

Effects of Right to Work Laws on Employees, Unions and Businesses

by

John W. Cooper

Available online at: <http://www.johnwcooper.com>

Acknowledgements

First I would like to thank my parents for being there for me while I was writing this paper. Father, your involvement with the legal profession sparked my interest in the law. You are an inspiration to me and inspired me to take on this legal topic. Mother, thank you for supporting me while I wrote this paper. Without your support and guidance I would not be where I am today. I would also like to thank those who have contributed so much to the study of Right to Work laws, including Baird, Dinlersoz, Ellwood, Fine, Greer, Holmes, Mishel, Moore, and Wilson, who made this paper possible. Lastly, I would like to thank Professor Siedel and my fellow senior seminar classmates for providing me with valuable insights, new ideas, and much needed perspective.

Abstract

Should a state adopt a Right to Work law? This question has been and continues to be hotly contested. In brief, Right to Work laws prohibit unions from including certain types of union security clauses in their contracts with companies that effectively force the company to make their employees either join the union or at least pay a proportion of their union dues as a condition of employment. Proponents of Right to Work laws point to research that says Right to Work laws have a positive effect on states that adopt them while opponents of Right to Work laws do just the opposite.

The purpose of this paper is to sift through the great deal of research currently available to decide whether a state should adopt a Right to Work law. To make this decision, this paper primarily focuses on how Right to Work laws affect a state's people: their wages, their employment levels, their morality, their unions, and their wealth. In examining the moral issues associated with Right to Work laws, this paper looks at both the "forced union dues" problem and the "free rider" problem.

After weighing the pros and cons of Right to Work laws this paper finally concludes that Right to Work laws are a net benefit to a state and should be adopted because the benefits to a state's people outweigh the costs: Right to Work laws create jobs and spur economic activity.

CONTENTS

Introduction

Foreword	1
Introduction	2
Background	4

Employees and Right to Work Laws:

Wages	9
Employment Levels	19
Union Dues	26

Unions and Right to Work Laws:

Union Membership	33
Free Rider Problem	36

Companies and Right to Work Laws:

Stockholder Wealth	40
--------------------	----

Conclusion	42
-------------------	----

Works Cited	44
--------------------	----

FIGURES AND CASE EXAMPLES

Figures

Figure 1: Right to Work Law Adoption Timeline	6
Figure 2: Right to Work Law State Map	7
Figure 3: Full Text of Actual Right to Work State Laws	8

Case Examples

Case 1: Oklahoma's Wage Experience with a Right to Work Law	16
Case 2: Idaho's Wage Experience with a Right to Work Law	17
Case 3: Idaho's Job Experience with a Right to Work Law	24
Case 4: Oklahoma's Union Experience with a Right to Work Law	34

FOREWORD:

Many brilliant studies have been done on the topic of Right to Work laws. This paper's goal is not to provide new groundbreaking research, but to provide someone unfamiliar with the Right to Work issue with all of the most current information in an accessible and easy to read format.

As a resident of Michigan the author of this paper finds Michigan's case particularly interesting and periodically includes statistics pertaining to Michigan throughout the paper. The author hopes that members of Michigan's legislature or anyone interested in the Right to Work law debate may at some point read this paper and find this information useful.

In order to make it easier for the reader to understand the important concepts a key points learning box found at the end of each section summarizes the main points of that particular section. Additionally, case examples of Right to Work law implementation are included sporadically throughout to provide real world examples of Right to Work laws in action.

- Congressperson: This paper will provide you with the background necessary to understand Right to Work legislation. It will objectively examine the mounds of evidence provided by both proponents and opponents of Right to Work laws, and will conclude with some recommendations and suggestions for your state's future.
- Union Member: This paper will inform you of the rights you have in both Right to Work and non-Right to Work states.
- Business Owner: This paper will provide you with all the information you need to better understand how your relationship with a union and the relationship of your employees with a union changes when your business is in a Right to Work state.

