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## **Article**

### **Sprawl, Family Rhythms, and the Four-Day Work Week**

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*We evaluate the four-day work week against the background of other institutional and social practices and constraints. But we fix these other variables when considering the value of this work reform. For example, workers enjoy the commute time and expense savings associated with a four-day week. These savings would mean little if the commutes in question were negligible. Therefore, the value of the four-day work week depends in part on the social history that gave us increasingly substantial commutes. This Article seeks to highlight some of the institutional practices that influence the adoption of a four-day work week, particularly those associated with sprawl. It compares the reform to school districts that operate a four-day school week as a cost-saving measure. School systems choose a four-day week because they are rural and long distances create particularly serious time and transportation costs. This comparison helps to reveal the role sprawl and its impact on commutes plays in the four-day work week reform. In addition, the four-day work week depends on being different from other workplaces for its benefits. The odd hours for commutes are needed to relieve pressure on the roads. The irregular hours for the opening of government offices are effective because they coincide with non-work hours for private sector employees. While new distances may necessitate a four-day work week, irregular, unsynchronized hours come with a cost. Synchronized non-work hours allow communities to share common civic time and allow families to develop social rhythms of non-work time together. The four-day work week reform, which derives its benefit from irregularity, undermines common community and family rhythms.*

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# Sprawl, Family Rhythms, and the Four-Day Work Week

KATHARINE B. SILBAUGH\*

## I. INTRODUCTION

In the summer of 2008, the State of Utah adopted a four-day, ten-hour compressed work week for all state government workers and offices. Utah government offices are now closed on Fridays, but open from 7:00 a.m. to 6:00 p.m. the first four days of the week.<sup>1</sup> Both before and after Utah implemented this compressed work week, a number of local governments had adopted similar reforms across the country, but Utah was the first to make the move at the state level.<sup>2</sup> A number of private businesses have also made the change.<sup>3</sup>

For some businesses, and even some local governments, the move to a four-day work week involves cutting the overall number of hours worked by twenty percent to save on employee costs. Nissan and Pella windows are private sector examples.<sup>4</sup> This kind of cut is offered as a way to avoid layoffs and involves economic trade-offs that are evaluated by others in this Symposium Issue.<sup>5</sup> This Article focuses only on a compressed work week, meaning the same number of hours across fewer days—typically a schedule of four ten-hour days (the “4/10”). For such a work week reform, the employee loses no pay and works the same number of hours. The only issue to evaluate is the changed schedule for those hours.

Utah’s four-day work week reform is usually covered in the media as a response to rising fuel prices combined with state budget deficits that motivate governments to explore every possible cost-saving scenario.<sup>6</sup> But

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<sup>1</sup> STATE OF UTAH, WORKING 4 UTAH: INITIATIVE PERFORMANCE REPORT, FINAL 3 (2009), available at [http://www.dhrm.utah.gov/Working4Utah\\_FinalReport\\_Dec2009.pdf](http://www.dhrm.utah.gov/Working4Utah_FinalReport_Dec2009.pdf) [hereinafter FINAL PERFORMANCE REPORT].

<sup>2</sup> Larry Copeland, *State Workers in Utah Shifting to 4-Day Week*, USA TODAY, July 1, 2008, at 2A.

<sup>3</sup> See Olga Kharif, *The Rise of the Four-Day Work Week?*, BUS. WK., Dec. 18, 2008, available at [http://www.businessweek.com/magazine/content/08\\_52/b4114085629738.htm](http://www.businessweek.com/magazine/content/08_52/b4114085629738.htm).

<sup>4</sup> Kharif, *supra* note 3; Alan Ohnsman, *Nissan U.S. Auto Plants on 4-Day Week ‘Indefinitely,’* BLOOMBERG, Jan. 14, 2009, <http://www.bloomberg.com/apps/news?pid=20601101&refer=japan&sid=anO1lcPtgx6k..>

<sup>5</sup> See Michael Z. Green, *Unpaid Furloughs and Four-Day Work Weeks: Employer Sympathy or a Call for Collective Employee Action?*, 42 CONN. L. REV. 1139, 1167–68 (2010).

<sup>6</sup> See, e.g., Brock Vergakis, *4-Day Week Seems To Work Well for Utah*, BOSTON GLOBE, Mar. 1, 2009, available at [http://www.boston.com/news/nation/articles/2009/03/01/4\\_day\\_week\\_seems\\_to\\_work\\_well\\_for\\_utah/](http://www.boston.com/news/nation/articles/2009/03/01/4_day_week_seems_to_work_well_for_utah/).

