

CLASP / CENTER FOR LAW AND SOCIAL POLICY
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OPERATOR: Good day, ladies and gentlemen. It is my pleasure to turn the floor over to your host, Jodie Levin-Epstein, of the Center for Law and Social Policy. Ma'am, the floor is yours.

JODIE LEVIN-EPSTEIN: Thank you so much, and welcome everyone to Job Schedules, Policy and Advocacy Strategies. Today's audio conference is hosted by CLASP, and is the second in a three-part series we are cosponsoring with our colleague organizations, the Center for Popular Democracy, and the National Women's Law Center.

Anyone who's registered for any one of the calls in the series will be sent links to all of them when they are posted. Last week's call, which focused on the facts, the research, has been posted. At the top of the call, we heard from Senator Elizabeth Warren.

That was exciting enough, but it was after the call that it got really goosebumpy. We heard directly from an HR director who had been on the call, and that person took the time to write, quote, I will look more closely at how we schedule hourly employees as a result of the call.

This audio conference is a chance to learn the latest about public policy developments related to job schedules, and the advocacy needed to make policy and practice changes. Our guests today are Liz Watson, National Women's Law Center. Hi, Liz.

LIZ WATSON: Hi, Jodie. It's great to be on the call.

LEVIN-EPSTEIN: And Carrie Gleason with the Fair Work Week at the Center for Popular Democracy. Hi, Carrie.

CARRIE GLEASON: Thanks for having me.

LEVIN-EPSTEIN: And we had a worker lined up, but as this goes, the work schedule of the worker made it impossible for the worker, who had thought she was available, to stay available. I want to thank our colleagues at (ROC), and (RAP), and Carrie for trying to find a replacement for that position, because we really did want to hear a worker voice, but it's happened.

So we're going to (indeed) speak to what we've learned from workers directly, and we will have opportunities in the future to hear from workers directly. We also have two special guests who are going to kick off this conversation, Congressman George Miller from California. Welcome, Congressman.

GEORGE MILLER: Thank you.

LEVIN-EPSTEIN: And Letty Mederos with the House Education and Workforce Committee staff. Letty, how are you?

LETTY MEDEROS: Good. Good afternoon. Thanks for having us.

LEVIN-EPSTEIN: They're going to discuss the key elements of the Schedules at Work Act which was introduced in July. It's not an exaggeration to say that introduction of this bill is owed to the commitment and vision of the Congressman, and to the deft skills and determination of Letty. Letty, I think I can see you blushing right now.

MEDEROS: Definitely. Please stop.

LEVIN-EPSTEIN: I don't know if you are, Congressman, but ...

MILLER: Oh yes.

LEVIN-EPSTEIN: So a small housekeeping detail, that those of you who are on our calls are familiar with. We know that you have questions, and we can take them at any time. It's easy to ask them. Just e-mail them to audioconference@clasp.org, that's audioconference@clasp.org.

Congressman Miller is not going to be able to stay for the full hour, so be sure to send in any questions for the Congressman that you might have right away. Again, your question should come to audioconference@clasp.org. Congressman Miller, welcome back. Actually, it's kind of a way back, I don't know if you recall, you and I once did an audio conference some years ago about childcare.

MILLER: Yes.

LEVIN-EPSTEIN: Yes.

MILLER: We're still working on it. We're getting – we're getting – we're having some successes there, so we want to have the success here on scheduling.

LEVIN-EPSTEIN: Exactly, and your scheduling bill as well does tackle some of the particular intersections between childcare and job schedules. So we want to thank you for juggling your schedule to join this audio conference about scheduling policy. You've long been a champion of workers, but there are a lot of pressing worker issues, minimum wage, wage theft, worker safety. What about job schedules got it to the front burner for you?

MILLER: Well I think in meeting and talking with workers who work in these contingently scheduled occupations, certainly around fast food, around the larger

hospitality issues, and recognizing how hectic their lives were when they would describe them to me.

And then later to other members of Congress as we started working on this legislation and trying to figure out what made sense, that these people really lived with an incredible amount of uncertainty, not only just in terms of their work schedule, but that spilled over into the lives of their families, their children, the education of their children, their own healthcare, whether or not they could – they could – they could make appointments, keep appointments, meet the demands of their children's schools, and the rest of that.

And the amazing thing of course was when we found out they – many – for many of these individuals, when they attempted to have this discussion with their employers, they were in fact fired, for simply raising the topic.

And it was just unbelievable because these were people who in many cases had been working for a number of years at the same place, had a good work record, had been putting up with this schedule, but in some instances something happens in your family and you have to make adjustments, and you want to ask can I – can I adjust this schedule so I can take care of this problem, and you get fired for that.

I think that raises some pretty serious issues. So we started exploring it more and more with the workers, and you really start to see the tension quotient here has really been up on the workers in terms of the uncertainty of their hours, uncertainty of the schedules of day to day, and with really not much advance notice at all, and they're really kept on edge.

In many instances that means they have to try to look for a second job, but the hours can interfere with them finding a second job, so they have enough money to provide for their families. These are hardworking people in high demand industries, in the sense that, you know, when you're at work, you're working all the time. You're not taking a cigarette break, you're not – you're not standing on the corner, you're working.

And so, you know, they had back to back schedules, they're just – the unwillingness of so many workplace owners and management to not have this discussion was really quite appalling for me, and these people ended up sort of with no voice.

And so what we tried to do is say let's see if we can get this conversation started in the Congress in the country based upon what we're finding out in talking to individuals. And we really came up with some ideas that a worker should be able to get their schedule two weeks in advance so they can plan for their family, they can plan for their children, they can plan for themselves.

And if you have a very late shift, and then the next day a very early morning shift, you ought to be able to see whether or not you can get that changed, so that you can get some sleep, so you know, you'll be a worker that's safe and productive when you're there.

And if people change – the employer changes the schedule on you with less than 24 hours notice, there has to be some financial penalty for the employer so that they will be incentivized to talk to people.

And you know, we know that people maybe take, you know, the metro, and take a bus, and travel extensive times across cities to show up for work, and when they get there they're told go home, they don't need them, there's not going to be enough business for today.

Well they've just, you know, they've just spent money out of their pocket to show up to be an on-time employee, to be there at the – at the beck and call of the employer, and now they pay – you know, they have to suffer a financial penalty. That just doesn't seem fair, it doesn't seem right.