INTRODUCTION:

Right to Work laws, sometimes referred to as Right to Work for less laws, are a hot topic (Clay and Larson). Congress is even considering a national Right to Work bill. The bill, H.R. 391, has over a hundred co-sponsors as of December 2003 (“The Welch”). Congress considered another national Right to Work law in 1996, which was defeated by a filibuster in the senate (Baird, RTW Before). The purpose of this paper is to examine whether a state level Right to Work law, is right for your state: “A Right to Work law guarantees that no person can be compelled, as a condition of employment, to join or... to pay dues to a labor union” (“The RTW Principle”).

Proponents of Right to Work laws contend that these laws lead to higher wages, create jobs by attracting businesses, improve union accountability, and are morally right because they stop people from having to support a cause in which they do not believe. Opponents of Right to Work laws contend the laws lead to lower wages, hurt unions, lower people’s standards of living, and are morally wrong, because they allow people to receive union representation without paying for it.

Proponents of Right to Work laws quote Jefferson: "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves is sinful and tyrannical" whereas opponents quote Martin Luther King: “In our glorious fight for civil rights, we must guard against being fooled by false slogans, as ‘right to work.’ It provides no ‘rights’ and no ‘works.’ Its purpose is to destroy labor unions and the freedom of collective bargaining" (Clay and Larson).

Organization of Paper:

- Background Section: To fully understand this issue one needs to understand the historical context in which Right to Work laws originated. This section also shows what they look like and how union's power for exclusive bargaining relates to these laws.
- Employee Section: This section focuses on how Right to Work laws affect workers. First this section examines the effect that Right to Work laws have on worker's wages. Then it focuses on whether these laws attract businesses and create jobs. After that it will shift its attention to the issue of union dues being used for political purposes.
- Union Section: Here we will look at how Right to Work laws affect unions. We will scrutinize the free rider problem for unions, and will consequently pay particular attention to any changes in union membership and union representation that these laws cause. We will also look at how these laws affect unions' bargaining power with employers.
- Stockholder Section: This part will examine how Wall Street reacts to Right to Work legislation, which in turn affects people's net wealth.
- Conclusion Section: In this section we draw upon the analysis from the previous three sections to make a final recommendation about whether or not a state should adopt a Right to Work law.

BACKGROUND

Most of the 22 states that have Right to Work laws adopted them in the 1940's and 1950's after the passage of the Taft-Hartley Act of 1947. The Taft-Hartley Act, which allows states to make Right to Work laws, was enacted in response to the belief that the pro-union Wagner Act of 1935 gave unions too much power ("Taft-Hartley Act"). The Wagner Act gave and still gives unions the power of exclusive representation, which allows them to act as the voice of all of a company's employees if the union can get more than fifty percent of the employees to vote for a union: "Thus, if 100 employees are in the collective bargaining unit and only ten decide to vote, then the union only needs to get six votes in order to represent all 100 employees" (Court and Hunter). After a union gains the power of exclusive representation they will often persuade employers to include union security clauses in their collective bargaining agreements. Prior to the Taft-Hartley Act union security clauses could come in three different forms. Each form would make the employer one of the following types of shops (Court and Hunter):

- Agency Shop: The union's contract does not mandate that all employees join the union, but it does mandate that the employees pay union dues.
- Union Shop: The union's contract requires that all employees join the union within a specified amount of time of becoming employed.
- Closed Shop: The union's contract mandates that the employer only hire union members.

The Taft-Hartley Act of 1947 outlawed the closed shop arrangement. Moreover, section 14(b) of this Act made Right to Work laws legal and gave states the power to pass laws to outlaw both agency and union shops: "Nothing in this Act shall be construed as authorizing the execution... of agreements requiring membership in a labor organization as a condition of

employment in any State...in which such execution or application is prohibited by State or Territorial law” (Court and Hunter).

