set policy for a diverse group of people, then you need diverse people setting the policy.

And so I say that to say that, you know, I was trying to figure, as you were talking earlier about how do we bring—you said we had a 21st century situation and acting like we are in the 20th century—but how can we bring ourselves up to date because things have changed tremendously, but it just seems like we just haven't caught up as a society? Do you have any suggestions?

Ms. Galinsky. That feels like my life's work. I think that what we try to do at the Families and Work Institute is to look at the assumptions, and then look at the realities. And we collect data on employers and employees on an ongoing basis so that we can look at the trends to see what is real and what is happening.

So I think that having data both of what the trends are in the demographics of the workforce and in the realities of people's lives, but also what best practices are.

Next week we will be releasing a report. We have an award program called When Work Works, which we are in 30 communities and three States, where we have a process for giving awards to employers that are more flexible and effective. And the employer self-nominates. If they are in the top 20 percent of employers nationally, then they give the survey to employees. Two-thirds of the winning vote comes from employees.

We then produce a book that has some of the best practices of what employers are doing around the country. We can instantly produce reports for what employers are doing for the recession—I have one with me today, for example, if you want to see it.

We started out with less than 100 winners, we now have 260 winners. Next year we are going to have more than 440 winners. There are really good things happening all over the country.

But we do find, to go back to your first point, that when companies have more diverse leadership, they tend to be more effective

and flexible workplaces. And that has been a consistent finding of our National Study of Employers. If you look at who is making the decisions, when there is more diversity there, they tend to be more supportive of both succeeding as employers—obviously they have to succeed as employers—but also helping their employees at the same time, and helping their employees have a good personal and family life as well as be effective at work.

I think the big change is coming among younger employees. Among younger employees, for example, we find that women are just as ambitious as men. Women with children are just as ambitious as women without children. All these are firsts. We find that the attitudes toward work and family life have changed. We find that the composition of that younger population is much more diverse, but they still want the same things that all of us want. Their values for what they want at work aren't that different than other generations.

Representative Cummings. Thank you.

Chair Maloney. Mr. Hinchey.

Representative Hinchey. Thank you very much, Madam Chairman. This has been very interesting, frankly, and I thank you very much.

We are struggling with this economy here, this Congress, and trying to figure out what to do. One of the most significant things that we are dealing with right now is the health-care issue. And there is a possibility that that bill could pass the House of Representatives next week. But nevertheless, that is only a possibility; it is also possible it may be extended out for some time because of the controversy associated with it.

I wonder if you might have any suggestions or recommendations about that, how much you think it is effective.

Also, with regard to unionization, we know that people who work in unions make more money. We also have some recent information that says—something that came out by the Labor Project for Working Families—showing that 46 percent of unionized workers receive pay while on leave compared with only 29 percent of nonunionized workers. I wonder if you have any comment on that or any suggestions.

And then finally, with regard to this economic development program, the so-called stimulus bill, what is your attitude about that? How effective do you think it is? And what additionally might we be focusing on in order to generate an improvement in this economy? If you wouldn't mind, the three of you, I would appreciate it.

Ms. Nussbaum. Thank you.

This also refers back to Congressman Snyder's question earlier on health care. I think the most important element in health care and making it affordable for small businesses is the public option, that unless we can control costs, we will not have effective health-care reform. That is the absolute essential element to it, and it is what makes it available for small businesses.

And if we don't solve the health-care crisis, we will never be able to resolve the rest of these problems because it will continue to sap our economy. It is the absolute fundamental. It removes the burden from employers. It takes it out of collective bargaining and restores

health to American families. I don't think it could be more important.

On unionization, certainly the work and family benefits, clearly there is a differential with regard to work and family benefits; unionized workers are far more likely to enjoy them, as well as have higher pay. And what we find is that workers who don't have a union know that. A majority of workers say that they would join a union tomorrow if they had the chance. Our 2.5 million members in Working America who do not have a union on the job are looking for just these kinds of improvements in their lives. And they know that they will achieve that when they achieve strength in numbers; that is what they are looking for. And we have got majority support in the public to try to allow labor law reform to take place.

Passing the Employee Free Choice Act will make that more available as the most flexible, most effective way to improve work-life balance and working conditions for all workers.

Finally, on the stimulus, we believe that the stimulus has not gone far enough, that we need a greater stimulus; that the problem here requires the greatest possible action on the part of the government; that we have got to get money into job creation and get it in fast.

So we applaud the work that has gone on so far, but we believe that actually what we need is more.

Ms. Calvert. Certainly, paid family leave is a goal of many, and unions have been very effective in obtaining benefits. One area where we would like to help unions is exploring the ways in which bias can be addressed in the bargaining process, ways that bias in the workplace can be addressed through the collective bargaining.

With regard to health care and the stimulus, I am sorry, but that is beyond my area of expertise.

Ms. Galinsky. We have a report that we are going to release around Labor Day on the health of American workers, the mental and physical health, because our National Study of the Changing Workforce for the first time includes items on physical health. So I will have a lot more to say about health at that time. But it is, as you can imagine, a pretty mixed picture.

Representative Hinchey. Thank you very much.

Chair Maloney. Thank you, Mr. Hinchey.

And Ms. Galinsky, you seem to have a report a month. You are very busy.

I would just like to ask finally, for my part, what role do you think work-life balance policies can play in promoting women's success in the workplace? It used to be very rare to have women in the workplace. Now it is commonplace, and work balance issues and work-life balance issues are becoming more important.

Could you comment on that, Ms. Galinsky, and all the panelists if you so wish?

Ms. Galinsky. One of the wonderful changes that I have seen in the three decades that I have done research on this subject is that we used to think we had to live this as part of the 21st century versus the 20th century, you had to have an either/or world. And I know that that dragon, as Karen Nussbaum mentioned, was raised with Jack Welch in his comments a few days ago.

I don't think we live in an either/or world. I think we live in a both/and world. And I don't think that women can succeed without having a supportive workplace, but neither do I think men can succeed without having a supportive workplace. And for the first time this has become a much more legitimate area of conversation. So I am hopeful that all of us working collectively can help make that a reality for more families because it is not just those families with children. We find that 43 percent of employees have had elder-care responsibilities in the past 5 years, and more than 50 percent of us expect to in the next 5 years. So this is an issue.

The issue of work and family life affects us all when we are young, when we are older, when we are in the middle, and whatever our family circumstances. So I think all of us can't succeed without having supportive and effective workplaces, flexible and effective workplaces.

Chair Maloney. Ms. Calvert.

Ms. Calvert. I would certainly echo that and the earlier comments about work-life balance not being a women's issue. We certainly see a lot of men who are striving for that. We hear from a lot of people that they prefer the term "work-life integration" because they don't view things as necessarily needing to be in balance, but something that one is always striving to achieve, realizing that sometimes work takes priority, sometimes family takes priority.

In terms of women's advancement, I see a direct correlation—and I think most researchers do—and that is because, although it is not a women's issue, women still do the bulk of the caregiving in this country. And to the extent that they are burdened by that, the playing field in the workplace is certainly not level.

There was a study done a couple of years ago, and MIT did another study last year on New Jersey women lawyers, in which they looked at law firms and women being promoted in the law firms. They found that most of the men had stay-at-home spouses, and most of the women did not. And the women were pointing to that as a key reason why they were not being promoted within their firms. They were not able to devote the same sort of level of attention and time and effort to their work, given that disparity.

So when work life is viewed as an issue for both genders and when everyone is working to integrate their work and their lives, I think we are going to see even more promotability of women.

Chair Maloney. Ms. Nussbaum.

Ms. Nussbaum. My generation was part of demanding equality for women, and what we got was equal employment opportunities and a bad workplace. We ended up getting those jobs just like they always were, which just doesn't work.

We do indeed have it all. We have the responsibility for providing wages in our families; we have the responsibility for providing health care in our families; for elder care in our families; for raising our children; for dealing with our community responsibilities. I don't know that is really what we intended.

I think what we want is to have it all in a way that recognizes that we cannot string out women and men and their families to the last ragged edge by not providing any supports.

Chair Maloney. Thank you, and very well said by all of you.

Representative Cummings.

Representative Cummings. Ms. Nussbaum, I wasn't going to ask any other questions, but based on what you just said, I was just curious. I would imagine—and Ms. Calvert and Ms. Galinsky, you might want to comment on this. I was just thinking that when you talk to a lot of young people, they get married and they think they are going to have this rosy, rosy life—and I am sure they will. And then they have all the stuff that you just talked about, I mean, this balancing act. You see them rushing here and rushing there.

I mean, this has to have an impact on our divorce rates, and that is that quality of life—I can't think of a better statement than that—that people experience. You know, we can't always measure quality of life, but it is so significant. And so many people are striving for it, and they have an image of what it is supposed to feel like, look like, and when they see that they can't get it, because of the very things that you just talked about, then they throw up their hands and say, you know what, I am going to get a divorce, or I am just going to go another route.

I mean, I was just wondering, have you all looked at divorce quality-of-life issues with regard to the things that you are talking about today?

Ms. Nussbaum. One of the very saddest consequences, I think, of a workplace that really doesn't meet the needs of women and families—or men—is that so many people, especially young people, feel like they have no one to count on, that the only person I can count on is myself. There is a fractured sense of community. There is no sense that you can change things; that all you can do is try to struggle through on your own.

That is a sad, sad comment. I don't think it is the America that we want to live in, but it is an accurate reflection of the lives of most people, especially young people. And I think it is one of the many reasons that we need to rebuild a social fabric that tends to our families.

Ms. Calvert. Well, while we haven't studied divorce per se, there certainly have been a lot of studies of lawyers that have concluded they have very high rates of divorce. Of course the legal profession is known for having very high demanding hours, very high stress, low flexibility, although our project for attorney retention is certainly trying to change that.

But one thing that I would note is we probably have some lessons to learn from this younger generation, which is taking much more of an approach of work where you want to, when you want to. It is a very healthy attitude. We see people who are finding that quality of life that you are talking about, while still being very productive at work by putting in a lot of effort because they are able to integrate their work and their life outside the office.

Ms. Galinsky. I would agree with what Ms. Calvert said. We find that young people still want it all, but they are realistic about what that means. They don't expect to have it all and do it all. They don't necessarily want it sequentially. We have asked these sorts of questions.

This generation of young people is much more family-centric than boomers were. They see the generations before them who gave

their all to employers and then got downsized, so that they are more realistic.

But I don't think that the notion of change is over for younger people. I think that they do expect to try to make it work in different ways, particularly since they have grown up with technology and they are used to working in different ways. And so they are ushering in a change that I think we can help support and be hopeful about.

They are more realistic than we were, but they still want to try to make it work. And they don't necessarily like the word "balance" either, because they see it as a choice word, either/or, if this side is up, that side is down. Some use integration. We use the words "work-life fit" because it is what works for you is what is important. And each of us has different priorities on different days of the week and different hours of the week.

But I do think there is some hope toward your having this hearing, we are discussing this, it is in the media. And I think we can continue to try to work to make it work.

Representative Cummings. Thank you.

Chair Maloney. Thank you.

Mr. Hinchey, for the last word.

Representative Hinchey. Well, this isn't the last word, but again, thank you. Thank you very much for everything that you have done.

One of the things that interests me is the contribution that women are making to the betterment of this economy. And I think that that has been very, very substantial. The more women become involved in economic circumstances, the better the circumstances improve, the stronger they become, the more insight we get, the more creativity. And I think that that is based upon something—which I can't help but laugh a little bit as I think about it—that women generally are more insightful, and maybe even smarter than men on an average basis. So the contribution that they are making—and I don't mind saying that because I think it is true—but the contribution that women are making to the economy is very substantial.