They may have given up a doctor's appointment, they may have given up, you know, a schedule for the childcare center, as our previous conversation. And so this is just not – you know, I think we – there's growing sense – Senator Harkin, and Senator Liz Warren, and Rosa DeLauro and myself, that this conversation just pointed out an incredible unfairness and tensions and stress that it puts on the workers.

I'm kind of amazed that, you know, we've listened now for many years employers talking about how they can't deal with uncertainty, they have to have certainty, they have to have certainty in their businesses, and tax laws, and the rules, and regulations, and they want certainty, certainty, certainty.

And yet they employ tens of thousands of workers where they have no certainty in their life at all. All they have stress. And so that's – I'm speaking rather quickly, but that's the overall picture that we saw here, was just so disturbing.

LEVIN-EPSTEIN: Yes, and Congressman, you know, sometimes when a bill gets introduced, it's much like the proverbial tree falling in the forest with no one around to hear it. In contrast, this issues feels like it's really beginning to get attention, and kind of quickly.

And you mentioned that a goal of yours in introducing this bill after having conversations with workers around the country and in your district, was to get a conversation started in Congress and the nation. What's your take? Is this issue really getting pick up and quickly, more than you thought? What's your take on this?

MILLER: This issue is picking up speed for a couple reasons. One, we were able to get 40 co-sponsors, 40 members of Congress to focus on this issue, and decide to sign on to this legislation. In our quest to increase the minimum wage, we've – members of Congress have met so many of these workers in their own communities, at our press conferences, our press events, where these workers have taken their time to come and tell their stories about living at the minimum wage.

And then we started to hear more stories at those events about workers on contingent schedules, and very arbitrary schedules, and members started to recognize this. And so I think that the conversation has truly been kicked off in the – in the Congress.

And then of course we've seen, you know, the recent story of (Steve Greenhouse) in the – in the – in the New York Times, in response to Starbucks, where they're saying we'll give a week's notice. And I think that starts to – that starts to send a signal.

I think also people are seeing these individuals take actions at McDonald's, in the fast food industry, saying we've got to have some more dignity in this job, we have to have some more certainty, we have to have better wages.

And I think because of the damage that the great recession did to so many, many, many working families in this country, they identify with the situation that these workers have been put in with this kind of scheduling, and this kind of arbitrariness, and the low wages.

And they think to themselves, you know, I'm having a tough time making it on three times what these people are working, four times what these people are working at in terms of wages. How the hell are they living?

And so there's an empathy that I haven't seen in these kinds of issues before in my 40 years, where people – because perhaps their children who have a college degree are working at a minimum wage job, working with an arbitrary schedule. So they see that tension in their own family, they see that experience. And so this is a little bit different, and a much larger conversation than I would have anticipated when we first started these discussions.

LEVIN-EPSTEIN: Oh, that's interesting, that's very interesting. I want to remind the audience to e-mail your questions now to audioconference@clasp.org. I have one last question for the Congressman, and he's going to have to run off shortly, so if you have a question for the Congressman, send it in now.

Congressman, what's your prognosis for the bill, and what will it take to see it become law? You've mentioned this interesting perspective that empathy as a result of the recession amongst those who may have higher incomes, than those who are the focus of the bill, may have empathy because they now have a family with experience.

MILLER: Yes, well I think that's what – that's what we're seeing. It's very interesting. Again, I think this is tied to the discussion around the minimum wage. There was a report yesterday that Republican candidates running for office in states where the minimum wage was on the ballot, they're supporting the minimum wage increase. They're not supporting it in the Congress, but they're supporting it in their own states.

And the leadership that cities are showing, that they cannot build a thriving, exciting, local environment in an attractive place for people to come on the backs of low-wage

workers, contingent workers, stressed out workers, that's not a face you want to present in the hospitality industry and the tourism industry, in attracting this.

So we see cities taking this – these issues on themselves, and I think, you know, I don't want to underestimate what it meant for Starbucks to speak up, because they employ, you know, hundreds of thousands of people and to say at a minimum – you know, they opened the conversation by saying we're going to give you a week's certainty.

You know, we think it should be two weeks, but we also recognize that's a huge step forward from a major employer that depends on this kind of – on this kind of workforce.

LEVIN-EPSTEIN: So we have a question for you, Congressman, from (Louis Roman) with the Illinois Action for Children. He asks, considering the gridlock of Congress, what is something that folks around the country can do to support the bill at the federal level, but also put pressure on local and state governments to address this issue.

Well, you know, you – if you – you can't use the gridlock – the current gridlock in Congress as an excuse to do nothing. You've got to use the gridlock in Congress, and you got to say how do you turn this to your favor?

So you ask – the first thing you do, and you have a right – as everyone of my constituents does in my congressional district, I'd like to have an appointment with you, our group would like to have an appointment with you. We want to see you.

They'll say talk to my staff, talk to this – that's fine, we'll talk to your staff, now we will want to talk to you, because you represent us in our district, and we want to tell you what our situation is in our industry, what our situation is in our families.

People do this all of the time, and that's the beginning of that conversation, that's the beginning of that conversation. And we have to localize this conversation, and then the Congress will respond. Congress rarely initiates. Congress generally responds.

And so we have to continue to build this movement, and look at the courage of the people who have taken to demonstrating, to making known their concerns to their employers at risk to their jobs as they are today. And we've got to build on that kind of courage.

And we've got to recognize that whether it's adjunct professors who are now coming forward and organizing the universities so they can have better pay, better schedules, or whether it's the fast food workers, it's the workers at (ROC), you know, this is a growing, dynamic, very energetic constituency that I don't think politicians can ignore.

And so don't let the dysfunction of Congress say well, I can't do anything about this. And this, as Jodie pointed out, this is connected to childcare, this is connected to your children's healthcare, this is connected to the stress in your family.

And most politicians tell you, you know, what they're really for is happy, healthy, you know, families in their district, so this is about redeeming some of the – some of the – some of the rhetoric into political action.

LEVIN-EPSTEIN: On that note, Congressman Miller, I want to thank you for joining us today, and for many of us, let me add thank you ...

MILLER: Well thank you for the opportunity to discuss this ...

