

**SAFEGUARDING WORKERS' RIGHTS
AND LIBERTIES**

HEARING
BEFORE THE
**SUBCOMMITTEE ON HEALTH,
EMPLOYMENT, LABOR, AND PENSIONS**
OF THE
**COMMITTEE ON EDUCATION AND THE
WORKFORCE**
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS
FIRST SESSION

HEARING HELD IN WASHINGTON, DC, NOVEMBER 30, 2023

Serial No. 118-29

Printed for the use of the Committee on Education and Workforce



Available via: edworkforce.house.gov or www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

56-070 PDF

WASHINGTON : 2025

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SAFEGUARDING WORKERS' RIGHTS AND LIBERTIES

Thursday, November 30, 2023

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND
PENSIONS,
COMMITTEE ON EDUCATION AND THE WORKFORCE,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:17 a.m. 2175 Rayburn House Office Building, Hon. Bob Good (Chairman of the Subcommittee) presiding.

Present: Representatives Good, Wilson, Walberg, Allen, Banks, Bean, Burlison, Houchin, Foxx, DeSaulnier, Courtney, Norcross, Wild, McBath, Hayes, and Scott.

Staff present: Cyrus Artz, Staff Director; Nick Barley, Deputy Communications Director; Mindy Barry, General Counsel; Jackson Berryman, Speechwriter; Michael Davis, Legislative Assistant; Isabel Foster, Press Assistant; Daniel Fuenzalida, Staff Assistant; Sheila Havener, Director of Information Technology; Paxton Henderson, Intern; Taylor Hittle, Professional Staff Member; Alex Knorr, Legislative Assistant; Trey Kovacs, Professional Staff Member; Andrew Kuzy, Press Assistant; Marek Laco, Professional Staff Member; Georgie Littlefair, Clerk; John Martin, Deputy Director of Workforce Policy/Counsel; Hannah Matesic, Deputy Staff Director; Audra McGeorge, Communications Director; Kevin O'Keefe, Professional Staff Member; Mike Patterson, Oversight Investigative Counsel; Rebecca Powell, Staff Assistant; Kelly Tyroler, Professional Staff Member; Seth Waugh, Director of Workforce Policy; Maura Williams, Director of Operations; Nekea Brown, Minority Director of Operations; Ilana Brunner, Minority General Counsel; Joan Hoyte, Minority NLRB Detailee; Stephanie Lalle, Minority Communications Director; Raiyana Malone, Minority Press Secretary; Kevin McDermott, Minority Director of Labor Policy; Olivia McDonald, Minority Staff Assistant; Kota Mizutani, Minority Deputy Communications Director; Veronique Pluviose, Minority Staff Director; Jessica Schieder, Minority Economic Policy Advisor; Dhrtvan Sherman, Minority Committee Research Assistant; Banyon Vassar, Minority IT Administrator.

Chairman GOOD. The Subcommittee on Health, Employment, Labor, and Pensions will come to order. I note that a quorum is present and without objection, the Chair is authorized to call a recess at any time. The right to work in this country, free from coercion by the government, is a right enshrined in our founding documents.

While State right to work legislation is a product of the 20th Century, its fundamental tenets of liberty, freedom, and self-determination are timeless and enduring. Representative Joe Wilson's National Right to Work Act embodies these core American values. It is such that no man or woman should be forced to finance a union as a term of his or her employment.

Unfortunately, however, in 24 states the law is actually the opposite of this principle. Employees in these states have two options—pay union dues or be fired. This threat is a violation of the God-given right for Americans to determine how they spend their hard-earned paychecks.

The Heritage Foundation estimates that 94 percent of workers did not vote for their inherited union representation, meaning that only 6 percent of workers have consented to the union that negotiates on behalf of 100 percent of their coworkers. This means that new employee's interests are not necessarily represented in negotiations, resulting in their being denied fair representation in the future.

The 94 percent deserve a choice, and polls indicate that 75 percent of Americans agree that workers should be able to decide whether to join or leave a labor union. This is not surprising considering that right to work states have increased manufacturing employment, productivity, and personal income. In fact, during the 40-year period between 1978 and 2017, employment in right to work states grew by 105 percent compared to just 49 percent among non-right to work states.

Nevertheless, democrats in the Biden administration are working hard to strip all workers of their right to choose. The anti-choice democrat goal is to force everyone to join a union, by upending independent contractors' livelihoods, overturning NLRB election precedents, and passing the disastrous anti-right to work PRO Act.

We hear complaints from the other side about the so-called free rider problem that right to work laws permit non-dues paying employees to benefit from collective bargaining agreements, but this critique omits a key detail. No union is compelled to cover every employee in the workplace.

The Supreme Court has affirmed and reaffirmed many times the right of unions to negotiate members only contracts. The truth and the catch is that unions enjoy monopolistic control over the workplace. Members only unions would increase competition, which is the enemy of unpopular unions.

Democrats often serve as the policy arm for big labor activists while republicans are comfortable letting the free market operate unencumbered by Washington bureaucrats. The National Right to Work Act only repeals statutes; it does not add one letter to Federal law. Let us give workers the right to work and let us end compulsory union membership. Let us make every State a right to work State and require unions to prove their value to the people they claim to represent.

I look forward to the prepared testimony of our witnesses today, and I yield to the Ranking Member for his opening statement.

[The prepared statement of Chairman Good follows:]



Opening Statement of Rep. Bob Good (R-VA), Chairman
Subcommittee on Health, Employment, Labor, and Pensions
Hearing: "Safeguarding Workers' Rights and Liberties"
November 30, 2023

(As prepared for delivery)

The right to work in this country—free from coercion by the government—is a right enshrined in our founding documents. While state right-to-work legislation is a product of the 20th century, its fundamental tenets of liberty, freedom, and self-determination are timeless and enduring.

Representative Joe Wilson's *National Right-to-Work Act* embodies these core American values. It asserts that no man or woman should be forced to finance a union as a term of his or her employment.

Unfortunately, in 24 states, the law is actually the opposite of this principle. Employees have two options: pay union dues or be fired. This threat is a violation of the God-given right for Americans to determine how they spend their hard-earned paychecks.

The Heritage Foundation estimates that 94 percent of workers did not vote for their inherited union representation, meaning that a mere 6 percent of workers have consented to the union that negotiates on behalf of 100 percent of their coworkers. This means new employees' interests are not necessarily represented in negotiations, resulting in their being denied fair representation in the future.

The 94 percent deserve a choice, and polls indicate that about 75 percent of Americans agree that workers should be able to decide whether to join – or leave – a labor union.

This is not surprising, given right-to-work states have increased manufacturing

employment, output, and personal income. In fact, during the 40-year period between 1978 and 2017, employment in right-to-work states grew by 105 percent compared to 49 percent among non-right-to-work states.

Nevertheless, Democrats and the Biden administration are working hard to strip all workers of their right to choose. The anti-choice Democrat goal is to force everyone to join a union by upending independent contractors' livelihoods, overturning NLRB election precedents, and passing the anti-right-to-work PRO Act.

We hear complaints from the other side of the so-called "free rider" problem—that right-to-work laws allow non-dues paying employees to benefit from collective bargaining agreements. But this critique omits a key detail: No union is compelled to cover every employee in the workplace. The Supreme Court has affirmed and reaffirmed the right of unions to negotiate "members-only" contracts many times.

The truth—and the catch—is that unions enjoy their monopolistic control over the workplace. Members-only unions would increase competition—the enemy of unpopular unions.

Democrats often serve as the policy arm for Big Labor activists, while Republicans are comfortable letting the free market operate unencumbered by Washington bureaucrats. The *National Right-to-Work Act* only repeals a few lines of statutes. It doesn't add a letter to the federal law.

So, let's give workers the right to work and end compulsory union membership. Let's make every state a right to work state, and ask unions prove their value to the people they claim to represent.

Mr. DESAULNIER. Thank you, Mr. Chairman, and thank you to our witnesses for your testimonies today. Thank you for being with us. In the face of wealth inequality and global pandemic that has pushed working families to the brink, workers are increasingly turning to collective action to secure safer workplaces, livable wages, and increased opportunities for them, their families, and their communities.

The corresponding rise in unionization has meant higher pay and better benefits for workers and their families. In the first 9 months of 2023, unions secured an average 6.6 percent first year raise for workers, the highest wage increase in unions' contracts in over 30 years.

This year alone, almost 900,000—900,000 workers have won immediate pay raises at 10 percent or more through their unions and collective bargaining. One of the most recent union success stories is the United Auto Workers ratification of contracts covering 150,000 workers at Ford, General Motors, and Stellantis.

These contracts included significant wage increases, the right to strike over plant closures, and improved retirement security. Union victories are not just limited to unionized workplaces. They fre-

quently result in wage increases in non-union workplaces as well, so that employers can compete in the job market.

For example, shortly after UAW announced its contract agreements, Hyundai, Honda, and Toyota voluntarily announced wage increases for non-unionized workers. Recognizing that union victories benefit all workers, it is imperative to capitalize on this momentum of worker empowerment and help our economy continue to grow from the bottom up and the middle out for everyone.

This Congress, Committee Democrats have consistently put forth legislation that builds upon President Biden's pro-worker, pro-union, pro-community agenda, including bills to raise wages, improve worker's benefits, and create safer workplaces for Americans.

Unfortunately, none of these bills have been considered by the majority. Instead, Republicans are championing the National Right to Work Act here today, which would make it harder for workers to form unions, cut workers collective bargaining power, and further the imbalance in favor of large corporations and capital versus wages of day-to-day workers.

Historically, the so-called Right to Work movement was borne in part out of southern segregationist efforts in the 1940's to stop labor unions from organizing Black workers and fighting for racial inequality. Now corporations and special interests back so-called right to work laws because they are designed to weaken labor unions and worker's bargaining strength in order to maximize profits, already at historic inequality levels.

So-called right to work laws silence workers' voices, driving their wages down, and suppressing their economic well-being. As our witness today, the democratic witness today on the panel, has written in his testimony, so-called right to work laws are detrimental to workers and create a race to the bottom, accounting for State level economic differences and cost of living.

Workers in so-called right to work states earn 3 percent, 3.1 percent less, have 2.6 percent lower rates of employer-sponsored health insurance, and nearly 5 percent lower rates of receiving a pension than their free bargaining State counterparts.

These restrictive anti-work laws have been found to raise executive compensation and make workplaces more dangerous. So-called right to work states have 50 percent more on-the-job fatalities per 100,000 workers. Rather than promoting policies that stifle workers, I would urge my colleagues to join President Biden and congressional Democrats in support of the bipartisan Protecting the Right to Organize, the PRO Act.

The PRO Act protects the fundamental right to join a union by empowering workers to exercise their right to organize, holding employers accountable for violating worker's rights, and securing free, fair, and safe union elections. When workers do better, businesses do better, and ultimately so does the economy.

As I have mentioned many times in this Subcommittee and the Full Committee, one of my favorite quotes from President Eisenhower when this economy, the U.S. economy was growing at its greatest rate for everyone during his administration when we had the highest levels of union members in this country, President Eisenhower said, "Only a fool would try to stop an American man or woman from trying to organize."

With that, I will be happy to yield back, Mr. Chairman.
[The prepared statement of Ranking Member DeSaulnier follows:]



OPENING STATEMENT

House Committee on Education and the Workforce
Ranking Member Robert C. "Bobby" Scott

Opening Statement of Ranking Member Mark DeSaulnier (CA-10)

Subcommittee on Health, Employment, Labor, and Pensions Hearing

Safeguarding Workers' Rights and Liberties

2175 Rayburn House Office Building

Thursday, November 30, 2023 | 10:15 a.m.

Thank you, Mr. Chairman. And thank you to our witnesses for your testimonies today.

In the face of wealth inequality and a global pandemic that has pushed working families to the brink, workers are increasingly turning to collective action to secure safer workplaces, livable wages, and increased opportunities. And the corresponding rise in unionization has meant higher pay and better benefits for workers. In the first nine months of 2023, unions secured an average 6.6 percent first-year raise for workers, the highest wage increase in union contracts in over 30 years. This year alone, almost nine-hundred thousand workers have won immediate pay raises of 10 percent or more through their unions.

One of the most recent union success stories is the United Auto Workers' ratification of contracts covering 150,000 workers at Ford, General Motors, and Stellantis. These contracts included significant wage increases, the right to strike over plant closures, and improved retirement security.

Union victories are not just limited to unionized workplaces and frequently result in wage increases in nonunion workplaces so that employers can compete in the job market. For example, shortly after UAW announced its contract agreements, Hyundai, Honda, and Toyota voluntarily announced wage increases for nonunionized workers.

Recognizing that union victories benefit all workers, it is imperative to capitalize on this momentum of worker empowerment and help our economy continue to grow from the bottom up and middle out.

This Congress, Committee Democrats have consistently put forth legislation that builds upon President Biden's pro-worker, pro-union agenda, including bills to raise wages, improve workers' benefits, and create safer workplaces.

Unfortunately, none of these bills have been considered by the Majority.

Instead, Republicans are championing the *National Right to Work Act* here today, which would make it harder for workers to form unions, gut workers' collective power, and further tilt the balance in favor of large corporations.

Historically, the so-called "Right-to-Work" movement was borne, in part, out of Southern segregationists' efforts in the 1940s to stop labor unions from organizing Black workers and fighting for racial equality. Now, corporations and special interests back so-called "Right-to-Work" laws because they are designed to weaken labor unions and workers' bargaining strength, in order to maximize profits.

So-called “Right to Work” laws silence workers’ voices, driving their wages down and suppressing their economic well-being. As Jody Calemine, the Democratic witness, stated in his written testimony, so-called “Right-to-Work” laws are detrimental to workers and create a race-to-the-bottom. Accounting for state-level economic differences and cost-of-living, workers in so-called “Right-to-Work” states earn 3.1 percent less, have 2.6 percent lower rates of employer-sponsored health insurance, and nearly 5 percent lower rates of receiving a pension than their free-bargaining state counterparts. These restrictive anti-worker laws have been found to raise executive compensation and make workplaces more dangerous. So-called “Right-to-Work” states have 50 percent more on-the-job fatalities per 100,000 workers.

Rather than promoting policies that stifle workers, I urge my colleagues to join President Biden and Congressional Democrats in support of the bipartisan *Protecting the Right to Organize (PRO) Act*. The PRO Act protects the fundamental right to join a union by:

1. Empowering workers to exercise their right to organize;
2. Holding employers accountable for violating workers’ rights; and
3. Securing free, fair, and safe union elections.

When workers do better, businesses do better, and ultimately, so does our economy.

Thank you, Mr. Chairman, I yield back.

Chairman Good. Thank you to the Ranking Member. Pursuant to Committee Rule 8-C, all members who wish to insert written statements into the record may do so by submitting them to the Committee Clerk electronically, in Microsoft Word format by 5 p.m., 14 days after the date of this hearing, which is December 14, 2023.

Without objection, the hearing record will remain open for 14 days, to allow such statements and other extraneous material references during the hearing to be submitted for the official hearing record.

I will now turn to the introduction of our distinguished witnesses. Our first witness is Mr. Mark Mix, who is the President of the National Right to Work Committee, which is located in Springfield, Virginia. He also serves as President of the National Right to Work Legal Defense Foundation.

Our second witness is Ms. Brunilda Vargas, who is testifying on her behalf. She is an Assistant Defender, with the Defender Association of Philadelphia, which is located in Philadelphia, Pennsylvania. Ms. Vargas joined the association initially as a social worker in the juvenile department.

In 1996 Ms. Vargas became an Assistant Defender assigned to the major trial division and has tried countless jury trials. She is currently assigned to the mental health civil division.

Our third witness is Mr. Jody Calemine, who is the Director of Labor and Employment Policy at the Century Foundation, which is located in Washington, DC.

Our final witness is Ms. Jeanette Geary, thank you, who is licensed as a registered nurse in Pennsylvania, but has retired from the profession. She is located in Philadelphia, Pennsylvania, and is testifying on her own behalf.

We thank all the witnesses for being here today and look forward to your testimony. Pursuant to Committee rules, I would ask that you each limit your oral presentation to a 5-minute summary of your written statement, and I would like to remind the witnesses to be aware of their responsibility to provide accurate information to the Subcommittee. I will first recognize Mr. Mix for 5 minutes.

STATEMENT OF MR. MARK MIX, PRESIDENT, NATIONAL RIGHT TO WORK COMMITTEE, SPRINGFIELD, VIRGINIA

Mr. Mix. Thank you, Congressman. It is a privilege to be with you today to talk about H.R. 1200. First of all, I want to call out Congressman Joe Wilson for adhering to the Paper Reduction Act by introducing a bill that is simply one page. As Congressman Good said, this bill does not add a single word to Federal law.

It simply repeals those provisions in the 1935 National Labor Relations Act confirmed and upheld by the U.S. Supreme Court in 1937, of the provisions that authorize compulsory forced unionism. Nothing in this law, as President Eisenhower would say, you would be a fool to get in the way of union organizing. Nothing in this bill would damage or stop any union organizing at all.

The fact of the matter is the right to work issue is a battle between workers and union officials. There are no other parties to this battle because union officials believe that if workers are given the choice to decide whether or not to financially support a labor union they might leave, and that is the problem with the issue of forced unionism.

I want to bring to your attention—you mentioned the Ford contract that just came up, but I want to talk with you about the language on page 2 of that contract, which is the most important element of the contract according to the United Auto Workers. Here is what it says, “Employees covered by this agreement at this time become effective, and who are members of the union at the time shall be required as a condition of a continued—excuse me, a condition of continued employment, to continue membership in the union for the duration of this agreement.”

Employees covered by this agreement who are not members of the union at the time that this agreement becomes effective, shall be required as a condition of continued employment to become members of the union on or within 10 days of the effectiveness date of this contract.”

As an individual employee reading that, and a union official coming to you saying you have to pay union dues as a condition of getting or keeping your job, you have to be a member of the union, what would an ordinary person say about that language? It basically wreaks of compulsion.

When we talk about the National Labor Relations Act, Section 7 rights talk about the employees shall have the right to self-organization to form, join, or assist labor relations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activity for the purpose of collective bargaining, or other mutual aid or protection, and shall also have the right to refrain from any or all such activity.

If Congress were to put a period there, we would not be having this discussion today because the compulsion would not be there, and voluntary unions and the right to refrain would be there. It went on to say except to the extent that the right may have been affected by an agreement requiring membership in a labor organization as a condition of employment, is authorized by Section 158 A-3 of this title.

That is where the compulsion comes from. That is what right to work is all about. There is no block on union organizing, that right

is protected under Federal law, has been, will be and should be. In fact, the NLRB puts out a 21 may notes by employers as it relates to employers as to what they can or cannot do when there is a union organization drive.

I would ask that this be included in the record if we can do that, Congressman Good.

Chairman GOOD. Without objection.
[The information of Mr. Mix follows:]

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National Labor Relations Board

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SECTION 7 RIGHTS

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About NLRB

Interfering with employee rights (Section 7 & 8(a)(1))

Employees have the right to unionize, to join together to advance their interests as employees, and to refrain from such activity. It is unlawful for an employer to interfere with, restrain, or coerce employees in the exercise of their rights. For example, employers may not respond to a union organizing drive by threatening, interrogating, or spying on pro-union employees, or by promising benefits if they forget about the union.

Section 7 of the National Labor Relations Act (the Act) guarantees employees "the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection," as well as the right "to refrain from any or all such activities."

Section 8(a)(1) of the Act makes it an unfair labor practice for an employer "to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7" of the Act. For example, you may not

- Threaten employees with adverse consequences, such as closing the workplace, loss of benefits, or more onerous working conditions, if they support a union, engage in union activity, or select a union to represent them.
- Threaten employees with adverse consequences if they engage in protected, concerted activity. (Activity is "concerted" if it is engaged in with or on the authority of other employees, not solely by and on behalf of the employee himself. It includes circumstances where a single employee seeks to initiate, induce, or prepare for group action, as well as where an employee brings a group complaint to the attention of management. Activity is "protected" if it concerns employees' interests as employees. An employee engaged in otherwise protected, concerted activity may lose the Act's protection through misconduct.)
- Promise employees benefits if they reject the union.
- Imply a promise of benefits by soliciting grievances from employees during a union organizing campaign. (However, if you regularly solicited employee grievances before the campaign began, you may continue that practice unchanged.)
- Confer benefits on employees during a union organizing campaign to induce employees to vote against the union.
- Withhold changes in wages or benefits during a union organizing campaign that would have been made had the union not been on the scene, unless you make clear to employees that the change will occur whether or not they select the union, and that your sole purpose in postponing the change is to avoid any appearance of trying to influence the outcome of the election.
- Coercively question employees about their own or coworkers' union activities or sympathies. (Whether questioning is coercive and therefore unlawful depends on the relevant circumstances, including who asks the questions, where, and how; what information is sought; whether the questioned employee is an open and active union supporter; and whether the questioning occurs in a context of other unfair labor practices.)
- Prohibit employees from talking about the union during working time, if you permit them to talk about other related subjects.

[Back to top](#)

- Poll your employees to determine the extent of their support for a union, unless you comply with certain safeguards. You must not have engaged in unfair labor practices or otherwise created a coercive atmosphere. In addition, you must (1) communicate to employees that the purpose of the poll is to determine whether the union enjoys majority support (and that must, in truth, be your purpose); (2) give employees assurances against reprisal; and (3) conduct the poll by secret ballot.
- Spy on employees' union activities. ("Spying" means doing something out of the ordinary to observe the activity. Seeing open union activity in workplace areas frequented by supervisors is not "spying.")
- Create the impression that you are spying on employees' union activities.
- Photograph or videotape employees engaged in peaceful union or other protected activities.
- Solicit individual employees to appear in a campaign video.
- Promulgate, maintain, or enforce work rules that reasonably tend to inhibit employees from exercising their rights under the Act.
- Deny off-duty employees access to outside nonworking areas of your property, unless business reasons justify it.
- Prohibit employees from wearing union buttons, t-shirts, and other union insignia unless special circumstances warrant.
- Convey the message that selecting a union would be futile.
- Discipline or discharge a union-represented employee for refusing to submit, without a representative, to an investigatory interview the employee reasonably believes may result in discipline.
- Interview employees to prepare your defense in an unfair labor practice case, unless you provide certain assurances. You must communicate to the employee the purpose of the questioning, assure him against reprisals, and obtain his voluntary participation. Questioning must occur in a context free from employer hostility to union organization and must not itself be coercive. And questioning must not go beyond what is needful to achieve its legitimate purpose. That is, you may not pry into other union matters, elicit information concerning the employee's subjective state of mind, or otherwise interfere with employee rights under the Act.
- Initiate, solicit employees to sign, or lend more than minimal support to or approval of a decertification or union-disaffection petition.
- Discharge, constructively discharge, suspend, layoff, fail to recall from layoff, demote, discipline, or take any other adverse action against employees because of their protected, concerted activities.

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Mr. Mix. Yes, as well as the union security clause from the UAW contract. I would like to have that in the record as well.