One of the problems with women and the economic conditions and maintaining those circumstances and improving them is maternity leave. There are a lot of things that happen with regard to women working and then needing to go off on maternity leave that jeopardizes their working future.

So I wonder if you might have some ideas about that situation and anything that we might be able to do to make sure that there is sufficient maternity leave, and that the maternity leave isn't jeopardizing women's jobs; that they can continue to have those jobs and also continue to advance in the context of that employment.

Ms. Galinsky. We used to think of flexibility as simply the—and I am talking in the seventies or so—as the hours that people worked. And now I think there is a much broader understanding that flexibility isn't just—and this started in the 1990s or so when the definition expanded—but flexibility isn't just the hours that you work during any one week, full-time versus what was seen as alter-

native part-time, or it was seen as abnormal—alternative work schedules is what it was called. And no longer is that true.

I think we need to think about flexibility, about when we work, about where we work, and about how we work throughout our lives. We look very strongly at flex careers, which is the fact that it may be having time off when you have a baby, whether you are a father or a mother, or it may be when you have elder care and you are older. So we need to think about flexibility in careers or in the lifecycle of work.

People are going to work longer in retirement because they can't—into their retirement years. We now in our study are going to do a whole report on working in retirement, which is what a lot of people call their post-retirement jobs, that we need to support people. And there have been a lot of models for how to do that.

The reason that women fall behind when they have babies is because their salaries decline for the amount of time that they stay out. And so we need to keep people connected to the workforce when they are leaving; initiatives like Personal Pursuits or extended leave, where you are connected to your employer, you continue to get training, you come in and substitute for people while you are away—that solves some of the small business issues.

We need to think of those kinds of creative solutions that don't jeopardize people economically, because the reality of life today is that people move in and out of the workforce, whether they are unfortunately downsized and have to move out, not by choice, or whether it is because they are having a family issue, like a wonderful thing like having a baby or a difficult thing like having an elder-care crisis.

Ms. Calvert. I am very glad that you raised the issue of maternity leave, because we get so many calls to our hotline involving maternity leave, women who are fired just before they go on leave so that they won't get paid leave; women who are fired during their leave or shortly thereafter.

There is a tremendous amount of bias around maternity leave, a lot of discrimination. And one of the things that we look to is an increase in paternity leave use so that employers do not look at a young woman that they just hired and make an automatic assumption that down the road she is going to be lost to them for a few months for maternity leave.

It would be much more equitable if an employer were able to look at any young person that he or she just hired and say that person is likely to need some time off for child-bearing or child-rearing, whatever, at some point in their careers. It would be even better if the employer then went one step further and said, you know what? All of us are going to need some time off at some point during our careers to recover from a heart attack, a car accident, take care of a sick spouse or parent.

And so, really, we are very focused on this issue of maternity leave as being something that is damaging to women and their careers. And certainly it absolutely is right now, but that is not something that is a given. And that is one of the nice things about the FMLA; it doesn't limit the leave just to women.

And so if we can make full use of the FMLA's provision and then encourage employers to get rid of the caregiver bias, it will go a long way.

Ms. Nussbaum. And I would also like to suggest that expanding and providing wage replacement for family medical leave is the obvious next step for providing maternity leave. We are the only industrialized nation that doesn't have it.

Recently, I met with a woman in government, from Malaysia. And I was prepared to condescend to her, frankly, about their bad working conditions. But when I told her that we didn't have maternity leave here, she chastised me for having failed our nation's women. How could we possibly have done such a poor job in failing to provide such a basic benefit? I do believe that taking this next step on FMLA would be the way to resolve that.

Representative Hinchey. Thank you.

Chair Maloney. Thank you. And I do want to note that we did pass paid maternity leave for Federal employees. It was a bill of mine that has gotten through the House. Senator Webb is sponsoring it in the Senate. And Congressman Stark has a bill in that would expand paid family leave to the private sector, which I am obviously supporting and hope we will be able to pass in this session.

I would like to thank all of you for your life's work and for being here today to talk about work-family fit in the recession and how workers and employers are coping. And as I said, if we as a nation truly value families, then we have to have policies that are in place that speak to valuing the families. And we need to have workplace policies that support not only the working families, but their children also. This is important for a path to success not only for working men and women, but for their families and their children.

I thank you very much for being here. Congratulations on the report you issued today, Ms. Galinsky. And thank you all for your testimony. Thank you.

[Whereupon, at 11:35 p.m., the committee was adjourned.]

SUBMISSIONS FOR THE RECORD

PREPARED STATEMENT OF REPRESENTATIVE CAROLYN B. MALONEY, CHAIR, JOINT ECONOMIC COMMITTEE

Good morning. I want to welcome our distinguished panel of witnesses and thank you all for your testimony today.

The American workplace has not kept pace with the changing needs of workers and families. Both Ozzie and Harriet go to work now, so most families no longer have a stay-at-home parent to care for a new child, a sick spouse, or an aging parent.

Businesses that offer policies that help employees meet the competing demands of work and family have seen the benefits to their bottom lines with increased productivity and a more committed workforce.

This is a timely hearing because employees and their families, as well as employers, need flexibility more than ever.

The value of flexibility to employers has increased because the recession has pressed all sectors of business and government to find ways to improve performance. Workplace flexibility is an inexpensive and effective way to motivate employees by humanizing jobs at a time when so many aspects of our economy are harsh.

Some businesses do understand the value of flexibility for workers. A 2007 survey conducted by this committee found that among America's largest and most successful employers, 79 percent provide paid leave for new parents, and 45 percent provide unpaid leave beyond the 12 weeks mandated under the Family and Medical Leave Act.

Businesses that rigidly cling to policies created when employees had fewer family responsibilities have fallen behind the times. Managers who believe there is "one best way" to get the job done, and do not listen to their employees, are missing out on valuable innovations. A lack of flexibility gives demoralized employees even less reason to help their businesses survive and thrive.

Perhaps most important in today's economic climate is that flexibility can help save jobs. Employees understand this—a survey conducted this March found that a solid majority of employees are willing to take on additional and unpaid leave or vacation, or to switch to a four-day workweek in order to prevent layoffs. Many employees are ready to share their job with another individual, or to take on reduced hours with reduced pay. Employees stand ready to work with employers to use flexible workplace options to control costs and preserve jobs.

Flexibility is also crucial to the future of our economy. Employers who do not support flexible work arrangements will find valued employees fleeing at the first sign of recovery in the labor market, in addition to losing out now on the benefits of having a committed workforce.

The Working Families Flexibility Act can help. Our best employers are already using flexibility as a strategy to weather the recession, and I hope we hear more about these employers today. The Working Families Flexibility Act, which I have sponsored in the House, will ultimately benefit all American employees, businesses, and our economy by making the strategy used by our most successful businesses into public policy.

It will generate the productivity we need to propel our economy forward in these tough times and to sustain our competitive position as the economy recovers.

I have long championed policies to support working families, such as the Family and Medical Leave Act of 1993. But more must be done to help families, which is why I have also sponsored the Federal Employees Paid Parental Leave Act, which recently passed the House of Representatives and provides new parents with four weeks of paid time off.

If we as a nation truly value families, then we need new workplace policies that support our working families and set our children on a path for success early in life.

I look forward to the testimony of our witnesses today.

PREPARED STATEMENT OF REPRESENTATIVE KEVIN BRADY, SENIOR HOUSE REPUBLICAN

I am pleased to join in welcoming the witnesses before us today.

The recession continues to destroy jobs and force the unemployment rate ever higher, imposing great hardship on millions of families. Unfortunately, the stimulus legislation has not been effective in boosting the economy. Last January, two top Administration economists projected that the unemployment rate would not exceed 8.0 percent if the stimulus were enacted, but the unemployment rate has risen to 9.5 percent and appears likely to climb significantly higher.

Almost all businesses are under pressure, and many small businesses struggling to survive in this very challenging economic environment are unable to afford the

costs of expanded employer-provided benefits. An effort to force small businesses to offer specific benefits would raise costs, especially of employment, and undermine their financial position.

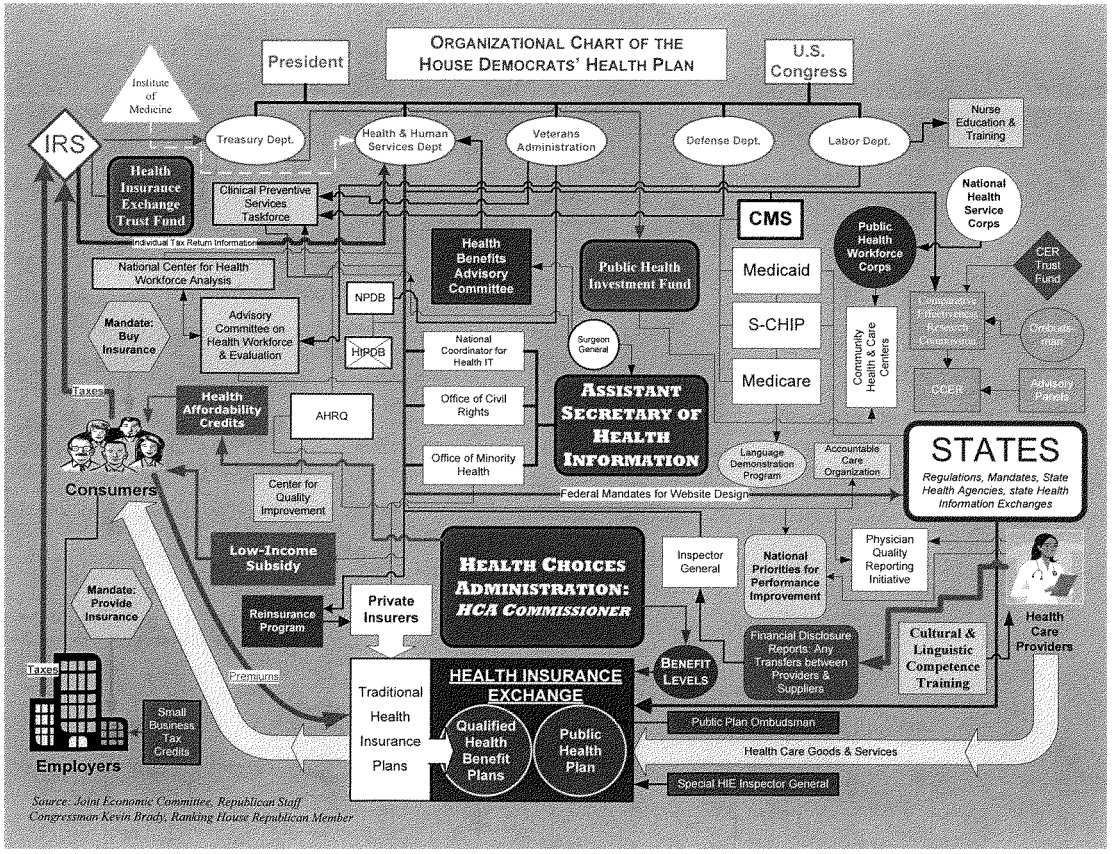
Small businesses historically account for much of the job creation in the United States and undermining their ability to create new jobs and opportunities in a weak economy is not good economic policy. Over the longer run an effort to mandate employee benefits will tend to reduce other forms of employee compensation, including wages.

I remain concerned that Administration policies to increase federal deficits and debt will burden the economy for years to come and undermine job growth. Higher taxes, mandates, and federal spending could lead to a future with high unemployment and lower living standards. Every new mandate or tax Congress adopts now would only make the situation worse. It is not too late to reconsider our economic policies and avoid piling more costly mandates on an already overburdened economy.