Utah's own literature on the shift to a four-day work week gives two other reasons for making the change that are equal to the energy-related ones. The first is improved services based on government offices being open earlier and later. The second is improved employee morale and satisfaction. Before the project began, fifty-six percent of employees expected to like the new schedule better.<sup>7</sup> After one year, eighty-two percent liked it better.<sup>8</sup>

But what makes employees' experiences with this four-day work week and its ten-hour days so much better? And what makes the extended service hours important? This Article considers the role that urban sprawl plays in generating worker demand for a compressed work week and citizen demand for extended service hours. It concludes that by increasing the distance people travel to and from work, urban sprawl has fueled the shift to a four-day work week and fueled the demand for extended service hours. In the course of evaluating transportation issues, this Article compares the current movement to a four-day work week to a decades-old practice in some localities of compressing the public school week into four days. Finally, this Article considers the benefits and costs of uniform conventional hours, and the role that conventionality might play if the compressed four-day work week continues to spread. It focuses attention on the social benefits of shared work schedules and the relatively recent erosion of the historic respect for them. The staggered hours in this reform interrupt valuable social rhythms that allow for both family and community time.

Existing social arrangements give rise to a need for reform. The 4/10 work week is no different. This reform is contingent upon and embedded within other institutional arrangements. A four-day work week treats the symptoms—it is not a cure. Most of the reasons for this reform spring from details of urban planning—of cities expanding geographically at rates far exceeding population growth, thereby expanding distances between where people live and where they work and seek services. Certainly, heating and cooling costs saved by using the four-day work week do not fit this description, but many other benefits of the four-day work week do. Having laid out a world in the past five decades that is increasingly difficult to live with, we now see a reform of work life that exposes the failure that sprawl has become. People now live so far from work that they should only be expected to travel there four days each week.

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<sup>7</sup> STATE OF UTAH, WORKING 4 UTAH: INITIATIVE PERFORMANCE REPORT, INTERIM DRAFT 12 (Feb. 2009), available at <http://www.utah.gov/governor/docs/Working4UtahInterimReport.pdf> [hereinafter INTERIM PERFORMANCE REPORT].

<sup>8</sup> FINAL PERFORMANCE REPORT, *supra* note 1, at 16.

## II. THE MULTI-DIMENSIONALITY OF WORK/FAMILY TENSION

The literature on work/family or work/life balance is robust and extensive. It seems that every discipline has developed an approach, performed research, and offered insights—economists, lawyers, sociologists, psychologists, business consultants, as well as some from more surprising fields like architecture<sup>9</sup> and comparative religion<sup>10</sup> have weighed in on the topic. That multiple disciplines would engage the topic is evidence of the multi-faceted and complex problem under consideration. An issue called “work/family tension” is reflected in genuine concerns regularly expressed from many quarters. But we are not sure whether we have a problem of rising and shifting parenting standards, enormous generational change in the lifespan and cultural notions of appropriate care for the elderly, voracious employers, extended childhoods, new risks to children, stagnating wages, gender role transformations, increasing inequities among population groups, or decreasingly livable communities—the number of possible ways to describe the problem can bewilder. While research within disciplines can be extensive, work that crosses disciplines is more challenging to do. Unfortunately, multi-faceted problems require a multi-faceted analysis.

Meanwhile, the pressures created by work/family tension are so immediate that, within different disciplines, researchers are quick to offer reforms that could ease some of the sources of the tension. Each reform is limited by the expertise of its discipline—labor market experts in law and economics suggest reforms to employment practices; psychologists and sociologists suggest adjustments in family behavior; and public law researchers seek reform of subsidies to families, communities, schools, or employers that might ease tensions. Finally, urban planners seek to change development practices.

Sometimes researchers are so familiar with the obstacles to reform in their own fields that they argue for a single solution in a different field that seems fresh and promising for its unfamiliarity. For example, sometimes labor market scholars argue for changes in family law or behavior, while scholars of the family press for reforms in the workplace to solve knotty problems in the institutional patterns of family. But whether a scholar focuses too narrowly on her own field or too blithely on someone else’s, the problem is the same; it is difficult to generate a single proposal, or even

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<sup>9</sup> See DOLORES HAYDEN, *REDESIGNING THE AMERICAN DREAM: THE FUTURE OF HOUSING, WORK, AND FAMILY LIFE* 240 (2d ed. 2002).

<sup>10</sup> See Shivani P. Patel & Christopher J. L. Cunningham, *A Resource-Based Perspective on Work-Family Balance and Religion Among a Sample of Hindus* 6–7 (Univ. of Tenn. at Chattanooga, Working Paper, 2009), available at [http://www.utc.edu/Faculty/Chris-Cunningham/documents/PatelandCunninghamWSH2009\\_000.pdf](http://www.utc.edu/Faculty/Chris-Cunningham/documents/PatelandCunninghamWSH2009_000.pdf). For a discussion of the work on this topic, see Katharine B. Silbaugh, *Women's Place: Urban Planning, Housing Design, and Work-Family Balance*, 76 FORDHAM L. REV. 1797, 1801–18 (2007).

a small number of proposals, that can capture the economic, psychological, and social dynamics that give rise to work/family tension.