Chairman GOOD. Without objection.
[The information of Mr. Mix follows:]

ARTICLE II

UNION SHOP

ARTICLE II
UNION SHOP**Section 1. Requirement of Union Membership**

Employees covered by this Agreement at the time it becomes effective and who are members of the Union at that time shall be required as a condition of continued employment to continue membership in the Union for the duration of this Agreement. Employees covered by this Agreement who are not members of the Union at the time this Agreement becomes effective shall be required as a condition of continued employment to become members of the Union on or within ten days after the 30th day following November 18, 2019 XX XX, XXXX.

Employees hired, rehired, reinstated or transferred into the Bargaining Unit after November 18, 2019 XX XX, XXXX and covered by this Agreement shall be required as a condition of continued employment to become members of the Union on or within ten days after the 30th day following the beginning of their employment.

An employee who shall tender the initiation fees (if not already a member) and the periodic dues uniformly required as a condition of acquiring or retaining membership shall be deemed to meet this condition.

865 pg. CONTRACT

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Mr. MIX. Here is a statement from the Bricklayers and Allied Craftsmen Workers, about union security, which is the clause that is the first clause negotiated in a contract. Here is what it says, "Union security is the primary objective of most unions. It involves compulsory membership as a condition of employment. This area of collective bargaining can be the most controversial, yet necessary requirement to establish and maintain stability within the union structure.

The objectives of this clause are to protect against worker leaving—workers leaving, and rival unions raiding the union." That's the importance of union security. What our bill does is simply go into the National Labor Relations Act and says the bias in favor of compulsion in Federal law should be removed, the bias should be in favor of voluntary unionism.

It does not do anything to stop the right to associate. It does not do anything from stopping a worker from joining or organizing a worker. It does not do anything from allowing a worker to give their entire paycheck to a labor union if they choose to do so, and Lord knows, based on the Ranking Member statement they ought to be interested in joining a union, and they should be because unions can maybe improve their life.

We should not be imposing forced unionism on anyone here, and you will hear stories about folks that disagreed with what the union did. We have lots of stories, the Legal Defense Foundation we have represented literally tens of thousands of employees who have objections, not to unions per se, but to compulsory unionism.

The use of their money for ideological and other causes they may disagree with. The idea of compulsion is wrong. It is wrong anywhere. We as citizens of our government give you the right to use force, the government. We give that in a limited way, but we should not give it to any private organization, and labor unions are private organizations.

If they are really good at what they do, according to the Ranking Member, why would the workers not want to join them? Why would they not do that voluntarily? Unions do not deserve compulsion. They should operate just like any other private organization. If they are interested in adherence to their cause, then they should give up their compulsion and sell a product that workers want. Thank you.

[The prepared statement of Mr. Mix follows:]

**Testimony of Mark A. Mix
To the United States House of Representatives
Subcommittee on Health, Employment, Labor, and Pensions
Hearing: November 30, 2023**

Chairman Good, Ranking Member DeSaulnier, and members of the Committee,

As a longtime Right to Work activist and President of the National Right to Work Committee, it is an honor to have the opportunity to testify on behalf of Congressman Wilson's National Right to Work Act, a bill that does one simple but important thing – protect workers from being forced to pay dues or fees to a labor union as a condition of employment.

A majority of the House Republican conference has already stood up for worker freedom and cosponsored this bill, and we're approaching some of the highest levels of Congressional support we've ever seen for this legislation.

That's for good reason.

Compulsory unionism is unconscionable. Union bosses, *by their own admission*, spent \$1.7 billion dollars on politics in the last election cycle, and they spent tens of billions more paying the union employees who do campaign groundwork and who promote Big Labor's political agenda by bargaining directly with the government. Workers should not be forced, as they are in the 23 non-Right to Work states, to fund these efforts.

Most Americans agree. More than 80 percent of them oppose forcing workers to pay union dues or fees as a condition of employment.

The National Right to Work Act provides a simple solution.

In the era of thousand-page bills that no one reads, the legislative text of the National Right to Work Act fits on a single page. Without

adding a single word to federal labor law, it simply repeals the provisions in New Deal-era law that give union officials the power to force employees to pay dues just to get or keep a job.

This injustice was created by Congress when it preempted state labor laws by passing the National Labor Relations Act in 1935, which, although claiming to protect workers' ability to freely associate with a union or to refrain from doing so, allowed workers to be forced to pay union dues under pain of being fired.

The NLRA was a disaster for many reasons, and Congress soon passed the Taft-Hartley amendments to the NLRA in an attempt to contain some of the damage. It was then that Congress should have ended forced union dues altogether, but instead it took a half-measure, allowing individual states to exempt their own workers from compulsory dues by passing state-level Right to Work laws.

The National Right to Work Act finishes the job Taft-Hartley started, and protects every worker in America from the mistakes made by the Congress that passed the NLRA.

In that same era, Congress passed the Railway Labor Act, which dealt separately with workers in the transportation industry. That means that today, even in Right to Work states, railroad and airline workers are still forced to pay union dues as a condition of employment.

That's just one of the reasons why even those of you who represent Right to Work states need to support federal legislation to address forced union dues. Your constituents aren't fully protected, and they won't be until the National Right to Work Act is passed and we remove the forced dues provisions from both the NLRA and the RLA.

Right to Work is fundamentally about protecting employees' freedom of association. But I know many of you also recognize the economic benefits it brings.

Many of your states are already enjoying those benefits. Job growth in Right to Work states consistently outpaces forced unionism states. And wages, when you perform the necessary cost of living adjustments, are higher in Right to Work states.

Union officials constantly try to foist studies on you that ignore the massive cost of living difference between a state like New York and a state like South Carolina. That's the only way they can hide the train wreck they've made of forced-dues states' economies.

Even as union bosses cite misleading economic data to deny the obvious benefits of Right to Work, even as they try to hide the absurd inefficiencies of union-run Davis-Bacon projects and demand that union bosses be allowed to centrally plan entire sectors of the economy, they are complaining about jobs flowing to Right to Work states and threatening their forced-dues revenue streams.

They know that Right to Work states have stronger economies, and they're mad about it.

And in a way, I'm mad about it too. When I see the trends in jobs and wages, I'm thrilled to see state Right to Work laws doing exactly what they're supposed to do. But I can't help but imagine what would happen if workers in every state were safe in the knowledge that a union could never force them to pay dues or fees just to get or keep their jobs.

Imagine the American economy we could build if every state had the kind of growth that Right to Work states have experienced. Such an economy would be more powerful than anything Communist China could replicate, and more dynamic than anything seen in Europe, whose markets are bogged down by a perverse "sectoral bargaining" system of industry-wide union monopolies.

A National Right to Work law would bring real economic benefits to workers in both Right to Work and non-Right to Work states, and it's

the only way to fully protect workers in every industry from compulsory union dues.

I am pleased to be able to testify alongside two fine American employees who did not want unionization but had it forced on them anyway.

Contrary to Big Labor's narrative, union-negotiated contracts often work *against* the interests of many unionized employees.

Perhaps the employee in question is a high achiever, and the union in their workplace is opposed to merit-based pay and wants a one-size-fits-all contract that would lower the high achiever's salary.

Perhaps the union in question is the UAW, which has had multiple executives sent to prison in the last few years as part of a massive bribery and embezzlement scandal.

Perhaps union officials have done nothing but foment workplace confrontations and promote progressive political causes, leaving employees with little recourse except to try to navigate the blocks, barriers, and legal actions required to decertify the union.

These are real situations faced by real people that union bosses simply ignore. They are the reason why Right to Work advocates fight as hard as they do.

Union bosses and their political allies would have us believe that these types of workers simply do not exist.

They need us to believe that their so-called "representation" is a universal benefit in order to justify their demand for ever-increasing monopoly bargaining and forced-dues powers.

Two workers who've been affected by compulsory unionism are here today to tell their stories, but I can tell you about countless more.

Charlene Carter is a Southwest Airlines flight attendant who was fired from her job after she criticized the union bosses who controlled her workplace. When she saw Transport Union officials participating in a political rally, using her dues money to promote messages that violated her deeply held beliefs, she expressed her outrage in private messages to her union's president.

Then, because of the messages Charlene sent to the union, she was fired by her employer, and was without work until a Texas jury ruled that her firing was unjust.

Charlene got her job back, but unfortunately, she's also back to paying forced dues to the Transport Workers Union bosses that had her fired, because flight attendants are covered by the Railway Labor Act and don't have Right to Work protections, even in Texas.

Union officials aren't in the business of persuading workers. They don't need consent to take workers' money once they've been installed, so their only goal is to stay in power. If they need to resort to legal trickery to do that, so be it.

Last year Kerry Hunsberger and her coworkers at Latrobe Specialty Metals in Pennsylvania voted down a United Steelworkers union contract and circulated a petition to remove the union from their workplace. Upon hearing of the petition, a USW official secretly ratified the rejected contract anyway, hoping to trigger the NLRB's "contract bar" and keep the union in power against the workers' wishes.

Kerry was lucky because the USW made mistakes in its hasty contract that allowed her decertification vote to proceed, but workers all over the country are constantly fighting uphill battles at the NLRB just to remove a union they don't want. When those unwanted unions are in power in non-Right to Work states, workers are left paying out of their own pockets for union "representation" they want to be rid of.

Union officials frequently display a disregard, if not an outright contempt, for the workers they claim to represent. Some people in Washington recognize that this is a problem, but they think that it can be sorted out by tinkering with regulations or by finding different labels for union coercion like “worker cooperatives” or “employee involvement organizations.”

The Right to Work approach doesn’t rely on union officials to suddenly follow regulations they’ve often ignored or to somehow bargain for an entire industry without letting their own interests seep in. It relies on them to do the one thing they’ve always done well: watch out for their own bottom line.

When union officials need to earn and maintain workers’ support, they cannot pursue random political projects, bully and intimidate workers, or fall asleep at the wheel, unless they want to lose the money that pays their salaries.

That is why I encourage all of you to support The National Right to Work Act, which would make union dues voluntary for all Americans.

Chairman GOOD. Thank you, Mr. Mix. I would like to recognize Ms. Vargas for 5 minutes.

STATEMENT OF MS. BRUNILDA VARGAS, ASSISTANT DEFENDER, DEFENDER ASSOCIATION OF PHILADELPHIA, PHILADELPHIA, PENNSYLVANIA

Ms. VARGAS. Good morning. My name is Brunilda Vargas, and I am an attorney at the Defender Association of Philadelphia. I have been employed as an Assistant Defender for about 27 years. Recently, the attorneys in my office voted to unionize and become a newly created chapter of the United Autoworkers Union, known as Local Chapter 5502.

Our employer in Local 5502 subsequently entered into a collective bargaining agreement. Several of my colleagues and I who were opposed to the unionization effort, emailed the local chapter President Mary Hinen, regarding our concerns about union membership and the payment of union dues.

I was surprised and disappointed with the lack of a direct response to our concerns. In summary, her email stated that paying union dues, via automatic deduction from our paycheck was a condition of our employment. I informed Ms. Hinen that a few other attorneys and I would be filing a Beck objection so that we could refrain from joining the union and pay reduced fees that exclude union political expenditures.

I followed the procedure outlined by the UAW International to become an objector. I found that the international’s Beck procedure is not readily available and places the onus on the individual. Despite having properly invoked my rights as a Beck objector, Mary

Hinen was not satisfied. Further emails we received from her focused only on obtaining our signatures on the dues deduction card.

These emails continued for several months. Local 5502 made no effort to calculate or provide us with the amount of the reduced Beck fee despite receiving the percentage from international. Instead, we continued to receive emails that went so far as to threaten our employment and threaten to seek a claw back of our salary increase if we did not sign the card.

It was at this point that I contacted the National Right to Work Foundation for legal assistance, addressing the union's threats. I worked with one of their staff attorneys, Byron Anders, who filed an unfair labor practice charge on my behalf against the union with the NLRB.

I received a favorable finding from the NLRB, and the union quickly settled the matter. One of the conditions of the settlement was that the union send a notice to all of my colleagues stating that it would no longer threaten employees who did not want to authorize automatic dues deductions. It was only after the NLRB finding that my colleagues and I received notice of the calculation of the reduced Beck fee.

None of this would have happened if we had been given a choice to refuse to pay any money at all, which is the cornerstone of the National Rights to Work Act. The pressure the union exerted on us regarding the loss of our employment and salary decrease was abominable.

As public defenders, we are under pressure and stress daily. The guidance, assistance, and encouragement that the National Right to Work attorney, Byron Anders provided, was invaluable in alleviating the concerns we had in dealing with an area of law with which we are not familiar.

As attorneys, we do have a level of sophistication when it comes to the law and legal processes, however I cannot imagine a lay person having to face this type of pressure. I believe that most people sign union memberships and authorization cards because they believe they have no choice, and they are often told that. If we had the protections offered by the National Right to Work Act, we would not have had to endure the harassment we faced.

I do not believe any employee should be compelled to pay fees of any kind to a union. Unions argue that non-members may benefit from being represented by a union, and therefore in fairness should pay. However, the simple response to that argument is the decision should be left up to the individual to decide if she or he is benefited by the union.

If the individual decides they want the benefit of representation by a union, then they can voluntarily pay. If not, they should not have to pay. They should also be able to choose to directly negotiate with their employer. This may foster a higher level of productivity, and more responsiveness on the part of the union.

Compulsory payment for compulsory representation between an employer and an employee denies individual choice, and can intrude in, and interfere with, and create strained relationships between employer and employee. Compulsory payments and turning management into a collection agency for the union creates a closer relationship between the union officials and management.

This relationship creates a conflict of interest between the union and its membership and non-union members. The choice of both joining and paying money to a union should belong to the individual. It is for these reasons that I ask you to support the National Right to Work Act, and I thank you for your time.

[The prepared statement of Ms. Vargus follows:]

**Testimony of Brunilda Vargas
To the United States House of Representatives
Subcommittee on Health, Employment, Labor, and Pensions
Hearing: November 30, 2023**

Chairman Good, Ranking Member DeSaulnier, and members of the Committee,

My name is Brunilda Vargas. I am an attorney at the Defender Association of Philadelphia. I have been employed as an Assistant Defender for about twenty-seven years. Recently, the attorneys in my office voted to unionize and become a newly created chapter of the United Auto Workers union known as Local Chapter 5502. Our employer and Local 5502 subsequently entered into a collective bargaining agreement.

Several of my colleagues and I who were opposed to the unionization effort emailed the Local Chapter president, Mary Henin, regarding our concerns about union membership and the payment of union dues. I was surprised and disappointed with the lack of a direct response to our concerns. In summary, her email stated that paying union dues via automatic deduction from our paychecks was a condition of our employment.

I informed Ms. Henin that a few other attorneys and I would be filing a *Beck* objection so that we could refrain from joining the union and pay reduced fees that exclude union political expenditures. I followed the procedure outlined by the UAW International to become an objector, but I found that the International's *Beck* procedure is not readily available and places the onus on the individual.

Despite having properly invoked my rights as a *Beck* objector, Mary Henin was not satisfied. Further emails we received from her focused only on obtaining our signatures on the dues-deduction authorization cards. These emails continued for several months. Local 5502 made no effort to calculate or provide us with the amount of the

reduced *Beck* fees despite receiving the percentage from International. Instead, we continued to receive emails that went so far as to threaten our employment and threaten to seek a clawback of our salary increase if we did not sign the cards.

It was at that point that I contacted the National Right to Work Foundation for legal assistance in addressing the union's threats. I worked with one of their staff attorneys, Byron Andrus, who filed an Unfair Labor Practice charge on my behalf against the union with the National Labor Relations Board. I received a favorable finding from the NLRB, and the union quickly settled the matter. One of the conditions of the settlement was that the union send a notice to all of my colleagues stating that it would no longer threaten employees who did not want to authorize automatic dues deductions. It was only after the NLRB finding that my colleagues and I received notice of the calculation of the reduced *Beck* fees.

None of this would have happened if we had been given a choice to refuse to pay any money at all to the union, which is the cornerstone of the National Right to Work Act. The pressure the union exerted on us regarding the loss of our employment and salary decrease was abominable. As public defenders, we are under pressure and stress daily. The guidance, assistance, and encouragement that National Right to Work attorney Byron Andrus provided was invaluable in alleviating the concerns we had in dealing with an area of law with which we are not familiar. As attorneys, we do have a level of sophistication when it comes to the law and legal processes. However, I cannot imagine a lay person having to face this type of pressure. I believe that most people sign union membership and authorization cards because they believe they have no choice, and they are often told that.

If we had the protections offered by the National Right to Work Act, we would not have had to endure the harassment we faced. I do not believe any employee should be compelled to pay fees of any kind to a union. Unions argue that non-members may benefit from being represented by a union and therefore in fairness should pay. However,

the simple response to that argument is that the decision should be left up to the individual to decide if he or she is benefitted by the union. If the individual decides they want the benefit of representation by a union, then they can voluntarily pay. If not, they should not have to pay. They should also be able to choose to directly negotiate with their employer. This may foster a higher level of productivity and more responsiveness on the part of the union.

Compulsory payment for compulsory representation between an employer and employee denies individual choice and can intrude in, interfere with, and create strained relations between employer and employee. Compulsory payments and turning management into a collection agency for the union creates a closer relationship between union officials and management. This relationship creates a conflict of interest between the union, its membership, and non-union members. The choice of both joining and paying money to a union should belong to the individual. It is for these reasons that I ask you to support the National Right to Work Act.

Chairman GOOD. Thank you, Ms. Vargas, and I would now like to recognize Mr. Calemine for 5 minutes.

STATEMENT OF MR. JODY CALEMINE, DIRECTOR OF LABOR AND EMPLOYMENT POLICY, CENTURY FOUNDATION, WASHINGTON, D.C.

Mr. CALEMINE. Chairman Good, Ranking Member DeSaulnier, members of the Subcommittee, thank you for this opportunity to testify. To point out the obvious, H.R. 1200 is an attack on labor unions. It is designed to weaken them, and that is bad for the country.

The minimum wage has not been raised since 2009. The United States is the only country in the industrialized world that does not have a paid family medical leave program. Student loan debt continues to hamper young workers. Issues of concern to millions of working people remain untackled by this Congress.

A growing number of working people have taken matters into their own hands by organizing unions and collectively bargaining. Here is what workers and their unions have accomplished just this year. Auto workers and their unions won pay raises of 25 percent, along with cost-of-living adjustments for 150,000 workers at the Big Three.

They forced one of the companies to reopen a closed plant. Healthcare workers and their unions at Kaiser Permanente went on strike and won a 21 percent pay increase for 85,000 working people. The Teamsters threatened to strike at UPS and won a contract covering 340,000 workers. They won average pay raises for part-time workers of 48 percent, an average top rate for full-time employees of \$49.00 per hour, and a guarantee that the company will add 7,500 more jobs and fill 22,500 positions, open positions.

Airline pilots pressed their case at bargaining tables. At United, American, and Air Wisconsin, they won pay raises ranging from 34 to 54 percent. Nurses, and their union at Providence Portland Hospital went on strike and won pay raises of between 17 and 27 percent, with the wage scale that tops out at over \$70.00 per hour.

They won more hours of paid leave. They won staffing commitments. Striking Hollywood writers and their union won a 12.5 percent pay increase and a 76 percent increase in foreign streaming residuals, and they won historic rules protecting their jobs from artificial intelligence. Striking actors and their union won a contract that increases wages twice in the first year and a new compensation stream for actors and streaming services.

They also won new rights on artificial intelligence. All totaled, close to 900,000 Americans so far this year received pay raises of over 10 percent directly thanks to collective bargaining through their unions. That is not counting any of the spillover effects. Each of these wins puts upward pressure on millions of other Americans' wage rates.

After the UAW's win for example, non-union foreign car makers like Toyota, Honda, and Hyundai with plants in right to work states, raised their wages in response. None of those raises would have happened without the UAW strike victory. None of these victories would have happened without union resources. Union contracts do not come for free.

When workers join together, form a union, and start their campaign for a contract, their success depends upon their own solidarity and the support they can gather around them. They and their union need to hire staff. Staff reps to help conduct bargaining, lawyers and researchers to support them by reviewing language or costing out proposals.

There are logistical expenses like travel, lodging, and meeting space. A union needs to hire people to handle communications with members and the broader public. If you want to build leverage, organizers are needed to help coordinate job actions and public events, for which you also need to pay for space, sound systems, signs, and so on.

If you strike, all of these staff and more will be needed to support the strike, and you will need funds to support the strikers and their families week in and week out. Winning the contract is just the start. Then you need to enforce it. The union must pay to train shop stewards on how to enforce the contract, staff representatives and lawyers to assist with grievances.

Take a grievance to arbitration, in which case the union will need to pay its half of the arbitrators and court reporters' fees. You end up needing administrative help, like any organization does. The hearing today examines the bill, H.R. 1200, that is intended to cut the union's resources to do this work. It is already the law of the land that no one can be compelled to join a union as a condition of employment, yet a union is required under Federal law to represent everyone in the bargaining unit, member and non-member alike.

A non-member gets the same raises and benefits that a member gets. The same representation in a grievance proceeding that a member gets. It is only fair that even if you do not join the union,

you at least pay your fair share of the cost of winning and enforcing these contracts from which you benefit.

Under H.R. 1200, you would not have to pay your fair share. You would not have to pay anything at all. You could just receive these services for free and let your coworkers pay for all the efforts that win you your pay raise, your healthcare, your pension, your paid time off, your just cause employment, and so on.

Right to work is not an actual right to work. It is a way of depleting union resources in order to weaken unions, to make it harder to win the kinds of life-changing victories we've been seeing lately. While Congress itself is not acting to raise wages, it should not now jump in the way of workers joining together to raise their wages on their own.

Instead of trying to stop them, the Committee should try to help them. Instead of H.R. 1200, I recommend that the Committee pass the PRO Act to restore workers' rights to organize and collectively bargain. After all, unions are the most effective private sector solution for combatting poverty and income inequality, ensuring access to healthcare and retirement security, and all of the other things that make for a decent job in this country.

Thank you, and I am happy to answer questions.

[The prepared statement of Mr. Calemine follows:]

Subcommittee on Health, Employment, Labor and Pensions
Committee on Education and the Workforce, U.S. House of Representatives
Hearing on “Safeguarding Workers’ Rights and Liberties”
November 30, 2023
Testimony of Jody Calemine,
Director of Labor and Employment Policy, The Century Foundation

My name is Jody Calemine. I am the director of labor and employment policy at The Century Foundation (TCF). I have worked in labor law practice and policy for the past twenty-four years, representing workers and unions for thirteen years (1999–2003, 2014–2023), staffing the House Education and Labor or Workforce Committee for eleven years (2003–2014), and now working with TCF starting a few months ago. TCF was founded in 1919 by American businessman Edward Filene. It is a progressive, independent think tank that conducts research, develops solutions, and drives policy change to make people’s lives better.

I thank the Subcommittee for the opportunity to submit the following testimony on H.R. 1200, the National Right to Work Act.

This bill would amend the National Labor Relations Act (NLRA) and the Railway Labor Act (RLA) to prohibit unions and employers from agreeing to what are commonly referred to as “union security” provisions. The proposal is a very bad idea, as explained below.