What really concerns workers is what the Democrats' health care proposal would do to the quality and availability of their health care. This 1018 page proposal doesn't control costs and will drive the budget deficits even higher, according to the Congressional Budget Office (CBO). It would leave 17 million people uninsured, a population approaching that of Florida.

A maze of bureaucracy would be created standing between patients and medical service providers. It would establish at least 31 new commissions, agencies and mandates that would decide what doctors you can see, what treatments you deserve, and what medicines you can receive. Medical care would be rationed and wait times for even routine medical procedures would be extended. More taxes would be levied, further damaging the economy.

The bottom line is that if the Democrats plan were adopted, a person needing medical care will be much more likely to encounter delays in treatment and their choice of insurance plans and doctors will be more limited. It is not too late to stop this misguided and poorly conceived health care proposal. Congress should not rush through a deeply flawed proposal on a party line vote, but instead carefully consider the interests of patients in assuring the availability of quality health care without unnecessary bureaucratic mandates and controls.


ORGANIZATIONAL CHART OF THE HOUSE DEMOCRATS' HEALTH PLAN
President
U.S. Congress
Institute of Medicine
IRS
Treasury Dept.
Health & Human Services Dept
Veterans Administration
Defense Dept.
Labor Dept.
Nurse Education & Training
Health Insurance Exchange Trust Fund
Clinical Preventive Services Taskforce
Individual Tax Return Information
National Center for Health Workforce Analysis
Mandate: Buy Insurance
Advisory Committee on Health Workforce & Evaluation
NPDB
HIPDB
Health Benefits Advisory Committee
Public Health Investment Fund
CMS
Medicaid
S-CHIP
Medicare
Public Health Workforce Corps
National Health Service Corps
CER Trust Fund
Comparative Effectiveness Research Commission
Ombudsman
CCER
Advisory Panels
Community Health & Care Centers
Taxes
Health Affordability Credits
AHRQ
National Coordinator for Health IT
Office of Civil Rights
Office of Minority Health
Surgeon General
ASSISTANT SECRETARY OF HEALTH INFORMATION
Language Demonstration Program
Accountable Care Organization
STATES
Regulations, Mandates, State Health Agencies, state Health Information Exchanges
Consumers
Center for Quality Improvement
Federal Mandates for Website Design
Low-Income Subsidy
HEALTH CHOICES ADMINISTRATION: HCA COMMISSIONER
Inspector General
National Priorities for Performance Improvement
Physician Quality Reporting Initiative
Mandate: Provide Insurance
Reinsurance Program
Private Insurers
Health Care Providers
Taxes
Premiums
Traditional Health Insurance Plans
HEALTH INSURANCE EXCHANGE
Qualified Health Benefit Plans
Public Health Plan
BENEFIT LEVELS
Financial Disclosure Reports: Any Transfers between Providers & Suppliers
Cultural & Linguistic Competence Training
Small Business Tax Credits
Employers
Public Plan Ombudsman
Health Care Goods & Services
Special HIE Inspector General
Source: Joint Economic Committee, Republican Staff
Congressman Kevin Brady, Ranking House Republican Member

THE IMPACT OF THE RECESSION ON EMPLOYERS

Embargoed Until 12:01 AM, July 23rd, 2009

Ellen Galinsky
James T. Bond

Families and Work Institute

ACKNOWLEDGEMENTS

We are deeply grateful to members of the Board of Directors of the Families and Work Institute (FWI) who encouraged us to spend our own funds to conduct this timely study on *The Impact of the Recession on Employers* and for their astute guidance in suggesting the actual questions we should pursue.

Our biggest thanks go to Board member Ted Childs of Ted Childs LLC and to Lois Backon, FWI's Vice President. It is because of their creative and committed leadership of FWI's Work Life Legacy Awards event—as well as because of FWI's Director of Development Carol Bryce-Buchanan's passionate leadership of the Institute's Corporate Leadership Circle—that we have the unrestricted funding to be able to do the right study, at the right time!

Our thanks to the work-life scholars and work-life leaders who were so thorough and thoughtful in their reviews of the study's questionnaire, especially Kathleen Christensen of the Alfred P. Sloan Foundation and Katie Corrigan and Chai Feldblum of Workplace Flexibility 2010 at Georgetown Law Center.

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We are indeed lucky to have such an exemplary staff at Families and Work Institute—they have supported this study in so many ways. First and foremost is Kerstin Aumann, who provided wise research counsel every step of the way. Kelly Sakai and Shanny Peer provided extremely helpful feedback on the many drafts of this questionnaire. We also thank John Boose for his terrific design for the report and Barbara Norcia-Broms for her careful proof reading. We are grateful to Natalie Elghossain for her skillful assistance in compiling and analyzing the quotes from the open-ended responses of employers and to Courtney Dern for her invaluable assistance in putting the final touches on this study.

12:06 AM, July 23, 2009

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OVERVIEW OF FINDINGS

We all know that the recession has taken a severe toll on employers and on their human resource practices and policies, but no one has been quite sure how severe. Families and Work Institute's new nationally representative study of 400 employers reveals that two thirds (66%) of employers have suffered declining revenues over the past year, with another 28% reporting that the revenues have held more or less steady. Only 6% have experienced growth.

Employers have had to respond and most (77%) have done so by finding ways to cut or control costs. Among those that have seen their revenues decline, nine in ten have turned to cost-cutting measures—most frequently decreasing or eliminating bonuses, eliminating salary increases, laying off employees and instituting hiring freezes. Layoffs are, in fact, commonplace, as we know from monthly unemployment figures from the U.S. Department of Labor, Bureau of Labor Statistics. In fact, 64% of the employers needing to turn to cost-cutting strategies have reduced the number of employees on their payrolls.

Despite this very bad news, it does appear that that between 34% to 44% of employers are trying to help employees manage the recession—they help employees who have been laid-off find jobs, they help employees manage their own finances more effectively and they connect them to publicly funded benefits and services.

There has been a great deal of debate about what is happening with flexibility during the recession. Since many employers saw flexibility tied to improving retention,[1] would they reduce the workplace flexibility they offer during times of layoffs?

The answer is a resounding no. Most employers are either maintaining the workplace flexibility they offer (81%) or increasing it (13%) during the recession. Perhaps they view flexibility as affecting employee engagement, or perhaps they want to focus on retaining the key employees who remain. While more than a quarter (28%) have turned to involuntary reduction in hours, a comparable percentage (29%) have used voluntary reductions in hours. And perhaps surprisingly, 57% report giving employees some or a lot of say about the schedules they now work.

We know from national unemployment figures that more men than women have lost jobs in the recession, and this study similarly finds that men are more likely than women to work for employers that have laid off employees. But the differences don't stop there—men are also more likely to work for employers that have reduced working hours, changed the scheduling of work hours and reduced salaries.

In addition, employees from for-profit firms are at greater risk of negative financial outcomes during the recession than those at nonprofits. Beyond these findings, there are fewer major differences than expected among employers with varying employee populations in how they are handling the recession, including those with more hourly employees or more unionized employees. Although our most recent study of employers found that small and large employers were equally flexible,[2] this study now finds that large employers are more likely (25%) than small employers (12%) to have increased flexible work options such as flexible schedules and flexible workplace options because of the recession.

INTRODUCTION

Economic recessions are associated with significant revenue and earnings declines for most employers, and, consequently, with higher rates of unemployment and underemployment for American employees—as well with as other changes in life on the job.

In order to better understand the impact of the current recession on the U.S. labor force and on employers, the Families and Work Institute (FWI) surveyed a random sample of U.S. employers with 50 or more employees in May of 2009. Please see the information in Research Design and Methodology on page 25 for a description of the study design and implementation.

Although the popular media has addressed this issue at some length in recent months, the information presented has been largely anecdotal or based on surveys of specific populations, such as consultants surveying their clients or membership organizations surveying their members. It is important to move beyond speculation to see how a nationally representative sample of employers is dealing with the recession and its impact on its human resource policies and practices. That is the purpose of this study.

Embargoed until 12:01 AM, July 23, 2009

STUDY QUESTIONS

This study is designed to address the following questions among a nationally representative sample of U.S. employers with 50 or more employees:

1. What percentage of employers have taken steps to reduce labor and operational costs in the past 12 months?
2. Among these, what specific cost reduction strategies have they used?
3. What are employers doing to help employees deal with the recession?
4. What is happening with workplace flexibility during the recession?
5. Do the strategies employers use for dealing with the recession differ for employers that have larger proportions of women or men; of hourly or salaried employees; of unionized or non-unionized employees? Do they differ for employers that are nonprofit or for-profit? And do they differ for employers of various sizes?
6. What are employers doing that they think would serve as useful examples for other employers? Throughout the report, we include employers' responses to this open-ended question.

Embargoed Until 12:01 AM, June 23rd, 2009

OVERALL FINDINGS

Table 1 addresses the first two study questions—the percentage of employers that have taken steps to reduce labor and operational costs in the past 12 months and the specific cost reduction strategies they have used.

The most obvious indication of the recession's impact on employers is that two thirds (66%) of employers report that their revenues declined in the past 12 months.

- In addition, 28% of employers say revenues remained at approximately the same level, while only 6% report higher revenues.

Most employers (77%) have made some effort to reduce or control costs during the recession.

- Among employers that have experienced lower revenues, 90% have taken steps to reduce labor and operational costs versus 50% of other employers.

In response to our open-ended question about promising practices, some employers reported that they have turned to their employees for suggestions on cost-cutting measures. These include informal requests to more formal procedures:

> *We generated a cost-savings program where employees submitted cost-saving ideas—the implementing of employees' ideas is going to save a lot of money.*

> *We have organized an active cost committee that is made up of administration and laborers that have meetings once a month and make recommendations.*

Decreasing or eliminating bonuses, eliminating salary increases, laying off employees and instituting hiring freezes are the most frequent strategies employers have used to control costs.

As can be seen in Table 1, among those employers that implement cost-saving strategies, 69% have decreased or eliminated bonuses and salary increases; 64% have laid off employees to reduce costs; 61% have implemented a hiring freeze; and 57% have eliminated all travel that is not essential to their businesses.

Other strategies have been used much less frequently, though some of these other strategies to reduce costs may have actually saved jobs—for example, reductions in hours to lower labor costs, increased telecommuting to save on occupancy costs and increased use of compressed workweeks.

In their comments, employers describe some of these practices:

> *We've had employees go a week a month without working and without pay, and we do this on a revolving basis throughout the location or department. It has worked well to share the pain and maintain morale.*

> *The biggest [strategy] is using compressed workweeks, because it doesn't have an impact on employees' wages, but has an impact on operational costs.*

> *We reduced working hours. That was our biggest cost-saving strategy. Our employees and unions supported that choice.*

Embargoed until July 13rd 2009

Table 1: What have employers done to reduce costs during the past 12 months?

Reduction of costs during recession	% of employers
Employer has taken at least one step to reduce labor and operational costs in the past 12 months	77%

Among those employers who have taken steps to reduce labor and operational costs in the past 12 months (maximum N=304), what proportion have used each strategy

1. Decreasing/eliminating bonuses and salary increases	69%
2. Layoffs	64%
3. Hiring freeze	61%
4. Eliminating all travel that is not essential to business	57%
5. Freezing promotions	35%
6. Reducing health care benefits or increasing employee costs	29%
7. Voluntary reductions in hours	29%
8. Involuntary reductions in hours	28%
9. Reducing salaries/wages	27%
10. Increasing use of compressed workweeks	22%
11. Reducing employer contributions to 401(k) or 403(b) plans	21%
12. Increasing telecommuting to save on occupancy costs	19%
13. Hiring workers who earn less	13%
14. Outsourcing work or moving employees into contract work	11%
15. Reducing sick time	8%
16. Offering buyouts or other inducements for early retirement	7%
17. Encouraging phased retirement by working reduced hours	7%
18. Reducing paid vacation time	7%
19. Eliminating the legacy costs of a defined-benefit pension	4%
20. Eliminating health care benefits for retirees	2%

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Table 2 addresses the third study question: what are employers doing to help employees deal with the recession? We see such initiatives as having the potential to help employees and employers alike. For example, by reducing stress, health care costs could go down; by treating employees with respect, helping them manage the recession, giving them input and providing them with flexibility to meet personal or family needs, employee engagement could increase.