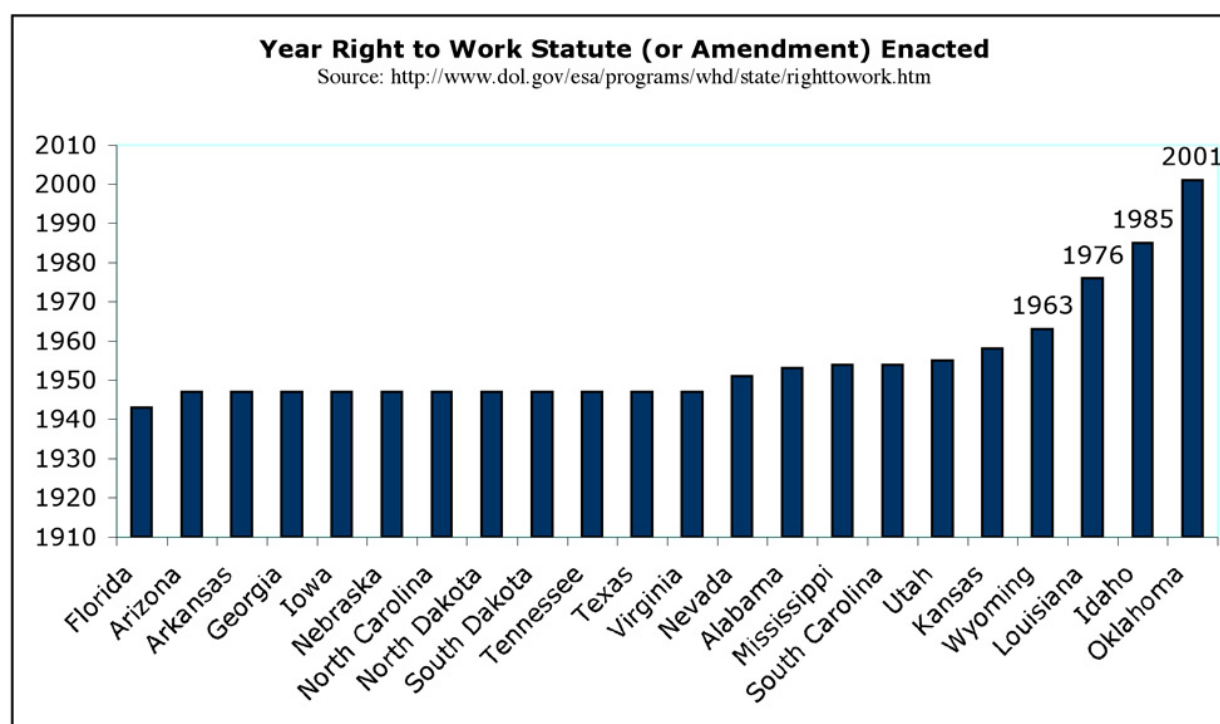
If one lives in a state without Right to Work laws and one’s employer is unionized as an agency or union shop, one would be required to join the union or at least pay union dues. The employee would also be represented by the union, and bound by the union’s contract. On the other hand, if one lives in a Right to Work state, and one’s workplace is unionized, one would generally still be represented by the union and bound by the union contract, but would not be required to join the union or pay union dues.

KEY POINTS – Introduction

	Right to Work	Non-Right To Work
Union is generally required to represent employee	Yes	Yes
Employee is bound by union contract	Yes	Yes
Union is the employee’s exclusive bargaining agent	Yes	Yes
Employee is required to join union or pay union dues	No	Yes