This Article uses the four-day work week as an example to highlight the complexity of crafting reform aimed at easing a multi-dimensional and complicated problem. It does so by assessing an employment-based response to work/family tension—the four-day work week—through the lens of geographic constraint. It seeks to show how a reform in one place may show little awareness of the relationship among causes of work/family tension.

This Article does not argue that reforms should not be attempted, nor does it argue that the four-day work week is not a good reform. Rather, this Article charges work/family balance reformers to remain mindful of the multi-dimensionality of the issue. We should not expect one reform to ease the tension on its own and, thus, should work to promote a variety of reforms simultaneously. In addition, we should evaluate reforms for their unintended consequences as well as their benefits. This approach seeks “the best possible conditions against which a broad array of people can make choices”<sup>11</sup> about how to live as well as how to design reforms, rather than being aligned with a single school of thought that characterizes the work/family balance problem as one of inequality, discrimination, or capitalism, for example.

### III. THE PROBLEM OF SPRAWL

Sprawl is an expanding pattern of lower-density land use, consuming land at a rate much higher than population growth, and zoned to discourage mixed-use areas that would combine residential life, work, services, and retail. Sprawl increases commutes for several reasons. First, the distances between economic centers within cities and new residential development is increased whenever that new residential development is placed further outside the city. The characteristics of recent growth in U.S. metropolitan areas have made this problem proportionally worse than population growth: because the size of houses and lots has increased steadily during the post-World War II era, the resulting land demands lead to exponentially greater distances. By some accounts, land consumption has been increasing around cities at five times the rate of population growth.<sup>12</sup>

In addition, attributes of sprawled development make the commuting problem more difficult still. The most important negative feature of sprawl is the single-use zoning that separates housing from retail, business, and public uses of land. Because government and commercial uses of land are

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<sup>11</sup> Libby Adler, *The Gay Agenda*, 16 MICH. J. GENDER & L. 147, 148 (2009).

<sup>12</sup> Henry R. Richmond, *Sprawl and Its Enemies: Why the Enemies Are Losing*, 34 CONN. L. REV. 539, 566 (2002).

separated from residential uses, commuting is increasingly *built in* to our environment. Contrast the mixed-use land patterns in older city neighborhoods, where a person's residence might be above or around the corner from her workplace. Today's suburb is designed to separate housing from other land uses, thereby assuring that a person cannot quickly walk or bicycle to work.

Critiques of sprawl abound. Sprawl is bad for the environment because it consumes land, requires energy to deliver services at a distance, and increases automobile use by increasing work commutes, retail, and service trips.<sup>13</sup> Add to that the increased driving by those who serve the new housing, such as utility companies and food suppliers.<sup>14</sup> Sprawl has deleterious social effects, as its residents experience a kind of isolation unfamiliar to those who live in more densely packed neighborhoods.<sup>15</sup> It is associated with divisive practices like "white avoidance," meaning the movement of white families out of cities in an effort to avoid allowing their children to attend racially integrated schools.<sup>16</sup> Sprawl also divides people socially by family type, since single-family houses are not ideal for single people, those with physical disabilities, or the elderly.<sup>17</sup> And, finally, sprawl is associated with increasing obesity<sup>18</sup> because sprawled communities are not designed for walking—in fact, many have eliminated the sidewalk entirely.<sup>19</sup> The increased transportation time associated with sprawl cuts into valuable family and civic time, putting increased pressure on household clocks.<sup>20</sup>

The causes of sprawl, and its potential cures, are multi-factorial and highly dependent. Sprawl cannot be explained only in market terms because it thrives on extensive public subsidies in the form of road-building and utility support, and less obviously in the home mortgage deduction and the federal guarantee of home loans.<sup>21</sup> The cost of utility extension and of road building is largely paid for by government entities,

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<sup>13</sup> See OLIVER GILLHAM, THE LIMITLESS CITY: A PRIMER ON THE URBAN SPRAWL DEBATE 3–7, 108 (2002) (describing the effects of sprawl as expansions of land and an increase in the number of car trips, commercial strip developments, and energy consumption); MATTHEW E. KAHN, GREEN CITIES: URBAN GROWTH AND THE ENVIRONMENT 113–16, 121–22 (2006) (stating that the effects of sprawl include an increase in land consumption, vehicle use, and gasoline consumption).

<sup>14</sup> See KAHN, *supra* note 13, at 11–13 (explaining that residential sprawl is fueled in part by restaurants in suburban areas and advances in utilities, such as air conditioning in warmer areas).

<sup>15</sup> GILLHAM, *supra* note 13, at 149–51.