LEVIN-EPSTEIN: ... for all that you have accomplished, all that you've accomplished. Thank you so very much.

MILLER: Well thank you. Thanks so much. Letty is available for the difficult questions.

MEDEROS: Thank you, George.

LEVIN-EPSTEIN: We're going to hang on to Letty.

MILLER: OK, thanks so much.

MEDEROS: Thank you, George.

MILLER: Thank you to everybody on the call.

LEVIN-EPSTEIN: Thank you so much for joining us. OK, take care. Letty and Liz, Congressman Miller's right, we're going to now drill down into the bill specifics, and Liz, I'm going to ask you mostly about the what of the bill, and Letty, I'm going to sort of concentrate about the why with you.

So Liz, let's get started on the bigger picture. The bill broadly, if you step back, you know, like a football field, has two parts. First there's a universal right to request a schedule change by all employees in firms with 15 or more employees. And second, there's a set of protections from volatile schedules for those working in certain industries. Can you first fill us in on the right to request part?

WATSON: Sure. I'd be glad to. Well Congressman Miller really hit the nail on the head when he said that, you know, these unpredictable scheduling practices produce incredible uncertainty for workers and for their families.

LEVIN-EPSTEIN: Liz, I think your phone may have the problem my phone had last time we did an audio call. I'm hearing a little bit of a cackling, so if you could hold the handset a little bit further away, it might work better. Let's try that.

WATSON: OK, testing 1, 2, 3.

LEVIN-EPSTEIN: Keep going.

WATSON: How are we? Great.

LEVIN-EPSTEIN: I think we're good.

WATSON: So when we stood back and looked at what was happening for workers in low wage jobs, very often when they made any kind of scheduling request to try to make their work schedule map better to their lives, and really for workers across the income spectrum, there was a problem of being retaliated against, of having hours, you know, suddenly slashed.

We had a worker who came in and testified at the press conference in support of the bill, (Melody Pablan) from the Retail Action Project, who talked about having her hours cut from 35 to 25 over simply asking to go from the evening shift to the morning shift so she could see her four-year-old son at night.

And that kind of story is very typical, and then we see workers in salaried positions who are afraid to make any requests for schedule changes, because they fear that they might be passed over for a promotion or have some other retaliation taken against them.

So the right to request is something that all workers need, a say, a voice in their schedules, and the way that the provision in the bill is fashioned, it's very flexible to be a – really encouraging a good faith conversation between the employer and the employee about the scheduling change that the worker needs, whether it's for a more flexible, predictable, or stable schedule.

So if an employee goes to an employer and makes a request, the employer under the bill has an obligation to engage in a good faith conversation with the employee about the request. It looks a lot like Americans with Disabilities Act, in the sense that it requires, you know, individual inquiry into what the employer can do to accommodate the employee's scheduling request, and a good faith effort to make the accommodation.

It is very mindful of the fact that, you know, every company is different, every company has its own human resource process. Doesn't impose any particular process on the way that this conversation goes, much like the ADA.

It simply says have the conversation, let's stop, you know, having these conversations as third rail in America. This should be a normal part of the way we do business, is we figure out how to make sure we have schedules that work for everyone, so they can get to work and get their jobs done.

Now for employees who are in particular categories that the bill says are high priority, the employer – there is a rebuttable presumption that the employer will grant the request, unless it has a bonafide business reason not to.

And so what that says is, you know, to the employer, look, you don't have to take every case on its own and decide who's high priority, you know, we'll tell you that there are certain things that are very, very important to workers around being able to meet.

Care-giving responsibilities including childcare, being able to hold down a second job for those part-time workers who need a second job to make ends meet, being able to go to school to get a leg up to make a better life for your family, or for those workers with serious health conditions who may need, you know, to have a schedule that allows them to get treatment for a chronic condition.

So basically if a worker is in one of those four high priority categories, there is a rebuttable presumption the employer should grant the request, unless there's a bonafide business reason not to, and of course the bonafide business ...

LEVIN-EPSTEIN: Liz, can you tell us what a rebuttable presumption is?

WATSON: Sure. So what I'm saying is that in these cases where you get employees coming to you with these really important, you know, important reasons for making these requests, unless there is a bonafide business reason, the employer should grant the request – must grant the request under the law.

And the bonafide business reasons are things like that it's, you know, too high a cost to grant the request, that it – that there's an inability to reorganize the work among existing staff in a way that lets somebody, you know, be off for example in the hours that they're requesting.

You know, so the sort of reasonable business needs are very much encompassed within this bonafide business request language. And of course for workers who fall outside of these high priority categories, there is still very much the right to the process to have the interactive discussion with your employer about what you need.

And there are very strong protections for all workers, whether they're in these high priority categories or not, from retaliation, such as cutting hours, or firing employees, passing them over for a promotion for making these kinds of requests.

LEVIN-EPSTEIN: OK, well thank you. And Letty, a why question for you, that I had framed about how the bill is largely universal, inasmuch as it applies to everyone other than in a firm with 14 or fewer employees, and wondering why you took that approach, of being essentially universal.

In the meanwhile, we've gotten a question from the audience that takes the flip perspective, and let me read you that as well. It comes from (Ari Wisebard), who's with the Employment Justice Center here in Washington D.C.

And he writes, why limit the right to request changes in schedule only to companies with 15 or more employees? It seems like such a modest request that even small businesses

wouldn't be particularly burdened by it. So I guess the question is why is the 15 in there, and what are the pros and cons in your mind?

MEDEROS: Well in terms of – in terms of why the 15 is in there, you know, when you're stepping out on legislation that's never been done before, you look to precedents. And many of the labor laws that are increasingly labor standard, rely on Title 7, you know, 15 employees or more.

And that could – that actually here in this institution could be quite a controversial deal, and one of the reasons that many of members of Congress don't come on bills that increase labor standards are always hearing from the small businesses about, you know, keeping the status quo, not going further, and we thought at 15 was a good starting point.

As you know, (SMLE) applies to 50 employees, the conversation has been, you know, why not go down to 25? Others say well, why not go up to 100? So 15 relying on the precedence of Title 7, for a totally different deal, has been an accepted – an accepted standard around here. And given that the discussions and the constant – the constant back and forth with constituents.