Between 34% to 44% of employers are helping their employees weather the recession by helping those who have been laid off find other work, providing information on how to manage their own finances and connecting them to publicly funded benefits and services.

Among employers that have laid off employees, 43% have provided them with help to find other work and/or manage this transition. One employer says:

> *On a fairly personal level, I would like to say that the Human Resources departments work rather closely with former employees to update résumés, remarket their skills and basically just help them get re-employed. It's not a formal program, but we work very hard at it.*

More than one third of employers communicate about the financial situation of their organization very often, and another 41% do so somewhat often. An employer says:

> *We have board meetings twice per month, and we have an open door policy. Communication is the key—to be available to listen to employees and their concerns.*

Additionally, more than one third of employers (34%) report providing special support to help employees manage their own financial situations. This includes helping employees deal with their own finances more effectively in the downturn:

> *We have a financial advisor who we make available to our employees. He actually comes into our office which makes it more convenient to our employees.*

> *We use our EAP provider to provide financial counseling and assistance that we use to assist employees with their finances. We do this both because of the economic crisis and as a benefit to our employees. [In addition], a group of other businesses in the area has identified resources that are available in the community. When a local business is in need, this is a way we have used to become proactive—to assist those who may become victims of the current financial situation.*

Employers also provide help in managing stress:

> *We have a motivated association program concerned with stress. It is directed to employees that have financial stress, family stress.*

And companies report helping others in their community who need assistance:

> *We have made donations for clothes, toys and food for people in the community, for people in need. We're having a big garage sale and will donate in the community.*

Employer efforts to refer low-income employees to public programs are not new or necessarily related to the current recession. Indeed, there have been various public, NGO and private employer

initiatives addressing this issue in recent years in response to the fact that even in the best of times, various public programs (e.g. EITC, child care subsidies, free tax preparation, SCHIP) are under-utilized by those who are eligible and could benefit from them. We find that more than two in five employers nationally (44%) are currently making some effort to encourage employee enrollment in public programs or to connect employees to community services.

Table 2: Specific steps taken by employers to support employees

Specific steps by employers to support employees	Overall % of employers
Among those employers that have laid off employees: Do you provide any assistance to employees who have been laid off to help them find other work or to manage this transition? (N=192)	
Yes	43%
No	37
All employers: How often do you communicate with your employees about the financial situation of your organization? (N=398)	
Very often	34%
Somewhat often	41
Not often	25
All employers: Are you providing any special support to employees to help them manage their own financial situations during this recession? (N=396)	
Yes	34%
No	66
All employers: Do you make a special effort to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services? (N=383)	
Yes	44%
No	36

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A very large majority of employers is either maintaining the workplace flexibility they offer (81%) or increasing it (13%) during the recession.

Table 3 addresses the fourth study question: what is happening with workplace flexibility during the recession?

- Among employers that have encouraged employees to choose flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours and phased retirement), the majority (57%) of employers give employees a great deal or some input into decisions about using those arrangements.
- Among employers that have implemented reduced work hours—both mandatory and voluntary—to reduce costs, a large majority (83%) have maintained the same level of benefits for employees.
- In addition, fully 81% of employers have maintained existing flexible work options during the recession and 13% have actually increased those options, while 6% have reduce them.
- Finally, 26% of employers have specifically used flexible workplace options to minimize the need for layoffs.

Table 3: Workplace flexibility during the recession

Flexible workplace options during the recession	Overall % of employers
Among those employers that have encouraged flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours, phased retirement): How much input or choice have employees had about working under the flexible arrangements now in place? (N=156)	
A lot/Some	57%
Not much/None	44
Among those employers that relied upon reduced work hours (phased retirement, voluntary part time, and mandatory part time): Do you still provide the same level of benefits to employees who work reduced hours? (N=134)	
Yes	83%
No	18
All employers: Have you reduced, maintained or increased flexible work options such as flexible schedules or flexible workplace options because of the current economic downturn? (N=375)	
Reduced	6%
Maintained	81
Increased	13
All employers: Have you used flexible workplace options to minimize the need to lay off employees? (N=394)	
Yes	26%
No	74

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Although we didn't ask about this in our survey, some employers report that they have tried to find ways to improve morale and to bring fun into the workplace during these trying times:

> *We've just incorporated incentives—games to increase morale when the employees go above and beyond. [These are] low-cost or non-monetary incentives.*

> *We're looking at creative ways to have fun in the workplace at low cost. These include secret pal, potlucks, raffles, fund drives, etc.*

Employers who report helping their employees manage the recession make statements such as this one:

> *Don't impair your most important asset—your human asset.*

HOW HAVE EMPLOYERS WITH DIFFERENT CHARACTERISTICS RESPONDED TO THE RECESSION?

In the remainder of the report, we address the fifth study question: do the strategies employers use for dealing with the recession differ for employers that have larger proportions of women or men; of hourly or salaried employees; of unionized or non-unionized employees? Do they differ for employers that are nonprofit or for-profit? And do they differ for employers of various sizes?

EMPLOYERS THAT DIFFER IN THE PROPORTION OF WOMEN AND MEN

Men have been disproportionately affected by the recession. They are more likely than women to work for employers that have laid off employees, reduced working hours, changed the scheduling of work hours and reduced salaries.

As shown in Table 4, employers with larger proportions of men than women on the payroll are more likely to have taken steps to reduce costs (80% versus 69%). Specifically:

- Employers with more men on the payroll are more likely to have laid off employees (71% versus 50%). Regarding layoffs, unemployment rates for men have exceeded those for women since the beginning of the recession. In May of 2009, when this survey was conducted, the unemployment rate for men was 9.8% versus 7.5% for women.[3] Men, of course, are more likely to be employed in goods-producing industries where job losses have been the greatest.
- Employers with more men on the payroll are more likely to have frozen promotions (39% versus 26%) as well as to have required employees to work reduced hours (35% versus 17%), which typically means lower wages. National statistics from the U.S. Department of Labor also show that men are more likely to be working reduced hours today (under 35 hours a week) than in the past—up from 9.5% in 2007 to 10.2% in 2008. In contrast, women's level has remained stable—23.5% in 2007 and 23.6% in 2008.[4]
- In addition, employers with more men on the payroll rely more heavily on compressed workweeks (27% versus 15%) to control costs.
- In contrast—although the numbers are quite small, employers with more women on the payroll are more likely (6% versus 1%) to have eliminated health care benefits for retirees. This action has significant implications not only for retirees, but for those nearing retirement as well, especially women since they live longer than men on average and tend to have fewer financial resources.

Table 4: How have employers' strategies to reduce costs in response to the current recession varied in relation to the proportion of women employees?

Strategy to reduce cost	Overall %	Women < 50%	Women 50% +	Sig.
Have taken any steps to reduce costs	**77%**	**80%**	**69%**	*
1. Decreasing/eliminating bonuses and salary increases	69%			ns
2. Layoffs	**64%**	**71%**	**50%**	***
3. Hiring freeze	61%			ns
4. Eliminating all travel that is not essential to business	57%			ns
5. Freezing promotions	**35%**	**39%**	**26%**	*
6. Reducing health care benefits or increasing employee costs	29%			ns
7. Voluntary reductions in hours	29%			ns
8. Involuntary reductions in hours	**28%**	**35%**	**17%**	**
9. Reducing salaries/wages	27%			ns
10. Increasing use of compressed workweeks	**22%**	**26%**	**15%**	*
11. Reducing employer contributions to 401(k) or 403(b) plans	21%			ns
12. Increasing telecommuting to save on occupancy costs	19%			ns
13. Hiring workers who earn less	13%			ns
14. Outsourcing work or moving employees into contract work	11%			ns
15. Reducing sick time	8%			ns
16. Offering buyouts or other inducements for early retirement	7%			ns
17. Encouraging phased retirement by working reduced hours	7%			ns
18. Reducing paid vacation time	7%			ns
19. Eliminating the legacy costs of a defined-benefit pension	4%			ns
20. Eliminating health care benefits for retirees	**2%**	**1%**	**6%**	*

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Employers with a larger proportion of women than men are more likely to communicate about the organizations' financial situation and to connect employees to publicly funded benefits and services.

Table 5 details how employers that vary in the proportion of women to men help employees manage the recession.

- Employers with more women on the payroll than men are more likely to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services (51% versus 40%). This may be because women are more likely to earn lower wages and to live in low-income families than men and to be single parents.[5]
- Employers where half or more of the employees are women are also more likely to keep the employees informed about the financial situation of the organization.

Table 5: Specific steps taken by employers to support employees employees that vary in proportion of women to men employees

Specific steps by employers to support employees	Overall %	Women < 50%	Women 50%+	Sig.
Among those employers that have laid off employees: Do you provide any assistance to employees who have been laid off to help them find other work or to manage this transition? (N=192)				ns
Yes	43%			
No	56			
All employers: How often do you communicate with your employees about the financial situation of your organization? (N=398)				**
Very often	**34%**	**28%**	**43%**	
Somewhat often	**41**	**43**	**36**	
Not often	**25**	**28**	**21**	
All employers: Are you providing any special support to employees to help them manage their own financial situations during this recession? (N=396)				ns
Yes	34%			
No	66			
All employers: Do you make a special effort to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services? (N=383)				*
Yes	**44%**	**40%**	**51%**	
No	**36**	**60**	**51**	

As shown in Table 6, there are no statistically significant differences in how employers with higher proportions of women versus men are using workplace flexibility during the recession.

Table 6: Workplace flexibility during the recession among employers that vary in proportion of women to men employees

Flexible workplace options during the recession	Overall %	Women < 50%	Women 50%+	Sig.
Among those employers that have encouraged flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours, phased retirement): How much input or choice have employees had about working under the flexible arrangements now in place? (N=156)				ns
A lot/Some	57%			
Not much/None	44			
Among those employers that relied upon reduced work hours (phased retirement, voluntary part time and mandatory part time): Do you still provide the same level of benefits to employees who work reduced hours? (N=134)				ns
Yes	83%			
No	18			
All employers: Have you reduced, maintained or increased flexible work options such as flexible schedules or flexible workplace options because of the current economic downturn? (N=375)				ns
Reduced	6%			
Maintained	81			
Increased	13			
All employers: Have you used flexible workplace options to minimize the need to lay off employees? (N=394)				ns
Yes	26%			
No	74			

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EMPLOYERS THAT DIFFER IN THE PROPORTION OF HOURLY EMPLOYEES

There are few differences between employers with larger or smaller proportions of hourly employees in how they control costs during the recession—only two differences were found. Employers where more than half of the workforce is hourly are more likely to have reduced health care coverage or to require larger co-pays, and they are more likely to call for voluntary reductions in hours.

Table 7 compares the srategies for cost controls used by employers with larger and smaller proportions of hourly employees during the recession:

- Employers with more hourly employees on the payroll are more likely to have reduced health care benefits or increased cost sharing by employees, by way of higher premiums (33% versus 22%).
- Employers with more hourly employees are also more likely to rely upon "voluntary reductions in hours" to control costs. Voluntary part-time work is the most common arrangement. Whether employees have truly free choice—uninfluenced by their employers—cannot be determined with certainty from our data.

Table 7: How have employers' strategies to reduce costs in response to the current recession varied in relation to the proportion of hourly employees?