<sup>16</sup> XAVIER DE SOUZA BRIGGS, *More Pluribus, Less Unum? The Changing Geography of Race and Opportunity, in THE GEOGRAPHY OF OPPORTUNITY: RACE AND HOUSING CHOICE IN METROPOLITAN AMERICA* 17, 23–27 (Xavier de Souza Briggs ed., 2005).

<sup>17</sup> HAYDEN, AMERICAN DREAM, *supra* note 9, at 58–59, 216–21.

<sup>18</sup> Reid Ewing et al., *Relationship Between Urban Sprawl and Physical Activity, Obesity, and Morbidity*, 18 AM. J. HEALTH PROMOTION, Sept.–Oct. 2003, at 47, 54.

<sup>19</sup> DOLORES HAYDEN, A FIELD GUIDE TO SPRAWL 39 (2004).

<sup>20</sup> Silbaugh, *supra* note 10, at 1825–29.

<sup>21</sup> For a more extensive discussion of the subsidies that contributed to sprawl, see *id.* at 1836–39, 1842–52.

not the developers who benefit economically from sprawl or even directly by the homeowner.<sup>22</sup>

Sprawl has not been inevitable nor has it been a natural product of market forces. It is a response to both institutional and individual racism that characterized the post-*Brown* era, as well as to land use patterns that make development more profitable, if less user-friendly. It is a product of a range of planning failures, including road building and utility subsidies, the federal guarantee of home mortgages, school financing systems, single-use zoning, zoning for single-family homes, building incentives in the home-mortgage deduction, and poor regional planning. The mechanisms of sprawl, thoroughly set out in the literature,<sup>23</sup> are beyond the scope of this Article. The proposition that sprawl is not inevitable is set out here to highlight a sequence: first we sprawl, next we change work patterns to manage the impact of sprawl.

Because the causes are diffuse, correcting sprawl is difficult. But the difficulty in correcting it should not be mistaken for a lack of urgency. Rather, many entities, both private and public, are working to counter the negative impact of sprawl despite its diffuse and multi-factorial causes, indicating the seriousness of its impact. It is with this framework in mind that we will investigate how the four-day work week reform responds to sprawl.

#### A. *The Four-Day Work Week as Generated by Sprawl*

Commute times have increased with sprawl, both because distances have increased and because congestion increases when new developments feed into old road systems. In the United States, the average commute distance is fifteen miles, which most people consider a substantial distance for a twice daily journey.<sup>24</sup> Wide variation in commute times means that some people travel far greater distances. The average worker commutes twenty-six minutes in *each* direction.<sup>25</sup> The pressures created by that use of time are obvious, and their role in the four-day work week reform is

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<sup>22</sup> ROBERT W. BURCHELL ET AL., SPRawl COSTS: ECONOMIC IMPACTS OF UNCHECKED DEVELOPMENT 50 (2005). The homeowner bears the costs indirectly through taxes, but those are spread not only across close neighbors, but also across all residents of the state, and for some projects, the country.

<sup>23</sup> For a further discussion of the mechanisms of sprawl, see, e.g., GILLHAM, *supra* note 13, at 143–51 (discussing economic, social, transportation, and energy costs); HAYDEN, AMERICAN DREAM, *supra* note 9, at 57–59 (discussing recent cultural changes); KAHN, *supra* note 13, at 110–25 (discussing environmental factors); Silbaugh, *supra* note 10, at 1818–19, 1836–39, 1842–52 (discussing government subsidies, home mortgage deductions, and federal guarantee loans).

<sup>24</sup> From Home to Work, the Average Commute Is 26.4 Minutes, OMNISTATS (U.S. Dep’t of Transp., Bureau of Transp. Statistics, Washington, D.C.), Oct. 2003, available at [http://www.bts.gov/publications/omnistats/volume\\_03\\_issue\\_04/pdf/entire.pdf](http://www.bts.gov/publications/omnistats/volume_03_issue_04/pdf/entire.pdf).

<sup>25</sup> *Id.*

explicit: the literature supporting a four-day work week relies on travel barriers as an important reason to change work schedules.<sup>26</sup>

What is less explicit in discussions of workplace reform is the simple link between the twenty-six minute commute and the development pattern that created it. The four-day work week is intended to relieve the commute, but the commute is treated as though it were fixed or natural. On this view, the forces of progress seem to have created the commute times, while work hours reform is simply responding well to evolving needs.

Perhaps we should instead view the four-day work week reform as a bailout. The state government incentivized the sprawl, placed new pressures on workers' time, and now asks those workers to work a ten-hour day that is not coordinated with the work or school days of other family members as a cure for that poor planning. The need for the reform is real, but perhaps we should be asking that same government to set forth its longer-term plan for reducing the stress-creation itself. Without a plan to curb sprawl and reverse its impact, the four-day work week will serve as a stop-gap to the three-day work week or the entirely virtual workplace.