LEVIN-EPSTEIN: So Letty, Liz just a moment ago was describing the four groups who not only have a right to request ...

MEDEROS: Right, but to receive.

LEVIN-EPSTEIN: ... a change in schedule – exactly. How did you come to pick those four categories?

MEDEROS: Well I think that comes from the, you know, from the stories, and from the experience of workers, and from the – from what we heard was important and valid. With – there's been a long time standing desire to find a way to make the right to request meaningful, as in not just the right to request, but also to receive.

And we thought by starting with those priorities, we could make some headway in terms of the policy. And when you're talking about the scheduling issue, you're talking about a work issue that obviously spills onto your life, onto every aspect of your life.

So whether it's childcare, or education, or in this tough economy, a second job, or an illness, you know, we thought that was a good starting point to prioritize.

LEVIN-EPSTEIN: OK, so Liz and Letty, we're going to turn now to the other half of the bill, the job protections for some workers, and particularly volatile issues. You know, we have a lot of ground to cover here, but we have very few minutes.

So I'm going to ask you to put your New York City voices on, and really race through giving us your insights, your wisdom, the facts, and all of that really, really quickly. So

Liz, for these job protections, only a set of industries are polled out. Can you just bullet for us what those industries are?

WATSON: Sure. The second half of the bill applies to employee who work in restaurant and fast food jobs, retail jobs, and cleaning jobs, including in the hotel and janitorial and building cleaning occupations.

LEVIN-EPSTEIN: And Letty, why did you pick those?

MEDEROS: Well we had a long deliberation here among the staff of Mr. Miller, and with folks like you and advocates around the country about the consequences of these provisions. Beyond these occupations, we were thinking about how is it going to impact, you know, the moving company, or the construction company.

Or you know, which – you could say that's another industry you should – you should – you should go after, or – some industries are really depend on a cycle of volatility. And we did not want to have an adverse impact on those industries.

And we did not have a strong amount of research backing up that these provisions should be universal, but we knew that the abuses on scheduling were happening on these occupations that we chose. So you can think of it as a frame of a demonstration program to test these out where we know the abuses are – exist.

And again, not – we haven't, you know, incorporated all of – all the industries, but it was a starting point again, of these four where we know the abuses are happening, and we hear from workers, and no doubt that something needed to be done in these areas.

Yes, and you know, the provisions in this bill are modest and reasonable, but they're new, so you have to go slowly to attract the support and get folks to understand the issue. The researchers they're on these occupations like I said, so we just went there on a demonstration program.

LEVIN-EPSTEIN: Yes, and Liz, could you again give us a bullet list of the types of protections that would be afforded to workers in these industries? And then we'll get into each one of them, but just bullet list the different types of protections.

WATSON: Sure. So for workers in these industries, the bill provides reporting time pay, slip shift pay, and advance notice of work schedules.

LEVIN-EPSTEIN: Excellent. Thanks so much. So everybody hold that in your ...

WATSON: That was quick.

LEVIN-EPSTEIN: ... hold that ...

WATSON: That was very quick.

LEVIN-EPSTEIN: ... hold that in your mind, everybody, we're going to go through all of those. So Liz, now, fill us in on what reporting time pay means, and what the provision itself would do. Liz?

MEDEROS: Did we lose Liz?

LEVIN-EPSTEIN: It appears to be.

MEDEROS: Yes. OK, well reporting ...

WATSON: Hello? I'm back.

MEDEROS: OK.

LEVIN-EPSTEIN: OK, good.

WATSON: I'm not sure what happened. Are you all there?

MEDEROS: Yes, we're here.

LEVIN-EPSTEIN: Yes, we're here. Thank you, Liz, for coming back.

WATSON: Hello?

LEVIN-EPSTEIN: Did you hear the question, what is reporting time pay, and what does the provision do? Liz? OK, so we're having a little bit of technical difficulty.

MEDEROS: Well Jodie, I can jump in there.

LEVIN-EPSTEIN: That would be awesome.

MEDEROS: Yes, the reporting time pay has to do with, you know, if an employee shows up to work, and they're sent home, they are entitled under this legislation to a minimum of four hours at regular pay.

LEVIN-EPSTEIN: OK, and ...

MEDEROS: And there are – I believe there are some jurisdictions that have moved on a similar – on a similar orientation, a similar track of this bill.

LEVIN-EPSTEIN: Yes, reporting time pay is law in about seven or eight states ...

MEDEROS: Seven – that's right.

LEVIN-EPSTEIN: ... and there are materials on CLASP website and materials that are ours as well as colleague organizations like the National Women's Law Center like Liz' materials as well.

MEDEROS: That's right, and you know, with members of Congress, a lot of education has to go into what reporting time pay is, and the purpose of it, and the reason for it. Some members shy away from that idea that, you know – they see it as a micromanaging of business.

We have to really make the argument of, you know, if someone goes to work and they're sent home without having received a phone call not to come in, or you know, some type of stability to their schedule, you know, the employer should compensate, because that is a person's time that they're not getting compensated for.

LEVIN-EPSTEIN: So your feeling, as you're having these conversations, that the reporting time pay issue is something that members don't seem to get right away, that ...

MEDEROS: Not right away, yes, right.

LEVIN-EPSTEIN: It would be helpful to figure out ways to communicate the essence of this issue ...

MEDEROS: Right ...

LEVIN-EPSTEIN: So I'm going to ask you, Letty, if you're golden on this, until Liz joins us, if you want to be Liz as well as Letty, that would be great. So if you could ...

MEDEROS: Well Liz and I were partners in drafting this, so.

LEVIN-EPSTEIN: (INAUDIBLE), so if you could describe the split shift pay provision a bit, and as well – and as well as if you could also fill us in on why you wanted to include it.

MEDEROS: Well the split shift, as some folks would now, has to do with showing up to work for four hours, then – or a few set of hours, and then not being at work, and then coming back maybe towards the end of the day, or the afternoon, and, you know, splitting the shift of an eight hour day into four and four.

I'm familiar with like TSA, the Transportation Security Agency, they're currently having to – they're facing this issue of split shift, and we're saying if an employer does that, the employee is entitled to one hour of extra pay.

LEVIN-EPSTEIN: OK.