Background on Union Security

Union security provisions help ensure that a union has the resources to do the work of bargaining and enforcing a contract. If workers at a company unionize, their union becomes the exclusive bargaining representative of all the employees in the bargaining unit. Federal law imposes a duty of fair representation on the union, requiring the union to represent all employees in the bargaining unit fairly, whether they are members of the union or not.¹ Federal law already prohibits the “closed shop,” which is an arrangement where the employer may only hire and retain union members.² In other words, it is already unlawful to compel a worker to join a union as a condition of employment. What federal law does allow is a “union shop,” which is where, after a grace period of at least thirty days, a newly hired employee must meet the core financial obligations of membership—that is, pay dues even if they decline actual membership. Federal law also allows an “agency shop,” wherein the employee must pay fees to the union if they opt to not become a full dues-paying member.³ There is very little operative difference between an “agency shop” and a “union shop.” Under either lawful union security clause, if an employee opts not to join the union and instead pay the agency fees or

¹ NLRA Section 8(b)(1)(A) and 8(b)(2); 29 U.S.C. 158(b)(1)(A) and 158(b)(2); see, e.g., *Vaca v. Sipes*, 386 U.S. 171 (1967).

² NLRA Section 8(a)(3), 29 U.S.C. 158(a)(3).

³ See *NLRB v. General Motors*, 373 U.S. 734 (1963); *Retail Clerks Local 1625 v. Schermerhorn*, 373 U.S. 746 (1963). There is also another version of agency shop called “maintenance of membership” that again simply requires employees to pay fees without compelling actual membership.

financial core obligations, federal law allows such a nonmember to opt out of paying any amount beyond costs that are germane to collective bargaining, contract administration, or grievance adjustment.⁴ Finally, since enactment of the Taft–Hartley Act of 1947, while federal labor law preempts state and local policy on most matters concerning private sector collective bargaining, NLRA Section 14(b) has allowed states to enact prohibitions on union or agency shop arrangements altogether.⁵ The Railway Labor Act, which covers airlines and railroads, contains no 14(b) equivalent and instead explicitly authorizes union or agency shops if a covered union and employer agree to them, regardless of the state.⁶

Background on “Right to Work” Laws

The state-enacted prohibitions on union security, made possible by NLRA Section 14(b), have been termed “right to work” laws—a misnomer adopted by their early proponents. In a state without a “right to work” law, union security agreements are not required, but the union and employer may voluntarily enter into them. In a state with a “right to work” law, an employer and a union are prohibited from entering into a union security agreement.⁷ In other words, a right-to-work law is a governmental restriction on the freedom of contract. These state laws do not reach employers subject to the Railway Labor Act. And with respect to public sector employment, these laws were superseded by the 2018 US Supreme Court decision in *Janus v. AFSCME*, which effectively made “right to work” the law of the land for the public sector in every state.⁸

In “right to work” states, where union security clauses are illegal, an employee under a union contract can opt to pay nothing for the union’s services while enjoying the benefits of the contract and being entitled to the union’s representation and enforcement efforts. That nonmember and non-fee-paying employee will receive the wage increases that the union—funded by his or her coworkers who are dues-paying union members—won at the bargaining table. If that nonmember and non-fee-paying employee is fired without just cause, the union will represent that employee in the grievance procedure and fight to win his job back. Receiving all these benefits without paying for them while others do pay for them creates a free-rider problem, i.e., why pay for the services if one can receive them for free? The “right to work” restrictions on union security are not intended to give anyone the right to work as the phrase might be commonly understood. Instead, these laws are designed to deplete the union’s resources, weakening its bargaining power over time, in the hopes that it will eventually disappear from the workplace altogether or at least be dissuaded from organizing further in that state.

The Purpose of “Right to Work” Laws

⁴ *CWA v. Beck*, 487 U.S. 735 (1988).

⁵ NLRA Section 14(b), 29 U.S.C. 164(b).

⁶ RLA Section 2 Eleventh, 45 U.S.C. 152 Eleventh.

⁷ There are twenty-seven states that have passed “right to work” laws, although one of them, Michigan, has since repealed the law eleven years after its adoption, with the repeal set to take effect in 2024. The twenty-seven states in the order of their adoption are: Florida (1944), Arizona (1946), South Dakota (1946), Nebraska (1946), Arkansas (1947), Georgia (1947), North Carolina (1947), Tennessee (1947), Texas (1947), Virginia (1947), Iowa (1947), North Dakota (1947), Nevada (1951), Alabama (1953), Mississippi (1954), South Carolina (1954), Utah (1955), Kansas (1958), Wyoming (1963), Louisiana (1976), Idaho (1985), Oklahoma (2001), Indiana (2012), Michigan (2012 but repeal effective 2024), Wisconsin (2015), West Virginia (2016), and Kentucky (2017).

⁸ *Janus v. AFSCME*, 585 U.S. ___ (2018).

The true anti-union, anti-worker character of a “right to work” law is apparent from the company it keeps. The states that initially rushed to adopt these laws in the 1940s and 1950s were not beacons of workers’ rights. On the contrary, other than some very rural states with little industrial union experience, such as South Dakota or Nebraska, they typically were states that were also seeking to hang onto various Jim Crow laws. “Right to work” snugly fit into that legal framework. For example, while the state of Florida was adopting its first-in-the-nation “right to work” law, it was actively defending a version of a state peonage law before the U.S. Supreme Court. Under that law, a worker could be arrested and prosecuted for fraud for quitting a job before the job’s term was over, restricting his right to work for another employer.⁹ Other states, such as Georgia, featured vagrancy laws that criminalized unemployment so that poor people, particularly poor Black men, could be charged with vagrancy and punished with work on a farm. One historian has quoted the *Atlanta Constitution*’s appeal to police to illustrate how the vagrancy law worked: “Cotton is ripening. See that the ‘vags’ get busy.”¹⁰ While these states were passing “right to work” laws, newspaper articles highlighted that, “due to a tight labor situation in some of the Southern States, emigrant-agent laws are being rigidly enforced.”¹¹ These emigrant-agent laws were designed to control and curtail efforts of out-of-state or even out-of-county employers from recruiting workers to work elsewhere. These and other laws limited workers’ freedom to work where they wanted and their ability to negotiate, even on their own as individuals, better terms and conditions at work.

It was in this context that “right to work” laws were adopted by these states. An unemployed person could not hold out for a better-paying job, but rather would be forced to work on a farm under a vagrancy law. An employed worker could be entrapped by a form of peonage and be forced to work out the rest of his job on the employer’s terms under threat of arrest rather than seek out other employment. Employers could rest assured that any poaching of workers by outside employers would be limited, so they would not have to compete for labor and bid its price upward. And if workers exercised their federal right to collectively bargain, there was now an insidious way—through “right to work” laws—to starve the democratically elected union of resources, so that the union would not be able to bargain new terms effectively. Each of these laws in their own way was designed to ensure employer control over workers and the terms of their employment, not workers’ liberty.

There was an added racist element to the early campaign for “right to work” laws. One of the first champions of “right to work” laws, Texas businessman Vance Muse, argued that, with unions, “From now on, white women and white men will be forced into organizations with black African apes whom they will have to call ‘brother’ or lose their jobs.”¹² For Muse, unions, with their ability to break down racial lines, were a threat to segregation and white supremacy, and “right to work” was a way of maintaining those lines.

While the misleading slogan “right to work” might have been penned by a white supremacist, the bills were pressed into law with vigorous support from employers and their associations, like the

⁹ See *Pollock v. Williams*, 322 U.S. 4 (1944).

¹⁰ Jennifer Roback, “Southern Labor Law in the Jim Crow Era: Exploitative or Competitive,” *University of Chicago Law Review* 51 (1984): 1161.

¹¹ “Cayuga County Farmers Faced by Critical Shortage,” *Syracuse Herald Journal*, August 5, 1951, 69.

¹² Richard D. Kahlenberg and Moshe Z. Marvit, “The Ugly Racial History of ‘Right to Work,’” *Dissent*, December 20, 2012, https://www.dissentmagazine.org/online_articles/the-ugly-racial-history-of-right-to-work/.

National Association of Manufacturers and the Southern States Industrial Council.¹³ As time went on, states outside the Old South became the battlegrounds for “right to work” laws. To adopt a “right to work” law was a mark of being “business friendly” in the interstate competition for capital investments.¹⁴

There is a reason why big business supports “right to work” laws. It is the same reason why these laws have been more accurately described as “right to work for less” laws. These laws result in a reduced rate of unionization. And a reduced rate of unionization results in lower wages, lesser benefits, and generally cheaper labor costs. If “right to work” resulted in higher wages and benefits, then we would not see organizations aligned with big business spending millions to have these laws enacted.

Impact of “Right to Work” Laws

Studying the precise economic impact of “right to work” laws has proven notoriously difficult. These laws are never passed in isolation. They are part and parcel of a broader regulatory framework that includes other employment and tax rules. States have different industrial bases, varying access to markets, different populations, and so on. When determining whether “right to work” leads to job growth, a “business friendly” offer to an employer seeking to relocate might feature a “right to work” law but also generous taxpayer-funded subsidies.¹⁵ Depending on what factors you attempt to control for and time periods you consider, these studies can have wildly different results. But a few items appear undeniable or uncontradicted.

Studies have found that adopting a “right to work” law reduces a state’s unionization rate. A 1983 study published as a working paper by the National Bureau of Economic Research (NBER) found that there is a dramatic fall in organizing immediately after passage of the law and a less dramatic decline in later years, concluding that “right to work” reduces unionization by 5–10 percent.¹⁶ A 1995 study found that “right to work” laws “significantly affect union density in the private sector.”¹⁷ Another researcher agreed that adoption of a “right to work” law has an immediate negative impact

¹³ Marc Dixon, “Limiting Labor: Business Political Mobilization and Union Setback in the States,” *Journal of Policy History* 19, no. 3 (2007): 320, http://rankandfile.ca/wp-content/uploads/2014/02/MDD_Limit_Labor_07.pdf.

¹⁴ See, e.g., “Why South Carolina,” South Carolina Department of Commerce website,

<https://www.sccommerce.com/why-south-carolina> (accessed November 26, 2023), featuring the phrase “Business Friendly Right to Work State” without further explanation, presumably because businesses understand that the phrasing signals an anti-union political environment with fewer, weaker, or nonexistent unions. “Right to work” is a signal to business, not workers. Indeed, the South Carolina Department of Employment and Workforce website, as unlike the Department of Commerce website, makes no mention of a “right to work,” as the phrase turns up “no results” when the site is searched. See <https://dew.sc.gov/searchresults?q=%22right%20to%20work%22> (accessed November 26, 2023).

¹⁵ For example, when Boeing selected North Charleston, South Carolina, as the site for its new 787 factory, it selected “right to work” South Carolina over free-bargaining Washington state—but South Carolina also provided over \$1 billion in tax incentives to Boeing. See Amanda Robertson, Boeing’s Model for the New Global Corporation Is a Recipe for an America without a Middle Class,” *Medium*, June 19, 2018, <https://medium.com/south-carolina-politics/boeings-model-for-the-new-global-corporation-is-a-recipe-for-an-america-without-a-middle-class-21b868adeace>.

¹⁶ David T. Ellwood and Glenn A. Fine, “The Impact of Right-to-Work Laws on Union Organizing,” National Bureau of Economic Research working paper, May 1983, <https://www.nber.org/papers/w1116>.

¹⁷ Joe C. Davis and John H. Huston, “Right-to-work laws and union density: New evidence from micro data,” *Journal of Labor Research* 16 (1995): 223–29, <https://link.springer.com/article/10.1007/BF02685742>.

on union organizing and a long-run depression of the unionization rate, reducing union density by 5–8 percent.¹⁸ A 2016 study focused exclusively on Oklahoma's 2001 passage of “right to work” concluded that the law decreased the state's private sector unionization rates.¹⁹ Most recently, NBER published a study of states that adopted “right to work” from 2011 to 2017 and found that these laws resulted in a 4 percent drop in unionization rates five years after enactment and a 13 percent drop in the most union-dense industries of construction, education, and public administration.²⁰

Given the union difference in wages and benefits won through collective bargaining, it is no surprise that studies find that passage of a “right to work” law reduces worker compensation from what it would otherwise be. On this issue in particular, researchers have battled over how to control for the many factors beyond “right to work” that might affect wage trends. For example, there is the reality that most states that adopted “right to work” laws already had low unionization rates and few legal protections for workers, so they began with lower wages than states that reject “right to work” laws. Likewise, these states have lower costs of living so one should consider how far the dollar goes, even if there are fewer dollars to spend. A 2011 study conducted an analysis that controlled for demography of the workforce, the job characteristics of the workers, state-level economic conditions, and cost of living. It found that, after controlling for all these variables, “right to work” states had 3.1 percent lower wages than free-bargaining states, 2.6 percent lower rates of employer-sponsored health insurance, and 4.8 percent lower rates of employer-sponsored pensions. Per this data, if “right to work” had been imposed on the rest of the country in 2011 with all these downstream effects on compensation, workers in free-bargaining states would have seen their annual salaries drop by \$1,500; 2 million workers would have lost employer-sponsored health insurance; and 3 million workers would have lost access to a pension.²¹ Looking solely at wages and not benefits, the 2022 NBER-published study of the states that adopted “right to work” from 2011 to 2017 found that wages dropped by 1 percent five years after adoption and by more than 4 percent in the same timeframe for the union-dense industries of construction, education, and public administration. These researchers noted that, overall, there is a 20 percent difference in unionization rates between “right to work” and free-bargaining states, with “right to work” states having wages that are 7.5 percent lower than those in the free-bargaining states.²²

When it comes to employment and job growth, studies have likewise struggled to isolate the causal impact of a “right to work” law. Some have engaged in a spatial analysis, looking at counties that border one another across a “right to work” state/free-bargaining state divide. A great deal of attention is focused on manufacturing employment in particular, since, unlike services, manufacturing can be relocated, with “right to work” laws being part of a “smokestack chasing”

¹⁸ W. J. Moore, “The determinants and effects of right-to-work laws: A review of the recent literature,” *Journal of Labor Research* 19 (1998): 445–69, <https://link.springer.com/article/10.1007/s12122-998-1041-z>.

¹⁹ Ozkan Eren and Serkan Ozbecklik, “What do right-to-work laws do? Evidence from a synthetic control method analysis,” *Journal of Policy Analysis and Management* 35, no. 1 (2016): 173–94, <https://www.jstor.org/stable/43866565>.

²⁰ Nicole Fortin, Thomas Lemieux, and Neil Lloyd, “Right-to-work laws, unionization, and wage setting,” National Bureau of Labor Research working paper, 2022, <https://www.nber.org/papers/w30098>.

²¹ Elise Gould and Heidi Shierholz, “The compensation penalty of ‘right-to-work’ laws,” Economic Policy Institute Briefing Paper #299, February 17, 2011, <https://files.epi.org/page/-/old/briefingpapers/BriefingPaper299.pdf>.

²² Nicole Fortin, Thomas Lemieux, and Neil Lloyd, “Right-to-work laws, unionization, and wage setting,” National Bureau of Labor Research working paper, 2022, <https://www.nber.org/papers/w30098>.

strategy. Certainly, “right to work,” as shorthand for weak or nonexistent unions or a lesser chance of being organized, is one tool of many that a state might use to compete with other states for capital investments and plant relocations. This competition can result in job loss in one state and job gains in another, and, at least anecdotally, it depresses wages across the board. A refrain I often heard growing up in a manufacturing area in free-bargaining West Virginia was that unions needed to be careful about pressing the employer too hard on wage increases or the factory would move south. After decades of employers having “right to work” venues available, it is likely that the adoption of “right to work” by a particular state does not have as significant an impact on employment as it once did. Indeed, a study of the 2001 adoption of “right to work” by Oklahoma found no impact on total employment for the state, as well as no impact on wage rates.²³ There are bigger issues at work. That state and many other “right to work” states have seen manufacturing jobs move overseas, to countries such as China that, with no regard for workers’ rights and freedoms, can outcompete even the most anti-union states on labor costs, if labor costs and collective bargaining are the principal concerns of an employer looking to relocate.²⁴

In any event, the subject of his hearing is a national “right to work” law, which would eliminate the differences between states on this question of union security. If the theories that proponents use state-by-state are correct – that adopting “right to work” in your state will attract investment from elsewhere or new investments that would otherwise go elsewhere – then the main employment impact of a national “right to work” law is to eliminate this particular incentive for an employer to locate or relocate to a “right to work” state, therefore hurting job growth outlooks for the current “right to work” states.

By reducing labor’s bargaining power nationally, a national “right to work” law would certainly have a negative impact on workers’ compensation. Conversely, by weakening the bargaining power of workers, a national “right to work” law would likely have a positive impact on executives’ compensation. A study of recent “right to work” enactments show precisely that inverse correlation between workers’ share and owners’ share of wealth. Within one year, “right to work” laws “eliminate a substantial fraction of real wage growth” for workers as their bargaining power decreases. As the firm’s bargaining power increases, it keeps more for itself. The study found that executives benefit from adoption of “right to work,” receiving “increases in base salary, the value of options granted, and other compensation, such as contributions to pension plans.” Moreover, dividend payouts increase, particularly by the third year after adoption of “right to work.” Firms headquartered in a “right to work” state are “more likely to decrease their labor force due to a negative industry-wide shock than firms located in” free-bargaining states.²⁵ These behaviors of

²³ Ozkan Eren and Serkan Ozbecklik, “What do right-to-work laws do? Evidence from a synthetic control method analysis,” *Journal of Policy Analysis and Management* 35, no. 1 (2016): 173–94, <https://www.jstor.org/stable/43866565>.

²⁴ For a good overview of the loss of manufacturing across the South in recent decades due to international trade, see David L. Carlton and Peter Coe, “The Roots of Southern Deindustrialization,” *Challenge* 61, nos. 5–6 (January 27, 2019): 418–26, <https://doi.org/10.1080/05775132.2018.1543070>. The South’s industrialization efforts largely relied upon “smokestack chasing,” luring existing industries to the region. Such “runaway shops,” by their more mobile nature, were apt to run away from the South itself as soon as another region or nation came courting with a better deal.

²⁵ Sudheer Chava, Andras Danis, and Alex Hsu, “The economic impact of right-to-work laws: Evidence from collective bargaining agreements and corporate policies,” *Journal of Financial Economics* 137, no. 2 (August 2020): 451–69, <https://www.sciencedirect.com/science/article/abs/pii/S0304405X20300386>.

increasing executive compensation, converting more profits into dividends for shareholders, and treating the workforce as dispensable when there are any bumps in the road are all functions of an imbalance of power in dramatic favor of the company over the workers post-“right to work.” A 2009 study tracked this same result, finding per capita personal income and wages higher in free-bargaining states, and business owner’s income higher in “right to work” states.²⁶ In the context of a weakened labor movement in general over the past several decades, national “right to work” would simply mean more of the same—more income inequality, bigger gaps between executives and rank-and-file workers, and more job insecurity.²⁷

Firms freed from union watchdogs and pursuing the narrow interests of executives are not necessarily good for the overall health of the nation. A 2015 OECD study, for example, found that growing income inequality hampers economic growth.²⁸ One economist extrapolated from the study: “Using the same OECD estimates, if the United States could reduce its inequality to the level in Canada, U.S. GDP would rise about 0.9 percentage points per year. This is a large effect relative to the average annual growth rate since 1970 of U.S. inflation-adjusted GDP of about 2.8 percent.”²⁹ It has been the lack of workers’ power—not the lack of corporate power—that has squeezed the American middle class in contemporary times, yet a national “right to work” law would plainly only exacerbate this imbalance.

By weakening unions, a national “right to work” law would reduce the many benefits that collective bargaining produces. A 2021 report by the Illinois Economic Policy Institute found that “right to work” states when compared to free-bargaining states:

- have 3 percent lower hourly wages for workers on average;
- have 5 percent less health insurance coverage;
- have 8 percent less retirement security;

²⁶ Lonnie Stevens, “The effect of endogenous right-to-work laws on business and economic conditions in the United States: a multivariate approach,” *Review of Law and Economics* 5 (January 2009): 595, https://www.researchgate.net/publication/46556395_The_Effect_of_Endogenous_Right-to-Work_Laws_on_Business_and_Economic_Conditions_in_the_United_States_A_Multivariate_Approach.

²⁷ See Anne Field, “CEO-Worker Pay Gap Widens – and Employees Aren’t Happy About It,” *Forbes* (May 23, 2022), at <https://www.forbes.com/sites/annefield/2022/05/23/ceo-worker-pay-gap-widens-and-employees-arent-happy-about-it/#sh=4831b6eb142c> (accessed November 26, 2023). The article cites a JUST Capital study of CEO-to-worker pay ratios which found that, in some industries, the average CEO to median worker pay ratio was 340:1 during the period of 2020 to 2022, with the gap worsening across all industries in recent years. It also points to a 2022 survey by SSRS finding that “almost nine in 10 (87%) agree that the growing gap between CEO pay and worker pay is a problem in this country.” Also cited is a 2022 Brookings report “that surveyed 22 companies employing more than 7 million frontline workers. It found that only one-third pay at least half their employees a living wage. Company shareholders were rewarded five times more than workers.”

²⁸ “In It Together: Why less inequality benefits all,” OECD, 2015, at https://read.oecd-ilibrary.org/employment/in-it-together-why-less-inequality-benefits-all_9789264235120-en#page4 (accessed November 26, 2023).

²⁹ John Schmitt, “OECD report says income inequality hampers economic growth,” Washington Center for Equitable Growth, June 4, 2015, at <https://equitablegrowth.org/oecd-report-says-income-inequality-hampers-economic-growth/> (accessed November 26, 2023)..

- have larger pay penalties for workers deemed essential during the COVID-19 pandemic, including 16 percent for police officers and firefighters, 11 percent for construction workers, and 7 percent for registered nurses;
- have 11 percent fewer workers with bachelor's degrees or higher;
- have 31 percent fewer registered apprentices per 100,000 workers;
- have 50 percent more on-the-job fatalities per 100,000 workers;
- have economic productivity that is 17 percent lower per worker;
- had economic growth that was 3 percent slower during the pre-COVID-19 economic expansion;
- have a consumer-debt-to-GDP ratio that is 26 percent higher;
- have higher loan delinquency rates;
- have 15 percent more of their households falling below the poverty line;
- have 10 percent more of their households receiving food stamps;
- have no discernible bump to employment, with “right-to-work” ranking outside of the Top 10 factors cited by corporate executives in business location decisions;
- have a life expectancy at birth that is two years lower;
- are not in the top ten states with regard to life expectancy, while nine of the bottom ten states with the lowest life expectancy are “right-to-work” states;
- have infant mortality rates that are 28 percent higher, on average;
- have 3 percent fewer of their adults voting in national elections;
- have 18 percent fewer of their adults contacting their elected officials; and
- have 3 percent fewer of their adults donating to charities, schools, or other nonpolitical organizations.³⁰

Some of these phenomena may be attributable to more factors than just union strength, but unions make a clear difference. Having higher wages, access to affordable health care, and experience participating in a democratic organization can make a difference when it comes to poverty, infant mortality, and civic engagement.