### B. *Useful Flexibility*

Commuting for work not only adds time to the worker's day, but it reduces the *usefulness* of flexibility in work scheduling. In many jobs, it is possible to combine breaks or to use lunch time to gain a half hour or even a full hour during the middle of the day from time to time. If a person's errands can be accomplished nearby, they might be taken care of during these breaks. For example, the rhythm of time out of work might be less pressured if it were possible to renew a driver's license, take an aging parent to a physical therapy appointment, or attend a child's parent/teacher meeting during that time. Part of what makes each of those tasks difficult to accomplish within a one-hour period is the distance between the workplace and the elderly parent or the child's school, and between the workplace and the Department of Motor Vehicles ("DMV"). Those distances are a product of sprawl. Some employers already give workers a small measure of flexibility during the work day, but it is not as *useful* as it could be because of the distances between the day's destinations.

The 4/10 schedule responds to the dilemma of useful flexibility. The fifth day is presented as an opportunity to attend the parent/teacher conference and the physical therapy appointment. This is an enormous help to families in which all adults are in the workplace and have dependents whose needs call for workers' time during business hours.

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<sup>26</sup> See FINAL PERFORMANCE REPORT, *supra* note 1, at 16 (highlighting that the four-day work week has decreased both commuting costs and the total driving days to work).

Friday allows workers a business day to take care of all of the tasks that could not be fit into break time during the five-day work week. This is a great benefit in the landscape we have created. We can still ask whether it is a superior arrangement to a more densely developed, mixed-use land pattern in which a person can live, work, and take care of errands with short trips that maximize break time in a shorter work day.

Improving the usefulness of flexibility in the face of sprawl also appears in the extended service hours at the DMV. Utah's 4/10 work week enables the DMV to provide extended service hours because workers are there for ten hours. Those extended service hours give private sector workers, who must travel some distance, the ability to get to the DMV at 7:00 a.m., attend to business, and arrive at their own workplace two hours later for the 9:00 a.m. start. This is a benefit given our current landscape. We can ask whether it is a superior arrangement to a more densely developed, mixed-use land pattern in which a person can live, work, and take care of errands all with short trips that maximize break time in a shorter work day. In this alternative world, a person can go to the DMV during the work day.

These examples are intended to let us notice the role that urban sprawl played in generating the *need* for a 4/10 solution. The 4/10 work week is the answer to a question—but what question? With an eye toward the impact of sprawl, the question that 4/10 answers becomes, “Now that people’s workplaces are impossibly far from their homes and other daily destinations, what can employers do to compensate for the troubles caused by these distances?”

### C. Cost-Savings from a Four-Day Work Week Are Generated by Sprawl

A desire to achieve cost-savings drives the four-day work week reform. The savings to both the environment and the worker’s purse are to be gained against long highway rides necessitated by the separation of home from work. Car ownership is expensive, and every mile driven costs more than the price of the gasoline consumed; wear and tear on the car diminishes its value and repairs are expected. After housing, transportation comprises the biggest share of the American household budget—bigger than health care or education.<sup>27</sup>

When using a 4/10 work week, absenteeism is reduced as workers do not need time off to run errands during the week, since they save such errands for that fifth day. Reduced absenteeism generates efficiencies for employers. While some of the savings to be gained by Utah from a 4/10

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<sup>27</sup> SURFACE TRANSP. POLICY PROJECT & CTR. FOR NEIGHBORHOOD TECH., DRIVEN TO SPEND: THE IMPACT OF SPRawl ON HOUSEHOLD TRANSPORTATION EXPENSES 5, 9 (2000), available at <http://www.transact.org/PDFs/DriventoSpend.pdf>.

are not connected to sprawl, but spring instead from the energy costs associated with keeping a building open for five days instead of four (e.g., heat, cooling, custodial attention), the transportation costs so often discussed as a major cost-savings from the 4/10 are themselves a cost imposed by sprawl and the government policies that encouraged it. The four-day work week solves both a time and an expense problem relating to increased commuting distances, and those increased commuting distances arise from poor urban planning. The argument then becomes: sprawl causes the four-day work week.

## V. THE FOUR-DAY SCHOOL WEEK

In considering the four-day work week, we might turn for comparison to a related scheduling experiment in some public school systems. A number of public school systems across the country run four-day school weeks. Certain school districts in Arizona, Colorado, Wyoming, South Dakota, Louisiana, New Mexico, Idaho, Minnesota, and Nebraska, among other states, are running four-day weeks; a recent article reports that certain districts in seventeen states are following this modified schedule.<sup>28</sup> With tightening state budgets, an increasing number of districts are considering the option. Some districts, particularly in Colorado, have been using a four-day week for decades. In Arizona, more than 100 schools operate on a four-day schedule.<sup>29</sup>

What are the characteristics of the districts that choose this schedule? They are almost all rural and small.<sup>30</sup> Consequently, they have substantial transportation costs in both dollars and time, compared with suburban and urban districts that transport children shorter distances.