MEDEROS: And in reality, you know, we don't think that's a good way of handling, you know – if you see your employee as an asset and as a resource, you don't want to have

them tied up to your work environment for 12 hours when you're paying them only eight. So you know, that's one issue that we decided to tackle, and again an issue that you have to explain to folks not familiar with these issues.

LEVIN-EPSTEIN: And let's turn to advance notice, how does that provision work?

MEDEROS: As Mr. Miller was saying, you know, that some companies will say, you know, we'll go to one week advance notice. In the bill we have put in a provision of requiring two weeks advance notice, and if the change of schedule comes with 24 hours or less, then the employer is on the hook for an hour of extra pay at regular rates.

LEVIN-EPSTEIN: And what's your – can you play out for us the extra hour idea? Is it your sense that that would get employers to change their behavior?

MEDEROS: You know, this is – this is just carrot stick. I mean the stick is the hour extra pay, if you have, you know, 50,000 employees and you're treating them all the same with irregular unstable schedules, that could add up to something, you know, it could get people's attention, and to a cost.

So you know, we hear a lot of businesses have one week advance notice. We hear lots of businesses have no advanced notice. We know that workers sometimes are on call, you know, anytime. They're used – they're used – you know, the – I think to use Liz' words, is like a Blackberry, or like a tether that you're glued to to see when you have to come into work.

When the (Greenhouse) story came out, the comments by regular folks reading the paper about their experience was really telling. A mom talking about how, you know her 19-year-old daughter was working at a grocery store.

And they couldn't leave, they couldn't go anywhere, like even a three-day vacation, because she was on call, and she didn't know if she was going to get called, and if she was gone, she probably would lose her job.

So we're trying to just – to say to employers, you know, if you engage in these practices, whether a split shift, or no advance notice, it's going to cost you. You're going to, you know, you're going to pay a price for that.

LEVIN-EPSTEIN: So Letty, let's turn to something else as well that Congressman Miller was mentioning, and its retaliation. At the congressional briefing that was sponsored by the National Women's Law Center, the Fair Work Week, A Better Balance, and Congressman Miller was a key part of it, I was fortunate enough to moderate the panel of worker leaders.

Each story was unique, yet all too common was the thread that Congressman Miller mentioned, which was this retaliation from employers, only because an employee asked

for some kind of help with their schedule, you know, like just being told sooner when a shift would be scheduled so they could deal with childcare, or school classes.

MEDEROS: Right.

LEVIN-EPSTEIN: What is your sense, having been steeped in this issue now for a while, about why this retaliation is so prevalent?

MEDEROS: Well, first we need to ban that, we need to outlaw retaliation for requesting, you know, flexibility in the schedule, and our bill does that. The reason why, you know, again, I think I go back to certain businesses not seeing their employees as an asset, as a resource.

And as folks that want to, you know, you want to treat well, and accommodate them whenever possible, they sometimes may not be possible, but whenever possible, so that they'll be invested in the work they do, and they have a sense of ownership and the morale is high if you're treated well.

For the reasons of why the retaliation goes on, because you know, there's another model that people are seeing as disposable. So you know, not across the board, but that's sort of my own conclusion, you know, that when you hear some of these stories, you come to a conclusion that you know, this human being is working out whether it's (Hardy's), or fast food companies, or in a hotel, you know, workers are disposable, and there is absolutely no job security, you can lose your job for just asking for an accommodation. And we – and our bill really tries to get at that.

LEVIN-EPSTEIN: In your conversations, Letty, with colleagues on the Hill, what most excites them about the bill, what they're doing? I mean you mentioned, Congressman Miller I think mentioned you're up to 40, 41 co-sponsors, or maybe Liz mentioned that before we lost her.

MEDEROS: Yes, Mr. Miller said, you know, 40, we have 40, I think maybe 41 co-sponsors, and ...

LEVIN-EPSTEIN: That's pretty impressive.

MEDEROS: It is impressive, because it is – it is a bill that, you know, will – says no, these abuses should not happen, and you know, it says to employers this will cost you. So it is impressive that so many folks are familiar enough to come on and do an aggressive legislative attack as to sponsor a bill, you know.

Many folks – many times you'll hear I will vote for the bill, but I'm not going to co-sponsor it, but we have members of Congress that are familiar with it, that know it, and to asset themselves with these policy changes, these proposed policy changes, and that is extremely encouraging at this point ...

LEVIN-EPSTEIN: I'm going to ...

MEDEROS: ... because we've just started – we've just started ...

LEVIN-EPSTEIN: Yes, exactly. I'm going to throw at you a couple of questions from our audiences. We have one from – this is a ringer, it's Shawn Sebastian, who is with the Center for Popular Democracy, the same organization as Carrie, who's coming on in a few minutes.

But Shawn was hoping you could tell the audience whether or not there are penalties for changing the schedule after posting the schedule two weeks in advance.

MEDEROS: There is a penalty for changing the schedule, not two weeks in advance, but with the last 24 hours before someone is supposed to report to work.

LEVIN-EPSTEIN: OK. And then we have another ...

MEDEROS: And again, let me just say to that ...

LEVIN-EPSTEIN: Yes.

MEDEROS: This is an introduction. When you are moving a bill through a committee, you know you revise, and you reevaluate, and the one thing you never want to do, is bargain against yourself, against a legislation you've drafted. But it's a give and take, you know, so this is just an introduction that would not be final, you know, whenever we're in a position to pass it into law, whether it's six or ten years from now.

LEVIN-EPSTEIN: I have time for one more question for you before I turn to Carrie, and this one comes from a reporter, Arlene Edmonds, who's a correspondent with the Philadelphia Tribune and Journal Register and Newspapers.

I'm not going to be able to read her entire text, so I hope I can quickly capture her question. She notes that she's been interviewing individuals who have erratic schedules, including an employee who is literally given the time to report to work the next day, and when he arrives, he has no idea how many hours he will work.

And then she describes a set of other kinds of situations and scenarios that she's hearing about and learning about, about challenging schedules. She asks does any of the components in this bill address the complications of low income workers with changing schedules when applying for public assistance, like energy assistance, SNAP, child subsidy, et cetera?

Often these workers report that they are only adept at processing applications with consistent salaries. Some give up because they are told to bring back documents many times, and they don't have the time with uncertain work schedules.

