

**TESTIMONY BEFORE THE LABOR COMMITTEE, NEW HAMPSHIRE
HOUSE OF REPRESENTATIVES**

ON HOUSE BILL 663-FN, AN ACT relative to working families' flexibility.

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Work and Family Legal Center

Thank you for the opportunity to testify today and thank you for putting together this hearing on an issue important to all women and families in New Hampshire.

My organization, A Better Balance: The Work and Family Legal Center (ABB) is an organization whose mission is to use the law to promote equality and expand choices for men and women at all income levels so that they may care for their families without sacrificing their economic security. Our testimony today draws heavily on our own experience in promoting flexible work time.

Increasing flexibility in the workplace is a critical need for workers. The tensions between work and family responsibilities increasingly impact American workers and their families, in particular those with the fewest economic resources. The growth of this problem is fueled by the dramatic increase in labor force participation by women who have traditionally been responsible for caregiving work. At the same time, the marketplace demands increasingly longer hours from workers. The failure to value caregiving work, persistent gender inequality in caregiving responsibilities, and lack of societal support or public policy attention, exacerbates this problem. Though the media often views this problem as that of professional and upper income women “opting out” of

the workforce, this is a problem that cuts across class lines and weighs most heavily on women in low-income, marginal jobs, in particular those who are single mothers. For higher wage women, polls and studies show that women would prefer to remain in the workforce if they had access to more flexible work. Nor is work-family conflict present only for parents of small children. It also affects adult children with aging parents and spouses caring for partners.

The statistics bear out the scope of this problem. More men and women are working longer hours today than they were 30 years ago, and for some workers technology creates a nearly 24/7 work week. Most critical for family life, a dramatically greater proportion of the work force now works full time, mostly accounted for by women, among whom the percentage working full time all year has grown from 41% in 1970 to 60% today. The most significant demographic change in labor over the last 30 years, however, has been the increased labor force participation of mothers of children under 18, which since 1975 has grown from 47% to 72%.ⁱ Marking an even greater change, the proportion of mothers with children under the age of 3 working full time has surged in the same time period from 34% to 61%.ⁱⁱ And just 30% of today's families with children have a stay-at-home parent, down from 70% of families in 1960.ⁱⁱⁱ

In addition to pressures on families with children, there is increasing need for provision of care for our aging population. Approximately one quarter of all households in the United States have at least one adult who has provided care to an elderly person during the past 12 months.^{iv} Nearly 4 out of 10 working Americans provide unpaid assistance to their own parents, with half of them providing up to one or more days of help per month.^v A study of Fortune 500 company employees providing eldercare

revealed that 78% of male respondents and 84% of female respondents came late to work or left early to accommodate their care giving responsibilities, and that over half of all respondents reported modifying their work schedules to make room for their eldercare responsibilities.^{vi}

At the same time that demographic changes have made caregiving much more difficult for American families, demands on workers for more time at work have also dramatically increased. According to the International Labour Organization, Americans now work more hours than workers in any other industrialized country, and the proportion of people who work extremely long work weeks (48 hours or more) has also increased tremendously in the last decade. The combined weekly work hours of dual-earner couples with children under 18 has increased by an average of 10 hours per week since 1977.^{vii} Converging in little over a generation, the movement of women into the work force, unprecedented growth in the number of mothers with children working outside the home, and the dramatic increase in hours worked by both men and women have made responsibility for child and elder care and the economic and emotional pressures on families pressing issues across the income spectrum.

Increased job flexibility is good for business. These statistics speak to a growing need for increased flexibility in the workplace. Other research demonstrates that workplace flexibility is good for employers as well as employees – good for both the employer’s bottom line and the job satisfaction of employees. Studies have shown that workplace flexibility is a critical recruitment and retention tool. According to the most recent Met-Life Survey, workers rank work-life balance as the second most important factor for joining or staying at a firm. Fully 67 percent of employees in businesses with

high levels of workplace flexibility report job satisfaction, compared to only 23 percent in companies with few flexible work arrangements.^{viii} In addition, turnover is expensive for business. Research has found that it costs 150% of a salaried employee's yearly salary to replace him or her. For hourly employees, turnover costs the employer anywhere from 50 to 75 percent of the employee's annual pay.^{ix} And in a two-year study of 1,400 workers, 70 percent of managers and 87 percent of employees reported that workplace flexibility increased productivity. A 2002 Watson Wyatt study found a 3.5 percent rise in shareholder returns resulting from flexible work.^x While estimates of cost savings depend on company size, location and other factors, flexible work arrangements, particularly telecommuting, have been shown to reduce real estate and other overhead costs. In 1996 Bell Atlantic estimated savings in the range of \$1,500-\$5,000 per telecommuter, per year, due to reduced real estate costs.^{xi}