The reasons for adopting the four-day school week resonate with the ones offered for a four-day work week. The pitch for the four-day week in these districts has included transportation costs and building costs (e.g., custodial and cafeteria staff), but it has been supported by other arguments that sound familiar to students of the current four-day work week reform. Districts argue that a four-day school week reduces teacher and student absenteeism because people can make their appointments on the fifth day.<sup>31</sup> They note that everyone likes the schedule—teachers and students, as well as parents who benefit from a longer day on the other four days to cover childcare needs.<sup>32</sup> Districts even make a mission-of-institution

<sup>28</sup> Christine Armario, *4-day School Week Gains Momentum amid Recession*, ASSOCIATED PRESS, Mar. 12, 2009. As recently as March 2010, Illinois has taken steps to allow the four-day school week, see Michelle Manchir, *State House Backs 4-Day School Week*, CHI. TRIB., Mar. 22, 2010.

<sup>29</sup> Alex Bloom, *4-Day Week Could Ease Money Woes*, ARIZ. REPUBLIC, Nov. 9, 2008, at 4.

<sup>30</sup> Andrea D. Beesley & Carmon Anderson, *The Four Day School Week: Information and Recommendations*, 29 RURAL EDUCATOR 48, 48, 52 (2007).

<sup>31</sup> *Id.* at 48–49.

<sup>32</sup> COLO. DEP'T OF EDUC., THE FOUR-DAY SCHOOL WEEK 5 (2006) [hereinafter FOUR-DAY

argument, similar to the improved services argument for a four-day work week. They argue that there are learning benefits from longer block scheduling that allows more project-based work, and that they can treat subjects in greater depth with more time.<sup>33</sup> They argue that the fifth day provides additional time to complete homework, thereby enhancing learning.<sup>34</sup> They note stable or improved test scores in districts that have adopted a four-day week.<sup>35</sup> This “good for kids” reasoning parallels the pro-worker reasons we hear for the four-day work week—that it promotes work/family balance and that families enjoy the cost-savings from avoided commutes.<sup>36</sup>

Some educators worry about exhaustion and about over-extending children and staff. There are concerns about the scheduling of extracurricular activities and what happens on that fifth day.<sup>37</sup> These fatigue and fifth day worries are visible in the 4/10 work week literature as well.<sup>38</sup>

The comparison to schools highlights what drives the change to a 4/10—*distance*. Schools expose the force of distance more clearly because primarily rural schools have the transportation distance and associated costs that are common to many workplaces in more urban areas.<sup>39</sup> In cities, the “neighborhood school”<sup>40</sup> means that children do not usually travel far enough to break down the entire system of schooling organized around the five-day week. In cities, workers have farther to travel than students do. But in rural areas, the situation for students mirrors that for workers in cities. The number of students can be so small that towns create unified school districts where children travel long distances to join with other children. The impact is unmistakable: eventually, unlivable distance itself leads to a breaking point, and the four-day week enters for schools—much the same causal chain this Article posits for the four-day work week.

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SCHOOL WEEK]; Beesley & Anderson, *supra* note 30, at 48, 50–51.

<sup>33</sup> Beesley & Anderson, *supra* note 30, at 49.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> For research about and advocacy for the four-day school week, see generally FOUR-DAY SCHOOL WEEK, *supra* note 32; Beesley & Anderson, *supra* note 30; National Conference of State Legislatures, Four Day School Week, <http://www.ncsl.org/IssuesResearch/Education/SchoolCalendarExtendedYearFourDaySchool/tabid/12934/Default.aspx> (last visited Mar. 13, 2010).

<sup>37</sup> Beesley & Anderson, *supra* note 30, at 50.

<sup>38</sup> See, e.g., *id.* at 52 (summarizing teacher, parent, and student concerns regarding fatigue).

<sup>39</sup> 4-Day School Week Termed Ill-Suited to Large States, EDUC. WEEK, May 19, 1982.

<sup>40</sup> This image conjures up something idyllic to many, but has a seriously disreputable legacy due to its racial history; neighborhood schools only generated serious defenders when integrating schools became a threat to white families who did not wish to allow their children to attend school with African American children. See, e.g., James E. Ryan & Michael Heise, *The Political Economy of School Choice*, 111 YALE L.J. 2043, 2053–58 (2002).

## VI. UNIFORMITY IN WORK HOURS

Even if sprawl generates the need for a four-day work week, do we have any reasons to think something will be lost when opting for a 4/10 schedule—especially when workers like it so much? This section focuses on the possible costs and benefits of uniform work hours to worker quality of life. It first notes that the benefits of the four-day work week depend on it being novel and irregular. It next argues that, all things being equal, regularity of hours plays a beneficial role in maintaining social rhythms that support families and communities in some ways.

