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## Why Right to Work is Right for Missouri

Law Protects Worker Choice, Grows Economy and Holds Unions Accountable

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No individual should be forced to financially support an organization they disagree with or risk penalty. However, in Missouri and 24 other states, private sector workers can be compelled to pay union dues or lose their job.<sup>1</sup> This is made possible by provisions in union contracts known as union security clauses. However, in the 25 states that have right to work (RTW) laws, workers have free choice on whether or not to join a union and pay dues.

Federal labor law dominates private-sector labor relations. However, states may enact right to work legislation (under the Taft-Hartley Act of 1947) to give workers the freedom to refrain from financially supporting union representatives without the risk of termination if they feel the union is not representing their best interests.<sup>2</sup> The Show-Me state could soon provide workers with this freedom—if enough of Missourians’ elected representatives step up to the plate.

In the past legislative session, the Missouri House and Senate passed a right to work bill,<sup>3</sup> but on June 4, Governor Jay Nixon vetoed the legislation at the behest of union bosses.<sup>4</sup> When he made his announcement, Governor Nixon was surrounded by members of the United Auto Workers union, which donated \$50,000 to his campaign less than a week after the veto—even though the Governor is term-limited and has committed not to run for office again.<sup>5</sup> Moreover, Nixon’s campaign coffers were full, with over \$16 million through 2012, so it was not to pay off debt.<sup>6</sup> Missouri Lieutenant Governor Peter Kinder described the union donation and the Governor’s acceptance of it as “pay to play politics.”<sup>7</sup>

Governor Nixon, in his veto announcement, trotted out union talking points about RTW, claiming: “This extreme measure would take our state backward, squeeze the middle-class, lower wages for Missouri families.”<sup>8</sup> Yet, as experience in RTW states indicates, the legislation’s impact on Missouri would be the opposite of what the Governor claims. Expanding worker choice is far from extreme, research shows that RTW is economically advantageous, and polling shows the public widely supports the policy.

As Missouri legislators look to override the veto in the upcoming session starting in September, the following is well worth considering.

**Economic Benefits of Right to Work.** A recent study, “An Interstate Analysis of Right to Work Laws,” published by the Competitive Enterprise Institute, analyzes the economic impact that right to work laws would have had on states without such law on the

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books. It calculated and ranked states' per capita income loss from not having RTW law over a 35-year period (1977-2012), while controlling for variables like population growth, manufacturing capacity, and education level. Results find a significant and positive relationship between economic growth in a state and the presence of a right to work law.<sup>9</sup>

Workers' incomes rise when right to work laws are in place. Real personal income, over the duration the study grew by 123 percent across the United States, but RTW states saw a much faster growth rate of 165 percent, while non-RTW only saw below average growth of 99 percent.<sup>10</sup>

Had non-RTW states adopted RTW laws in 1977, the first year of the period analyzed, annual income levels would be an estimated \$3,000 per person higher in 2012, or more than \$13,000 for a family of four, according to the study's regression analysis.<sup>11</sup> The total estimated income loss in 2012 from the lack of RTW laws in 28 U.S. states was \$647.8 billion.<sup>12</sup>

Since 2012, Indiana, Michigan, and Wisconsin have joined the ranks of right to work states, bringing the current total of RTW states to 25. Were Missouri to follow suit, state residents would benefit slightly more than the average from the presence of RTW. The Show-Me State's estimated per capita income loss associated with not having a RTW law was \$3,040. In addition, Missouri's total estimated income loss from not having a RTW law was over \$18.3 billion.<sup>13</sup> Moreover, as CEI analysis on collective bargaining finds, unionization means a 15 percent wage loss for workers.<sup>14</sup>

In addition to increased income, other indicators show that RTW states outperform states that empower unions to collect compulsory dues and fees in other areas.