Workplace flexibility has also been shown to decrease absenteeism and worker stress, another benefit for employers. A recent survey found that access to workplace flexibility is a primary way to reduce unscheduled absences from work. Another study found that 63% of employees using flexible work arrangements missed fewer days of work.^{xii} Workplace flexibility also reduces workers' stress, decreasing workers' risk for heart disease and diabetes, according to a large U.K study. In another study, 70 percent of employees reported lower stress compared to those without flexible schedules.^{xiii} This is a huge cost savings to employers since health care expenditures are nearly 50 percent greater for U.S. workers who report high levels of stress.^{xiv}

Need for government action. Despite the desperate need for increased flexibility at work for American workers and the benefits to employers of allowing workplace

flexibility, in fact, there is decreasing rather than increasing access to such flexibility for workers. According to the Bureau of Labor Statistics, fewer companies offered flexible scheduling in 2004 than in 2001, and only 28% of workers across the country could vary when they started or ended work. Indeed, most working families have limited or no access to workplace flexibility.^{xv} Low-wage workers are the least likely to have access to workplace flexibility even though studies show they need it the most to address child development issues and poor family health.^{xvi}

Even where there is no bar to flexibility in scheduling, workers are very reluctant to request it even when it is desperately needed. Research reveals that nearly 80% of employees do not take advantage of corporate flexibility policies because they are concerned about jeopardizing their career.^{xvii} Lower wage workers are more likely to report that using flexibility will negatively affect their advancement.^{xviii} Over four in ten (43%) low income mothers are concerned about the effects of their care giving responsibilities on their job performance.^{xix}

Because of all of these factors, there is a need for government to have a role in promoting flexibility in the workplace. Statutes that promote flexible work time are an important potential tool in relieving the tension of work/family balance issues for workers and their families. Flexible working statutes strengthen the ability of individual employees to find solutions that allow work-life reconciliation, but in a manner that takes account of employers' business and operational requirements. The large majority of high-income countries have introduced flexible working statutes aimed at making it easier for employees to change how many hours, and when and where they work within their current job. Of 20 high-income countries, 17 have statutes to help parents adjust working

hours, 6 help with family care giving responsibilities for adults; 12 allow change in hours to facilitate lifelong learning; 11 support gradual retirement; and 5 countries have statutory arrangements open to all employees, irrespective of the reason for seeking different work arrangements.^{xx} Evaluation of statutes supporting flexible working hours shows that the laws have caused few problems for employers, and improve gender equality.^{xxi}

“Right to Request.” The right to request law which is before you today, unlike other mandatory laws described above that require employers to change how their workplaces operate, do not impose any mandates on business. This law will just makes it easier and safer for workers to request flexible work arrangements without fear of retaliation; all their employer is required to do under the law is to listen and consider the request. This law in no way creates a requirement that employers grant any request made. It is in every way a “soft touch” law.

The beauty of this law is that it addresses some of the principle reasons workplace flexibility is not more available to workers, but it does so without placing additional governmental mandates on employers. By guaranteeing that employers will listen to requests for greater flexibility and give an employee reasons for denying that request, the law insures that employers will at least think about the feasibility of increasing worker flexibility based on the particular needs of his or her business. By guaranteeing that workers can’t be fired for requesting flexible work time, the law removes a key fear that employees have which has been shown to be a factor in employees’ failure to request changes in work schedule. At the same time, employers are under no obligation to change the way they do business or meet employee requests they feel they cannot meet.

A similar law was enacted in the United Kingdom in 2003 and has had a significant effect in increasing the availability and acceptability of flexible work without causing problems to employers. A study of employees' experience of the law done in 2005 found that 14% of workers requested flexible work in the two year period of the study with 35% of requests because of child care and other reasons ranging from health needs to needs of other family members. Among all employees, 22% with children under age 6 requested flexible work and 75% received approval. A study was also done by the Chartered Institute of Personnel and Development, an industry human resources group, six months into implementation. The study found numerous reasons employers supported the law, including the recognition by many employers in the wake of the law of the importance of flexible work in retaining valuable employees. The study also found that 90% of businesses found compliance with the law not to be a problem, that there was about a 28% increase in requests for flexible work time and that most were granted, that most requests were for a part-time schedule or late/early hour changes and that denials of requests were most often due to difficulties in reorganizing existing staff and inability to meet customer demand.^{xxii}

The committee should also be aware that a similar Federal bill was introduced in the last session of Congress and will probably re-introduced in this session. However, we are always told in working with Congress on new legislation that having the states lead the way, is the best support that can be given for Federal efforts to address issues, especially with respect to economic and social legislation.