### A. *The Benefits Depend on the Novelty of the 4/10 Schedule*

The benefits of the four-day work week depend on institutional arrangements outside of work. In Utah, the 4/10 schedule deliberately offsets state government work hours so that they are no longer aligned with a loose convention of a five-day, eight-to-five schedule. Instead, the ten hours are offset from the eight working hours—starting one hour earlier and ending one hour later.<sup>41</sup> The four days are offset from the fifth, when other businesses are open but state offices are closed. This Article takes note of the role that the *offsetting* of work hours plays in reaping benefits from the 4/10, while asking us to consider the role that coordinated rhythms play in quality of life absent the inefficiencies of long commutes.

A number of the benefits of the compressed work week flow from the *irregularity* of the hours. For example, the four-day work week is credited with reducing absenteeism. “Cumulative leave usage,” considered a “key indicator of productivity,” is down about nine percent in Utah since the adoption of the 4/10.<sup>42</sup> Absenteeism is presumably down because workers can take care of appointments on the fifth day and no longer need to take off from work to see a doctor, for example.

But this works only if other businesses and services remain open on that fifth day. If everyone reaches the point of commute despair and moves to a four-day work week, the schedule will not be irregular, and we will lose the flexibility associated with fifth day errands. If the dentist and the physical therapist close on Friday, it becomes another Sunday, and workers are not benefiting from being out of work when other offices are open. If workers live and work close to their dentists’ offices, however, they would only need to take an hour off from work, rather than an entire day, to meet their business time out-of-office needs.

A similar story attends the extended service hours that come with a ten-hour day. A number of departments in Utah report no negative impact

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<sup>41</sup> INTERIM PERFORMANCE REPORT, *supra* note 7, at 9.

<sup>42</sup> *Id.* at 13.

and even a possible positive impact from the change in hours.<sup>43</sup> This is likely because in exchange for not being able to get a driver's license on Friday, citizens can get it later in the day or before work on the other days. But what if everyone else is on a 4/10? The extended hours would not make it easier to get to a government office if those hours were in a synchronized rhythm with the hours of most citizens. Again, the benefit of Utah's change depends on its irregularity as against other businesses and institutions' employment hours. Conversely, if we lived, worked, and received government services in close proximity, we would not need extended hours to access government agencies because we could do it on our break time from work, the way we get cash out of a bank machine with that time.

Some of the transportation benefits of the 4/10 also rely on offsetting. Proponents describe spreading the load on transportation infrastructure by creating off-hours commuting. As Michelle Travis points out, the Federal Alternative Work Schedules Act, which sounds to the twenty-first century ear as though it would be motivated by family-friendliness, was originally passed in the 1970s as a method of reducing traffic congestion.<sup>44</sup> The traffic reduction benefit derives from the offset schedule and only survives as long as the 4/10 schedule is novel. The more people who move to working the 4/10 work week, the more traffic congestion will return.

Utah government offices are open early, when other workers are still on their own time. Those same government offices are also closed on Fridays, so that government workers may frequent establishments that are open. Workers find their commute less onerous because they are not sharing the roads with as many other commuters. The disruption of coordinated work hours is the reason the 4/10 delivers some of its benefits to workers.

### B. *Losing the Culture of Coordinated Rhythms*

The 4/10 reform uses offsetting to solve difficulties that arise when coordinated schedules combine with sprawl. But the coordination of work days and work hours is not an unfortunate coincidence in need of correction. The coordination or synchronization of work time and what is alternatively called leisure, family, or private time, is the product of its value to people.

In *A Time for Every Purpose*, Todd Rakoff discusses the non-religious defense of Sunday blue laws advanced by the United States Supreme Court in *McGowan v. Maryland*.<sup>45</sup> Blue laws, or "common day of rest" statutes,

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<sup>43</sup> FINAL PERFORMANCE REPORT, *supra* note 1, at 3.

<sup>44</sup> Michelle A. Travis, *What a Difference a Day Makes, or Does It? Work/Family Balance and the Four-Day Work Week*, 42 CONN. L. REV. 1223, 1262 (2010).

<sup>45</sup> TODD D. RAKOFF, *A TIME FOR EVERY PURPOSE: LAW AND THE BALANCE OF LIFE* 39–43

prohibited certain commercial activities on Sundays in almost every state. The range of restrictions varied across states, from liquor-only to broader prohibitions on work and commerce.<sup>46</sup> The relationship between the laws regulating Sunday business and the biblical creation story, with its seventh day of rest, are obvious to all. Hence, blue laws would seem ripe for a successful Establishment Clause challenge. Yet in 1961, the Supreme Court upheld the blue laws because they served the secular purpose of coordinating time off for everyone, creating “a day which all members of the family and community have the opportunity to spend and enjoy together . . . a day on which people may visit friends and relatives who are not available during working days.”<sup>47</sup> A law that allowed workers to stay home on their own Sabbath was subsequently struck down under the Establishment Clause because it could not be defended as a method of preserving the cultural coordination of a restful pace as worker Sabbaths could fall on different days and no coordinated rest would result.<sup>48</sup>