Strategy to reduce cost	Overall %	Hourly <= 50%	Hourly > 50%	Sig.
Have taken any steps to reduce costs	77%			ns
1. Decreasing/eliminating bonuses and salary increases	69%			ns
2. Layoffs	64%			ns
3. Hiring freeze	61%			ns
4. Eliminating all travel that is not essential to business	57%			ns
5. Freezing promotions	35%			ns
6. Reducing health care benefits or increasing employee costs	**29%**	**22%**	**33%**	*
7. Voluntary reductions in hours	**29%**	**21%**	**34%**	*
8. Involuntary reductions in hours	28%			ns
9. Reducing salaries/wages	27%			ns
10. Increasing use of compressed workweeks	22%			ns
11. Reducing employer contributions to 401(k) or 403(b) plans	21%			ns
12. Increasing telecommuting to save on occupancy costs	19%			ns
13. Hiring workers who earn less	13%			ns
14. Outsourcing work or moving employees into contract work	11%			ns
15. Reducing sick time	8%			ns
16. Offering buyouts or other inducements for early retirement	7%			ns
17. Encouraging phased retirement by working reduced hours	7%			ns
18. Reducing paid vacation time	7%			ns
19. Eliminating the legacy costs of a defined-benefit pension	4%			ns
20. Eliminating health care benefits for retirees	2%			ns

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As shown in Table 8, there is only one difference between employers with a higher versus a lower proportion of hourly employees.

By a large margin, salaried employees are more likely than hourly employees (55% versus 36%) to receive help finding other work and to manage the transition when laid off.

Table 8: Specific steps by employers to support employees that vary in proportion of hourly employees

Specific steps by employers to support employees	Overall %	Hourly <= 50%	Hourly > 50%	Sig.
Among those employers that have laid off employees: Do you provide any assistance to employees who have been laid off to help them find other work or to manage this transition? (N=192)				*
Yes	43%	55%	36%	
No	56	45	64	
All employers: How often do you communicate with your employees about the financial situation of your organization? (N=398)				ns
Very often	34%			
Somewhat often	41			
Not often	25			
All employers: Are you providing any special support to employees to help them manage their own financial situations during this recession? (N=396)				ns
Yes	34%			
No	66			
All employers: Do you make a special effort to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services? (N=383)				ns
Yes	44%			
No	36			

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Employers with a larger percentage of hourly employees on the payroll are more likely to have used flexible workplace options to minimize the need to lay off employees (30% versus 20%).

Thus, although employers with more hourly employees are less likely to provide help to employees who have been laid off, they are more likely to have taken steps to reduce the need for layoffs.

Table 9: Workplace flexibility during the recession among employers that vary in the proportion of hourly employees

Flexible workplace options during the recession	Overall %	Hourly <= 50%	Hourly > 50%	Sig.
Among those employers that have 'encouraged' flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours, phased retirement): How much input or choice have employees had about working under the flexible arrangements now in place? (N=156)				ns
A lot/Some	57%			
Not much/None	44			
Among those employers that relied upon reduced work hours (phased retirement, voluntary part time and mandatory part time): Do you still provide the same level of benefits to employees who work reduced hours? (N=134)				ns
Yes	83%			
No	18			
All employers: Have you reduced, maintained or increased flexible work options such as flexible schedules or flexible workplace options because of the current economic downturn? (N=375)				ns
Reduced	6%			
Maintained	81			
Increased	13			
All employers: Have you used flexible workplace options to minimize the need to lay off employees? (N=394)				*
Yes	26%	20%	30%	
No	74	80	70	

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EMPLOYERS THAT DIFFER IN THE PROPORTION OF UNIONIZED EMPLOYEES

The proportion of unionized employees in the U.S. workforce has decreased significantly in recent years. Consequently, there are relatively few employers with large proportions of unionized employees on the payroll. Indeed, 88% of employers have fewer than 25% of employees who belong to a union. Since that was the lowest percentage group in our measured distribution, we compare employers with fewer than 25% unionized employees with those that have more.

There is only one difference in the cost control strategies used by employers with more and fewer union employees on the payroll: offering buyouts for early retirement.

- As shown in Table 10, 18% of employers with 25% or more union employees have offered buyouts or other inducements for early retirement versus 6% of other employers.

Table 10: How have employers' strategies to reduce costs in response to the current recession varied in relation to the proportion of unionized employees employees?

Strategy to reduce cost	Overall %	Union <25%	Union 25%+	Sig.
Have taken any steps to reduce costs	77%			ns
1. Decreasing/eliminating bonuses and salary increases	69%			ns
2. Layoffs	64%			ns
3. Hiring freeze	61%			ns
4. Eliminating all travel that is not essential to business	57%			ns
5. Freezing promotions	35%			ns
6. Reducing health care benefits or increasing employee costs	29%			ns
7. Voluntary reductions in hours	29%			ns
8. Involuntary reductions in hours	28%			ns
9. Reducing salaries/wages	27%			ns
10. Increasing use of compressed workweeks	22%			ns
11. Reducing employer contributions to 401(k) or 403(b) plans	21%			ns
12. Increasing telecommuting to save on occupancy costs	19%			ns
13. Hiring employees who earn less	13%			ns
14. Outsourcing work or moving employees into contract work	11%			ns
15. Reducing sick time	8%			ns
16. Offering buyouts or other inducements for early retirement	**7%**	**6%**	**18%**	**
17. Encouraging phased retirement by working reduced hours	7%			ns
18. Reducing paid vacation time	7%			ns
19. Eliminating the legacy costs of a defined-benefit pension	4%			ns
20. Eliminating health care benefits for retirees	2%			ns

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There are no differences between employers with higher proportions and a lower proportion of unionized employees in their specific efforts to support employees during the recession, as shown in Table 11.

Table 11: Specific steps taken by employers to support employees that vary in proportion of unionized employees

Specific steps by employers to support employees	Overall %	Union <25%	Union 25%+	Sig.
Among those employers that have laid off employees: Do you provide any assistance to employees who have been laid off to help them find other work or to manage this transition? (N=192)				ns
Yes	43%			
No	56			
All employers: How often do you communicate with your employees about the financial situation of your organization? (N=398)				ns
Very often	34%			
Somewhat often	41			
Not often	25			
All employers: Are you providing any special support to employees to help them manage their own financial situations during this recession? (N=396)				ns
Yes	34%			
No	66			
All employers: Do you make a special effort to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services? (N=383)				ns
Yes	44%			
No	36			

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Only one significant difference is shown in Table 12:

- Employers with more unionized employees on the payroll are more likely to have reduced flexible work options and less likely to have increased them because of the recession.

Table 12: Workplace flexibility during the recession among employers that vary in proportion of unionized employees

Flexible workplace options during the recession	Overall %	Union <25%	Union 25%+	Sig.
Among those employers that have 'encouraged' flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours, phased retirement): How much input or choice have employees had about working under the flexible arrangements now in place? (N=156)				ns
A lot/Some	57%			
Not much/None	44			
Among those employers that relied upon reduced work hours (phased retirement, voluntary part time and mandatory part time): Do you still provide the same level of benefits to employees who work reduced hours? (N=134)				ns
Yes	83%			
No	18			
All employers: Have you reduced, maintained or increased flexible work options such as flexible schedules or flexible workplace options because of the current economic downturn? (N=375)				*
Reduced	6%	6%	11%	
Maintained	81	80	85	
Increased	13	13	4	
All employers: Have you used flexible workplace options to minimize the need to lay off employees? (N=394)				ns
Yes	26%			
No	74			

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NONPROFIT VERSUS FOR-PROFIT ORGANIZATIONS

Employees at for-profit firms are at greater risk of negative financial outcomes during the recession than are employees at nonprofits.

As shown in Table 13, for-profit employers are much more likely (71% versus 54%) to report lower revenues during the previous 12 months. So not surprisingly, they are much more likely (82%) to have taken some steps to reduce costs during the recession than nonprofit employers (63%). The extent of this difference is, however, unexpected since donations to nonprofits are reported to be decreasing, costs have risen and endowments have declined.[6]

- For-profit employers are more likely (74%) than nonprofit employers (54%) to have decreased or eliminated bonuses and salary increases.
- For-profit employers are much more likely to lay off employees (70% versus 43%).
- For-profit employers are more likely to reduce contributions to retirement plans (25% versus 10%).

Table 13: How have employers' strategies to reduce costs in response to the current recession varied in relation to their nonprofit or for-profit status?

Strategy to reduce cost	Overall %	Nonprofit	For-Profit	Sig.
Have taken any steps to reduce costs	**77%**	**63%**	**82%**	***
1. Decreasing/eliminating bonuses and salary increases	**69%**	**54%**	**74%**	**
2. Layoffs	**64%**	**43%**	**70%**	***
3. Hiring freeze	61%			ns
4. Eliminating all travel that is not essential to business	57%			ns
5. Freezing promotions	35%			ns
6. Reducing health care benefits or increasing employee costs	29%			ns
7. Voluntary reductions in hours	29%			ns
8. Involuntary reductions in hours	28%			ns
9. Reducing salaries/wages	27%			ns
10. Increasing use of compressed workweeks	22%			ns
11. Reducing employer contributions to 401(k) or 403(b) plans	**21%**	**10%**	**25%**	**
12. Increasing telecommuting to save on occupancy costs	19%			ns
13. Hiring employees who earn less	13%			ns
14. Outsourcing work or moving employees into contract work	11%			ns
15. Reducing sick time	8%			ns
16. Offering buyouts or other inducements for early retirement	7%			ns
17. Encouraging phased retirement by working reduced hours	7%			ns
18. Reducing paid vacation time	7%			ns
19. Eliminating the legacy costs of a defined-benefit pension	4%			ns
20. Eliminating health care benefits for retirees	2%			ns

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In addition, nonprofit employers are more likely (44%) than for-profit employers (30%) to help employees manage their own financial situations during the recession, as shown in Table 14. Helping their own employees may be an extension of their missions for a number of nonprofits—to help those in need.

Table 14: Specific steps taken by employers to support employees that vary in relation to their nonprofit or for-profit status

Specific steps by employers to support employees	Overall %	Nonprofit	For-Profit	Sig.
Among those employers that have laid off employees: Do you provide any assistance to employees who have been laid off to help them find other work or to manage this transition? (N=192)				ns
Yes	43%			
No	56			
All employers: How often do you communicate with your employees about the financial situation of your organization? (N=398)				ns
Very often	34%			
Somewhat often	41			
Not often	25			
All employers: Are you providing any special support to employees to help them manage their own financial situations during this recession? (N=396)				**
Yes	**34%**	**44%**	**30%**	
No	**66**	**56**	**71**	
All employers: Do you make a special effort to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services? (N=383)				ns
Yes	44%			
No	36			

We found no significant differences between nonprofit and for-profit employers in the use of flexible workplace options, as shown in Table 15.

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Table 15: Workplace flexibility during the recession among nonprofit and for-profit employers

Flexible workplace options during the recession	Overall %	Nonprofit	For-Profit	Sig.
Among those employers that have 'encouraged' flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours, phased retirement): How much input or choice have employees had about working under the flexible arrangements now in place? (N=156)				ns
A lot/Some	57%			
Not much/None	44			
Among those employers that relied upon reduced work hours (phased retirement, voluntary part time and mandatory part time): Do you still provide the same level of benefits to employees who work reduced hours? (N=134)				ns
Yes	83%			
No	18			
All employers: Have you reduced, maintained or increased flexible work options such as flexible schedules or flexible workplace options because of the current economic downturn? (N=375)				ns
Reduced	6%			
Maintained	81			
Increased	13			
All employers: Have you used flexible workplace options to minimize the need to lay off employees? (N=394)				ns
Yes	26%			
No	74			

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EMPLOYERS THAT DIFFER IN SIZE

When analyzing employer size as an independent variable, it is unnecessary to weight sample data for size of employer as is done elsewhere in this report. Thus, we use unweighted sample data giving us roughly equal numbers of employers in each size category: 50 – 99, 100 – 999 and 1,000 or more.