- Total employment growth in the United States from 1977 to 2012 was 71 percent. In right to work states, employment growth was 105.3 percent, while non-RTW states saw growth of only 50 percent. Overall, the presence of a RTW helps increase economic growth rates by around 11.5 percentage points.<sup>15</sup>
- From 2004 to 2013, RTW states added 3.6 million jobs, while forced union states added only 1.5 million, according to the Bureau of Labor Statistics.<sup>16</sup>
- State that have enacted right to work laws just in the past three years have already seen economic gains. As the Department of Labor reports: "Michigan and Indiana, which had both adopted Right to Work laws in 2012, led the nation in manufacturing job growth in 2014."<sup>17</sup>
- U.S. Census data show Americans in non-RTW states are increasingly migrating to states with RTW laws.<sup>18</sup> From 2000 to 2009, 4.9 million Americans moved from non-RTW states to RTW states—an average of 1,450 persons per day.<sup>19</sup> This should be of particular importance to Missouri, which recently lost a seat in the U.S. House of Representatives due to population loss.

**Americans Support Right to Work.** Not only do right to work laws increase worker freedom and encourage economic growth, the policy is popular. Recent polls show Americans support right to work laws by wide margins:

- A 2014 Gallup poll asked: “Some states have passed right-to-work or open shop laws that say each worker has the right to hold his job in a company, no matter whether he joins a labor union, or not. If you were asked to vote on such a law, would you vote for it, or against it?” Among respondents, 71 percent said they would vote for RTW, while only 22 percent said they would vote against, and 7 percent had no opinion.<sup>20</sup>
- A 2014 poll conducted by National Employee Freedom Week (NEFW), a coalition of 102 public policy organizations in 42 states, asked: “Should employees have the right to decide, without force or penalty, whether to join or leave a labor union?” In Missouri, 79.28 percent of participants answered yes. Nationally, 82.87 percent of participants agreed workers should not be forced to pay union dues.<sup>21</sup> (A 2015 NEFW survey found a smaller but still overwhelming majority, 76.5 percent, responded yes to the question nationwide, but did not break down responses by state).<sup>22</sup>
- A 2012 Rasmussen poll found that 74 percent of likely voters “say non-union workers should not be forced to pay dues in a closed union shop.”<sup>23</sup>
- A May 2015 poll conducted by the Missouri Alliance for Freedom, in collaboration with former Missouri House Speaker Tim Jones, found that 54 percent of Missourians support right to work, with 35 percent opposed and 11 percent undecided.<sup>24</sup>

In recent years, the popularity of right to work legislation has been reflected at the ballot box. State elected officials who have worked to enact right to work laws have fared well in elections. In the first election after Indiana enacted right to work, all Republican state senators retained office and the GOP picked up nine House seats previously held by Democrats.<sup>25</sup> In Michigan, which passed right to work legislation in 2012, Governor Rick Snyder, who signed the state’s RTW bill into law, and every legislator who voted for RTW were reelected in 2014.<sup>26</sup> In Missouri, every elected representative who voted in favor of RTW was reelected in 2014.<sup>27</sup> Missouri Republicans now have a sufficient control of the House and Senate to override the Governor’s veto with 116 members in the House and 24 in the Senate—if Republican members stick to their guns.<sup>28</sup>

In fact, labor law reform that increases worker freedom or saves tax dollars may anger labor union bosses, but is a political winner among voters. In 2011, Wisconsin Governor Scott Walker signed sweeping government union reform, which was met with public smear campaigns and protests coordinated by organized labor.<sup>29</sup> However, Governor Walker withstood the vicious attacks to win a recall election in 2012—by a greater margin than he was elected in 2010—and was reelected in 2014.<sup>30</sup> And as shown in Indiana and Michigan, politicians voting in favor of RTW maintain office more often than not.

**Right to Work Protects Workers’ Freedom of Choice.** Right to work legislation is needed to protect worker freedom because federal labor law does not require labor unions to stand for reelection as the exclusive bargaining representative for a given group of workers, even in industries with significant employee turnover. Once a union organizes a workplace it remains the monopoly bargaining agent over the workforce in perpetuity.<sup>31</sup> That means that new hires never get the chance to vote on their own representation. As little as less than 7 percent of the current private sector workforce has ever voted for the union that represents them in contract negotiations that determine their pay and workplace conditions.<sup>32</sup> While RTW does not give workers the freedom to represent themselves or to seek other

representation, it gives workers the freedom to not financially supporting an organization they never voted for or want representing them.