And unions make a difference not only where they operate and not only for their own members. The U.S. Treasury Department recently issued a report on the value of collective bargaining, pointing out the spillover effects of unions on nonunion workers. For example, for every 1 percent increase in private-sector unionization rates there is a 0.3 percent increase in nonunion workers' wages, with even larger effects for workers without a college degree.³¹ A clear example of a spillover effect occurred in the past few weeks within the auto industry. When the auto workers won their strike against the Big Three, foreign carmakers who located their U.S. plants in “right to work” states and have remained nonunion increased their wage rates to closer approximate that of workers who had exercised their full bargaining power at a collective bargaining table. Presumably, these foreign carmakers did not want workers to be incentivized to organize unions in the wake of the UAW

³⁰ Frank Manzo IV and Robert Bruno, “Promoting good jobs and a stronger economy: How free collective-bargaining states outperform ‘right to work’ states,” Illinois Economic Policy Institute paper, February 9, 2021, <https://illinoiseipi.files.wordpress.com/2020/05/ilepi-prmc-promoting-good-jobs-and-a-stronger-economy-final.pdf>.

³¹ Laura Feiveson, “Labor Unions and the US Economy,” U.S. Department of the Treasury, August 28, 2023, <https://home.treasury.gov/news/featured-stories/labor-unions-and-the-us-economy>.

victory. The pay raises, benefiting workers in southern “right to work” states, was termed “the UAW bump.” With a national right to work law, and a consequently less-resourced UAW, there would be less or no UAW bump.³² By weakening unions everywhere, a national “right to work” law would hurt union and nonunion employees alike, as nonunion employers would feel less pressure to keep wages up to attract and retain workers or fend off an organizing drive.

A national “right to work” law has equity implications. Collective bargaining has helped narrow the wage and wealth gaps between Black and white workers. Thanks to union contracts, unionized Black workers make 14.7 percent more than nonunion Black workers, while white workers make 9.6 percent more than nonunion white workers. That higher union premium for Black workers helps close the overall wage gap.³³ A national “right to work” law, by weakening unions and reducing unionization rates, would therefore have a disproportionately negative impact on Black workers.

On Rights and Liberties Arguments

Setting aside the economic harms caused by a national “right to work” law, it may be that proponents simply value the liberty of individual workers to not pay a fee to a union expending resources to represent them more than the liberty of a union, democratically elected by its worker members, and the employer employing those workers to make an agreement on how to cover the costs of bargaining and enforcing a contract. But that makes “right to work” a liberty to free-ride. Not even libertarians favor this “liberty.” The Libertarian Party has long opposed “right to work” laws because they amount to government restrictions on the freedom of contract between employers and unions.³⁴ Nevertheless, if the liberty to free-ride is a critical individual right, why did “right to work” proponents exempt police officers and firefighters from Michigan’s “right to work” law?³⁵ Of all workers whose liberty was to be protected, why would police and fire be left out? The law’s supporters struggled to come up with a coherent answer. One “right to work” proponent said police officers and firefighters were exempted from “right to work” because they do not have a right to strike. In other words, in a double-whammy against police and fire, stripped of the right to strike, they are also stripped of the individual right to free-ride? The only way to make sense of the Michigan law was to be honest about the true nature of the legislation: it was not about expanding worker liberty but about curtailing worker power. As a concession to two politically-favored groups, understanding that these groups did not have the right to strike (one kind of worker power exercised at bargaining), legislators showed mercy and decided to not also strip them of their union security (resources for bargaining). Liberty has nothing to do with it. (Incidentally, Michigan has since voted

³² Nathaniel Meyersohn, “‘UAW bump’: Toyota, Honda and Hyundai are raising wages,” CNN, November 14, 2023, <https://edition.cnn.com/2023/11/14/cars/uaw-labor-toyota-honda-hyundai/index.html>.

³³ Natalie Spievack, “Can labor unions help close the black-white wage gap?” Urban Institute, February 1, 2019, <https://www.urban.org/urban-wire/can-labor-unions-help-close-black-white-wage-gap>.

³⁴ See Sheldon Richman, “The Libertarian Case Against Right to Work Laws,” *Reason*, December 16, 2012, <https://reason.com/2012/12/16/libertarian-case-against-right-to-work-l/>. The Libertarian Party’s 2000 platform, for example, was very explicit on this issue: “...we urge repeal of the National Labor Relations Act, and all state Right-to-Work Laws which prohibit employers from making voluntary contracts with unions.” National Platform of the Libertarian Party, Adopted in Convention, Anaheim, California, July 2000, <http://www.dehnbase.org/lpus/library/platform/2000/intro.html#toc> (accessed November 26, 2023).

³⁵ Rick Haglund, “Policy reasons for exempting police, fire from Right to Work remain unclear,” *Bridge Michigan* December 18, 2012, <https://www.bridgemichigan.org/michigan-government/policy-reasons-exempting-police-fire-right-work-remain-unclear>.

to repeal its “right to work” law, while the US Supreme Court has since imposed “right to work” on all public sector employment, including police and fire.)

After all, the liberty to not pay fees for services rendered is not just an odd notion of liberty, but also an extraordinarily narrow one. This bill concerning a national “right to work” is focused on that fraction of workers with union representation with a union security clause in their contract working in one of the now-minority jurisdictions without a “right to work” law or for a Railway Labor Act employer. Noncompete agreements, for example, impose a far greater restriction on more workers’ right to work than a union security clause. A union security clause says nothing about who is hired. It merely says that, once hired, you can enjoy the benefits of this contract so long as you pay a fee to cover the cost of bargaining, administering, and enforcing that contract. A noncompete agreement, usually imposed on hires without negotiation, says you cannot be employed by any competitors for some period of time, directly prohibiting you from working in an industry except with the employer that imposed the agreement. There are less than 12 million union-represented workers in free-bargaining states, a large portion of whom are already exempted from union security provisions as public employees. But over 30 million workers are subject to a noncompete agreement restricting their actual right to work, and 38 percent of all workers are expected to be subject to a noncompete agreement sometime during their careers.³⁶ Noncompete agreements do not appear to be a concern of “right to work” proponents, even though they directly restrict a person’s actual right to work. On the contrary, the U.S. Chamber of Commerce’s letter opposing a proposal to regulate noncompete agreements at the Federal Trade Commission reads like a who’s-who of big-business “right to work” proponents.³⁷ There is one thing that a noncompete agreement, which can radically restrict a person’s actual right to work, and a misnomered “right to work” law have in common: they curtail worker power and enhance employer power.

Perhaps the concern of proponents is as narrow as a right to work without deductions from your paycheck. In that case, it should be noted that there are other lawful deductions made from workers’ paychecks in both “right to work” and free-bargaining states. For example, unless a state has restricted these deductions, an employer can deduct expenses from employees’ paychecks for the provision of uniforms, so long as the deduction does not result in pay below the minimum wage.³⁸ These uniform deductions go to employers to compensate them for their expenses (employer power!), not unions to compensate them for theirs (worker power!), and that may make all the difference for “right to work” proponents.³⁹

³⁶ “Union affiliation of employed wage and salary workers by state, 2021-2022 annual averages,” Bureau of Labor Statistics, January 19, 2023, https://www.bls.gov/news.release/union2_105.htm; Ashley Merryman, “What Is a Noncompete Contract?” *U.S. News & World Report*, October 4, 2023, <https://law.usnews.com/law-firms/advice/articles/what-is-a-noncompete-contract>.

³⁷ “Coalition Comments on FTC Proposed Rule to Ban Noncompetes,” *U.S. Chamber of Commerce* website (April 17, 2023), at <https://www.uschamber.com/finance/antitrust/coalition-comments-on-ftc-proposed-rule-to-ban-noncompetes> (accessed November 26, 2023).

³⁸ “Fact Sheet #16: Deductions from Wages for Uniforms and Other Facilities under the Fair Labor Standards Act (FLSA),” Department of Labor Wage and Hour Division, July 2009, <https://www.dol.gov/agencies/whd/fact-sheets/16-flsa-wage-deductions>.

³⁹ A Chick-Fil-A employee handbook, for example, warns that, if an employee fails to give two-weeks notice when resigning, “management reserves the right to deduct Chick-fil-A’s cost of uniform(s) purchased at the time of hire.” *Chick-Fil-A Employee Handbook*, undated, Chick-Fil-A Powdersville, 12,

Conclusion

Ultimately, “right to work” is narrowly focused on a particular mechanism of union funding. Its purpose is not worker liberty. Its purpose is to weaken workers’ bargaining power. Doing so results in great benefits for the already rich, and more loss for working people. And a national “right to work” law seeks to accomplish these ends on a national scale rather than a state-by-state scale. The great irony of *national* “right to work” is that the one talking point that “right to work” proponents had was a state-level talking point: a “right to work” state would be more business-friendly compared to other states and therefore attract jobs from employers who do not want to bargain collectively with their employees; that is, proponents were aiming for a state with more jobs at lower pay. With a national “right to work” law, proponents would not be able to claim that particular “business environment” advantage for any particular state. All states would be the same on this score. “Right to work” would no longer constitute a reason for businesses to move from one state to another. South Carolina would lose the claimed “right to work” advantage over, say, Washington state. So what is the point of a national law? The point is undermining funding for unions. With national “right to work,” unions will certainly have lost a form of funding—the agency fee in a minority of states—and will be that much weaker as a result, and the already-rich will have that much more power.

I respectfully recommend rejecting legislation that results in, among other things, weaker unions and higher executive compensation. As we speak, unions are proving their mettle at bargaining tables and on picket lines, winning record-breaking contracts for their members with positive spillover effects for workers throughout the economy.⁴⁰ The American people see the difference that unions make in providing a voice for workers and countering the power of big corporations. The public is giving labor organizations their highest favorability rating in half a century.⁴¹ This support cuts across party lines. In every major labor dispute recently, the public has overwhelmingly sided with the workers over the employers. The country wants and needs stronger, not weaker, unions. Close to 50 percent of all nonunion workers have said they would join a union if they could, but the national unionization rate—10.1 percent—realizes only a fraction of that desire.⁴² That gap is a function of a broken labor law that sits in this Committee’s jurisdiction. Instead of considering H.R. 1200, I respectfully recommend Congress pass the Protecting the Right to Organize Act, which would

⁴⁰ See Steven Greenhouse, “Labor’s Great Reset,” *The Century Foundation* website (November 9, 2023), at <https://tcf.org/content/commentary/labors-great-reset/> (accessed November 26, 2023). So long as those paycheck deductions do not result in less than \$7.25 per hour (or less than an overtime rate if applicable), they would be perfectly legal under the Fair Labor Standards Act. Compare the case of a Wing Stop franchisee in Mississippi, who deducted from employee paychecks the cost of uniforms, training, background checks, and cash register shortages, but went beyond the limit, causing employees to make less than the federal minimum wage. “Wing Stop franchisee illegally deducts uniform, training, background check costs: US Labor Department recovers \$51k for 244 workers,” U.S. Department of Labor press release, August 11, 2022, <https://www.dol.gov/newsroom/releases/whd/whd20220811> (accessed November 26, 2023).

⁴¹ Lydia Saad, “More in U.S. See Unions Strengthening and Want It That Way,” Gallup, August 30, 2023, <https://news.gallup.com/poll/510281/unions-strengthening.aspx>.

⁴² Thomas A. Kochan, Duanyi Yang, et al., “Worker Voice in America: Is there a gap between what workers expect and what they experience,” *ILR Review* 72, no. 1 (January 2019): 3–38, <https://journals.sagepub.com/doi/10.1177/0019793918806250>.

strengthen Americans' right to organize and give more workers a chance to bargain for a better deal for themselves and their families.

Chairman GOOD. Thank you, Mr. Calemine. I would now like to recognize Ms. Geary for 5 minutes.

**STATEMENT OF MS. JEANNETTE GEARY, PHILADELPHIA,
PENNSYLVANIA**

Ms. GEARY. Mr. Chairman, and distinguished members, thank you for the opportunity to testify today in favor of the National Right to Work Act. My name is Jeannette Geary. I am a nurse by profession. I have spent my entire career in direct patient care, always devoted to my patients.

Many years ago when I was working at the Kent Hospital in Warwick, Rhode Island, there existed a nurses union called the United Nurses and Allied Professionals, UNAP. I initially supported that union. Events I witnessed quickly soured me on the union.

First, at one of the union's wine and dine recruitment events, a high union official stated that the union's goal was to be able to walk into any healthcare institution in America, find the administrators, and declare they were representing the employees with no election.

This would remove the ability of every nurse to talk with their managers and administrators regarding their own jobs. Additionally, I witnessed that UNAP representatives and officers were allowed to freely roam the hospital and push the union's political and social agenda, which was not the nurse's agenda. These union officials let opponents of the union know that any grievances they filed would be ignored, and that difficult work assignments would be given to those who oppose the union.

As I evolved to become an opponent of this union, I was only allowed a small corner in the hospital cafeteria during non-cafeteria hours, and on my own time to give nurses another point of view. I eventually learned of my rights under the Supreme Court's Beck decision, but not from UNAP, which had no incentive to tell employees what their true legal rights were.

When I finally became a non-member of UNAP and invoked my Beck rights, the union refused to acknowledge me, belittled me, and refused to provide any audited financial disclosure about what it did with the compulsory dues it forcibly extracted from my salary on pain of discharge.

Having nowhere to turn, I found the National Right to Work Legal Defense Foundation, which agreed to represent me to ensure my Beck rights were protected. Little did we know this would end up being a 12-year legal battle that was litigated up and down the National Labor Relations Board chain, and in two separate United States Court of Appeals Circuits, just to secure the proper dues reduction that I was owed in accordance with Supreme Court precedent.

As my written testimony details, my litigation against this union took over 12 years and two separate United States Court of Appeals. After I resigned my membership and objected to pay for the union's political and non-representational activities under the Beck

decision, the union refused to give us audited financial disclosure of how it spent our dues, and in fact, spent our forced dues money lobbying the Rhode Island and Vermont legislatures.

With the foundation's representation, I initiated an unfair labor practice charge against UNAP with the NLRB on November 23d, 2009. That began my 12-year odyssey to protect my rights. My 12 years of litigation proves that the Beck objection system is broken and does not protect employees' rights to refrain from funding union politics, and union endorsed politicians.

Unions do not tell employees about their rights because they have no incentive to do so, and regular employees like me cannot afford to take on these legal battles by themselves. Without lawyers, like the National Right to Work Legal Foundation, we are left to fend for ourselves against unions that have no regard for the law or Supreme Court precedent.

For all of these reasons, I wholeheartedly support the National Right to Work Act, so that no employee will be forced to pay his or her hard-earned money to a private and unaccountable organization they do not support. This is America, and membership in a union and payment of dues should be strictly voluntary.

Employees can make their own decisions about whether they are benefited or harmed by the union that has been installed in their workplace. Thank you for your attention.

[The prepared statement of Ms. Geary follows:]

**Testimony of Jeanette Geary
To the United States House of Representatives
Subcommittee on Health, Employment, Labor, and Pensions
Hearing: November 30, 2023**

Chairman Good, Ranking Member DeSaulnier, and members of the Committee,

My name is Jeanette Geary. I am a nurse by profession. I have spent my entire career in direct patient care, always devoted to my patients.

When I was working at the Kent Hospital in Warwick, Rhode Island, there existed a nurses union, called the United Nurses & Allied Professionals (“UNAP”), that I did not vote for or support. However, the union demanded that I pay dues to it or be fired.

I eventually learned of my rights under *CWA v. Beck*, but not from the UNAP union. When I became a nonmember of UNAP and invoked my *Beck* rights, the union refused to acknowledge me, belittled me, and refused to provide any audited financial disclosure about what it did with the compulsory dues it forcibly extracted from my salary.

Having nowhere to turn, I found the National Right to Work Legal Defense Foundation, which agreed to represent me to ensure my *Beck* rights were respected. Little did I know this would end up being a twelve-year legal battle that was litigated up and down the National Labor Relations Board (“NLRB”) chain, and in two separate United States Court of Appeals circuits, to secure the proper dues reduction that I was owed.

In late 2009, several Kent Hospital nurses and I resigned our UNAP memberships and objected to paying for the union’s political and non-representational activities. After receiving these objection letters, the UNAP President mailed us a letter and three pages of what it called “financial disclosure.” The letter claimed that UNAP’s major categories of expenses had been verified by a certified public accountant. However, neither the CPA’s audit nor the auditor’s opinion letter was ever given to

my coworkers and me. UNAP refused to give this information to us, stating that it didn't think it was legally required to do so. This only added to our concerns about the union's inscrutable financial presentation. Worse, the limited disclosure we did get indicated that UNAP was forcing us to pay for all sorts of political lobbying that it did in the legislatures of both Rhode Island and Vermont.

With the Foundation's representation, I initiated an unfair labor practice charge against UNAP with the NLRB on November 23, 2009. After investigating, the NLRB General Counsel issued a complaint alleging that UNAP violated the National Labor Relations Act ("NLRA") by charging me and other UNAP nonmembers at Kent Hospital for expenses incurred in lobbying state legislatures and by failing to provide us with financial disclosure of the Union's expenses based on an independently verified audit.

The federal courts have repeatedly held that unions cannot compel private-sector employees to pay for union political activities, which includes lobbying the government. In contrast, no court has ever held that unions may lawfully force private-sector nonmembers to subsidize lobbying expenses. Nevertheless, that is exactly what UNAP was forcing us to pay for, in both Rhode Island and Vermont's legislatures.

An NLRB Administrative Law Judge (ALJ) heard the case on February 14, 2011. In a March 30, 2011 decision, the ALJ concluded that UNAP nonmembers including me could legally be forced to pay for some of UNAP's lobbying at the Rhode Island and Vermont legislatures. The ALJ also dismissed the complaint allegation concerning the lack of an auditor's verification of the union's claimed expenses. In April and May, 2011, all parties filed exceptions to the ALJ's rulings.

On or about January 3, 2012, while the parties' exceptions were pending, the NLRB lost a quorum to decide cases when NLRB Member Craig Becker's appointment expired. On January 4, 2012, President Obama unconstitutionally "recess appointed" three new members to the NLRB, even though the U.S. Senate was in session. Those "recess" appointments were held unconstitutional by the U.S. Supreme Court

On January 30, 2012, my National Right to Work lawyers and I filed with the NLRB a Motion to Disqualify the recess-appointed Board members due to the illegality of their appointments, and asked the Board to issue no decision in my pending case until the Board consisted of a properly confirmed and lawful quorum. On December 14, 2012, the Board (including the three unlawfully-appointed members) denied that Motion to Disqualify and issued an unfortunate Decision and Order.

As part of its Decision and Order, the unconstitutionally appointed Board requested supplemental briefs from the parties and amici on the application of its new standard for evaluating compulsory fees for union lobbying activities. Although I believed that ersatz Board was powerless to act and its decisions void, my lawyers and I dutifully filed, on March 5, 2013, a supplemental brief challenging the Board's new chargeability standard.

In the meantime, on February 11, 2013, I filed a Petition for a Writ of Mandamus or Prohibition in the U.S. Court of Appeals for the District of Columbia Circuit to prevent the recess-appointee Board from issuing any further rulings in my case until it regained a valid quorum of members. While that mandamus petition was pending the unconstitutionally appointed Board issued no further rulings in my case.

On or about July 30, 2013, the U.S. Senate confirmed new Board members to re-establish a valid quorum. The D.C. Circuit then accepted my voluntary dismissal of the Petition for a Writ of Mandamus or Prohibition based on mootness. On August 13, 2013, my lawyers and I filed with the Board a renewed motion, asking the properly appointed Board to vacate the unconstitutionally appointed Board's ersatz decision, 359 NLRB 469, and to consider my previous exceptions *de novo*.

More than *five years* then passed without the new Board issuing any ruling in my case. During that inexplicable five-year delay the Board never applied its purported new standard for charging nonmembers dues and fees for lobbying in state legislatures. The inordinate five-year delay led my lawyers and me to file a second Petition for a Writ of Mandamus with the D.C. Circuit on January 2,

2019. On January 31, 2019, the D.C. Circuit ordered the Board to file a response to my second Petition for Mandamus. The Board responded on March 1, 2019 by issuing a final and judicially reviewable decision, thus rendering moot the second Petition for Mandamus.

In its decision on the merits, the Board granted my Motion to Vacate the prior invalid decision, 359 NLRB 469, and reconsidered the ALJ's decision *de novo*. The Board concluded that UNAP violated the NLRA by failing to provide me and other Kent Hospital employees with a copy of the audit verification and by forcing us to pay, for expenses lobbying state legislatures on political, ideological and public policy issues. 367 NLRB No. 94 (March 1, 2019). (Copy attached).

But having finally won my case to secure a reduced fee payment from UNAP after ten years of federal litigation, I still wasn't done.

On May 15, 2019, UNAP petitioned the U.S. Court of Appeals for the First Circuit for review of the NLRB's decision in my favor. After another round of briefing and oral arguments, the U.S. Court of Appeals ruled unanimously in my favor on both the audit verification issue and the non-chargeability of union lobbying in state legislatures. *United Nurses & Allied Pros. v. NLRB*, 975 F.3d 34 (1st Cir. 2020) (Copy attached). Still refusing to take no for an answer, the union even filed for en banc review, which was denied. Finally, my case was sent back to the NLRB, where I eventually received back pay for the dues that had been illegally seized from me *eleven years earlier*.

In conclusion, the *Beck* objection system is broken and does not protect employees' rights. Unions do not tell employees about their rights because union officials have no incentive to do so, and regular employees without lawyers like those at the National Right to Work Legal Foundation are left to fend for themselves.

For all of these reasons, I wholeheartedly support the National Right to Work Act, so that no employee will be forced to pay his or her hard-earned money to a private organization they do not support. This is America, and membership in a union and payment of dues should be strictly voluntary.

Thank you for your consideration.

Chairman GOOD. Thank you, Ms. Geary, and thank you again to all of our witnesses for being here today and giving your time to help us with this hearing. Under Committee Rule 9, we will now question witnesses—I am sorry, witnesses members under the 5-minute rule. I will wait to ask my questions and therefore recognize Mr. Wilson from South Carolina for 5 minutes.

Mr. WILSON. Thank you very much, Chairman Robert Good, and we appreciate all the witnesses being here today, and of course we particularly appreciate Ms. Vargas and Ms. Geary for your courage to promote freedom of choice, which is beneficial to every worker across our country, and in particular I am very familiar with that in my home State of South Carolina, and I will let you know what the benefit of right to work is.

We still have one condo for everybody there at Hilton Head, so please come on down. Indeed, I am grateful to sponsor the Right to Work Act with 115 co-sponsors, and I want to give credit to the Right to Work Committee that has been so effective in its years of commitment on behalf of the American worker.

This legislation is critical for creating jobs and ending forced automatic unionization for the American people. Every American and their employer has a right to negotiate the terms of their employment and creating jobs, and the right to work states it has been nearly doubled that of the forced unionization. Unionism states in the last decade, and manufacturing growth in particular, has been five times higher.

In South Carolina, I particularly appreciate it, and that we have the manufacturing facilities where South Carolina now produces more tires than any other State in the union, exports more tires than any State in the union. I was present with Governor Jim Edwards for the groundbreaking of Michelin in my home community of Lexington, now that is the largest Michelin manufacturing facility in the world.