As you were shaping the bill, as you've been discussing the bill, has this interaction with public assistance come up? Clearly the child subsidy one has come up, but tell us what you're hearing from the Hill.

MEDEROS: It has come up among some members, that understanding. Yes, it has. Yes, and it is something to look at and examine further.

LEVIN-EPSTEIN: Exactly, and I want to note for everyone that the third call in this series in November is entirely focused on the intersection between childcare and job schedules, particularly the issue of the childcare subsidy, so we're delighted – Arlene, thank you very much for flagging that issue, and giving us an excellent segue. And ...

MEDEROS: And for the reporter – the reporters on the call, I'm not – I don't handle the communications aspect for Congressman Miller, but if they need the information, I can get them our communications director to give them, you know, a quote for the record, or any other information that they may need for the – for the media. But I don't do that, I'm the policy person.

LEVIN-EPSTEIN: And Letty, thank you so much for pitch-hitting for Liz. And we're going to turn now to Carrie. Carrie, welcome. How are you?

GLEASON: I'm well. Thanks for having me.

LEVIN-EPSTEIN: Absolutely. Could you first fill in the audience who may not know – only those who may not know about the Fair Work Week Initiative, what it is. I'm sure a lot of folks on this call already are familiar with your work, but it would be great if you should capture for everyone else.

GLEASON: Sure. The Fair Work Week Initiative is a collaborative effort. It's anchored by the Center for Popular Democracy, but works in partnership with grassroots organizations, policy groups, unions across the country, with the focus of moving employers to change their scheduling practices, and also winning policy solutions that achieve an equitable work week for today's workforce.

So while we're most concerned with what's happening to workers who are paid low wages, we're also interested in restoring a fair work week for all of us. I think that's what's so exciting about the Schedules at Work Act, is that it really brings together the needs of everyone, right, we all need some kind of voice in our – in our work schedules.

LEVIN-EPSTEIN: So Carrie, my next question for you is the same one that (Suzan Andreswesky) of the Strategic Research department at the UFCW wants to know about, which is we're aware that states and localities are beginning to consider laws and take actions.

Vermont started it all with a right to request law, and then San Francisco also has a right to request law, but there are some other new developments. (Suzan) mentioned knowing

that there's something going on in San Francisco, so can you first fill us in on what's happening in San Francisco?

GLEASON: Sure. San Francisco is breaking ground again, as they did with paid sick days. They are moving what's called the Retail Worker Bill of Rights. It's being led by a coalition that does include the UFCW, as well as it's being led by Jobs with Justice, and other groups including (ACE), and the California Labor Federation, Young Workers United.

It's a diverse coalition of groups, I want to be sure to recognize their hard work to make this possible. And what's exciting about what they're doing that they're really building upon what the provisions that were in the Schedules at Work Act, that – so they're including – taking the right to request a step further by including input into schedules.

They're including advanced notification of schedules, and addressing on-call shifts. The part of that bill is going to be introduced by David (Schue) in the coming weeks I believe, and (Eric Mars) (INAUDIBLE) ...

LEVIN-EPSTEIN: David (Schue) – David – OK, go ahead.

GLEASON: We had David (Schue) is a San Francisco supervisor, and another San Francisco supervisor, (Eric Mars), already introduced a bill at the end of July that included a provision that would give workers access to full time hours.

In addition – together they're moving this as the Retail Worker Bill of Rights. There's also a provision that would give part-time parity, so that part-time workers are treated, you know – paid the same wages as their – as their full-time counterparts, and also a staffing retention provision.

WATSON: Hi, everyone. This is Liz Watson. My apologies for dropping off the call. I'm very glad to be rejoining.

LEVIN-EPSTEIN: Oh, thank goodness you got back on, Liz. That's great. And Liz, we're talking with Carrie right now, but hopefully I'll be able to turn to you towards the end and ask you a couple questions that have come in as well.

WATSON: Absolutely.

LEVIN-EPSTEIN: So Carrie, are there – what's going on in New York as well?

GLEASON: Yes, in New York there is both a caregiver discrimination bill that is in – is brewing, as well as a right to request bill. And I think, you know, what we're kind of taking the right to request a step further so that it's not just about requesting the schedule and accommodation, but it's also just more broadly about having a voice in your schedule.

What we're seeing happen is that workers are really experiencing – they're being expected to be available for way more hours than they're actually getting scheduled to work, and it's creating this massive unproductive workforce.

So we're looking to take on this challenge of open availability. And you know, all of these – all of these policies are still in the mix of don't – you know, the bill has not been introduced in New York City yet, and it's definitely an involving work, but it's been announced the intention to introduce this bill.

Similarly, there's other, you know, cities and states that are exploring these ideas. There's advocates in Minnesota that are exploring a scheduling campaign, as well as in D.C. You know, and I think within the provisions that are option – you know, there's also – oh, I don't want to forget, in California there's also the Santa Clara County campaign that's being led by Working Partnerships USA, and SEAU, and it's focusing on contracted county employees to ensure that they not only have fair wages and earn fit time, but also fair scheduling.

LEVIN-EPSTEIN: And I believe just crossing my desk today was an exciting announcement related to how much attention in New York City these issues are getting, because Better Balance is joining forces with the (comptroller), right, and holding a special event. Is that right, Carrie?

GLEASON: Yes. A Better Balance has been doing tremendous work in New York City, and there's going to be a forum at the end of September. (Ann-Marie Slotter) is going to be a keynote speaker. And I think it marks something that is very exciting that's happening, right.

I mean women are in the workforce across the labor market, right. But I think what we're seeing is it's not just women in professional jobs who've really built the foundation of workplace flexibility who are saying we need a voice in our schedules. But it's also women in low-wage occupations. And so at this forum, I think it's going to really lift up the needs of all women, whether they work in hourly jobs, or in more professional jobs.

LEVIN-EPSTEIN: So Carrie, I want to ask you about something that Congressman Miller mentioned, you know, he was mentioning the decision after the New York Times press story for Starbucks to actually, you know, announce that it was going to make some changes.

And there have similarly been some corporate practice change announcements at Wal-Mart. Can you fill us in on what happened at Wal-Mart, and whether it's your sense that the policy change is just on paper, or actually happening?