**National Labor Relations Board Union-Bias.** A flurry of pro-union activity now being carried out by unelected bureaucrats at the NLRB makes right to work protections more important than ever.

In April, the NLRB implemented the so-called ambush election rule, which deliberately shortens the time workers have to educate themselves on the pros and cons of union representation. The data show that the less time workers have to contemplate the decision of unionization and the less time they have to hear all sides of the impact of union representation, the more likely the workers elect to unionize.<sup>33</sup>

In an August decision, the NLRB ruled that companies can now be considered “joint employers” of workers employed by other businesses with which they have an ongoing working relationship, such as through franchising and contracting.<sup>34</sup> The ruling overturns three decades of precedent, upends thousands of existing business arrangements, and makes employers liable for employees that they never knew they had. Why would the NLRB create uncertainty among so many common business relationships that are responsible for a great deal of new jobs created? The Board majority tells us in the decision—to encourage collective bargaining.<sup>35</sup> The objective is to ease union organizing, especially when franchises are the target. For example, instead of organizing one McDonald’s franchise at a time, the NLRB’s joint-employer ruling could enable unions to go after the parent company.<sup>36</sup> The Board’s decision will also give unions more organizing tools like pickets, protests, and boycotts that have been prohibited for use against the third parties that would be redefined as joint employers.<sup>37</sup> While encouraging collective bargaining is a stated goal of the National Labor Relations Act, the NLRB should not do so at all costs.

**Primary Union Argument against Right to Work: Purported “Free Rider” problem.** The main argument advanced by organized labor against right to work laws is that all workers in a bargaining unit benefit from unions’ collective bargaining services and RTW allows them to “free ride” on union-negotiated contracts. This is a disingenuous argument that ignores a central fact. Unions *choose* to represent all workers, which makes the so-called “free rider” problem a self-imposed purported injustice. Time and again, the U.S. Supreme Court has ruled that unions may negotiate “members only” contracts that allow unions to strictly bargain on behalf of only their members and refrain from representing non-members.<sup>38</sup>

However, unions consistently prefer to gain exclusive representation over a bargaining unit—that is, to act as the monopoly bargaining agent for members and non-members alike. That means that individual workers may not negotiate directly with an employer if a union-negotiated collective bargaining agreement is in place. This monopoly bargaining power is codified in section 9(A) of the National Labor Relations Act. Until that section is repealed, unions will continue to be able to exert themselves as monopoly bargaining agents with full control over all members and non-members.

**Conclusion.** Right to work makes unions more accountable and receptive to the needs of their members because they need to attract members to collect dues. It benefits union members because it requires union leadership to continually prove the organization's value to their membership or risk losing dues-paying members. Consider recent comments made by United Auto Workers Secretary-Treasurer Gary Casteel:

This is something I've never understood, that people think right-to-work hurts unions. ... To me, it helps them. You don't have to belong if you don't want to. So if I go to an organizing drive, I can tell these workers, "If you don't like this arrangement, you don't have to belong," versus, "If we get 50 percent of you, then all of you have to belong, whether you like to or not." I don't even like the way that sounds, because it's a voluntary system, and if you don't think the system's earning its keep, then you don't have to pay.<sup>39</sup>

Casteel's statement is supported by real-world numbers. Union membership saw an overall increase of 39,000 in RTW states between 2011 and 2012 while non-RTW states lost 390,000 members.<sup>40</sup>

Missouri workers deserve the freedom to choose how to spend their hard-earned pay. Enacting right to work in Missouri would give workers that ability, and send a signal to citizens and taxpayers that worker freedom takes priority over the special interests of labor unions.

## Notes

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<sup>1</sup> National Right to Work Legal Defense Foundation "Right to Work States," Accessed July 15, 2015, <http://www.nrtw.org/rtps.htm>.

<sup>2</sup> National Labor Relations Act Section 14 (B), <https://www.nlr.gov/resources/national-labor-relations-act>.