We applaud the New Hampshire legislature for recognizing the importance of job flexibility and introducing legislation designed to support increasing flexibility without hampering business.

Thank you.

Respectfully submitted,

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ⁱ U.S. Department of Labor, Bureau of Labor Statistics, “Labor Force Participation Rate of Mothers,” *MLR: The Editor’s Desk*, Dec. 4, 2006, *available at* <http://www.bls.gov/opub/ted/2006/dec/wk1/art01.htm>.

ⁱⁱ U.S. Department of Labor, Bureau of Labor Statistics, “Table 7. Employment Status of Women By Presence and Age of Youngest Child, 1975-2002,” *available at* <http://www.bls.gov/cps/wlf-tables7.pdf>.

ⁱⁱⁱ “Family Values at Work: It’s About Time! Why we need Minimum Standards to Ensure a Family-Friendly Workplace,” Multi-State Working Families Consortium, 2007, pg. 5, *available at* <http://www.9to5.org/familyvaluesatwork/FV@workSummary.pdf>.

^{iv} “The MetLife Juggling Act Study: Balancing Caregiving with Work and the Costs Involved,” November 1999, p. 2, *available at* <http://www.metlife.com/WPSAssets/28510693001172586490V1FJugglingStudy2007.pdf>

^v Jody Heymann, *THE WIDENING GAP: WHY AMERICA’S WORKING FAMILIES ARE IN JEOPARDY—AND WHAT CAN BE DONE ABOUT IT*, 103 (2000).

^{vi} “The MetLife Study of Sons at Work Balancing Employment and Eldercare: Findings from a National Study by the National Alliance for Caregiving and The Center for

Productive Aging at Towson University,” Mature Market Institute, June 2003, pg. 6, *available at* <http://geckosystems.com/downloads/sonsatwork.pdf>.

^{vii} James T. Bond, Cynthia Thompson, Ellen Galinsky and David Prottas, “Highlights of the National Study of the Changing Workforce: Dual-Earner Couples,” Families and Work Institute, 2002, pg. 4.

^{viii} Levin-Epstein, Jodie (July 2006). “Getting Punched: The Job and Family Clock: It’s Time for Flexible Work for Workers of All Ages”, CLASP, pg. 8.

^{ix} *Id.*

^x *Id.*, p. 8.

^{xi} Workplace Flexibility 2010, Georgetown Law Center (2006) “Workplace Flexibility: The Fact Sheet”, pg. 7.

^{xii} *Id.* p. 6.

^{xiii} Levin-Epstein, Jodie, *supra*, n. viii

^{xiv} Workplace Flexibility 2010, *supra*, n. xi

^{xv} Levin-Epstein, p. 5

^{xvi} Heymann, Jody, “Unfinished Work: Building Equality and Democracy in an Era of Working Families”, The New Press (2005), pp. 95-99.

^{xvii} The Sloan Work and Family Research Network (2005), “Opportunities for Policy Leadership on Flexible Work Schedules”, <http://www.wfnetwork.bc.edu>.

^{xviii} Amy Richman, Arlene Johnson and Lisa Buxbaum, “Workplace Flexibility for Low Wage Workers,” Corporate Voices for Working Families, Oct. 2006, pg. 11.

^{xix} Roberta Wyn and Victoria Ojeda, “Women, Work, and Family Health: A Balancing Act”, Issue Brief of The Henry J. Kaiser Family Foundation, April 2003, pg. 3, *available at*

<http://www.kff.org/womenshealth/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14293>.

^{xx} Hegewisch, Ariane and Janet Gornick, “Statutory Routes to Workplace Flexibility in Cross-National Perspective,” Institute for Women’s Policy Research and Center for Work-Life Law (2008).

^{xxi} *Id.*

^{xxii} Jodie Levin-Epstein, (July, 2005) “How to Exercise Flexible Work,” (CLASP), p.3.