GLEASON: So what's been happening at Wal-Mart has been going on for a while now, and 2013 at the National Retail Federation, the company announced that they were going to create more transparent schedules. That was in response to workers going on strike saying, you know, look, we need respect of our jobs, and that includes fair scheduling.

It took a year, workers took more action, they did a petition, 20,000 people signed it, they spoke out in the media, they continued to organize and push the – hold the company accountable to their promise. And in 2014, they announced that they were going to implement this open access to hours system, where workers could go online and access additional hours.

And I think what's happened is that while some Wal-Mart associates have been able to access more hours, it hasn't quite delivered the consistent full-time employment that all of Wal-Mart associates, or many of Wal-Mart associates need.

And so now they're pushing for not just full-time work, consistent full-time hours, they're also pushing for \$15 an hour, you know, as we all know with hourly workers, it's – you know, you need higher – you need decent wages as well as, you know, consistent schedules in order to have a fair paycheck.

And so Wal-Mart associates are really leading that effort. And so I think it illustrates like across the board, right, companies will have policies, but it doesn't necessarily translate into consistent practices on the ground. And so I think that's why bills like the Schedules at Work Act are so important, that's why local policies are really important, because we just need new fundamental protections around work hours.

LEVIN-EPSTEIN: So do you have any particular new – I think those are very helpful themes and issues to keep in mind about the translation of policy – internal policy to practice on the value of legislation and law. With regard to Starbucks, is it too soon to tell whether or not they're actually rolling this out effectively, or do you have a sense already?

GLEASON: I think we have a sense already, you know, to the question from the Philadelphia Tribune reporter, I've actually been in touch with a Starbucks barista in Chester, Pennsylvania, and she was one of those workers who experienced those tremendously fluctuating hours, and was then pushed off of her childcare subsidies.

And so because of her, you know, fluctuating schedule at Starbucks then, you know, she no longer could access childcare subsidies, and then was piecing together childcare through, you know, families and friends.

And you know, so I think the story of (Jeannette Navarro), you know, she was not alone. I've spoken to dozens of Starbucks baristas experiencing very similar challenges. And what – and so I think it's a big overhaul, right.

And what's – you know, it's exciting to see a company say look, we're not defending the practice of what happened to (Jeannette Navarro), or (Allison Santana), you know, it's not defensible. We recognize we need to make some changes.

We think that they can go a step further. Starbucks baristas have similarly been organizing to hold their company to kind of go a step further. They've been saying look, America's coffee habit is totally consistent, there's no reason why you can't provide one month's notice.

A Starbucks executive even admitted that they can do forecasting at least three weeks in advance, you know. They're also pushing for access to full-time work, and a – and a voice, and having stable schedules.

So I think that there is an effort to kind of push the company to go further than what they've already done. You know, (Susan Lambert) uses one-week notification as an example of insufficient scheduling, and so in addition, you know, while the company this week did announce that they – they did start to implement ten days' notice of schedule.

So it's a step forward, it's still – it's still short of the real base line that we think workers need for predictable schedules. The company's not committing to not making last minute changes. In addition, you know, they're still engaging in clopen practices, you know, eight hours ...

LEVIN-EPSTEIN: Wait, can you define that for ...

GLEASON: Oh, yes, sorry, I spoke – no, I'm sure that many on the phone do know what a clopen is now, because of Starbucks, which is the workers getting scheduled for a late night shift, and then an early morning shift. And so Starbucks had this practice where a worker was getting scheduled ...

LEVIN-EPSTEIN: Wait, clopen – wait, Carrie, so clopen ...

GLEASON: Yes, a closing shift, and back to back with an opening shift. So a closing-opening shift ...

LEVIN-EPSTEIN: OK, got it.

GLEASON: And so what was happening was Starbucks says, you know, we'll close at 11 o'clock at night, and then open back up at five-thirty in the morning. And so workers, you know, were just like a few hours between shifts. It was impossible for parents to take their kids to childcare.

I know one mom who would, you know, bring her kid to, you know, her mother's house so she could – you know, the kid could sleep there, so she didn't have to wake the child up at 3 in the morning so she could go to work.

You know, I think that now they said well we're only going to give eight hours, you know, clopens are over, we'll have just eight hours between shifts. But you know, they say that we're supposed to get eight hours of sleep at night. It's still really insufficient. But we're hopeful.

LEVIN-EPSTEIN: OK. So Carrie, last question here, on retaliation, can you give us a story that underscores how far it's gone, and your sense of why, maybe an illustration from all the conversations you've been having with workers. I mean Congressman Miller zeroed in on this issue. What's the one that you tell people the most, that just drives you crazy?

GLEASON: You know, what's interesting is just that it is – what workers experience as retaliation is actually what workers experience all the time, right. They're seeing constant fluctuations in their hours. And so, you know, I can tell you the story of, you know, (Tiffany Barode), who is an (R) Wal-Mart member.

You know, she worked in (Morel), Maryland for about three years as a customer service manager. So she worked her way up in the company, but she wanted to go back to school. She's also a mom, and you know, wanted to work towards, you know a long-term, you know – towards a different kind of job.

And she asked Wal-Mart for modest adjustments in her schedule, and instead of supporting her, the company cut her hours, so drastically in fact, that she actually had no choice but to drop out of school for the semester.

She then spoke up about this, and then Wal-Mart filed her illegally. You know, similarly I've seen workers at companies like (Uniclo) and Manhattan where they will file for – or Burlington Coat Factory, Zara, countless companies where workers will file for partial unemployment insurance when their hours get cut during typical, you know – there are, you know – these are seasonal industries, so there are some amount of, you know, changes in the amount of hours that the companies have to offer workers.

But that's why we have partial unemployment insurance, so workers can stay afloat in the flow season. When workers filed for that benefit, then the manager sometimes would say, oh, I heard you filed for unemployment insurance, well I guess you're unemployed, and then fire them.

And that is totally illegal, because it's their statutory right to access that important benefit. And so that's the ways in which it's just – it's really a struggle for workers to be able to manage these schedules.

LEVIN-EPSTEIN: So before I ask each of you to a closing thought, I have a couple of questions that I want Liz to answer. Liz, are you with us? Liz?

WATSON: Yes, I'm still here. Still here.