<sup>3</sup> Alex Stuckey, "Missouri lawmakers send Nixon 'right-to-work' measure," *St. Louis Post Dispatch*, May 13, 2015, [http://www.stltoday.com/news/local/govt-and-politics/missouri-lawmakers-send-nixon-right-to-work-measure/article\\_61dc958e-e53e-5f80-a260-367f2bae4968.html](http://www.stltoday.com/news/local/govt-and-politics/missouri-lawmakers-send-nixon-right-to-work-measure/article_61dc958e-e53e-5f80-a260-367f2bae4968.html).

<sup>4</sup> Summer Ballentine, "Missouri Gov. Jay Nixon vetoes right-to-work legislation," *The Kansas City Star*, June 4, 2015, <http://www.kansascity.com/news/government-politics/article23091570.html>.

<sup>5</sup> Connor Wolf, "Missouri Dem Gets 50K Of Union Cash Right After Killing Right-To-Work Bill," *The Daily Caller*, June 14, 2015, <http://dailycaller.com/2015/06/14/missouri-dem-gets-50k-of-union-cash-right-after-killing-right-to-work-bill/>.

<sup>6</sup> Jay Nixon campaign data available at Vote Smart, <https://votesmart.org/candidate/campaign-finance/2119/jay-nixon#.VfH0mBFVhBc>.

<sup>7</sup> "Lt. Gov. Kinder calls on Gov. Nixon to return \$50,000 UAW donation," Office of Missouri Lieutenant Governor Peter Kinder, retrieved on September 8, 2015, <http://ltgov.mo.gov/news/lt-gov-kinder-calls-on-gov-nixon-to-return-50000-uaw-donation/>.

<sup>8</sup> "Gov. Nixon vetoes legislation that would lower wages, subject businesses to civil and criminal liability," Office of Missouri Jay Nixon, June 4, 2015, <https://governor.mo.gov/news/archive/gov-nixon-vetoes-legislation-would-lower-wages-subject-businesses-civil-and-criminal>.

<sup>9</sup> Richard Vedder and Jonathan Robe, "An Interstate Analysis of Right to Work Laws," Competitive Enterprise Institute, July 16, 2014, <https://cei.org/content/interstate-analysis-right-work-laws>.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

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<sup>14</sup> Lowell Gallaway and Jonathan Robe, *The Unintended Consequences of Collective Bargaining*, Competitive Enterprise Institute (2014), [http://cei.org/sites/default/files/Lowell%20Gallaway%20and%20Jonathan%20Robe %20-%20Unintended%20Consequences%20of%20Collective%20Bargaining.pdf](http://cei.org/sites/default/files/Lowell%20Gallaway%20and%20Jonathan%20Robe%20-%20Unintended%20Consequences%20of%20Collective%20Bargaining.pdf).

<sup>15</sup> Ibid.

<sup>16</sup> Wisconsin State Senator Devin LeMahieu, “Support for Right to Work Legislation,” retrieved on September 8, 2015, *The Wheeler Report*, [http://www.thewheelerreport.com/wheeler\\_docs/files/0303lemahieu.pdf](http://www.thewheelerreport.com/wheeler_docs/files/0303lemahieu.pdf).

<sup>17</sup> National Right to Work Committee Staff, “Michigan #1, Indiana #2 in Factory Job Growth,” National Right to Work Committee, June 28, 2015, <https://nrtwc.org/michigan-1-indiana-2-in-factory-job-growth/?adbsc=nrtwa308771&adbid=615512564278038528&adbpl=tw&adbpr=62821250>.

<sup>18</sup> “Mo. loses congressional seat, drops from 9 to 8,” *KMOV 4 Saint Louis*, originally posted December 21, 2010, updated March 13, 2015, <http://www.kmov.com/story/28439067/mo-loses-congressional-seat-drops-from-9-to-8>.

<sup>19</sup> See, note 9 (Vedder and Robe).

<sup>20</sup> Jeffrey M. Jones, “Americans Approve of Unions but Support “Right to Work,” *Gallup*, August 28, 2014, <http://www.gallup.com/poll/175556/americans-approve-unions-support-right-work.aspx>.

<sup>21</sup> National Employee Freedom Week Right to Work survey conducted by Google survey (2014), <http://employeefreedomweek.com/survey-results/>.

<sup>22</sup> National Employee Freedom Week Right to Work survey (2015), <http://employeefreedomweek.com/survey-results/>.