Todd Rakoff argues that blue laws “create a basic social synchronization within time.”<sup>49</sup> He notes that taking Sunday off allows workers to perform the same tasks “whether work or rest—within the same time frame that others do.”<sup>50</sup> Rakoff’s argument is that blue laws do not simply limit the overall hours a person can work by stopping a race-to-the-bottom in which one open business leads to another. Instead, they coordinate our work time and our leisure time so that we share common rhythms: “Each worker performs activities of a certain sort—whether work or rest—within the same time frame that others do.”<sup>51</sup> Rakoff claims a qualitative value to these “contrasting textures for time,”<sup>52</sup> as they shape social experience by allowing people to connect during common “rest” or “quiet” portions of the cycle.<sup>53</sup>

Rakoff contrasts the notion of common quiet time and common noisy time with a Soviet experiment in the “continuous production week”<sup>54</sup> during the Great Depression. The Soviets abandoned the seven-day week

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(2002) (discussing *McGowan v. Maryland*, 366 U.S. 420 (1961)).

<sup>46</sup> *Id.* at 35–36.

<sup>47</sup> *McGowan*, 366 U.S. at 450.

<sup>48</sup> See *Thornton v. Caldor, Inc.*, 472 U.S. 703, 710–11 (1985) (holding that a Connecticut statute that guaranteed employees the right not to work on his or her Sabbath unconstitutional because of the resulting imposition to conform business practices to the religious practices of employees). The Court noted that to be constitutional, the primary effect of a statute must not be to advance or inhibit religion. *Id.* at 708.

<sup>49</sup> RAKOFF, *supra* note 45, at 38.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 39.

<sup>53</sup> *Id.* at 40. See also JUDITH SHULEVITZ, THE SABBATH WORLD: GLIMPSES OF A DIFFERENT ORDER OF TIME 6, 10–24 (2010) (discussing the complexities of modern life and examining the relationship between work time and family time).

<sup>54</sup> RAKOFF, *supra* note 45, at 44, 47 (internal quotations omitted).

in favor of a five-day week without a recognized weekend; the workforce was divided into five parts and one-fifth of the workforce had each day off.<sup>55</sup> The idea was that machines could run continuously, and there would be no visible rhythm of common leisure.<sup>56</sup> The Soviet experiment lasted two years, and a desire for synchronized family time played a role in its abandonment.<sup>57</sup>

The current movement to a four-day work week is hardly the breaking point from a common rhythm. Our economy has largely abandoned blue laws, most businesses have extended retail hours to seven days, and many other parts of the economy spill into the weekend and prevent us from taking common time for granted. But the four-day work week pushes the envelope on the value of common time because its benefit is *premised* on the opposite concept: offsetting of schedules creates conveniences for workers (who can run errands on the fifth day), citizens (who can enter government bureaucracies during extended hours), and commuters (who can drive to work when other workers are not yet on the road).

Because the Utah workers surveyed report liking the 4/10 reform, it may be complicated to argue that there is a problem with staggered work hours and the loss of synchronized family rhythms. Even if the problem sounds plausible, it is difficult to know the magnitude of the impact on families and communities. But we might also assume that when workers fill out surveys evaluating the four-day work week, they compare it to the five-day work week burdened by long commutes and residential communities separated from the tasks of daily life. That is to say, they compare it to the status quo prior to the four-day work week innovation. Perspectives on the four-day work week are framed by the aspects of daily life built into the environment. The work of this Article is to ask what constrains the choices people make on their surveys—what are the variables that have been fixed when evaluating the four-day week that might be re-opened? People and institutions choose a four-day week, whether for working hours or school hours, because the choices have been framed in a particular way, with long commutes as a fixed baseline. A four-day week may be an easier reform than the reversal of sprawl. But since it is a band-aid reform on the larger problem of sprawl, it fails to address the range of ill-effects of sprawl.

## VII. CONCLUSION

The four-day work week turns the common work and common leisure concept on its head. No longer a friend to individuals and communities,

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<sup>55</sup> *Id.* at 44.

<sup>56</sup> *Id.*

<sup>57</sup> *Id.* at 45.

common hours are being cast as the enemy of family balance—the creator of both traffic and impossible logistics. Surely it is worthy of attention that offsetting schedules are now family-friendly, when it might have been previously thought that the preservation of common social rhythms helped families to slow down in unison. On balance, it might be a benefit, and workers are reporting satisfaction with the offset schedule, a preference that cannot be taken lightly. Still, we might wonder whether the choice has to be between an hour daily in a car with coordinated schedules and offset schedules where families eat and sleep on offset schedules as well. Perhaps there is a third way, one that involves less travel time accomplished through better urban planning.