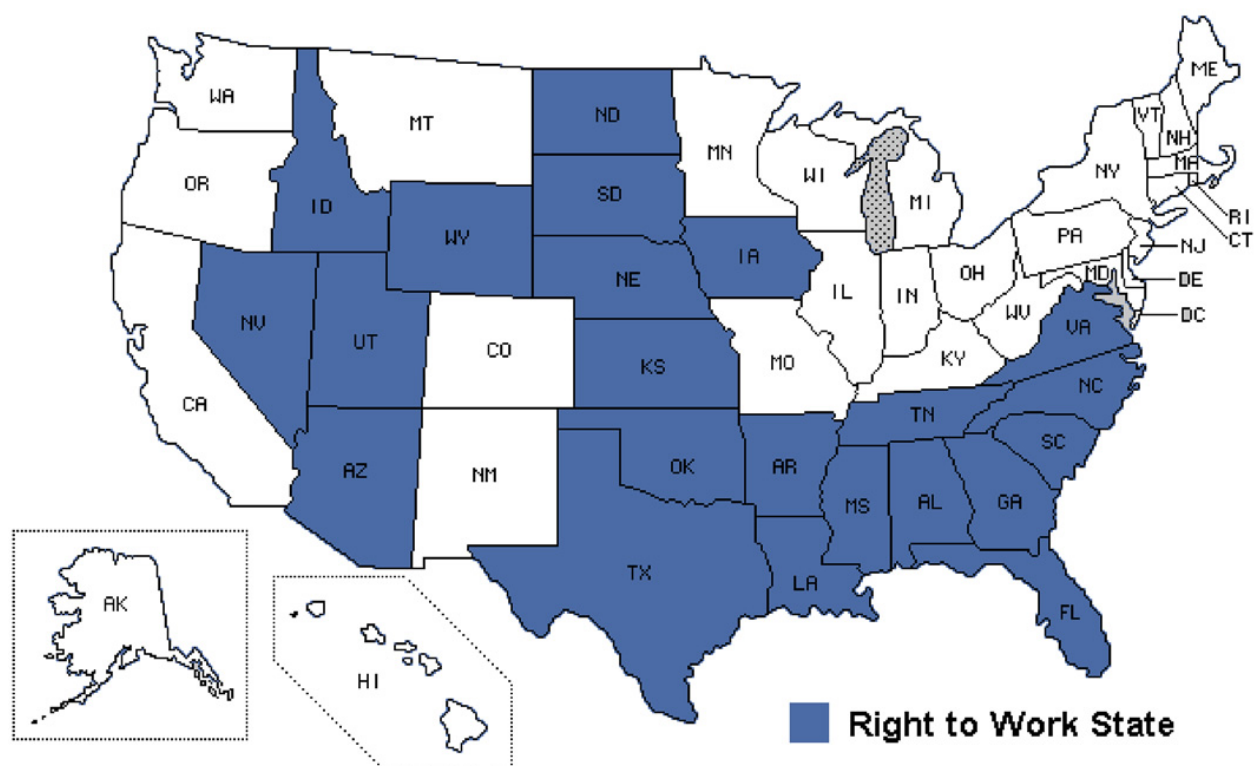
Figure 1: Right to Work Law Adoption Timeline:

As you can see from the chart below, most states adopting Right to Work Laws did so during the 1940's or 1950's. The two most recent adopters were Idaho and Oklahoma. The chart below lists all the states that have adopted and kept Right to Work laws:



Note: Delaware (1947), New Hampshire (1949), and Indiana (1965) all enacted Right to Work laws in the years within the parentheses, but are not listed above, because they have since repealed these laws.

Figure 2: Right to Work Laws State Map:



Source: <http://www.nrtw.org/rtws.htm>

Figure 3**Full Text of Oklahoma's Right to Work State Law: ("RTW States O").**

Oklahoma. Constitution. Article. 23, § 1A provides:

A. As used in this section, "labor organization" means any organization of any kind, or agency or employee representation committee or union, that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

B. No person shall be required, as a condition of employment or continuation of employment, to:

1. Resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;
2. Become or remain a member of a labor organization;
3. Pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;
4. Pay to any charity or other third party, in lieu of such payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or
5. Be recommended, approved, referred, or cleared by or through a labor organization.