To simplify the presentation and interpretation of employer-size comparisons, we exclude medium-size employers (100 – 999) from the comparisons reported below, comparing only employers with fewer than 100 employees (small) and those with 1,000 or more employees (large). Generally, the responses of medium-size employers fall between those of small and large.

Three significant differences are reported in Table 16:

- Large employers are more likely (68%) than small employers (51%) to eliminate all travel that is not directly related to doing business. Employers with 1,000 or more employees are more likely to have employees as well as clients in a variety of locations and are, thus, affected to a greater extent than small employers by travel expenses.
- Large employers are more likely (33% versus 13%) to have increased telecommuting to reduce occupancy costs.
- Large employers are more likely (17% versus 3%) to offer buyouts or other inducements for early retirement.

Table 16: How have employers' strategies to reduce costs in response to the current recession varied in relation to their employee size?

Strategy to reduce cost	Overall %	<100 employees	1000+ employees	Sig.
Have taken any steps to reduce costs	77%			ns
1. Decreasing/eliminating bonuses and salary increases	69%			ns
2. Layoffs	64%			ns
3. Hiring freeze	61%			ns
4. Eliminating all travel that is not essential to business	57%	51%	68%	*
5. Freezing promotions	35%			ns
6. Reducing health care benefits or increasing employee costs	29%			ns
7. Voluntary reductions in hours	29%			ns
8. Involuntary reductions in hours	28%			ns
9. Reducing salaries/wages	27%			ns
10. Increasing use of compressed workweeks	22%			ns
11. Reducing employer contributions to 401(k) or 403(b) plans	21%			ns
12. Increasing telecommuting to save on occupancy costs	19%	13%	33%	**
13. Hiring employees who earn less	13%			ns
14. Outsourcing work or moving employees into contract work	11%			ns
15. Reducing sick time	8%			ns
16. Offering buyouts or other inducements for early retirement	7%	3%	17%	**
17. Encouraging phased retirement by working reduced hours	7%			ns
18. Reducing paid vacation time	7%			ns
19. Eliminating the legacy costs of a defined-benefit pension	4%			ns
20. Eliminating health care benefits for retirees	2%			ns

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Large employers are more likely than small employers to provide support to employees to manage the recession.

- As shown in Table 17, large employers are much more likely (66%) than small employers (33%) to help laid-off employees find other work and to manage the transition. This difference may be explained by a number of factors. Large employers are more likely to have human resource professionals on staff who can address these issues and to have contracts with EAP vendors and other business and professional service firms that provide outplacement and counseling services. In addition, providing such services may be important to the organization's reputation in the communities where they operate and among their peers.

- Large employers are more likely (44% versus 25%) to help employees manage their own financial situations during the recession. As above, large employers typically have more resources to provide this sort of support.

Table 17: Specific steps taken by employers to support employees that vary in relation to employee size

Specific steps by employers to support employees	Overall %	<100 employees	1000+ employees	Sig.
Among those employers that have laid off employees: Do you provide any support to these employees to Do you provide any assistance to employees who have been laid off to help them find other work or to manage this transition? (N=192)				***
Yes	43%	33%	66%	
No	56	67	34	
All employers: How often do you communicate with your employees about the financial situation of your organization? (N=398)				ns
Very often	34%			
Somewhat often	41			
Not often	25			
All employers: Are you providing any special support to employees to help them manage their own financial situations during this recession? (N=396)				**
Yes	34%	25%	44%	
No	66	75	56	
All employers: Do you make a special effort to inform employees or laid-off employees who are potentially eligible for publicly funded benefits or services about the availability of these benefits and services? (N=383)				ns
Yes	44%			
No	36			

Large employers are more likely (25%) than small employers (12%) to have increased flexible work options such as flexible schedules and flexible workplace options because of the recession.

- Finally, as shown in Table 18, large employers are more likely (37%) than small employers (23%) to have used flexible workplace options to minimize the need to lay off employees.

Table 18: Workplace flexibility during the recession among employers that vary in relation to employee size

Flexible workplace options during the recession	Overall %	<100 employees	1000+ employees	Sig.
Among those employers that have 'encouraged' flexible work arrangements (telecommuting, compressed workweeks, voluntary reduced hours, phased retirement): How much input or choice have employees had about working under the flexible arrangements now in place? (N=156)				ns
A lot/Some	57%			
Not much/None	44			
Among those employers that relied upon reduced work hours (phased retirement, voluntary part time and mandatory part time): Do you still provide the same level of benefits to employees who work reduced hours? (N=134)				ns
Yes	83%			
No	18			
All employers: Have you reduced, maintained or increased flexible work options such as flexible schedules or flexible workplace options because of the current economic downturn? (N=375)				**
Reduced	6%	7%	3%	
Maintained	81	81	73	
Increased	13	12	25	
All employers: Have you used flexible workplace options to minimize the need to lay off employees? (N=394)				*
Yes	26%	23%	37%	
No	74	77	63	

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CONCLUSION

Obviously, the impact of the recession on employers is a moving target, subject to continual change. It is our intention that this "snapshot in time"—May 2009—of a representative group of employers will provide a picture of the trends, both the negatives and the positives. This study makes it clear that employers are reducing labor and operational costs. This study also indicates that employers recognize that retaining and engaging employees are critical strategies to organizational strength during the recession and beyond.

RESEARCH DESIGN AND METHODOLOGY

Dun & Bradstreet drew a random sample of employers with 50 or more employees from its database. It's coverage of employers of this size is quite good, and we know of no other privately available database that rivals it. Harris Interactive conducted 400 20-minute telephone interviews with Directors of Human Resources or persons with primary responsibility for human resources in (mainly smaller) organizations without HR directors. Interviews were conducted in May of 2009. The response rate was 21%. The maximum sampling error (i.e., margin of error) is approximately +/- 5%.

Employer size is defined as small = 50 – 99; medium = 100 – 999; and large = 1,000 or more. Because smaller employers far outnumber larger employers in the U.S., employers were sampled to provide similar numbers in each size category to obtain reliable population estimates for employers of all sizes. Then, the proportions of employers of different sizes in the sample were weighted to their proportions in the population of employers in the U.S. (as appropriate). Only our analyses of employer size as an independent variable use unweighted sample data. The sample excludes federal, state and local government entities, including public universities. It includes, however, private nonprofit organizations.

We report absolute "differences" as statistically significant only when there is at least less than one chance in 20 ($p < .05$ or "*") that they occurred by chance. The symbols "**" and "***" indicate that absolute differences are less likely than "one in 100" or "1 in 1,000" times, respectively, to have occurred by chance. When no significant difference ("ns") is found among groups, the reader should assume that overall sample %s apply to the groups being compared. Only the findings from tests of *linear* relationships are reported in order to simplify interpretation and presentation.

ENDNOTES

1 Galinsky, E., Bond, J.T. and Sakai, K. (2008) *National Study of Employers*. New York: Families and Work Institute.
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http://www.bls.gov/news.release/empsit.nr0.htm

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http://familiesandwork.org/site/research/reports/Times_Are_Changing.pdf

5 Bond, J.T. and Galinsky, E. (November 2006). *What Do We Know About Entry-Level, Hourly Employees?* Research Brief No.1. New York: Families and Work Institute.
http://familiesandwork.org/site/research/reports/brief1.pdf

6 Salamon, L.M., Geller, S.L. and Spence, K.L. (2009) "Impact of the 2007-09 Economic Recession on Nonprofit Organizations," *Communiqué*, No.14
http://www.ccss.jhu.edu/pdfs/LP_Communiques/LP_Communique_14.pdf

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Deloitte & Touche, LLP
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2009 Introductory Corporate Leadership Circle Companies

85 Broads
Alston & Bird LLP
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PREPARED STATEMENT OF CYNTHIA THOMAS CALVERT, DEPUTY DIRECTOR, THE CENTER FOR WORKLIFE LAW

INTRODUCTION

Chairman Maloney, Vice Chairman Schumer, Ranking Members Brady and Brownback, and Members of the Joint Economic Committee, thank you for inviting me to speak about work/family balance in the current economy. My name is Cynthia Thomas Calvert, and I am the Deputy Director of the Center for WorkLife Law at the University of California Hastings College of the Law. I have been researching work/life and flexible work issues for more than twenty years, the last ten of which have been with WorkLife Law's Director, Distinguished Professor of Law Joan Williams. I am the co-author, with Professor Williams, of the only legal treatise on family responsibilities discrimination, *WorkLife Law's Guide to Family Responsibilities Discrimination*, and of *Solving the Part-Time Puzzle: The Law Firm's Guide to Balanced Hours.* As part of my work at WorkLife Law, I manage a hotline for employees who believe they are facing FRD. My testimony today will be based largely on information learned from the hotline.

Although I will be speaking today primarily about the employee's perspective, it is important to note that WorkLife Law also includes the perspective of the employer. WorkLife Law is a nonprofit research and advocacy group with a unique "six stakeholder" model that brings together employees, employers, plaintiffs' employment lawyers, management-side employment lawyers, unions, and public policymakers. WorkLife Law works with these groups to educate them about FRD and flexible work bias, and to craft business-based solutions.

In addition to maintaining the hotline, WorkLife Law has pioneered the research of family responsibilities discrimination ("FRD").[1] We maintain a database of nearly 2000 FRD cases and track trends in FRD litigation. We publish an email alert for employers about recent developments in FRD and provide resources and training materials for employers and their lawyers to use to prevent FRD in the workplace. We educate plaintiffs' and employers' lawyers about FRD case law, and provide technical assistance to policymakers who seek to address FRD and flexible work bias through public policy. We are currently developing a database of union arbitration decisions that involve FRD, and we provide training and information to unions as well. By working with all stakeholders, we obtain and present nuanced and balanced viewpoints that enable us to create usable and effective strategies for preventing and addressing discrimination against caregivers and flexible workers.

FRD lawsuits can be brought as sex discrimination cases, family and medical leave retaliation, breach of contract, and other types of lawsuits. FRD can arise at any level of an organization, from hourly shift workers to top management. The number of FRD cases has increased rapidly. In 2006, WorkLife Law reported a nearly 400% increase in the number of FRD lawsuits filed between 1996 and 2005 as compared to the prior decade, 1986 to 1995. WLL is in the process of updating this data. Preliminary results indicate a sharp increase in the number of FRD cases in 2007 (316 cases) and 2008 (348 cases) as compared to 2006 (176 cases). Plaintiffs prevail on motions, resulting in settlements, or win verdicts in approximately 50% of the cases. Settlements and verdicts average $100,000, and WorkLife Law has a database of over 125 verdicts that exceed $100,000; several are multi-million dollar verdicts.

BIAS AGAINST EMPLOYEES WITH FAMILY RESPONSIBILITIES

FRD, also known as caregiver discrimination,[2] is employment discrimination based on family caregiving responsibilities. It manifests itself in many ways, including:

- refusing to hire pregnant women;
- not promoting mothers of young children;
- punishing male employees for taking time off to care for their children; and
- giving unwarranted negative evaluations to employees who take leave to care for aging parents.

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[1] E.g., Williams, Joan and Cynthia Thomas Calvert, WorkLife Law's Guide to Family Responsibilities Discrimination (WLL Press 2006 & updates); Joan C. Williams & Stephanie Bornstein, The Evolution of "FReD": Family Responsibilities Discrimination and Developments in the Law of Stereotyping and Implicit Bias, 59(6) Hastings Law Journal 1311 (2008).