LEVIN-EPSTEIN: Oh, that's exciting. Thank you so much. We really apologize for this. We have a question here from Community Action Partnership in Idaho, (Erin Casetto). Keeping in mind the issue of retaliation, how would the employee go about

providing proof or documentation regarding an employer who rewrites the established schedule with less than 24 hour notice?

WATSON: So the retaliation provisions in the bill apply across all of these – all of the various pieces of the bill. In other words, if you're retaliated against for any piece of the bill, you know, for exercising your rights under any piece of the bill, you have protections.

In terms of how an employee would prove that the employer rewrote the schedule with less than 24 hours' notice, the employer has an obligation to post schedules in writing, and to provide written notification of schedule changes.

So if the employer changes a schedule with less than 24 hours' notice, the employee then has that right to an extra hour of pay, which is a really – a slap on the wrist to the employer to say you know, let's – this incentivizes practice of changing schedules with less than (an hour) notice.

And so trying to start moving us in the right direction, to get employers, you know, to not do that so often for – to employees. And so what would happen, is the employee would have a private right of action to go to court, just like the employee has a private right of action under our existing wage and hour laws.

So the enforcement scheme for schedule change with less than 24 hours' notice that entitles an employee to an extra hour of pay, or similarly, the reporting time (papervision), or split shift (papervision), looks just like the enforcement of all of the wage and hour laws that, you know, work – you know, where the enforcement scheme has been in effect for a very long time.

So it's based on, you know, very long established precedent, and provides a private right of action of the employee to go to court.

LEVIN-EPSTEIN: Liz, another question here from (Alchemia Wade) with So Others Might Eat, with the Center for Employment Training in D.C., and this is not about the bill per se, so this is in absence of the bill question, so see if you want to take it.

I just met with a client, she writes, that works with Wal-Mart, and recently received a promotion to join the management team with the assumption that she will be still generating full-time hours. To then go to work in that same week to find out that she in fact will be working 32 hours one week, and 30 the next. What advice would you have for the individual so that she would not have to be concerned with retaliation?

WATSON: So without, you know – and I welcome you to give me a call offline to discuss this individual's situation further. I will say that, you know, the situation of fluctuating hours for workers who don't know their schedules from one week to the next.

And don't know, you know, when they get a job, what that's going to mean, what that's going to translate to in terms of a paycheck, because we have no idea how many hours to count on, you know, is incredibly common across a whole wide range of jobs and a problem that we hear about a lot.

The bill would address this by requiring, as I'm sure Letty told you about, and did a wonderful job of explaining in my absence, what the initial disclosure requirement is, right, but it would require as part of the advance notification that an employee learn how many hours they can expect to get, and then have two week's notice if that minimum number of hours is going to change.

So certainly I think, you know, having advance notice protections in – as part of our laws would be extremely helpful to introduce some transparency for workers in what they can expect. D.C. has some other provisions on the books.

And actually is – does have some of the stronger scheduling laws in terms of having – being one of the places – the jurisdictions that does have reporting time pay, and also having split shift pay that we model – that advocates were hopeful we could see in the federal bill.

And indeed we do see a very similar provision in the federal bill around split shift pay. So – but this precise problem of fluctuating hours, you know, is really something that the federal bill deals with, and is not yet dealt with in existing legislation.

LEVIN-EPSTEIN: Well thank you, Liz, and thanks for hanging in there, and coming back in as well. And I want each of you to have the chance to do the impossible, which is to give in 15 seconds your takeaway message for those folks who have tuned in today, and are going to tune in in the months ahead, who are interested in this issue, but may not be steeped in it.

And so your takeaway message for how to get inside the issue, or – and it's your choice, you know, one thing to really hang onto as the most important thing to remember as you're working on this issue, whether you're deep in it, steeped in it, or new to it. So first take it away, and I'm going to throw that at you, Letty.

MEDEROS: I'm sorry, Jodie, so what is it exactly that I say?

LEVIN-EPSTEIN: It's 15 seconds on a takeaway message for folks about what's important to keep in mind as they're fighting this issue, or a step to take if they've never been inside this issue.

MEDEROS: I would say, you know, definitely get in touch with your member of Congress, and come prepared with stories.

LEVIN-EPSTEIN: OK.

MEDEROS: We – the issue is real, and it falls or rises on the power of story.

LEVIN-EPSTEIN: Super. Liz, your 15 seconds.

WATSON: The scheduling crisis in low-wage jobs is really, you know – has risen to a boiling point this summer, and we are so grateful to the leadership of Congressman Miller, and the other champions of the Schedules at Work Act for coming up with this very important solution.

Women and children are profoundly affected, and I work at the National Women's Law Center. All workers are affected, women make up two-thirds of workers in low-wage jobs, and their children are deeply affected by these very difficult scheduling practices, as you'll hear about on the next call, and I hope all of you will join.

There's a lot – a lot of work to be done, at the local, state, and federal level to finally curb abusive scheduling practices, and I hope that you will all join us in this fight, and I know many of you are knee-deep in it already.

LEVIN-EPSTEIN: Thank you, and Carrie, can you do this in 15 seconds? Your takeaway.

GLEASON: Sure. I mean I think what's interesting, what's coming to light is that employers have a choice. The challenge is that they're not making the choice voluntarily, and so that's why we're moving for these new policy protections.

I think that there's this way in which – you know, I think speak – reaching out to your congressperson, but also talking to your employer about what you need for your schedule. I think all too often we just – we just learn to like cope, and scramble, as opposed to thinking about well, you know, we do have power when we come together with our coworkers as well, and when we tell our stories publicly.

And so I think that we're going to hear more and more people making the decision to share their stories, because I think there's this real opportunity for change. I think employers are recognizing that kind of the time's up, you know, that they need to make a shift, and revamp how they're managing their workforce, and I think that there's real will by our elected officials to ensure that we have the protections we need.

LEVIN-EPSTEIN: I want to thank each of you, Letty Mederos, Carrie Gleason, Liz Watson, for joining, and for co-sponsoring, and Letty, please thank the Congressman for us for really ...

MEDEROS: Absolutely, yes.

LEVIN-EPSTEIN: ... getting on the phone in a really crowded schedule. So – and we each of us want to thank the audience for taking the time, and for doing what it is you're doing. So I wish to say to everybody, have a great day. Bye-bye.

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