Right down I-20 in the district I represent is Bridgestone, Japanese, and then on the other side of I-20 is Continental of Germany, and then you go up I-77 and it is JT of Continental, excuse me—from Singapore.

Over and over again we see the benefit of right to work. South Carolina is the leading exporter of cars, and so I was so glad to see references to cars because I was there for the groundbreaking with Governor Carol Campell for the BMW facility in Spartanburg, South Carolina, and I know Chairman Good will be shocked, but they were making fun of us that they were going to have to change the name of Bavarian Motor Works to Bava Motor Works.

Well, now that is the largest BMW manufacturing facility in the world. I love as I travel, I was in Europe at a meeting last week in Frankfurt, to see X-5's. I know where they are made, in South Carolina. Additionally, we are just grateful to have Volvo cars built in South Carolina, and Mercedes vans, and so we are No. 1 in export, and just because of the right to work law.

Then, I want to give credit to Governor Nikki Haley. There was an effort by the unions to close the Boeing facility, building 787 jetliners in South Carolina, but Governor Haley was successful with

Lindsey Graham, Tim Scott, our Attorney General Allan Wilson, even a local Congress person, me. We were able to keep Boeing alive.

There are 8,000 jobs, despite the fact of the efforts of the NLRB to illegally stop it. Then I am also grateful for every effort that has been made back at Boeing. Saudi Arabia just agreed to purchase 39 billion dollars-worth of aircraft, and so that means more jobs. With that, Mr. Mix, I want to thank you for your success in what you do to advance the essential protection for every American.

We have seen the expansive job growth in South Carolina as I cited it has just been incredible, but we still have room to grow. With that, also a majority of the states now have passed right to work laws, and the workers have the freedom to choose how to spend their hard-earned money, and hey, let us get to it. The dues going to different political candidates. It has a consequence.

Influence, which is all legitimate, but gosh, the influence is extraordinary. Mr. Mix, what has been your experience of companies wanting to relocate into right to work states?

Mr. MIX. Yes. Congressman Wilson, thank you for that question, and congratulations on the growth of South Carolina. Right to work is part of that equation for attracting new manufacturing jobs. Manufacturing job growth from the last decade from 2012 to 2022 was basically five times greater in right to work states than non-right to work states.

Private sector job growth was nearly double that in right to work states versus non-right to work states. Obviously, it is not the panacea that determines everything, but those policies, the types of policies that allow investment capital, relocation, expansion, those things are important.

Right to work, we know is an important part of that. When you talk to site selection experts, consultants that are consulting with companies looking to expand or grow, they say nearly 75 percent of all the companies will use the lack of a right to work law as initial kickout as a decisionmaking for locating, expanding and investing in capital in a particular State.

We know it is important, and it is important because it gives the employer the confidence they can deal with their employees directly, and certainly from a union official standpoint when you got to a State that the revenue stream is not guaranteed, after you win a certification election, it makes the decision about union organizing a little different.

They end up in California, New York, Illinois, New Jersey, Connecticut, Rhode Island, but they do not end up in South Carolina, even though the ability for workers to organize in right to work states is protected by Federal law. We all know that. It is written in the law, and nothing stops workers in South Carolina from organizing unions if they choose to do so.

Mr. WILSON. Thank you very much. I yield back.

Chairman GOOD. Thank you. Thank you, Mr. Wilson. Now we will recognize Mr. Courtney from Connecticut.

Mr. COURTNEY. Great. Thank you, Mr. Chairman, and thank you to the witnesses for being here today. Yesterday a poll was released asking the American people whether they approve of this Congress,

and the poll came back with a whopping 14 percent approval and 69 percent disapproval.

In my opinion, there is a very good reason why the American people are just completely turned off by what they see here in Washington, DC, is because this is probably the least productive Congress, in memory, in terms of just the output of legislation.

To be more specific, we have enacted a whopping 22 bills over the last 11 months in this Congress, 14 are House bills. It is not because members are not trying to introduce bills or to advance bills, there actually have been over 6,000 bills that have been introduced. Rather than trying to sort of identify measures that have bipartisan support, that actually will help American workers.

For example, the Workplace Violence Prevention Act, to help health care and social workers, which is a bipartisan bill that we passed with almost 250 votes in the last Congress, despite the fact that we are seeing frightening levels of workplace violence for health care workers.

Just a couple weeks ago a home health aide in Willimantic, Connecticut, in my district, was stabbed to death on a home visit with a registered sex offender. Never should have happened. We should have had OSHA standards that are well ready to go in terms of trying to identify high-risk patients and not send workers alone into situations like that.

That is exactly what this bill would provide for, but rather than taking up meaningful legislation that has bipartisan support, we are seeing here today a bill, which with all due respect to the witnesses here advocating for it, has absolutely zero chance of becoming law. We are really just having really, a talk session, a kabuki play.

I would just say what is striking about the poll in Congress that came out yesterday. It is 14 percent approval, 69 percent disapproval. If you look at Gallup Poll's annual polling that they do on whether Americans approve of labor unions, it is actually the reverse.

70 percent of Americans approve of labor unions, and again, Gallup has been doing this since the 1930's, and again there have been periods of time where that number has dipped to much lower levels, below 50 percent. Today, because a lot of the conditions which Jody, who used to work here on our Committee, described is why again unions now are something that American people support.

You described some of the great contracts that have been signed just in the last year or so. In my district, in Eastern Connecticut, the Metal Trades Council and Electric Boat Shipyard just came to a deal that was passed 2 to 1 for a 5-year contract that will result in a 21 percent increase overall in terms of wages, boosting the retirement program, enhancing the health benefits.

What was most interesting was, is that the biggest wage increases are concentrated at the entry level workers, so you know the notion that we heard here at the outset that somehow unions really do not care or do not protect new employees, and they are sort of, you know, left with the burden of paying for dues that they never benefited from, that actually is the opposite.

Again, the testimony regarding UPS that the part-time employees are getting a 48 percent increase, who again, were the most ex-

ploited at UPS, is a perfect example of where this narrative that unions leave behind, you know, the newer employees, is really just totally again with recent events demonstrated to be false.

Mr. Calemine, I just want to ask about—I mean what we are talking about here again is a bill that if you look at the history of right to work, it really has aligned with a reduction in union participation and unionized workforce, and maybe you could just sort of talk about that at a time when 70 percent of the American people support unions, we are talking about a bill today that is actually going to make it even worse, in terms of trying to fix that total misalignment right now, in terms of Federal law and workplace.

Mr. CALEMINE. Absolutely. Thank you for the question. Right to work is designed to reduce the unionization rate in any particular State. If you reduce unionization rate, you reduce the union difference. People will not make as much money, they will not have as much access to health care plans, to pensions, and so forth, so it does reduce your chances of having a decent life, a decent job.

It is not about workers, it is about business as we heard from Congressman Wilson. I went to the State of South Carolina's website in preparation for this hearing, found a Department of Commerce website, a page attracting businesses by saying in big letters, business friendly right to work State, with no explanation because everybody knows it's a signal, we are anti-union. You will not have to negotiate with workers in this State.

You go to the South Carolina Department of Labor's website, do a search for the phrase right to work, it is not there. It means nothing to the workers. It means everything to business. It means everything to business.

Chairman GOOD. Members will be reminded to pose their questions in time for the witness to answer so we can stay within our 5 minutes. Now I will recognize Mr. Walberg for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman. I am going to change the terminology a little bit. I think Mr. Mix will understand it. Earlier this year the democrat-controlled legislature in Michigan repealed Michigan's Employee Free Choice Act. Now the unions do not want us to use that terminology. They cannot unionize well if we give employees the right to choose. You want to put the thumb on the scale, tell the big stories, and yet employees are the ones who decide whether they want to be unionized and represented by a union.

I was a union steel worker. I am not opposed to unions. We want to have choices. Anyway, the democrat-controlled legislature jumped in, ran through a law limiting the freedom of choice for Michigan's workers. In addition, the legislature also removed the financial penalty for using force, intimidation, or threats to compel employees to join a union.

That is un-American. I think it is important to note that Michigan became an employee free choice State in 2012. After voters overwhelmingly, overwhelmingly rejected a referendum that would have placed collective bargaining rights in the State Constitution. Why there? Because they would not have a choice after that.

However, the legislature sought to make the new law referendum proof so that Michigan voters cannot have a say on this issue in the future. That is un-American. This, despite more recent polls,

showing the Michigan voters opposed repealing employee free choice in Michigan. It had to be done heavy handed by a democrat State legislature, a small majority that rammed it through. We will see if they pay in the next election.

Mr. Mix, you have been involved in the right to work movement for many years and have discussed the individuals with individuals, and elected officials in numerous states, including Michigan. Can you tell us where the American public stands on the issue of right to work?

Mr. MIX. Yes, sure. I mean we have already heard references through the Gallop poll about union favorability at 71 percent, now down to about 68 percent in the latest poll. In that same poll where Gallop said that 71 percent of Americans support the idea of labor unions, the second question, or maybe not the second question, but another question that we will ask non-union members, are you interesting in joining a union.

58 percent of non-union members said they had no interest in joining a labor union. The idea of unionization may be favorable as far as the public opinion is concerned, but the idea of workers wanting to join a union and looking to get in is just not there, and Gallop shows that.

Gallop did a poll in 2014 asking a very simple question. Do you believe that a worker should be forced to pay union dues or fees in order to get or keep a job? 74 percent of the workers—or the response in that poll said no. They supported unions. The support for unionization was relatively high, above 50 percent in that same poll, but the idea of right to work was very, very popular.

We conducted a poll in 2020 by Survey USA, 87 percent of the people that were polled by that independent polling agency said they oppose workers being forced to pay union dues as a condition of getting or keeping a job. Unionism may be popular but forced unionism is a real stinker from a public policy standpoint.

Mr. WALBERG. That is the key is it not?

Mr. MIX. Yes.

Mr. WALBERG. If you want a union, vote for one, join one. It is simple, but I have never heard any union negotiation trying to run rough shot over workers themselves, anything said about the customer. Have any of you heard? No. The customer is last in line, and we will see that with the auto industry after what the UAW did.

Mr. Mix, union bosses often deride right to work or employee free choice laws saying that employees in free choice states are paid less and have less opportunity than similar employees in states that are not free choice states. Is this accurate?

Mr. MIX. Not at all. It is a—when you look at cost of living adjustments, and Representative Burlison will be interested in this. The Missouri Economic Research Institute Center Information Center does a cost-of-living study I think every quarter. This is a government agency in Missouri, and they put a cost-of-living index on what it costs to live in a State.

When you apply cost of living to wages, we find that workers in right to work states have up to \$3,000.00 more to spend in disposable income. When you just say that a plumber in New York City who is making \$95.00 an hour is unionized, and a plumber in

Provo, Utah is making \$65.00 and not unionized, somehow they turn that into a \$30.00 union benefit.

Well, the fact of the matter is a \$65.00 an hour plumber in Utah is probably a whole lot better off than a \$95.00 an hour plumber in New York City.

Mr. WALBERG. I hate moving out my workers to South Carolina, no matter what I think of this guy. I yield back.

Chairman GOOD. Thank you, Mr. Walberg. I will now recognize the gentleman from New Jersey, Mr. Norcross, for 5 minutes.

Mr. NORCROSS. Thank you, Chairman and Ranking Member, for holding this hearing. People will do the right thing. We hear this all over today. Everybody loves America. If there was no requirement that you had to pay taxes, I am sure everybody here would just send money right into the government saying you are doing the right thing.

We understand this. Let us cut through the BS. It is real simple, the right to work, and we just heard a few moments ago from Mr. Calemine, is that this is about businesses moving to areas where they control the workers, they pay them less benefits and less pay. It is clear this is why this is taking place.

Now, I am actually shocked why they would want to do this nationwide, because after hearing what is going on in South Carolina, they have the monopoly. Come to us, why do you not want to do it everywhere? We are getting those jobs. We know why this is going on, so I wish everybody would stop BS'ing us and just cut—it is about cutting the voice of working men and women.

It is that clear. Your 12-year journey is just remarkable. I am going to guess it did not come out of your pocket completely. You had plenty of help. People came around, whether it was the right to work or otherwise. That is why it is incredibly important this system that we have set up in this country that has been here for so many years, that we give companies a tax break to hire union busting outfits.

Well gee, that does not seem right. I am a taxpayer. Why am I encouraging companies to hire for tax break these anti-union busting companies? Why do we do that? For the workers, and I am an electrician by trade. When I first started out, when I went out and bought my tools that I needed to do my job, they were tax deductible.

I was a working schmuck making only a few bucks, so that was a working man's tax break. They took it away from us. You know what? I am really glad that there is somebody lobbying Congress to bring back real workers' tax breaks. We give a gazillion dollars away in tax incentives in this facility all the time. To the little guy just trying to keep himself going, they took that tax break away.

The mileage driving to work for construction workers. To my friend and colleague on the other side of the aisle, do we ever talk about the customer? Absolutely. We understand. Workers, the owners, the customers are in a relationship together and when you improve that it is good for everyone. We absolutely take into account not only the worker's well-being, but the company and who we are working for.

That is fundamental. That is smart business. That is what we do each and every day. It is also when you do not have a union, safety

rates on-the-job plummet. Injuries occur. Mr. Calemine, as I ask you a question. Collective bargaining, one major issue quite often is safety. Can you talk a little bit about including not only issues of job site safety as bargaining, but the different committees the unions might put together, work with management to make it a safer location to work?

Mr. CALEMINE. Thank you for the question. It is a very common issue at the bargaining table and then a common provision in collective bargaining agreements that you have a health and safety committee, where workers are involved in policing the workplace and making sure safety protocols are being followed, that there are not hazards in the workplace, and making sure the people who come to work get to go home at the end of the day.

The important thing about having a union, and union representative, or union representation is that a worker knows somebody has got their back when they do complain about a safety issue, when they do blow the whistle, that somebody is going to help them blow that whistle. They are not going to get retaliated against or fired for having done so because they have just cause employment and union representation.

Generally speaking, union workplaces are safer than the equivalent non-union workplaces. I do want to point out that studies have been done just in relation to the question of wages and so forth, right to work versus non-right to work states. Studies have been done to control a variety of variables, including cost of living, and the right to work states have 3.1 percent lower wage rates than the free bargaining states per those studies, with the most controlled variables.

Mr. NORCROSS. Thank you, and I yield back.

Chairman GOOD. Thank you. We will now recognize Mr. Allen from Georgia for 5 minutes.

Mr. ALLEN. Thank you, Mr. Chairman, for holding this important hearing. Again, I come from the business community. My first job was with a union company, and I actually became the Secretary Treasurer of the Augusta Contractors Association and negotiated the agreements and that sort of thing.

Frankly, back then yes, we had people standing in line trying to get a job. It was totally different. I mean you could get as many workers, whatever you wanted. This modern workforce is very different. It is very entrepreneurial. Companies—the workforce is very competitive.

I mean you have got to go find the workers, and you have got to compete. Georgia has been very good with that. We are the best State to do business in 10 years in a row. We have got a lot of union members who are moving to Georgia. Now, are they moving to become workers? No. They are moving there to have their own concrete businesses, to have their own sheetrock businesses, to have their own painting companies, and they are entrepreneurs. It is totally different.

We used to self-perform 60 percent of our work. Today we self-perform maybe 5 percent of our work. Again, we are in an entrepreneurial modern workforce. Mr. Mix, a majority of states, including my home State of Georgia, have passed and have long-standing right to work laws, meaning that—and that the simple fact here

is if you wanted to find that, what that means is you do not have to—to hold a job you do not have to pay union dues.

It is just that simple. That is freedom. These laws provide workers with freedom to choose how to spend their hard-earned paychecks. Many companies express interest in operating in right to work states, so why—Mr. Mix, can you tell us why these companies want to move to right to work states, and hire great workers in our states and train them?

Mr. MIX. Well Congressman, Georgia, as you mentioned, has been the top State for business for many years, I think a decade going. According to CNBC and others, the folks that manage that, it is because of your policies. One of those policies is right to work. We know, as I mentioned earlier, the idea of people looking to expand to invest, consider right to work as a primary kickout if you do not have it in the State.

That is why we see manufacturing growth five times greater than forced unionism states, and private sectors growth nearly doubled.

Mr. ALLEN. Talk about safety! We have the lowest worker's compensation rate in the country. Okay.

Mr. MIX. I will take your word for it.

Mr. ALLEN. Yes. No. Really. Obviously, the Biden NLRB has issued numerous decisions that undermine employee free choice and strengthen the labor unions' ability to forced representation on every worker.

Mr. MIX. Yes.

Mr. ALLEN. The big labor and union bosses will stop at nothing to coerce American workers into unionization, and obviously that is what this administration is trying to push. In fact, the PRO Act would do away with right to work laws in every State. In other words, you are going to equalize every state's ability to compete for business.

What other labor reforms can Congress consider to promote individual employees—of course, I introduced the Truth and Employment Act.

Mr. MIX. Yes.

Mr. ALLEN. What other legislation can the Congress put forward to since this Congress is not doing anything, what can we do to help the worker?

Mr. MIX. Well, Congressman, certainly there are probably plenty of things to do because it is the Federal Government that imposes this regime of forced unionism on the states. If we remember correctly, when they upheld the Wagner Act in 1937, that imposed forced unionism on all the states across the country.

It was not until 1947, when Congress came back in and said you know we probably should do something about this. We gave union officials dramatic powers over workers across the Nation and imposed it on every State, so they allowed them to pass right to work laws, and 27 states have done that.

Michigan has already been mentioned—will lose their right to work law in February. The idea of going into the National Labor Relations Act, if the Federal Government is going to control private sector labor management relations, which they do now, and the

states used to be experiments in policy as it related to employment and work policies.

I would think that the National Labor Relations Act in general has to be looked at, and let the states compete for workers and jobs and investment and cash by allowing them to take different ideas about it, as opposed to having them pre-empted by the Federal law that forces this compulsory regime down on the states.

Mr. ALLEN. Yes. Exactly, and that is why I introduced the Employee Rights Act, which includes a provision to ensure employees political protection. I wanted to yield some time to my friend, Mr. Wilson, but I am out of time and I yield back.

Chairman GOOD. I will recognize now Ms. Wild from Pennsylvania for 5 minutes.

Ms. WILD. Thank you, Mr. Chairman. Mr.—my colleague across the aisle, Mr. Allen just acknowledged that this Congress does not seem to have gotten anything accomplished. I just want to note for the record this is a GOP-controlled majority Congress and I would agree with him, unfortunately.

Mr. Mix, I have some questions for you. This is—my preface is for all of you. I represent Pennsylvania 7. It is a community with one of the richest legacies of organized labor anywhere in the country. It is home of Mack Trucks and Bethlehem Steel, and in Pennsylvania 7 we know that strong unions are the key to a strong economy where people can work hard and get ahead, and can support their families.

Mr. Mix, you testified in favor of H.R. 1200, a law that if implemented, would force every State in the Nation to adopt so-called right to work laws. In your testimony, you claimed that union negotiated contracts often work against the interests of the employees. My question to you, and I have spent a lot of time with unionized employees in my district, is it against the interests of workers to have wages that are on average 11.2 percent higher than their non-union counterparts according to the U.S. Bureau of Labor Statistics?

Mr. MIX. No.

Ms. WILD. Is it against the interests of workers to have better access to paid leave and pensions, two more benefits that again unionized workplaces are much more likely to offer?

Mr. Mix. I would say no. I mean the idea of those benefits being available, why would you not rely on voluntarism? Why do you need compulsion? Why do union officials need compulsion in law to force workers to associate with them and pay dues and fees?

If they are doing this great work that you have all talked about, then people would join them voluntarily.

Ms. WILD. Well, we will have to invite you when we have a hearing on what management tactics take place to discourage people from joining unions, but I reclaim my time. We know that a 2021 report on the construction industry, one of the most dangerous industries in the United States, found that nationally unionized work sites are 19 percent less likely to have a safety and health violation than their non-union counterparts.

I am sure we can agree that that is in the interest of all workers. Correct? Have a safe, healthier workplace?

Mr. MIX. Yes. You know, if you are doing those great things, why would people not want to join voluntarily? Why do you need compulsion?

Ms. WILD. Thank you. I am going to move on to Mr. Jody Calemine and let me just say that based on data that I reviewed from the U.S. Bureau of Labor Statistics, the average median union worker is paid approximately 20 percent more than the median non-union worker. In the private sector, union workers are 26 percent more likely to be offered health insurance through work, 12 percent more likely to have access to paid sick leave, and 53 percent more likely to have to find benefit pension plans than their non-union counterparts.

I could go on and on, but I do not ever have enough time for that, but the data is crystal clear in my view. Workers are better off when they have the right to organize. I am going to ask you sir, based on your experience, can you expand on how union contracts provide more freedom to workers? If you could incorporate, excuse me, into your answer, is it fair to say that right to work is a misleading term, and these laws actually take away rights from workers to freely join a union. Thank you.

Mr. CALEMINE. Yes. Thank you for the question. With respect to the first question. When you have a union contract and you have union representation, and you are living your life. A union contract sets up a kind of rule of law of the shop, and if the contract says you are entitled to a week's vacation, and you need to use that vacation to go see your sick mother in another State, you can be ensured that you will have time, you will have that time, and you will not be retaliated against or lose some sort of a benefit because you decided to partake in that benefit.

It is all about having that support as you exercise, you know, engage in you know, receiving benefits and so forth at work, you are protected with your union contract. That provides for a lot more freedom in a person's life. They can go about their life with a lot more confidence on how things will turn out more predictably.

You are not operating at the whim of a boss who can engage in arbitrary actions. With respect to right to work itself, it is—I lay out in my testimony, times running out, but I layout in my testimony all the ways in which it is not about worker liberty at all, it is more about giving the employer the ability to control the workplace. Absolutely, it is better termed right to work for less.

Mr. ALLEN. Mr. Chairman, I need to ask to correct the record here. I did not say—

Chairman GOOD. You are recognized for 1 minute.

Mr. ALLEN. I did not say that this was a do-nothing Congress. I said it has been said that this is a do-nothing Congress. It did not come from this side. You might want to talk to the—

Chairman GOOD. Thank you, Mr. Allen. Now we will recognize Mr. Bean from Florida for 5 minutes.

Mr. BEAN. Good morning, and thank you very much Mr. Chairman, and to all and to all of our Committee members. Thank you for being here. I was at a Walmart not too long ago. I counted in the shampoo aisle 27 different versions of shampoo. Americans want choice, yes, right. Americans want choice, whether it is their shampoo, fast food, ice cream, or so many things in life.

To me, having a right to work, and I am proud to be from the free State of Florida is a choice that you can join a union or not join a union. Am I missing something? Mr. Mix, am I missing that? Is that what this all comes down to?

Mr. MIX. It really is that simple, Congressman, and thank you for making it simple because the right to work laws in the states that have them are that simple, literally, you have the ability to choose whether or not to join or associate financially with a labor union, that is it. It does not stop anyone from joining, participating, paying the union if they choose to do so.

Mr. BEAN. If I want to, I could still in the free State of Florida, or where other free states. I could join if I want to, and just pay if I want to. Is that correct?