[2] See Enforcement Guidance: Unlawful Disparate Treatment of Workers with Caregiving Responsibilities, Equal Employment Opportunity Commission (2006), available at http://www.eeoc.gov/policy/docs/caregiving.html.

FRD is typically caused by unexamined bias about how employees with family caregiving responsibilities will or should act. For example, a supervisor may assume that a man who is taking care of his dying father will be distracted, and therefore not promote him, even though the man continues to perform at the same high level he always has. Although FRD is certainly not confined to women, a large segment of the unexamined biases that cause FRD is maternal wall bias: bias against women because they are or one day may be mothers.[3] A common bias is that a pregnant woman will not be a good employee because she will have poor attendance or will not be as committed to her job once she is a mother, which can lead a supervisor to terminate her. An illustration of a bias based on beliefs about how caregivers should act comes from an employee who contacted WorkLife Law's hotline: her supervisor apparently believed that mothers should be at home with their children, so the supervisor cut her hours to less than half of full-time, telling her that this would allow her to see more of her kids.

FLEXIBLE WORK BIAS

We are very encouraged by the findings of the Families and Work Institute showing that many work/family programs provided by employers are relatively unchanged by the recession.[4] These findings are consistent with what WorkLife Law has learned from the employers with whom it works: the business reasons for offering flexibility, such as retention of good workers and increased productivity and morale, have not changed.

Unfortunately, what also has remained unchanged is the prevalence of flexible work bias. Flexible work bias mirrors and often overlaps with family responsibilities bias. Employees who work flexibly often encounter unspoken and often unrecognized assumptions on the part of supervisors and co-workers about their commitment, dependability, worth, ambition, competence, availability, and suitability for promotion. These assumptions affect how supervisors perceive flexible workers and their performance, which in turn affects the assignments they receive, and how their work is evaluated and rewarded. While employers may not be changing their work/family programs, employees may engage in "bias avoidance" by not taking advantage of such programs for fear of being marginalized or penalized at work—behavior that may be exacerbated by today's economic climate in which most employees have at least some fear of losing their jobs.

Here is an example of how flexible work bias commonly plays out in the workplace, which is drawn from calls to our hotline: Tonya is a hard worker who regularly receives raises and is given training opportunities to enable her to be prepared for a promotion. Once Tonya begins to work reduced hours and to work some of the hours from home, attitudes toward her change. She doesn't get the challenging assignments anymore, because supervisors reserve those for the "go-getters" in the department who are more committed to their work and can be counted on to complete assignments on time. Tonya no longer receives training opportunities, because her employer assumes that she does not want a promotion and, even if she does, those opportunities should be reserved for employees who are the "future" of the company. Tonya, who used to be able to arrive at and leave the office as desired, now finds that her hours are scrutinized. When she is out of the office, everyone assumes it is for schedule-related reasons, even if the real reason is a visit to a customer. Tonya's work product is reviewed more closely now, as if it may contain more errors due to inattention or incompetence. She receives a more critical performance review, and, consequently, a proportionately lesser raise than when working standard hours. She begins to understand that her future with the company has become cloudy, or perhaps has vanished completely. Interestingly, supervisors in other departments, who work with Tonya but are unaware of her change in schedule, think she is doing the same great job as ever, as do her customers.

This example shows how subtle, often unrecognized assumptions can add up to create a significant flexible work bias that sets up a lesser "flex track," much like maternal wall or caregiver bias sets up a "mommy track" in the workplace. Other common examples of flexible work bias include hostile situations in which supervisors actively try to get rid of workers on flexible schedules, either by creating situations that justify termination or by making work so unpleasant that the employees will quit.

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[3] Williams, Joan and Nancy Segal, "Beyond the Maternal Wall: Relief for Family Caregivers who are Discriminated Against on the Job," 26 Harv. Women's L.J. 77 (2003).

[4] Galinsky, Ellen, James T. Bond, and Kelly Sakai, 2008 National Study of Employers, Families and Work Institute.

WORKLIFE LAW HOTLINE

The flexible work bias and caregiver bias largely explain why FRD and related claims come to our WorkLife Law hotline. Many of the employees who contact us are facing personnel actions based on biased assumptions, not on their actual performance.

WorkLife Law has been running the hotline since 2003. In the first five years of our hotline's operation, we received a total of approximately 315 inquiries. The volume of calls to our hotline then increased dramatically. In 2008, we received approximately 125 inquiries, double our previous annual average, with the bulk of the calls coming in the last quarter. This year, in the six-month period between January and July 15 alone, we have had approximately 92 inquiries, which suggests that we will receive more than 175 inquiries for this calendar year.

The inquiries come mostly from women, but also from some men. Men can face caregiver bias and flexible work bias, and it is important to note that they also often face hostile gender bias: if they are somewhat involved with their families, such as coaching soccer, they are "great guys"; if they engage in regular caregiving, they are "wimps," no longer viewed as team players, and seen as lacking the drive necessary to get ahead.

Calls and emails to the hotline come from all types of workers. We have heard, for example, from workers in retail, manufacturing, public safety, education, corporate management, and law firms. We hear from hourly workers, department managers, and vice presidents. We hear primarily from pregnant women and parents of young children, and we also hear from adult children of aging parents, employees with sick or disabled spouses, and grandparents who are guardians of their grandchildren.

HOTLINE INQUIRIES IN THE RECESSIONARY PERIOD

Many of the hotline calls suggest that employers are targeting family caregivers and flexible workers for termination. Some of this appears to be attributable to hostile forms of bias, such as in the case of one caller who reported that when she was pregnant, her supervisor told her that he had doubts she could get her work done once she had children and she was really inconveniencing him and her department. When she asked after returning from maternity leave if she could work a flexible schedule, he told her no, that she could quit if she couldn't hack it. In the ensuing weeks, he acted abusively toward her and she did in fact quit.

Another example that suggests hostility involves a scientist who worked for Shell Oil. Shell Oil has a reputation for having very effective flexible work policies,[5] but as this example suggests, a terrific policy can quickly be undone by a single supervisor.

This call came into our hotline in January of this year, from Tobi Kosanke. Tobi now has a lawyer, and has filed a complaint with the EEOC. The following allegations are from that complaint. Tobi worked from home, examining thin sections of rock through a microscope. This arrangement was created because her daughter was born with a medication-resistant disease that requires her to be breastfed frequently and Tobi has health issues that prevent her from pumping milk at work. The arrangement worked well, Tobi was very productive, had happy clients, and won special recognition awards. After a couple of years, she got a new supervisor who referred to her telecommuting arrangement as "a mess" she would have to fix. The new supervisor moved Tobi to a new team and told her to return her microscope to the company. The supervisor then told Tobi to be in the office 30 hours per week or work part-time and take a pay cut, even though the supervisor was aware that these schedules would not allow Tobi to feed her child. Tobi took FMLA leave and tried to wean her child, but was not successful. Faced with a choice between a paycheck and her daughter's health, she says she asked to work part-time or take a sabbatical, but the company terminated her instead.

It should be noted, however, that many terminations that are not based on hostile bias may involve bias nonetheless. An equally likely, although untested, reason for termination of family caregivers and flexible workers in the current economy may be the pressure supervisors feel to show good results with fewer resources as their budgets shrink. They may feel that they have to weed out underperformers and trim

[5] E.g., L.M. Sixel, Women's Group to Honor Winner with a Difference, Houston Chronicle, Houston Chronicle, Jan. 17, 2004, at B1 (Shell's compressed work schedule, flexible work arrangements, and maternity leave programs as among the reasons they received an award from Catalyst for diversity and inclusivity); see also Shell Oil's website, http://www.shell.us/home/content/usa/a boutshel I/careers/professions Is/rewards__benefits/professional__rewardsbenefits.html#work-life__balance__5 (listing Shell's work/family programs).

personnel costs to maintain their bottom line. The problem arises when supervisors assume that those employees with caregiving responsibilities or who telecommute or work flexible schedules are the "underperformers." Thus, the supervisors' response to this pressure is no less based on bias: when they take personnel actions based not on actual employee performance but on assumptions of how caregivers and flexible workers should or will perform, they are engaging in discrimination.

We have received other inquiries from employees in the past eighteen months who have had their flexible work arrangements eliminated, some of whom were told the elimination was for economic reasons. Some reported that their employers eliminated the company's flex time policy and telecommuting policy. These callers unanimously expressed their needs for flexibility and feelings of near desperation at facing unemployment because of their inability to work a standard schedule. Several were working part-time for caregiving reasons, but were told that they must return to full-time work or be terminated. The economic rationale for this is hard to understand. Requiring employees to return to full-time work, at greater pay and with benefits, costs employers money unless the employers are banking on reducing number of employees on the payroll by forcing the employees to quit.

In another indication that employers may be using the recession as an excuse to terminate family caregivers, since January 2008, we have received 45 inquiries from women who were terminated shortly before, during, or shortly after their pregnancies. Several of these terminations were carried out by supervisors who expressly questioned the new mothers' ability to combine work and family, but most were more circumspect. Several women were told there was not enough work, but these women told us that it was because their work had been given to others. Several were told their positions were eliminated for budgetary reasons, but the circumstances raise questions: one was not given the option of applying for other open positions, one said there was enough funding to move another employee to full-time hours and provide him benefits, and two reported that their employer hired other employees in their department after terminating them.

One example from this group is particularly instructive.[6] An employee had performed well at a large company for more than six years. She had a child, and everything was fine. Her manager worked with her on her schedule, and was happy as long as she was getting her work done. That is lesson one: a little flexibility on the manager's part allowed the company to retain a good worker. She became pregnant again, and soon before she left on leave, she had a new manager. The new manager changed her schedule, putting her on late night and very early morning shifts that she could not work because of the lack of public transportation at those hours. That is lesson two: WorkLife Law has noticed a pattern in court cases and calls to the hotline in which flexibility works fine for everyone until a new manager arrives. The manager may feel a mandate to reorganize the department or may lack a personal relationship with the employees and an understanding of their value to the organization. But whatever the reason, the pattern typically includes the termination of flexibility and action to terminate the employee.

This employee was the sole breadwinner for her family, however, so she did her best to make it work with her new manager. When she went out on leave, others were hired to do her work. She returned to work as planned, and asked if she could take one day a week off or work from home one day a week. She didn't receive an answer. Instead, she was laid off at the end of last year as part of a recession-based, company-wide RIF. She was the only person in her department who was let go, despite her seniority and record of satisfactory performance. This is lesson three: having a child and asking for flexibility are two key trigger points for bias and discrimination.

Almost a third of the inquiries in the past eighteen months have come from employees who feel squeezed between job and family demands. Some of the most heart-wrenching stories come from this group, involving employees who literally weigh the need to put food on the table against the need to provide for the safety and care of dependents. Three recent callers told of being fired because they missed work because their children were hospitalized, even though they had alerted their employer to the reason for their absences. Another caller missed one day of work because her childcare failed and she could not leave her toddler unattended; she was fired even though others in her company missed days of work for other reasons and were not fired. In some of these instances, it appears that the employer has created the situation to force the employees to quit so the employer can avoid paying unemployment and perhaps reduce the likelihood of a lawsuit. In one such situation, a single mother who had been working successfully for nearly a year was placed on a schedule

[6] Hotline calls are confidential. In the examples in this section, unless otherwise indicated, facts that would identify the caller have been removed or altered.

of rotating shifts by a new supervisor, making it impossible for her find childcare. Another with special needs children was told she would have to work large amounts of overtime, although others in her department were not required to. Another caller, a brand new mother, worked overtime for weeks on end, and when she finally asked for a break—which just meant a return to standard hours for a period of time—she was fired.