<sup>23</sup> “74% Favor Right-to-Work Law Eliminating Mandatory Union Dues,” *Rasmussen Reports*, January 31, 2012, [http://www.rasmussenreports.com/public\\_content/business/jobs\\_employment/january\\_2012/74\\_favor\\_right\\_to\\_work\\_law\\_eliminating\\_mandatory\\_union\\_dues](http://www.rasmussenreports.com/public_content/business/jobs_employment/january_2012/74_favor_right_to_work_law_eliminating_mandatory_union_dues).

<sup>24</sup> “Poll: Results of Right to Work Super Poll,” *Missouri Alliance for Freedom*, May 3, 2015, <http://missourifreedom.com/updates/poll-results-right-work-super-poll>.

<sup>25</sup> Vincent Vernuccio and Christina Bolema, “Labor Reform in the States,” *Mackinac Center for Public Policy*, retrieved on September 8, 2015, [http://www.mackinac.org/21510\\_](http://www.mackinac.org/21510_)

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> See Missouri state Senate and House rosters, <http://www.senate.mo.gov/15info/SenateRoster.htm>, <http://www.house.mo.gov/member.aspx>

<sup>29</sup> Carl Horowitz, “Union Bullies Shut down Wisconsin Legislature,” *National Legal and Policy Center*, February 21, 2011, <http://nlpc.org/stories/2011/02/20/union-bullies-shut-down-wisconsin-legislature-effort-block-fiscal-reform>.

<sup>30</sup> See, note 25 (Vernuccio and Bolema).

<sup>31</sup> Union decertification is an option but is an arduous endeavor. Many union contracts contain provisions that punish workers who seek to decertify their union, including steep fines and even termination of employment. Another barrier to decertification are contract bars, which require a union to remain in place for one year until employees may initiate a decertification election.

<sup>32</sup> James Sherk, “Unelected Unions: Why Workers Should Be Allowed to Choose Their Representatives,” *The Heritage Foundation*, August 27, 2012, <http://www.heritage.org/research/reports/2012/08/unelected-unions-why-workers-should-be-allowed-to-choose-their-representatives>.

<sup>33</sup> Trey Kovacs, “Federal Labor Agencies Ambush American Economy,” *Competitive Enterprise Institute*, August 27, 2015, <https://cei.org/content/federal-labor-agencies-ambush-american-economy>.

<sup>34</sup> Decision and Order by Pearce, Hirozawa and McFerran, *Browning-Ferris Industries of California, Inc., d/b/a BFI Newby Island Recyclery, and FPR-II, LLC, d/b/a Leadpoint Business Services, and Sanitary Truck Drivers and Helpers Local 350, International Brotherhood of Teamsters, Petitioner. Case 32–RC–109684* (2015).

<sup>35</sup> Ibid.

<sup>36</sup> Aloysius Hogan “The NLRB Joint-Employer Cases: An Attack on American Business,” *Issue Analysis 2015 No. 2*, *Competitive Enterprise Institute*, June 2015, <https://cei.org/sites/default/files/Aloysius%20Hogan%20-%20The%20NLRB%20JointEmployer%20Cases%20-%2006-4-15.pdf>.

<sup>37</sup> Ibid.

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<sup>38</sup> Stan Greer, “Union ‘Representation’ Is Foisted On Workers – Not Vice Versa,” National Institute For Labor Relations Research, February 2004, [http://www.nilrr.org/files/SKMBT\\_60009080411230.pdf](http://www.nilrr.org/files/SKMBT_60009080411230.pdf).

<sup>39</sup> Lydia DePillis, “Why Harris v. Quinn isn’t as bad for workers as it sounds,” *The Washington Post*, July 1, 2014, <http://www.washingtonpost.com/news/wonkblog/wp/2014/07/01/why-harris-v-quinn-isnt-as-bad-for-workers-as-it-sounds/>.

<sup>40</sup> Tom Gantert, “Right-to-Work States Gain Union Members While Other States Lose Hundreds of Thousands,” Michigan Capitol Confidential, February 4, 2013, <http://www.michigancapitolconfidential.com/18250>.