Mr. MIX. Yes. Indeed. There are several right to work states that have higher union density than states that do not have right to work laws. It is a fact.

Mr. BEAN. Very good. Ms. Geary, I see you there. I have got a question for you. You were a part of the union that made you pay dues, but some of those dues went to political and lobbying activities that you disagreed with, or at least challenged them. You actually filed a lawsuit in your testimony, to say this is not right. Tell us about that. What you were forced to do.

Ms. GEARY. Yes. Thank you very much. We had no idea. We were innocent healthcare employees. Healthcare employees really are not attorneys. We are really not cognizant of this type of information. The union came in and wined and dined us. You have to understand the nursing culture.

We work very hard. We work 12-hour shifts, often times back and forth. We are denied vacations. Lots of times you do not get breaks. When a union came in and had parties for us, and served alcohol, which frankly I do not drink, but I did eat the cookies, and desserts, and promised us the world, and then passed out cards saying to sign these just to show interest, which I later found out where not just about showing interest.

Nurses became interested in the union, as you can understand.

Mr. BEAN. Then they went on, and I hate to go to the end of the story because the clock's up, it is ticking, but the end of the story is you disagreed with what they were spending the money on.

Ms. GEARY. Oh, I definitely did.

Mr. BEAN. You said—No, you filed suit. Where is this at—is that suit? Did you win or lose? Is it still going on?

Ms. GEARY. No. My case was won. My case was definitely won.

Mr. BEAN. Fantastic. That is good news, so because also you want choice, and you do not want to have your money go to things you do not believe in, or whatnot, so.

Ms. GEARY. Well, more fundamentally than that, my feeling is that every citizen in the United States, according to the Constitution, has choice and liberty. Unions that come into healthcare institutions tell you, you no longer have choice or liberty, none. It makes no sense to me.

If 90 percent of the nurses wanted the union, that is fine. If 10 percent do not, why should they have to sign up.

Mr. BEAN. There you go.

Ms. GEARY. It makes absolutely no sense.

Mr. BEAN. Nailed it right there, Ms. Geary. That is what you did. You just nailed it: choice. Mr. Mix, I saw you shaking your head when somebody on the other side said something about the companies just want to bypass the rules and take advantage of labor you shook your head. I was watching you. You shook your head.

Please elaborate on why you shook your head.

Mr. MIX. Yes. Protecting the ability to organize a union is written into Federal law. The NLRB enforces it. I pointed out in my original testimony that 21 cannot do's by employers to interfere with an individual employee's right to try and organize a union. I mean the laws are very clear.

If an employer does that, there are unfair labor practice charges, and now under this new regime at the NLRB, if you are even accused of an unfair labor practice charge, you may be looking at a bargaining order without any election by your employees.

The Sem X decision back in August of this year basically takes away the secret ballot election, it takes away the card check election, and it says the union official walks into your office and says I represent your employees, and now it is up to the employer to prove that they do not by filing what is called a majority election. If there is an unfair labor practice taint if you will, we have a case right now where a regional director sent it to the NLRB because they thought that the unfair labor practice charge might need a bargaining order, without any vote, or any show of support by workers. It is outrageous.

Mr. BEAN. Ten-four, thank you all for being here today. Mr. Chairman, I yield back.

Chairman GOOD. Thank you. We will now recognize Mrs. McBath from Georgia, for 5 minutes.

Mrs. MCBATH. Thank you Chairman Good, and I want to thank Ranking Member DeSaulnier, who had to step out, and I want to thank our staff today, and of course our witnesses for being here. I too represent the right to work State of Georgia, and I do honestly have to say that I think the biggest boost that we saw in the confidence in our unions has come through recently coming through COVID.

A record number of individuals, and definitely employees have recognized that they needed the protections of the unions, so I just wanted to be able to say that, but also this misguided targeting of labor unions over the past few decades continues to have a very detrimental impact on our workforce system.

There is no reason why our employers and unions cannot work together to create opportunities that work better for all of our businesses and for the American workers. As I have stated many times in this Committee, and other instances, the Federal Government spends far less on workforce development today than we did in 2001, and is one of the contributing factors to the skill shortages that we continue to see all across the country.

Employers and unions have stepped up to fill in that gap, and spend millions of dollars on skill development programs like registered apprenticeships, which I highly believe in. They spend money, millions of dollars every single year on these kinds of skilled training opportunities, however they cannot be expected to take on this monumental task alone by themselves.

We are only making our workforce problems worse by attacking and trying to weaken these organizations who have filled in the gap continuously and taken it upon themselves to train the workers that we need for our economy to continue to thrive and grow.

A portion of union dues goes into a general training fund, which is often used to help cover a large portion of those expenses and those costs, the cost of running a joint union employer apprenticeship program. As union membership has unfortunately declined, so has the amount of resources that are also available for general training funds, making it far more difficult for programs like registered apprenticeships to equip our workers with the skills that are country needs—needs them to have.

Involving a union and a registered apprenticeship has consistently shown significantly better program completion rates, larger capacity to administer those programs and less worker turnover.

My questions, I will start with Mr. Calemine. In your testimony, you referenced a recent report that goes over the benefits of allowing free collective bargaining as opposed to the implementing policies that aren't as friendly to workers, along with providing tangible benefits for employees and their families, there were also some major benefits for businesses and State workforce systems.

Workers are proven to be more productive, turnover decreases, and employers have great access to the skilled labor that they need for their various industries in states with a strong union presence. The study also specifically mentions that states with strong unions have 13—excuse me, 31 percent more registered apprentices per 100,000 workers than states without them.

Can you please talk to us today about why that is, and the important role that unions play in equipping a modern workforce with the necessary skills to thrive in today's economy?

Mr. CALEMINE. Thank you for the question. That is because unions organize and bargain contracts that set up and utilize apprenticeship programs. The unions help train a workforce, a highly skilled workforce. It is sort of a method of development rather than of a workforce and improving people's lives. It is a little different from the notion of how right to work laws have worked, which is more about runaway shops.

I think we have seen over the last couple decades that if you live by a runaway shop, that is by chasing smokestacks, trying to get a factory from a non-right to work State to move to a right to work State, that runaway shop remains a runaway shop. You live and perish by those things. They will move elsewhere to China, to Mexico, and so forth.

With apprenticeship programs, unions are helping develop a workforce, a highly skilled workforce in whatever industry they are working in, and it is a vital benefit to the entire country and the economy.

Mrs. MCBATH. I yield back the balance of my time.

Chairman GOOD. Thank you. We will now recognize Ms. Houchin from Indiana for 5 minutes.

Ms. HOUCHEIN. Sorry, Mr. Chairman. I am going to blame Mr. Bean for that. Thank you to the witnesses for testifying for us today. Thank you to the Chairman for having a hearing. I am real-

ly happy to be part of the Education Committee, particularly with its emphasis on the workforce.

As you may know, since Indiana adopted its right to work legislation in 2012, we were the 23d State in the country to adopt that. Since that time we have seen a nearly 15 percent increase in manufacturing employment, according to the Bureau of Labor Statistics. Meanwhile, during the same timeframe non-right to work states raised their manufacturing employment by a mere half a percent.

Mr. Mix, a majority of states have passed right to work laws. As you know, these laws provide workers with the freedom to choose how to spend their hard-earned paychecks. Indiana's increase in manufacturing employment after becoming a right to work State proves companies are more interested in operating in right to work states.

Why do companies so highly value states with right to work laws?

Mr. Mix. Yes, Congressman, thank you for the question. Indiana is kind of interesting because Michigan and Indiana are the two states that passed right to work laws in 2012, led the Nation for the next 2 years in manufacturing job growth, and it has really benefited Indiana.

Really, there has been no question about the benefit to Indiana. Union officials object to it obviously, because they cannot compel people to pay dues or fees to get to keep their jobs. As I mentioned earlier in my testimony, when you look at site selection criteria and folks that are consulting on issues, I think the Fantis Company, one of the largest site selection relocation companies in the world said that 50 percent of all their clients say we are not going to go to a right to work state—or a State that does not have a right to work law.

The benefit from a manufacturing standpoint is demonstrable at this point. I mean there is no question about that. For whatever reason that they may go, based on the answer to the last question, the right to work is part of that equation, and that means that they can have this relationship with their employees, talk to them directly, and most of the time if an employer is not taking care of their employees guess what?

They will get a union. They will deserve a union. Employers these days understand as Congressman Allen indicated, that employers have to go find their workers now, and they have to take good care of them, and they have to take care of wages and benefits and be competitive.

You know, only 6 percent of the private sector workforce in America today is unionized, and that is not because they do not have the ability to unionize, it is because as Gallop said, 58 percent of non-union employees have no interest whatsoever in joining a union and certainly the American people oppose force and compulsion.

Ms. HOUCHIN. Thank you. I remember during the debates on right to work in Indiana there were shouts of the sky is falling, it is going to be terrible. There were scare tactics claiming the death of the unions were yet to come. The sky did not fall in Indiana and unions still exist in Indiana, and right to work states, and as you

said, if it provided a good benefit people would want to voluntarily join for their own benefits.

I have heard opposing arguments saying that employees in right to work states are paid less, receive fewer benefits than employees in similar states that are not right to work, but I have not seen that to be the case in my home State. Have you found that to be accurate in other states?

Mr. MIX. Yes, we have. As I mentioned previously, when you overlay a cost-of-living index on wages, you find out that workers in right to work states have at least \$3,000.00 more in disposable income per capita in the states that allow for a worker to choose whether or not to join or pay dues to a union.

Ms. HOUCHIN. The Biden administration has issued numerous decisions that undermine employee free choice and strengthen labor union's ability to force representation on unwilling workers. I just do not believe it should be compulsory. I am not anti-union. I just do not think people should be forced to.

I was a State employee in Indiana before Mitch Daniels took away the ability for public sector unions, and they often spent my dues on political campaigns for ideologies that I disagreed with. I do not think that folks should have to spend their hard-earned money for compulsory dues, particularly when those dues support political positions and parties and candidates whose policies go against their own values.

The arguments made by some of our democrat colleagues against right to work laws, in many cases, just are not true. Despite Indiana being a right to work State we still have unions. Wages are up. Jobs are up. It does not make unions go away. It just simply provides employee choice.

I am a proud supporter and cosponsor of the National Right to Work legislation in this Congress. I have seen firsthand the positive effects of it in my own home State. I am happy to support it. Thank you to Mr. Wilson for bringing it forward. Thank you to the witnesses, I will give you the last word, Mr. Mix.

Mr. MIX. Yes. If could, you know, and that is an important fact you make. We believe that right to work laws hold union officials accountable. When workers can vote with their pocketbooks about whether or not they want to support a union when they are out playing politics, or doing things that have nothing to do with the shop floor, but everything to do with what is happening in Indianapolis, or Washington, DC. or Sacramento, or Jefferson City, or Tallahassee, or Columbia, wherever they are.

It would focus them on the shop floor because that is where they have to be accountable. Right to work laws allow workers to hold union officials accountable in the workplace.

Ms. HOUCHIN. Thank you. I yield back.

Chairman GOOD. Thank you. We will now recognize Mrs. Hayes from Connecticut for 5 minutes.

Ms. HAYES. Thank you. Thank you to our witnesses for being here today. Before I begin my questions there are just a few things that I want to touch upon from some of the things that have been said previously. Mrs. Geary, I want to tell you that no one should be threatened, harassed, or tricked into joining a union, and quite

frankly those things are illegal, and not representative of unions as a whole.

I am sorry if that was your experience, but you should have won a lawsuit if that was the case because that is not what unions do. To piggyback on what my colleague from New Jersey said about who is looking out for the little guy. I am a teacher by profession, and when the Trump tax cuts went into place the \$250.00 in tax benefits that teachers used to be able to claim for out-of-pocket expenses was taken away.

I guess my question is who is looking out for the little guy if big corporations are the focus of the Republican-controlled Congress? Much of what we hear about right to work states is about grievances against unions, so what happens when the employees in those states have grievances against the employer?

Who is looking out for them? Then just finally, about the endorsements and spending money on political campaigns. I was a member of many different unions, and there is always an election, and unions respect the outcomes of elections when they decide who to endorse, or who to contribute to. It is not just a decision made in a vacuum where, I mean I am sure there are people who do not vote for—who their candidate or their person is not the one who wins, but there is an election.

The union has to respect the outcomes of the election. My questions, we have seen mobilizations in labor, the labor movement this year. Last year, a number of workers represented by unions rose by 273,000. Over the past 6 months, nearly 700,000 workers have won pay increases because of collective bargaining.

Across the country workers are seeing corporations enjoy incredible profits while the workers are left behind with stagnant wages. Thanks to persistent negotiations and several notable strikes, organized labor and collective bargaining have seen tremendous victories this year.

Last month, the United Auto Workers secured a 25 percent wage gains from the Big Three automakers. In August, Teamsters ratified a new contract with UPS to win higher wages and a commitment to improve delivery trucks with something as basic as air-conditioning.

In my State of Connecticut, we ranked ninth nationally for workers represented by a union. In October, nurses in my district secured a 3-year contract with numerous economic victories, while statewide pushes to improve hospital staffing have gained momentum. My question, Mr. Calemine, in your testimony you referenced a 2023 Treasury report on the impact unions have on non-union workers.

Can you explain how a national right to work law may hurt workers who have chosen not to organize in their workplace?

Mr. CALAMINE. Yes. Thank you for the question. Essentially it is designed to weaken unions, to reduce the unionization rate. That is what a right to work law is designed to do. When that happens workers at union facilities lose leverage and do not get as high a raise in their contracts, or as good a benefits as they might otherwise have over time if they were able to exercise full bargaining strength.

That means that the non-union employers feel less pressure to raise their wages to try and compete with the unionized employers for workforce, or to try and fend off an organizing drive, which I have heard here I wish we lived in a world that was kind of described where people were free to join unions.

We do not live in that world. Workers have to run a gauntlet of intimidation and fear tactics, and firings to try and win unions every day in this country. It is amazing that they are making the progress that they are making now. It shows how fed up people are, but the labor law needs to be reformed in a dramatic fashion to really protect workers and guarantee their right to organize a union.

Mrs. HAYES. You have kind of answered my second question, which was while unions are making huge gains for workers, it remains critical that there is a level playing field and some of those barriers are removed. Last year, we heard testimony from Dr. Kate Bronfenbrenner who testified of the numerous tactics that employees are faced with when trying to join a union and prevented.

If we are truly having an honest conversation, and it is about employees having the right to join a union if they choose, then the barriers and the games that are played to block them from doing that should not be a part of the conversation. With that, I yield back.

Chairman GOOD. Thank you. I now recognize Mr. Banks from Indiana for 5 minutes.

Mr. BANKS. Thank you, Mr. Chairman. Mr. Mix, recently it seems like most unions are going woke. I do not know if you would agree with that or not. Just the case in point, the SEIU has been pushing for “trans inclusive healthcare”. The Teamsters have been encouraging their rank-and-file members to share their pronouns, and earlier this year the AFL-CIO declared it was time to “organize and mobilize against attacks on abortion.”

My dad, a lifelong member of a union, he worked hard all of his life in a factory. I do not think he would support most of those woke causes, nor do I believe most members of these unions would support those causes. Why are these unions going so woke?

Mr. MIX. Congressman, thanks. I think because they have the power of compulsion and force. I mean, Congressman Norcross talked about you know you can get out of your taxes, and you shouldn't be forced to pay taxes if you disagree. Well, that is government. These are private organizations, and they should not have the power of force.

Because rank and file workers can't hold them accountable in states where they are compelled to pay dues or fees to keep their jobs, the union has the ability to talk about anything they want frankly, because the money comes in monthly through a dues deduction program, and is a condition of employment.

Mr. BANKS. Why does the leadership of these unions thumb their nose at their members? I mean that's the crazy part of it. My dad would not support any of these causes. He is pro-life, he is pro-family, he supports the Second Amendment, but the leadership of these unions are so—have distanced themselves so much from their rank-and-file membership.

I understand why they get away with it, but why do they do it? Like what motivates them to go down that woke, left wing, radical political path that does not represent the members of their union?

Mr. MIX. Yes, you are absolutely right. The chasm between union officials and rank and file workers is growing wider and wider all the time because they can, and that is the point of this bill by Congressman Wilson. Again, it does not take away—it does not add a single word to Federal law.

It just simply says let us have voluntary unions, which gives rank and file workers the ability to hold their union officials accountable when it comes to these types of positions.

Mr. BANKS. Yes. I want to talk about Indiana. I know Representative Houchin did as well. We passed—it has been a decade now that we passed right to work in Indiana. Can you talk about some of the benefits, how that has benefited Indiana? Have we done any studies since then? I mean the data seems to support the case that right to work worked for Indiana.

Mr. MIX. Yes, indeed your colleague was talking about that in her questions and comments about manufacturing job growth, and employment job growth, and wage growth in the State of Indiana. In fact, Congressman you know, given your experience in Indiana, that Indiana led the Nation in new manufacturing jobs shortly after passing the right to work law.

It was Mitch Daniels, your Governor, who opposed right to work, who after a year of watching at work he said I may have made a—underestimated the impact of right to work when it came to job creation, new jobs, wage increases, and economic benefits that Indiana still is recognizing today.

Mr. BANKS. Can you compare that to Michigan? Michigan quickly followed Indiana's lead, but then they because of political pressure by democrats in the State they pulled it back. What was the outcome for Michigan? Indiana seems to have benefited from Michigan's misguided decision to hold back on the right to work.

Mr. MIX. Well, Congressman the right to work law is still in effect. It will be in effect until February because it basically takes effect. The repeal takes effect 90 days after the legislature signee dies—and they did, so come February there will be workers in Michigan who heretofore have decided not to pay union dues. They will get a dues deduction out of their paycheck again as a condition of their employment.

Michigan again, it was Michigan and Indiana that passed right to work laws in 2012. Indiana first, and Michigan trying to copy you that led the Nation in manufacturing job growth for the 2-years prior to the—or after the passage of the right to work law. I suspect that things are already happening in Michigan that will probably stymie economic development and growth and investment in that State because of the repeal by one vote in both chambers.

Mr. BANKS. Can you point to data, or evidence that workers in Michigan, or especially in Indiana have actually even union workers, have even benefited from higher wages because of right to work laws?

Mr. MIX. Yes. Absolutely. We talked a little bit about that, but in fact in Indiana, Congressman, you may remember this, but the year after right to work passed, union membership actually in-

creased in your State. Workers said you know what? I want to commit to this, and union officials started going out selling a product to the workers in Indiana, where their union membership actually increased.

We know that when we compare costs of living, when we actually adjust wages to the cost of living, that workers in right to work states in Indiana are better off by about \$3,000.00 in per capital disposable income.

Mr. BANKS. Yes. I just think it is crazy that the—not anti-union, grew up in a union family, I think it is crazy these union officials are so detached from their members that they become arms and tools of the democrat party, rather than representing the working class values of their membership, and I think you have made a case for that as well as the rest of you, so with that Mr. Chairman I yield back.

Chairman GOOD. Thank you, Mr. Banks. Now we will recognize my friend from Virginia, Mr. Scott, for 5 minutes.

Mr. SCOTT. Thank you. Thank you, Mr. Chairman. Mr. Mix, in your testimony, did I understand that you believe there is a bias in favor of compulsory unions in present law?

Mr. MIX. Absolutely.

Mr. SCOTT. Okay.

Mr. MIX. Categorically.

Mr. SCOTT. Thank you. Mr. Calemine, it is been pointed out that you are a former member of the staff on this Committee, welcome back.

Mr. CALEMINE. Thank you.

Mr. SCOTT. A lot of good work when you were here. A lot has been said about the accountability of union leadership. How do you hold a union—how do union members hold their leadership accountable?

Mr. CALEMINE. Unions are democratic organizations, and so members have a voice in that organization. They have freedom of speech. They get to vote on who their officers are. They can run for office. They get to vote on all kinds of things. In fact, once you unionize a workplace, it is a gateway to democracy.

You vote on your officers, your shop stewards, you vote on whether or not you are going to ratify a contract. You vote on who is going to be on the bargaining committee and what their priorities should be. You have a whole lot of choices, and when you do not have a union, you do not have any choice, you basically live at the whims of the employer. The employer decides unilaterally what the terms and conditions of employment will be.

Mr. SCOTT. Thank you. In the Chair's opening remarks he mentioned a members' only contract where you can have a contract that would justify all the raises and whatnot—just apply it to union members. Is that present law?

Mr. CALEMINE. Thank you. There is an argument that it can be done. The problem with it is that there is no obligation on an employer's part to bargain in good faith with members of this notion of a member's only minority union that just covering a small group of people. There is no obligation for that employer to actually sit down and in good faith bargain with such a group.

The good faith bargaining obligation only attaches when you go to an NLRB election or go through voluntary recognition and show majority support of the entire bargaining unit.

Mr. SCOTT. Which requires you to do—to represent all the members of the bargaining unit equally. That means even to the individual level if you provide a lawyer to someone with a grievance who is a union member, you would have to provide the same kind of lawyer to a non-member at union cost, paid for by dues paying members.

Mr. CALEMINE. Correct.

Mr. SCOTT. Now if someone elects not to join the union and pays the fair share, are they contributing to political activities?

Mr. CALEMINE. No. If they are agency fee objector, then the union every year is figuring out how much of its costs go to things like politics, and how much goes to things germane to collective bargaining, and providing a rebate, or reducing the fee by that amount so that an agency fee objector is not paying for political activities.

Mr. SCOTT. They are not paying for the holiday party?

Mr. CALEMINE. It depends on what the holiday party is. You are talking about a union holiday party at the union headquarters?

Mr. SCOTT. Yes. Or somewhere, it does not have anything to do with the bargaining contract or anything.

Mr. CALEMINE. Things that are not germane to collective bargaining are not—they will not pay for those as part of those agency fees; correct.

Mr. SCOTT. Okay. The sanction for an unfair labor practice, such as firing someone for supporting a union, what is the present deterrent effect of the present sanctions? What does an employer have to pay?

Mr. CALEMINE. After sometimes years of litigation to try and win your job back, if you have been fired for trying to organize a union, the employer is not fined in any way by Federal law. All the employer has to do is provide back pay to that employee, or that former employee, that fired employee, minus any interim earnings they might have earned because they had to go out and feed their family.

They might have gotten another job, so the employer benefits from whatever wages that worker got in the meantime.

Mr. SCOTT. If they were working, if they were trying to organize a non-union shop and got a union job somewhere, they could have been paid more, so there would be what, no sanction?

Mr. CALAMINE. Right. They would not have lost any interim earnings.

Mr. SCOTT. There is no sanction?

Mr. CALAMINE. Correct.

Mr. SCOTT. For firing someone, unfair labor practice. Now, if you are the victim of an unfair labor practice, what compensation do you get?

Mr. CALAMINE. You get a make whole remedy if you are the victim, and you will, I guess it is just the reverse. You would get like whatever you would have earned in the interim since the reinstatement is ordered, whatever earnings you would have lost if you had not been fired you would get that amount of money.

Mr. SCOTT. Minus what you made on the side?

Mr. CALAMINE. Minus what you made on the side, correct.

Mr. SCOTT. Which means years later you might not get anything?

Mr. CALAMINE. Correct.