While flexible work options would resolve most of these situations, the hotline callers state that their supervisors have refused their requests for flexibility, or that they have received a message that their use of such options would impact their careers negatively. Another way to state this is that in workplaces where flexible work bias is weak or nonexistent, employees will resolve work/family conflict through flexible work schedules. Where the bias is too great, they feel they cannot. In one of the strongest examples of bias, some part-time employees reported the belief that they were being targeted for layoffs before employees working standard schedules.[7] In today's economy, employees simply cannot afford to do anything that would threaten their jobs.

In conclusion, bias against family caregivers and flexible workers is a pressing problem in the workforce. Its effect on employees is clear, but we also need to remember that these biases damage employers' bottom lines. They cost employers not just in terms of legal liability, but also in terms of unscheduled absenteeism, worker attrition, smaller available talent pool, lowered productivity and morale, higher health costs, and poorer customer service.[8] Employers and employees will both benefit from bias prevention programs and from effective systems to address bias as it occurs.

We appreciate the Committee holding this hearing and we stand ready to assist in any way in your efforts going forward.

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[7] In another example of flexible work bias, an employee who recently returned from her second maternity leave was denied a promotion after she said she wanted to cut back her hours to take care of her baby's medical conditions. Another who cut back her hours for childcare reasons was not given any work to do.

[8] See, e.g., WFC Resources, Making the business case for flexibility, available at http://www.workfamily.com/Work-IifeClearinghouse/UpDates/ud0043.htm (collecting studies).

WORKING AMERICA
A Community Affiliate of the AFL-CIO
815 16th St., N.W.
Washington, DC 20006
202-637-5137
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Thank you, Chair Maloney, Vice-Chair Schumer, and Ranking Member Brownback.

My name is Karen Nussbaum. I am here today representing a lifetime of experience representing the concerns of working women: as the founder and director of 9to5, the National Association of Working Women; the Director of the Women's Bureau of the U.S. Department of Labor, the highest seat in the federal government devoted to women's issues; assistant to the president of the AFL-CIO; and currently as the executive director of Working America, the community affiliate of the AFL-CIO, an organization of 2.5 million working women and men who do not have a union on the job. My professional experience as a working women's advocate – and an advocate for working men and families – spans all occupations, union and non-union.

The Deteriorating Work-Family Balance

For generations, the problem of work and family was solved simply – pay a family wage to a single breadwinner. Accepted norms governed employer-employee relationships, strengthened by unions and collective bargaining. This solution didn't work for everyone – around 40% of African American women worked throughout the first half of the 20th century, while single women of all races didn't earn a family wage – but the post-World War II economic boom saw a common increase in standard of living across all income groups, families were tended to and communities benefitted from the volunteer activities of their members. The American middle class blossomed in these years.

A 1974 Business Week editorial signaled a shift in employer strategy towards workers, wages and benefits: "It will be a bitter pill for most Americans to swallow – the idea of doing with less so that banks and big businesses can have more." This signaled the inception of a low road strategy, in which employers reduced wages and benefits for most workers, creating a privileged group of professional workers at the top at the expense of a broad middle class; drafted low-wage workers, particularly women, into the workforce; and made a concerted effort to reduce worker bargaining power.

This strategy has proven effective for employers and disastrous for workers and their families. Working and middle-class people shared in the postwar boom, but after 1973, workplace standards were steadily eroded and most Americans ended up doing with less.

- Median family income stagnated, and actually dropped from 2000-2006.[1]
- Defined benefit pensions became a thing of the past – 25 years ago more than 80% of large and medium-sized firms offered defined benefit pensions; today, less than a third do.[2]
- Nearly half of private sector workers have no paid sick leave.[3]
- Nearly a quarter of workers have no paid vacation or holidays,[4] and Americans work, on average, a month longer each year than in 1983.[5]

- More and more women are working multiple jobs and non-standard hours – more than one out of four regularly work nights or weekends; and nearly half of all women work different schedules than spouses or partners.[6]

And banks and big businesses – until they crashed – did get more.

- Between 1948 and 2001, in each cyclical recovery, corporate profits grew an average of 14% while worker salaries grew at half that rate. Between 2001 and 2004, while workers' incomes shrank by 0.6%, corporate profits grew 62.2%.[7]
- From 1987 to 2005, the percentage of Americans without health insurance grew from 12.9% to 15.9%,[8] while from 2002 to 2005 alone, insurance company profits soared by nearly 1000%.[9]

A Return to Standards

Once known as "cafeteria benefits," work and family policies such as child care or flextime were seen as options that could be chosen to fit personal needs above and beyond the basic benefits. While some employees – primarily urban professionals – were making choices at the cafeteria, the great majority of working people no longer even had meat and potatoes.

Some leaders, such as former General Electric CEO Jack Welch, say that there is "no such thing as work-life balance,"[10] that working women have no choice but to sacrifice either work or family. But Ellen Galinsky's impressive work demonstrates that work/life policies are viable and widespread, increase productivity and personal satisfaction. Her research demonstrates that pursuing work/life policies in a recession is *good* for the bottom line.

However, after a 30-year experiment with voluntary adoption of work/family measures in the workplace, we know that reasonable standards will not penetrate the workplace without enforcement. A small minority of professional workers will have the benefits and arrangements they require, but the majority of workers will be subject to work schedules beyond their control, minimal or no benefits and no paid leave to care for their families.

As we decide how to cope with recession, we have the perfect opportunity to take the next step and create workplace standards that are good for the bottom line and for working families.

Freedom to Join a Union and Bargain Collectively

The most effective and flexible way to create customized improvements at the work place is by enabling working people to talk directly with employers about what is needed – otherwise known as collective bargaining.

A recent study by the Labor Project for Working Families found that, among hourly workers, 46 percent of unionized workers receive full pay while on leave compared to 29 percent of nonunionized workers, while companies with 30 percent or more unionized workers are five times as likely as companies with no unionized workers to pay the entire family health insurance premium.[11] The Employee Free Choice Act would restore the right to collective bargaining, which would help create a contemporary version of work/life balance.

Health Care

Health care costs are crippling families and employers and crowding out the possibility of other workplace improvements. With health insurance expenses the fastest-growing cost component for employers,[12] employers do that offer health coverage are finding it difficult to compete, both with companies in countries that have universal coverage and with employers in the U.S. that do not offer benefits. Meanwhile, workers' out-of-pocket costs have soared from $1,320 in 2001 to $3,597 in 2008[13] and medical debt is a factor in 62 percent of personal bankruptcies.[14]

Solving the health care crisis would create a new floor for the work/family balance, boosting disadvantaged families while reassuring middle-class ones that one piece of bad luck would not plunge them into bankruptcy.

Work/Family Standards

In addition, there are key work/family standards which provide the framework for moving forward.

- Paid sick days
  - Paid sick days help reduce the spread of illness in workplaces, schools and child care facilities, yet 79 percent of low-income workers – the majority of whom are women – do not have a single paid sick day.[15]
  - Congress should support The Healthy Families Act (H.R. 2460), which would provide full-time employees with seven paid sick days per year – and a prorated amount for part-time employees – to be used for short-term illness, to care for a sick family member or for routine medical care

- Paid family leave
  - The Family and Medical Leave Act has been a great success. Since 1993, workers have used the FMLA more than 100 million times.[16] Yet, half of the private-sector workforce is excluded from it and 4 out of 5 eligible employees who need leave could not take it because it was unpaid.[17] FMLA coverage should be expanded and wage replacement be added.

- Control over work hours/flexible work hours
  - Flexibility in regards to workers' work/life balance is particularly important given that Americans work nearly nine weeks (350 hours) longer each year than Western Europeans.[18] In 1970, fewer than half (38 percent) of U.S. women with school-age children were in the labor market. By 2000, more than two-thirds (67 percent) were on the job.[19] In the U.S., two-thirds of working couples with kids put in overtime.[20] Flextime helps solve the common conflict between lengthening work hours and our personal obligations. Flextime gives a worker more control over her or his schedule on an hourly, daily, weekly, seasonal or annual basis. If Workers are expected to flex to the job, the job should flex back.

    I'd like to recognize Chair Maloney for her leadership on this issue and ongoing commitment to working families across the country. Securing a flexible workplace for women and families is essential to balancing the daily demands of work and personal life, and the Working Families' Flexibility Act seeks to advance that cause.

- Paycheck fairness
  - The Paycheck Fairness Act is not strictly a work/family policy but it does seek to restore balance – in the wages paid to women and men. (H.R. 12) would close loopholes in the Equal Pay Act of 1963 and is long overdue.

- Misclassification of employees
  - Misclassification of employees allows employers to save on taxes and benefits, and harms workers and their families by excluding them from health insurance, workers compensation, minimum wage and overtime pay, and family and medical leave or unemployment benefits.

- Child care and pre-school
  - Affordable child care is a must for single mothers, families that require two incomes to get by, and women who choose to continue working while their children are you.
  - Early childhood education would not only benefit children but would enable their parents to save on childcare costs and potentially return to the workforce sooner if they chose.

Conclusion

It has taken decades to achieve basic workplace standards – in some cases it has been more than a century of struggle: overtime after 40 hours, no child labor, non-discrimination, and more recently, unpaid family leave. Many benefits workers took for granted in the 1950s are now seriously eroded. We are now far behind all other industrial countries both in standards and practice and we have seen that without the standards, we will not have the practice.

Now is the time to put the next generation of basic workplace safeguards in place.

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PREPARED STATEMENT OF REPRESENTATIVE ELIJAH E. CUMMINGS

Thank you, Madam Chair, for holding this critical hearing on employees' ability to balance work and family.

I also want to thank you for your tireless leadership to improve the strength and health of all American working families.

I look forward to the testimony of all our witnesses. Along with the macroeconomic assessment of our economy that we hear each month from the Bureau of Labor Statistics, hearings such as this that focus on individual firms and employees remind us of the real impact of the recession.

During our economy's more sunny days, the emergence of workplace benefits like flex-time, telecommuting, compressed work schedules, and paid sick leave were an attractive benefit to recruit and retain employees.

However, the economic forecast today is still cloudy, and so many of the businesses in our districts, small and large, have been forced to make hard choices and take decisive cost-cutting action to stay afloat.

Often, this means letting employees go; regrettably in some cases, lay-offs have taken the form of discrimination against pregnant women, parents of young children, and caretakers of elderly family members.

Further, we know from a 2008 study from Ms. Galinsky's Families and Work Institute, that women, including those with children, increasingly aspire to move into jobs with more responsibility.

Also, at the Committee's hearing in April on the gender pay gap, we heard that discrimination still exists against women in the form of lower pay for equal work.

Now, with people losing their jobs (not to mention their homes and their savings), it infuriates me that a termination may not be a business decision, rather the pretext for further discrimination against women and families.

However, I am encouraged to see that, as Ms. Galinsky has written, that many firms have responded to the economic crisis by maintaining, and in some cases, expanding policies to facilitate a strong work-and-life balance for their employees.

This not only displays compassion for employees in a woeful economy, but also smart business sense.

By continuing to offer flexible schedules, paid sick leave, and other work-life benefits, companies are engendering loyalty and longevity in their workforce, and reducing long-term turnover-related expenses.

As the sun begins to re-emerge over our economy, businesses will grow, new businesses will spring up, and the markets will recover.

But right now, we have to keep people in their jobs and their homes, and provide them the ability to care for their families.

This means not only enforcing and strengthening the protections that exist, like the Family Medical Leave Act, but also helping the business community realize that helping employees care for their families is an investment in a firm's long-term success.

Again, I applaud the Chair for her determined leadership on this front. I look forward to the testimony of our witnesses and a productive discussion. With that, I yield back.

Thank you.

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