Mr. SCOTT. For getting fired?

Mr. CALAMINE: Correct.

Mr. SCOTT. What kind of message does that send to all the other people that are thinking about organizing a union?

Mr. CALAMINE. It says do not try this. That is the message it sends. The other part of the remedy is that you get reinstated. By the time you are reinstated years later, the organizing drive—many of your coworkers may have already left. The people that were trying to pull together and make a difference, the workplace has changed.

Employers, anti-union employers exploit these weaknesses in the labor law to bust union drives all the time and there are countless victims out of there of it.

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman GOOD. Thank you. Now we will recognize Dr. Foxx, or Mr. Burlison from Missouri for 5 minutes.

Mr. BURLISON. Thank you, Mr. Chairman. Mr. Calamine, I want to ask you—I am going to give you a quote, and I am going to ask you if you agree with the statement. This is by President John F. Kennedy in the 1962 Executive Order 10988. He said employees, when he used to talk about employees, he said shall have and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal to form, join and assist an employee organization, or to refrain from such activity. Do you agree with that? That quote?

Mr. CALAMINE. I agree with that. Yes.

Mr. BURLISON. You do agree that there should not be any kind of reprisal for someone who chooses not to join the labor organization?

Mr. CALAMINE. Correct. Including firing.

Mr. BURLISON. An employee who is saying I am not joining, I am not paying dues, you are saying that that person should keep their job. They should not be fired?

Mr. CALAMINE. There is a distinction in the law between joining as a member and meeting your financial core obligations as part of this workforce that is all receiving the benefits of the contract and the benefits of the representation to pay your fair share.

Mr. BURLISON. There is no—yes, substantively there is no difference. At the end of the day, what they are—like this is a termination request letter. Mr. Chairman, I would like to submit this to the Committee. This is a recommended letter, or template on how to fire employees to the employer if the member does not pay union dues.

Chairman GOOD. Without objection.

[The information of Mr. Burlison follows:]

PART XVII: UNION SECURITY AGREEMENTS AND AGENCY FEE OBJECTIONS

1. Introduction

The Communications Workers of America policy on agency fee objections is the Union's means of meeting its legal obligations to employees covered by Union security clauses and of effectuating those employees' legal rights as stated in the applicable decisions of the United States Supreme Court (including *Beck v. CWA*) and the companion lower court and labor agency decisions. Under the CWA policy, employees who are not members of the Union, but who pay agency fees pursuant to a Union security clause, may request a reduction in that fee based on their objection to certain kinds of Union expenditures.

CWA contracts generally include "Union Security" or "Agency Shop" language that requires all employees to pay dues – if they are members – or agency fees – if they are not members – in order to maintain their employment. The biggest exception to this rule occurs in "Right to Work (for less)" states where such a requirement is prohibited. In a so-called right-to-work state, the union must represent every employee in the bargaining unit, but cannot require everyone to pay for that representation.

Contracts under the Railway Labor Act (for CWA, these are primarily in the airline industry) can apply agency shop language to all employees even if they are located in a right-to-work state.

The Supreme Court's *Beck vs. CWA* decision in 1988, set the requirements for private sector unions, like CWA, to allow agency fee payers to object to the payment of fees to support activities not directly related to core representational responsibilities – collective bargaining, contract administration and grievance adjustment. The union is required to prepare an accounting of its expenditures, dividing them into those chargeable and those that are not chargeable to all represented employees and to provide that accounting to any fee payer that objects to such non-chargeable expenditures. Then the union must reduce the fees it charges these agency fee objectors to reflect the share of its expenditures that are not chargeable. Over time, the

non-chargeable portion of CWA's expenses has hovered between 25 and 30% of the Union's total expenditures.

Other decisions apply the concepts behind the Beck decision to airline contracts under the Railway Labor Act (Ellis vs BRAC, 1984) and to employees in the public sector (Chicago Teachers Union v. Hudson in 1986).

2. Definitions

AGENCY SHOP/UNION SECURITY AGREEMENTS

These agreements require workers, who are not union members, to pay an "agency fee" equal to normal union dues, as a condition of employment. Regardless of the wording of the particular contract, none can require the payment of more than this agency fee to retain employment. Workers cannot be required to become members of the union. Certain states have so-called "Right-to-Work" laws that prohibit unions and employers from negotiating such agreements. These laws do not apply to unions organized under the Railway Labor Act, which for CWA, means our members employed by airline companies.

MEMBER

A member is a worker who has signed a union membership card. This status remains in effect until the worker resigns in writing. Regardless of what local bylaws may say, membership is voluntary and the only legal requirement for resignation is that it be made in writing.

AGENCY FEE PAYER

An agency fee payer is a worker who has chosen not to join the union (or has resigned his membership) but who must, under the agency shop/union security language in the collective bargaining agreement, pay agency fees (equivalent to dues) as a condition of employment. Agency Fee Payer is the initial status of any employee under an agency shop agreement –all newly hired workers are agency fee payers. That status remains in effect until the worker signs a membership card.

Agency Fee Payers are represented by the union, but have no say in that representation. They may not attend union meetings, participate in the election of officers, vote for contract acceptance or have any other members-only rights or privileges.

NON-MEMBER

A non-member is a worker who has chosen not to join the union (or who has resigned his membership) who is not required to pay agency fees because there is no agency shop language in the contract.

Non-members are represented by the union, but have no say in that representation. They may not attend union meetings, participate in the election of officers, vote for contract acceptance or have any other members-only rights or privileges.

AGENCY FEE OBJECTOR

An Objector is an agency fee payer who objects to paying more than the costs of collective bargaining, contract administration and grievance adjustment. This status is in effect for one year and must be renewed each year unless the objector explicitly requests that his objection be considered continuous or permanent (applies to private sector only), in which case his objector status will continue to be recognized as long as he remains in the bargaining unit.

BECK OBJECTORS (PRIVATE SECTOR EXCEPT AIRLINES)

Beck objectors are objectors under the Supreme Court's Beck ruling affecting employees organized under the National Labor Relations Act (NLRA).

ELLIS OBJECTORS (AIRLINES)

Ellis objectors are objectors under the Supreme Court's Ellis ruling affecting employees organized under the Railway Labor Act.

HUDSON OBJECTORS (PUBLIC SECTOR)

Hudson objectors are objectors under the Supreme Court's Hudson ruling affecting public sector employees.

CHARGEABLE EXPENSES

Expenses that are “germane to collective bargaining, contract administration and grievance adjustment” are called chargeable because the union can charge an agency fee objector for them.

NON-CHARGEABLE EXPENSES

Expenses that are NOT “germane to collective bargaining, contract administration and grievance adjustment” are called non-chargeable because the union MAY NOT charge an agency fee objector for them.

OBJECTOR YEAR

CWA's 'objector year' runs from July through the following June.

STATEMENT OF CHARGEABLE AND NON-CHARGEABLE EXPENSES

Each year an audit of CWA's finances is performed by an independent certified public accounting firm. Included in this audit is the development of a Statement of Chargeable and Non-Chargeable expenses which is used to determine the percentage of agency fees that will be reimbursed to agency fee objectors for the coming objector year.

FAIR SHARE/FAIR SHARE PAYER

These terms are sometimes used in New Jersey for agency shop agreements and agency fee payers.

3. CWA Objection Process

- A. The agency fees payable by objectors will be based on the Union's expenditures for those activities or projects "germane to collective bargaining, contract administration, and grievance adjustment" within the meaning of applicable United States Supreme Court decisions.

Among these "chargeable" expenditures are those going for negotiations with employers, enforcing collective bargaining agreements, informal meetings with employer representatives, discussion of work-related issues with employees, handling employees' work-related problems through the grievance procedure, administrative agencies, or informal meetings, and Union administration. In the past, approximately 70-75% of the International Union's expenditures have gone for such activities. The percentages of Local Union expenditures on "chargeable" activities have generally been higher.

Among the expenditures treated as "non-chargeable," which objectors will not be required to support, are those going for community service (including participating in charitable events), legislative activity, cost of affiliation with non-CWA organizations, support of political candidates, participating in political events, recruitment of members to the Union, and members-only benefits (including members-only social events). In the past, approximately 25-30% of the International Union's expenditures have gone for such "non-chargeable" expenditures. The percentages of Local Union expenditures on "non-chargeable" activities have generally been lower.

- B. Objectors will be provided a full explanation of the basis for the reduced fee charged to them. That explanation will include a more detailed list of the categories of expenditures deemed to be "chargeable" **and those deemed to be "non-chargeable," and the independent certified public accountants' report showing the Union's expenditures on which the fee is based.** In addition to any other avenue of relief available under the law, objectors will have the option of challenging the Union's calculation of the reduced fee before an impartial arbitrator appointed by the American Arbitration Association, and a portion of the objector's fee shall be held in escrow while he or she pursues that challenge. Details on the method of making such a challenge and the rights accorded to those who do so will be provided to objectors along with the explanation of the fee calculation.

C. Objections for the period of July through June must be sent during May. Objections will be honored for one year unless the objection specifically states that it is continuing in nature. Continuing objections will be honored for as long as the agency fee payer remains in the bargaining unit. Agency fee payers who are new to the bargaining unit, or who are returning to the bargaining unit, may object within thirty days of receiving this notice. In addition, employees who resign Union membership may object within thirty days of becoming an agency fee payer. Employees filing these objections in either circumstance should so state that circumstance in their letter of objection. New bargaining unit members are to receive this notice prior to any demand being made upon them for the payment of agency fees. If, however, for any reason a new unit member begins paying agency fees prior to the receipt of this notice, he or she may object retroactively to the commencement of such payments and for the duration of the current annual objection period.

The letter of objection should include name, address, CWA Local number, and employer. Objections must be sent to the Agency Fee Administrator, CWA, 501 Third Street, NW, Washington, DC 20001-2797.

The local is responsible for updating local records of members' request for change to agency fee status.

4. Private Sector: Providing Notice of Employee Right to Object

Upon being notified that a new person has joined the employment rolls at a company or an agency with which CWA has a contract, in a state without a right-to-work law, the office of the CWA's Agency Fee Administrator sends a copy of the Union's "Your Rights With Respect to Union Representation, Union Security Agreements and Agency Fee Objections" statement to the new employee. From this information, an employee can determine whether he wants to become a union member or remain an agency fee payer. The statement is included in the next section.

Substantially the same statement is printed in the first edition of the CWA News published each calendar year. It is also posted on the CWA website at:
http://www.cwa-union.org/pages/security_agreements_and_agency_fee_objections

STANDARD PROCEDURE TO OBJECT

Agency fee payers who wish to object for the coming objector year are expected to write to the Agency Fee Administrator during May. Assuming the fee payer is eligible for a fee reimbursement, he will receive an advance check for the non-chargeable portion of the fees that he is projected to pay during the coming objector year. To be eligible, a fee payer must be current on the payment of his fees and must not be a member of CWA.

An Agency Fee Payer may state in his objection letter that his objection is continuous and permanent in nature. In that case, his status will be changed to agency fee objector for all future years – until he leaves the bargaining unit. A continuing objector must stay current with the payment of his fees. If he takes a leave of absence and does not return and start again to pay fees within that objector year, his objector status may lapse and he may have to refile.

In addition to the check paying the non-chargeable portion of future fees in advance, an objector also is provided a copy of the Statement of Chargeable and Non-Chargeable Expenses, on which the percentage attributable to non-chargeable expenses is based.

Locals with private sector agency free payers are responsible for a current chargeable/non-chargeable audit at least every three (3) years. This audit should be certified by a CPA and submitted to the Agency Fee Administrator.

Forms and Instructions are available at the CWA Local Forms webpage at <http://www.cwa-union.org/for-locals/forms>.

WHEN A NEW HIRE OR A RESIGNING MEMBER BECOMES AN OBJECTOR

A new employee who does not sign a membership card remains an agency fee payer. A member who resigns becomes an agency fee payer.

Once an agency fee payer has received the notice of his right to object, he has 30 days from his receipt of that notice to send a letter to the Agency Fee Administrator stating his objection. If this occurs in the middle of the objector year and the agency fee payer has begun to pay monthly fees, he will receive a check in the next several weeks for an amount equal to the non-chargeable portion of the fees he is projected to pay during the balance of the current objector year. He is expected to continue to pay the full amount of agency fees each month.

Locals are responsible for responding to the provisionally eligible list of all agency fee objector applicants for the objector year. This list will determine if the applicant is eligible for reimbursement.

5. Public Sector – General

Agency Fee Payers

In June of each year, all agency fee payers who work for public sector employers are sent a letter notifying them of their right to object to the union's spending of their fee payments for non-chargeable expenditures. Within 35 days from the date of that letter, an agency fee objector must respond to the Agency Fee Administrator's office stating, in writing, their objection to such spending.

All eligible objectors will be mailed a check reimbursing them in advance for the non-chargeable portion of their projected fees for the coming objector year. A copy of the National Union's Statement of Chargeable and Non-Chargeable Expenses and the Local Union's audit of its expenses will be included with that check. Objectors are expected to continue to pay their full agency fees each month.

Locals are responsible for submitting their Chargeable calculations annually. Forms and instructions are available at the CWA Local Forms webpage at <http://www.cwa-union.org/for-locals/forms>. A reminder from the Agency Fee Administrator will be sent annually in December. This annual audit is used in calculating the agency fee objector's reimbursement,

Locals with public sector agency fee payers (excluding New Jersey) are responsible for annual local chargeable/non-chargeable audits. This audit should be prepared and certified by a CPA. This audit should be submitted to the Agency Fee Administrator as soon as practicable but no later than March 1st. This audit will be used in combination with the National Audit in determining public political objectors' advanced refund (excluding New Jersey).

Locals are responsible for responding to the provisionally eligible list of all agency fee objector applicants for the objector year. This list will determine if the applicant is eligible for reimbursement.

Challenges

The letter that accompanies a check sent to an objector, in the public or private sector, includes language which notifies him that, in addition to any other avenue of relief available under the law, He/She has the option to challenge the calculation of the non-chargeable percentage on which his check amount was based. If he initiates such a challenge, an impartial arbitrator will be appointed by the American Arbitration Association to review the calculations and the process by which his charges were determined.

6. Public Sector – New Jersey

Agency Fee Payers

Under the New Jersey law governing employee relations in the public sector, agency fee payers may not be charged more than 85% of the amount that members pay for dues to the Union. In May of each year, each fee payer is sent an accounting of chargeable and non-chargeable spending in the prior fiscal year, by the National Union and by the local union that represents them. The fee payer receives a summary of his payments and, if non-chargeable expenditures exceed 15% of total expenditures, he will also receive a check equal to the difference as a percentage of the fees he is projected to pay during the coming year. Fee payers are expected to continue to pay their full agency fees each month.

Locals with New Jersey Agency Fee Payers are responsible for submitting chargeable/non-chargeable audits annually. Forms and instructions are available at the CWA Local Forms webpage at <http://www.cwa-union.org/for-locals/forms>. Locals will be provided an annual reminder from the Agency Fee Administration in December.

The local audit should be prepared and/or certified by a CPA. This audit should be submitted to the Agency Fee Administrator as soon as practical but **no later than March 1st**. This audit will be used in combination with the National Audit in determining New Jersey Political Objectors' advance refund.

Challenges

A fee payer in New Jersey does not need to file an objection to receive this "Fair Share" payment. He may, however, challenge the calculations. Generally, such challenges are heard by New Jersey's Public Employee Relations Commission, though a fee payer may opt to have an arbitration overseen by the American Arbitration Association.

7. Enforcing Union Security Language

CWA contracts generally include "Union Security" or "Agency Shop" language that requires that all employees pay dues – if they are members – or agency fees – if they are not members – in order to maintain their employment.

Under Agency Shop language in a collective bargaining agreement subject to or the National Labor Relations Act (in non-right to work states) or the Railway Labor Act or state laws governing public sector employees, the Union has the right to require all employees who are members to pay dues and all non-members to pay fees of an equivalent amount to support the activities of the Union. If a non-member – an agency fee payer - does not wish to support the Union's activities not directly related to representation, he may declare himself an agency fee objector, as described in detail earlier in this section.

All agency fee payers are obligated to pay fees. Agency fee objectors may have the fees they pay reduced to exclude the cost of non-representational – non-chargeable – expenses. Objectors are still obligated to pay the chargeable portion of their fees.

If an agency fee payer does not pay the fees he is obligated to pay under the agency shop contract language, whether or not he has declared himself to be an objector, the Union may ultimately enforce that language by requiring the employer to terminate the worker's employment for non-compliance with the terms of the collective bargaining agreement.

CWA's process for enforcing agency shop language has three steps:

1. The Friendly Reminder Letter sent to the employee by the local
2. The Stern Warning Letter sent to the employee by the district
3. The Termination Letter sent to the employer by the district

Sample letters follow:

LETTER 1 - FRIENDLY REMINDER

To be sent 30 days after the obligation to pay fees has gone unmet

Dear [Agency Fee Payer]:

According to our records, you are not paying dues or agency fees. As you know, paying an amount equivalent to dues is a condition of employment pursuant to [cite appropriate section of the contract.]

To help you meet your obligation, I am sending you another payroll deduction card. Please fill it out and send it back to me in the self-addressed stamped envelope and I'll see to it that [employer] gets it right away. If you have already completed one of these cards, please fill out another one anyway because the first one is likely lost in the system.

You also have the option of paying cash dues each month. If this interests you, please call me and I will advise you the exact amount of your monthly payment and where to send it.

If you have any questions or concerns, please call me and I will be happy to talk to you.

Sincerely,
Local Officer

Enclosures: Your Rights With Respect to Union Representation, Union Security Agreements and Agency Fee Objections brochure
Payroll deduction card
Return envelope

LETTER 2- STERN WARNING

To be sent 30 days after the Friendly Reminder letter has been sent and ignored.
Usually sent by District Vice President. NOTE: wording is important and should not be changed.

Dear [Agency Fee Payer]:

I am writing to you about a very serious matter that could affect your future employment. Please attend carefully to this letter. If you have any question about its meaning, you should contact me for clarification.

The collective bargaining agreement between CWA and [employer] contains a union security clause generally requiring, as a condition of employment, that all covered employees tender to the Union an amount equal to the periodic dues uniformly required as a condition of Union membership beginning on the thirtieth day following the beginning of employment. The legal significance of this clause is explained more fully in the enclosed brochure. If you have not already received a copy of the collective bargaining agreement, you may do so by requesting one from me.

The information from your employer indicates that you have been covered by the collective bargaining agreement and that for a period exceeding X months you have not been paying agency fees.

Periodic union dues, which serve as the basis for calculating your agency fee obligation, are ____% of your normal pay. Our records indicate that you owe \$____ per month for the period X months [maximum of three] preceding this letter for a total due of \$_____. While CWA may be legally entitled to collect fees covering a longer period, in the interest of quickly settling this matter, the Union is willing to accept this amount as full payment of all back fees you may owe. You may pay the back fees in three equal installments over the next three months, or you may pay them in one lump sum. In addition to paying these back fees, you must begin paying agency fees as they come due, i.e., no later than the last day of each month.

To make arrangements for paying agency fees, contact me at the Local office on [phone number]. If you have not contacted the Local within 45 days of the date of this letter and made suitable arrangements to pay the back fees and begin paying fees each month, **CWA will contact your employer to request that you be discharged from employment.**

If you believe that our records are in any way incorrect or if you have any questions, please call me immediately.

Sincerely,
District Officer

Enclosure: Your Rights With Respect to Union Representation, Union Security Agreements and Agency Fee Objections brochure
cc: CWA Agency Fee Administrator, Local Union Officer

LETTER 3 – TERMINATION REQUEST:

To be sent to employer after Stern Warning letter has gone unheeded. Usually sent by the District Vice President

Dear [Employer Representative]:

This is to request enforcement of the union security clause in your collective bargaining agreement with CWA.

[Name of worker], an employee covered by the agreement, after having been fully informed of the obligation to pay agency fees and given a reasonable opportunity to tender such payments, has refused to do so. Please take the necessary steps to discharge [Name of worker] for failure to meet this requirement of employment.

Sincerely,
District Officer

cc: [Name of worker]
CWA Agency Fee Administrator, Washington DC
Local Union Officer

Mr. BURLISON. Mr. Mix, I am from—I am really jealous of the people that were, you know, sitting on either side of me—I am from Missouri, a State that sadly forces everyone to pay membership dues, or pay dues to a union whether they want to or not. What we have experienced in Missouri is a giant sucking sound of jobs migrating across the borders into nearly every neighboring State that provides workers the choice of whether or not they want to join a union.

What I found fascinating was when we actually looked at the data in Missouri, is that it was not just that the entire State was losing jobs, the border counties were losing jobs at an even greater rate. Is that what's happening in other states?

Mr. MIX. Yes. Absolutely. When you do a study of like maybe a 30-mile radius on the border of a State, right to work State versus non-right to work State, you see that Oklahoma saw that when they were investigating, and that was one of the main reasons why Frank Keating decided they needed a right to work law because of that drain.

Congressman if I can say, it was not for your lack of trying, right? For sure.

Mr. BURLISON. Right. Well, you know, it has been mentioned the free rider issue to which I do not think—I think when it comes to this country, I think that is a false issue in this regard. There are countless associations that advocate for individuals in any other form of labor, whether the Nurse Aestheticist Association, the Physician Association, the AARP. This country does not put in law a forced requirement that every senior citizen in America has to pay the AARP to reimburse them for their advocacy.

That is because this is America. We believe in the right of association. I will say I have heard the free rider argument, while I disagree with it. Let me—I think I may have a solution. That would be this bill that I am going to be dropping next week called the Worker's Choice Act to directly address this issue, and what it does is it would allow workers in a right to work State to opt out of the union and represent themselves before their employers.

It would free unions from having to represent so they do not—the union no longer has to represent that person. They do not have to pay for the attorney. They do not have to do the work for this person, as well it would give the worker the option to be a union member and accept the working conditions negotiated by the union, or leave the union membership behind, negotiate for compensation, working conditions independently, and provide for their own representation. Your thoughts on that?

Mr. MIX. Yes. It sounds good to me. The idea of this so called free rider argument, we call it a captive passenger argument because Federal law gives union officials the ability to compel that representation of workers that may disagree. In that case, interestingly enough Mr. Congressman, comes from a Supreme Court case in 1944 called excuse me, Louisville Nashville Railroad v. Steel, where white union officials said they did not want to represent black workers on the railroad.

The Supreme Court looked at their power that is derived from 19, you know from the Wagner Act saying wait a minute, you have power equal to a legislative body as it relates to the power you

have over the workers that are “in your unit”. It was racism by white union officials that it created its duty of fair representation, which the union embraced and do not want to give up because it gives them tremendous power over the workplace.

That is what basically says yes, you have got to give the same due diligence and fiduciary relationship to non-members as you do members because it started out as racism because of this power they had over all the workers in the union, even those that did not vote for it, did not want for it, did not ask for a unionization.

Chairman GOOD. The gentleman’s time has expired. Thank you, Mr. Burlison, and now we will recognize Dr. Foxx from North Carolina for 5 minutes.

Mrs. FOXX. Thank you, Mr. Chairman. I want to thank our witnesses today for being here, and especially for all of the history lessons that we are getting today. I think it is wonderful that we can get a good perspective on what has happened in the past, so I thank you.

Ms. Vargas, under Federal law every private sector employee has a right to choose whether or not to authorize automatic payroll deductions of union dues from their paycheck or become a union member. In your current position as a public defender, you are represented by the United Autoworkers. Could you discuss whether UAW officials, who are supposed to represent your best interests, respected your rights to make choices about automatic dues deductions and union membership?

Ms. VARGAS. I was ignored. When they—I just was ignored, I was totally ignored by the officials of the UAW, and they did not explain anything to me. It was my insistence, and having to go after them, and constant emailing them was before I got a response. Even then the onus is on the individual. They will not help you. They did not help.

Mrs. FOXX. Okay. Thank you very much. Ms. Geary, according to your written testimony when you worked as a nurse at Kent Hospital in Rhode Island, the hospital was unionized by the United Nurses and Allied Professionals. You did not vote for or support the union, however under Federal law you are forced to be represented and work under a collective bargaining agreement negotiated by a union you did not support.

Can you discuss whether you think it is fair that you were forced to associate with a union that you wanted nothing to do with?

Ms. GEARY. No. I do not think it is fair that I was forced to participate and pay dues and fees in this union. As a matter of fact, not only was I forced to do so, but because I was outspoken as to my opinion regarding this union, I was punished. I was punished on the job. I was punished personally. I was followed home at night. I was threatened by union reps. I was told my car would be keyed.

It was a nightmare for me. I hear a lot here about unions and the wonderful things they do. I think a lot of this is a facade. I represent the reality of what really happens to people who want to exercise their First Amendment rights of freedom of speech, and freedom of association, and that is how I feel.

This is America. We should be allowed to choose, and if unions are that good, they will sell themselves.

Mrs. FOXX. Yes. I think you are right. I agree with you completely. Mr. Mix, right to work detractors say the law is unfair to unions. They usually cite the "free rider" argument that right to work laws allow workers to benefit from union representation without paying for it, and again thank you for the little history lesson that you just gave.

Can you respond to the free rider argument, and discuss why unions jealously guard their monopoly status?

Mr. MIX. Yes. That is right. There is a couple of quotes there that are pretty interesting. Bill Gould, who was the general counsel of the National Labor Relations Board in the Clinton administration said that workers, the law would allow for member only bargaining, et cetera. Obviously, there are issues that need to be settled.

I think the most relevant quote was from Robert Reisch, who was the Secretary of Labor at the time. He said, "Unions have to have a way to strap their members to the mast," and boy if that is what the Secretary of Labor says about how union officials need to treat their members, they are worried about workers defecting from the union.

The only way they can guarantee they do not is to force them under these compulsory unionist regimes. It just does not make any sense. If they really are doing great things as Jeanette said, they will attract workers. I mean build it and they will come.

We believe that, and I do not think there is anybody on the panel from that side or this side that would block an individual's right to join a union, associate with a union. Again, give their entire paycheck to a union, but force and compulsion have no place in this—whether it be in this law or in State law.

Mrs. FOXX. Thank you very much and I completely agree with you. I yield back Mr. Chairman.

Chairman GOOD. Thank you, Dr. Foxx. We are almost done. We will now recognize our Ranking Member, the distinguished gentlemen from California, Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman. Thank you to Chair Foxx, I love the history lessons. I can remember just as Ms. Foxx was saying that, growing up in Lowell, Massachusetts as a young person and listening to my grandparents' generation talking about the first union movement in the textile mills in Lowell.

The women's textile workers who organized, and then what happened over the course of time is that as their wages came up a lot of those mills moved to the south, so history does repeat itself. What we are really trying to do here is find a balance between the employer and the employee.

To the two witnesses, I am sorry what I have heard of your personal experience. That was not my personal experience as a member of the Teamsters and a member of the Hotel and Restaurant Workers. Mr. Calamine, and I do want to welcome you back to the Committee as Mr. Scott was saying that I was thinking of my predecessor, Mr. Miller, who used to work for is looking down on both of us and smiling.

Although knowing his personality as we do, we probably know he would probably be a little bit—his Irish would be up on some of the conversation. What we are trying to do is find a balance here, Mr.

Calamine. We have talked about the difference between right to work and states like mine, California, the fourth largest economy in the world.

It has very strong labor protection laws. Could you talk a little bit about globally? A lot of what my perception in this is to make these human institutions work as best they can, which I think in goodwill we are all trying to do in the balance, as a former employer whose made a lot of—paid a lot of purveyors and workers overtime in non-union restaurants, in a union area.

I am trying to get this balance right. Lincoln famously said labor and capital have to be balanced. If capital ever gets the advantage, you have lost democracy. There is balance in here. In a world where a concentration of wealth is so extreme, not unlike my grandparents' generation, the gilded age, that led to the depression and two world wars, you have got a lot of concentration of wealth and a lot of concentration of corporate power publicly traded and private.

The union movement has seen a resurgence is—if any indication of what we said. I attribute that to Americans understanding they have to have a stronger voice in a world that's different. We look at competing economies, the Germans, they have a strong labor movement. It is part of their culture of the craft system.

Could we compare a little bit about the world in terms of being competitive? We know that like the Chinese right now we have got a lot of comments about as our middle class grows there is more demand for worker voice. Could you speak to that a little bit in your research and your observations? Not just the regional differences, but being globally competitive?

Mr. CALAMINE. Globally, I think, I grew up in West Virginia, and it was a manufacturing area. A lot of factories around the town where I grew up. Globally, I would start nationally and then go globally. Globally, or nationally rather, when those plants, most of them—I believe most of them were unionized and at bargaining time I heard the refrain growing up.

Unions need to be careful to not ask for too much because they will just move to a right to work State they will move south to a right to work State, to Mr. Wilson's State for example. Those lower—that is these states where workers are not negotiating their terms and conditions of employment with their employer, they are just taking whatever the employer gives them, undercut the standards in the State where I was growing up.

Eventually, some of them would move south. Now what we have is a global economy where there are countries that are also undercutting even the right to work states. If these factories—and that is why when we start with this notion like let us look at manufacturing employment. Why? That is—those are the jobs that are most easily moved around, and so yes, right to work states pulled the manufacturing jobs away from non-right to work states.

Now, places like China or Bangladesh when it comes to textiles, with much lower standards of employment of—of rights for workers, are—have been pulling those jobs away from—from even those right to work states. It is a balance of like finding the right way to ensure that Americans—because we want Americans to grow up with, or Americans to have access to the American dream, and an

ability to sit down and negotiate as equal partners as much as possible with capital to help build a middle class.

It was thanks to unions that we grew that middle class during the period before all the union busting really took off since the 1970's or so.

Mr. DESAULNIER. Thank you. Perfect. I yield back.

Chairman GOOD. Thank you, Mr. DeSaulnier. I now recognize myself for 5 minutes. Ms. Geary, would you say that forced union membership, forced union dues had a positive impact on your or your coworker's relationship with your employer?

Ms. GEARY. No. Not at all. That was one of the biggest regrets in why 150 nurses signed by decertification petition, and it is because we did not know that once a union came in we would not have access to our managers and administrators in order to manage our own jobs.

We are professionals, and all of a sudden, we were cutoff from the decisionmaking process of caring for our patients.

Chairman GOOD. Did you have an opportunity to work in a right to work State also?

Ms. GEARY. I was in North Carolina for a decade. Things there were very, very different. I moved there after I lived in Rhode Island as a matter of fact, and I made frankly, I made about double the pay. I felt more supported.

Chairman GOOD. You made about double the pay in North Carolina?

Ms. GEARY. In North Carolina, yes sir.

Chairman GOOD. Without the help of a union.

Ms. GEARY. Pardon?

Chairman GOOD. Without the help of a union, you made more pay? Interesting—to make sure that was true.

Ms. GEARY. Correct. I was making around 25 something in Rhode Island. In North Carolina I was making 50 to 60 dollars an hour. With an open-door policy that I could talk to administration or management at any time. Now we all had frustrations, of course.

Chairman GOOD. I am sorry. I have to interrupt a second. You mean your employer paid you double without a union forcing that to happen?

Ms. GEARY. In North Carolina? Right. I was offered a job with double the pay that I was receiving in Rhode Island with a union in place. That is correct.

Chairman GOOD. Very good. Ms. Vargas, if I may, UAW officials threatened to claw back a salary increase that you received, and threatened your employment when you did not sign the card to allow the automatic dues deduction from your paycheck. How do you think if a national right to work had been in place how that might have been different for you?

Ms. VARGAS. I am sorry. I would not had to have dealt with it at all. I would not have had to even file with the NLRB. I could have negotiated for myself and probably I believe I would have gotten a better salary increase if I negotiated for myself. I would have had to endure what we faced, being threatened to lose our jobs after almost 30 years working there.

Defending, and that became the other problem. They changed the nature of my office where it became so focused on the union, and

not what we were really there for, which was to provide defense for indigent clients.

Chairman GOOD. Thank you. Mr. Mix, wage negotiations, managing a contract, addressing workers' safety, this is what the average person might assume that a union is using their money for. Things that theoretically improve the workers' conditions, but sadly we know that billions of union dollars are going to political causes, and lobbying activities.

The numbers we have are that 1.2 million went to Planned Parenthood. 15.9 million to the Democratic Governors Association. 1.6 billion, billion with a B for the 2022 election cycle going to democrats. Would you say that works related to negotiate a new contract for individual workers or—what are your thoughts on how those union dues are actually used?

Mr. MIX. In part of our work at the Legal Defense Foundation we argued a U.S. Supreme Court case in 1988 called Beck vs. Communication Workers of America, where when the special master was assigned to kind of discover some information, found that the union was only spending 19 percent of their entire revenue stream on collective bargaining contract negotiating grievance arbitration.

The things that are supposedly fundamental. I mean just looking through reports that the union filed with the FCC and the DOL, you find them spending billions. I do not know, billions does not mean much around here anymore frankly, accounting errors and pocket change.

Chairman GOOD. We deal in the trillions now, yes.

We—you know if you use the decision in the Janice v. AFSCME case in the Supreme Court in 2018 that freed all government employees being—from being forced to pay union dues or fees, and you used the mindset that articulates that the First Amendment protection, and that everything that government unions do is designed to redress government, which should be protected speech—it is under the First Amendment thanks to the Foundation's lawsuit that we won in 2018—the numbers grow quickly to almost 12 billion dollars on political and lobbying activities in a 2-year period.

Chairman GOOD. Individuals like Ms. Vargas and Ms. Geary who have—have to pay those union dues though they may not choose to, 80 percent of that is for political activities they did not choose to spend their hard-earned dollars on. Well, my time has expired, so I will end on time. I will now recognize our Ranking Member for a closing statement.

Mr. DESAULNIER. Thank you, Mr. Chairman. I do want to thank you for having this hearing. Obviously, we respectfully and passionately disagree. Right now, in the largest concentration of wealth in the history of this country arguably, where capital so dominates labor in the spirit of Lincoln and Eisenhower, it is important that workers have a voice.

Is that voice perfect? No. You have elections. Lots of people do not like when they lose elections. Some of them very prominent nowadays, and even contest those elections, despite all the evidence. That is the way the system works. Right now, what I worry about is what Pickery has written about, so in tedious detail that in capitalistic economics when you get this imbalance, there is inevitably an implosion.

What are we going to do about it? What is Congress doing to do about it? I think it is really important that labor has a countervailing institution to capital. Lincoln was right. It is not that capital is bad, but when it is so concentrated as Lincoln said, capital is derived from labor. You have to have people working first.

The institution that protects people in a large global economy that we have available for us is labor. I have heard colleagues who like me, were members of a labor union, and had family members. They understand the value of labor. What we are arguing about I hope here today, is trying to keep ordinary workers having a voice.

I think that is the determination that brings a passion to me to get that right. What I am concerned about, and Bob Reich who is a friend, your quote is not unlike him, but it is in the context of a very large approach where his argument of course is you do not have a middle class if you do not have a consumer class. It is the Henry Ford argument; I want my workers to be able to buy my product.

That is what we are trying to get to. Unfortunately, it is very much swayed. It is hard for people to organize. It has been hard before, and it will be again. Non-union employer's benefit from this. Ms. Geary, good that you made that extra \$25.00 an hour, as a non-union member.

Our argument is the unions helped you because absent that historically there would not have been that competition and we see it in the UAW argument where the non-union employers almost immediately went to give the benefit. I would say, as a former point of sale retailer in the restaurant business, the more disposal income, there is more, cost of living is higher, but also people have more discretionary income, so they go in, they can invest, or they can go in and buy dinner or lunch at the local restaurant.

Getting that balance is a challenge. Mr. Chairman, I wish we could have—we disagree on many things, but I think we both have mutual respect and a cordial relationship. These are the kinds of conversations we can have passionately, but we have to look at the outcomes.

I do not have any doubt that the outcome we have to have in this country is a strong middle class where people have disposable income, and I also have a very firm commitment that and belief that if you look at history the ability for people to organize, have an election as freely as possible, gives them that voice that is equal to, or at least somewhat equaled to capital.

When it comes to contributions, when you look at the record just from American's prosperity, from the Koch industries group, they are spending on independent expenditures dwarfs labor and working people in the last 30 years. Dozens and hundreds of times, probably, so arguing that there should be more accountability. Okay, let us be fair. Let us be fair about corporate interest and capital interest privately held in their contributions and let us have transparency in that.

As much as I appreciate this conversation, I wish it would be more constructive toward getting which—at least body language-wise I am getting from you Mr. Mix. I would be happy to have that conversation is how do we get more balance, what Lincoln was talking about, which then creates this middle class, which is the

spirit of what President Eisenhower said when he had the quote that I had, is getting that more balanced.

I do not see this bill, with all due respect to my friend, Mr. Wilson, as helping that. I will yield back with those comments, and looking forward to a more fruitful, honest, passionate discussion where we might actually agree on some of these things.

Chairman GOOD. Thank you, Mr. DeSaulnier. You know, it is interesting as has been noted several times today, particularly by Mr. Mix, that the vast majority of Americans do not work under a union. 94 percent is the statistic that I have seen that you have confirmed today, and that is perhaps why they do have a favorable opinion of a union, but they still do not want to be part of one.

If you do not work under one, you know, it is kind of like, okay I like it for you, but I certainly do not want it for me, certainly not from a forced standpoint. I especially also appreciated the testimony of Ms. Vargas and Ms. Geary for sharing how you personally suffered under forced, compulsive union membership and union dues, and your willingness to help others benefit from your experience today with your testimony.

The Ranking Member said hey, your experience did not match his, but I suspect that is true because he did not resist forced union membership or compulsory dues payments. His experience may have been different if he had resisted as you all did. Unions are predominantly in blue states, I will point out, from which people are fleeing in record numbers, to free right to work red states.

Why is that? Are the American people stupid? Do they not know what is best for them? Why do they not want unions? Let us let the marketplace dictate. Give freedom to employers, freedom to businesses, freedom to job creators, and yes, freedom to workers and employees.

Right to workforces competition. Right to workforces unions to earn their support and demonstrate the majority consensus for their existence, that is why you hear such resistance to what we are talking about today from my friends on the other side. If right to work was a bad thing, free red states would be suffering and stagnating, while anti-choice blue states would be growing and flourishing, but we all know the opposite is true.

I worked for a union shop, a UAW shop in college in an auto factory. Unions cultivate an unhealthy, us first mentality in the workplace. This is not the same country it was 70 years ago, in terms of protection of worker's rights when President Eisenhower was proposing or promoting unions.

Unions give you the right to strike—yes, they do. They give you the right to lose your job, and the right to have your plant closed. That is what happened in the place that I used to work by the way. A growing number of Americans have chosen again not to join a union. Union's help create a disgruntled employee atmosphere mentality.

The fact is unions again contribute tens of millions of dollars to democrat campaigns, using the very dollars that are withheld from un-consenting employees. The only ones who really win with the union are union bosses and democrat politicians. With the union membership at an all-time low, there is no reason why we should

today be forcing employees to give some of their hard-earned paychecks to union bosses.

I also want to point out that something that was mentioned in the opening statement from the Ranking Member, he said earlier the right to work movement started to stop the advancement of black workers who organize through unions. I would point out that the black, excuse me, the Biden administration is doubling down right now on a pro-union racist law with a nefarious history, the Davis-Bacon Act is a conglomeration of many Jim Crow era policies that were intended to inflate the wages of government contractors and eliminate competition for labor in favor of white union workers.

Under Davis-Bacon the Department of Labor substitutes its own contrived, non-scientific calculations of prevailing wages for actual market wages. The Department of Labor's calculation uses inflated union wages to determine what workers should get paid, and the Biden administration has unilaterally and arbitrarily expanded the Davis-Bacon wage rules through regulation, which is harmful to workers across the country.

I do have legislation to repeal the Davis-Bacon Act, which would help remove these discriminatory laws from the books and save taxpayer money. I openly State that I believe that unions are harmful to the workplace, and I do not support them in any fashion. While I do support, of course, the legal right of workers to organize and choose for themselves.

There are lots of things that I do not support in this country, that I believe should be legal, including the right to organize and choose for yourself. I also support the fundamental right for employers to resist unions. That is important.

The administration today does not support that of course, and that is why they want to pass the PRO Act. I will remind my colleagues today that national right to work does not technically threaten unions, it just ensures that everyday Americans like Ms. Vargas and Ms. Geary do not have to be threatened by a union anymore.

The truth is, and we know this to be the truth, passing the right to work, national right to work, will practically result in reduced union power, and hopefully union membership for those and reduce union membership to those who actually choose to join and fund a union, and that is a good thing in my opinion and in my experience.

I hope we can move this legislation forward so that we can continue to protect worker's rights and liberties and fight against the Biden administration's big labor bias, which is hurting the country and hurting workers all over the country. With that, I would like to thank again our witnesses for appearing today, taking the time to be with us and testify before the Subcommittee. Without objection, there being no further business, the Subcommittee stands adjourned.

[Whereupon at 12:21 p.m., hearing was adjourned.]



October 16, 2023

The Honorable Bob Good
 Chairman
 U.S. House Subcommittee on Health,
 Employment, Labor, and Pensions
 2176 Rayburn House Office Building
 Washington, DC 20510

The Honorable Mark DeSaulnier
 Ranking Member
 U.S. House Subcommittee on Health,
 Employment, Labor, and Pension
 2101 Rayburn House Office Building
 Washington, DC 20510

Chairman Good, Ranking Member DeSaulnier and Members of the U.S. House Subcommittee on Health, Employment, Labor, and Pensions:

On behalf of Associated Builders and Contractors, a national construction industry trade association with 68 chapters representing more than 22,000 members, I appreciate the opportunity to comment on the House Education and the Workforce Subcommittee on Health, Employment, Labor, and Pensions hearing, “Protecting Workers and Small Businesses from Biden’s Attack on Worker Free Choice and Economic Growth.”

In the face of an increasingly hostile regulatory environment for America’s small businesses, ABC appreciates the efforts of the HELP subcommittee to highlight these barriers and burdens on workers and businesses throughout the United States. The House has also introduced several key bills that would provide much-needed protection and clarity for our nation’s job creators and workforce. ABC is proud to support these legislative efforts and urges members of this subcommittee to pass the bills listed below.

The Employee Rights Act

Introduced by Rep. Rick Allen, R-Ga., the ERA (H.R. 2700) has a primary objective to provide essential protections for workers’ rights, choices and freedoms. This bill stands in stark contrast with the so-called Protecting the Right to Organize Act (H.R. 20), which would drastically restructure America’s labor laws, damage the economy, cost millions of American jobs, threaten vital supply chains and greatly diminish opportunities for entrepreneurs and small businesses.

Most notably, the ERA would ensure that any effort to organize a workplace or hold a strike is subject to a private ballot vote. Secret ballot elections ensure that workers have a privacy-protected vote that reflects their true preference for unionization in their workplace.

The ERA is necessary now more than ever, as the National Labor Relations Board’s recent decision in Cemex Construction Materials Pacific LLC imposes a new framework that greatly expands the Board’s ability to impose unions on employees without a secret ballot election, replacing employees’ rights to a private ballot with a card check system that requires the public collection of signatures, or “cards.” The Board’s decision overrules precedent that has stood for over half a century. ABC believes that efforts to eliminate a secret ballot can expose workers to intimidation and coercion and that votes for representation in the workplace must uphold the standard of a private, secret ballot.

Additionally, the ERA would protect workers from unwanted political manipulation and safeguard employee privacy. Included in the ERA is a requirement that employees consent to their union dues being used for anything other than collective bargaining efforts. Many workers join a union in hopes that their dues will help improve their workplace; however, hundreds of millions of dollars in union dues are spent each year supporting political candidates and causes. The ERA would require workers to consent to their union dues being used for other purposes, including political advocacy.

The ERA also limits the amount of employee personal information a union receives during an organizing drive and makes it an unfair labor practice for the union to use employees' personal information for any reason other than a representation proceeding. Employees currently have no ability to prevent their personal information from being disclosed to the National Labor Relations Board and to the union that seeks to represent them.

The Save Local Business Act

While also included as a provision in the ERA, the SLBA (H.R. 2826), introduced by Rep. James Comer, R-Ky., would ensure clarity and certainty for small business owners and workers. It would protect the traditional contractor and subcontractor relationship in construction and give more Americans the opportunity to realize their dream of starting their own business. This legislation would also protect businesses from unnecessary involvement in labor negotiations and disputes involving workplaces in which they do not have direct control and will protect hundreds of thousands of small and local businesses and allow them to grow American jobs.

The NLRB has proposed to greatly expand joint-employer liability under the National Labor Relations Act, which will cause confusion and impose unnecessary barriers to and burdens on contractor and subcontractor relationships throughout the construction industry. As a result, contractors may be vulnerable to increased liability, making them less likely to hire subcontractors, most of whom are small businesses.

The Modern Worker Empowerment Act

This bill (H.R. 5513), introduced by Rep. Elise Stefanik, R-N.Y., defends worker choice and independent contractors by providing much-needed clarity and guidance to the proper classification of contractors under the Fair Labor Standards Act. H.R. 5513 promotes certainty for employers, independent contractors and employees. Plus, the bill's two-factor test, based on control and opportunity for profit or loss, will be easy to comply with and provide workers much-needed flexibility and choice.

The U.S. Department of Labor's independent contractor proposed rule would disrupt the work of legitimate independent contractors and have a devastating effect on an essential component of the construction industry. Independent contractors provide specialized skills, entrepreneurial opportunities and stability during fluctuations of work common to construction. The DOL's rule would only increase the confusion and litigation chaos that has burdened the construction community for years.

The construction industry continues to face challenging economic conditions, including high materials costs that have skyrocketed more than 40% since the start of the COVID-19 pandemic, snarled supply chains and a skilled labor shortage of more than half a million in 2023. The regulatory agenda of the Biden administration will only serve as another burdensome cost on small businesses, exacerbate these headwinds and undermine taxpayer investments in much-needed infrastructure projects.

ABC appreciates the opportunity to comment on this important hearing and looks forward to working with the subcommittee on these critical issues.

Sincerely,



Kristen Swearingen
Vice President, Legislative & Political Affairs