Full Text of Texas's Right to Work State Law: ("RTW States T").

§ 101.004. Contract for Withholding Union Dues from Employee's Compensation Void Without Employee's Consent

A contract that permits or requires the retention of part of an employee's compensation to pay dues or assessments on the employee's part to a labor union is void unless the employee delivers to the employer the employee's written consent to the retention of those sums. (Enacted 1993.)

§ 101.052. Denial of Employment Based on Labor Union Membership Prohibited

A person may not be denied employment based on membership or nonmembership in a labor union. (Enacted 1993.)

§ 101.053. Contract Requiring or Prohibiting Labor Union Membership Void

A contract is void if it requires that, to work for an employer, employees or applicants for employment:

- (1) must be or may not be members of a labor union; or
- (2) must remain or may not remain members of a labor union.

Employees and Right to Work Laws: Wages

Key Question: What effect do Right to Work laws have on people's wages?

THEORETICAL EFFECT ON WAGES:

The effect of RTW laws on wage levels is ambiguous from an economic point of view (Moore). RTW Laws' effect on wage levels is ambiguous, because unions' effect on the average wage level is also ambiguous, and RTW laws mainly affect wages because they affect unions.

Unions have an effect on the wages paid to both the union employees and the non-union employees in an economy, but their net effect is unclear, because while they increase the wages of the union workers, they decrease the wages of the non-union workers, because it is not known which effect dominates: "In the usual equilibrium models of the supply and demand for union services, increases in the union wage reduce employment in the union sector causing spillover increases in employment and decreases in wages in the nonunion sector" (Moore).

NOMINAL WAGES EVIDENCE:

Opponents of RTW like to point out that the average wage in RTW states is lower than the average wage in non-RTW states. For example, on the issue section of AFL-CIO's website, they cite the Bureau of Labor Statistics, 2001: "The average worker in a 'right to work' state earns about \$5,333 less a year than workers in other states" ("RTW States Are"). Proponents of RTW do not dispute the above statistic, but suggest that the statistic is overly simplistic, manipulative and misleading.

On a nominal basis, wages are lower in RTW states, but proponents argue, and this paper confirms, that once the above statistic is adjusted for cost of living, real spending power is at least the same and perhaps higher in RTW states. For example, when the National Institute for

Labor Relations Research used The Economist Magazine's data to adjust the poverty rate in 2001 for cost of living they found that this adjusted rate was 10.8% in states with RTW laws as compared to 12.9% for non-RTW states ("Independent Study"). Now we will turn our attention to other studies of the 1970's, 1980's and 1990's which look at the wage issue and adjust for differences in cost of living.

REVIEW OF PAST STUDIES:

Professor Jefferson Moore, chaired economics professor from Louisiana State University, arguably completed the most substantial review of RTW literature to date in a 1998 paper entitled "The Determinants and Effects of Right-to-Work laws" which was published in the *Journal of Labor Research*. He reviewed studies whose outcomes were both favorable and unfavorable to RTW laws. Here are some of his reviewed studies' wage findings: (Moore)

Study	Conclusion
Wessel 1981	"RTW laws have no independent effect on wages."
Carroll 1983 & Malhotra 1992	"RTW laws have a large, significant, negative effect on average wages."
Moore 1986	"RTW Laws have no significant effect on union or nonunion wages in the private sector."
Hundley 1993	"RTW Laws have no significant effect on union or nonunion wages... in the public sector."

He does critique the methodology of Carroll and Malhotra studies, which used simultaneous equation models, as being extremely complicated models which make it "impossible to compare their results with the other studies" and he particularly critiqued Wessel's study as being very "sensitive to model specification" (Moore).

After his exhaustive review of RTW literature (his paper cites over 90 sources) he concludes: "The empirical evidence accumulated in the 1970s and 1980s indicates that RTW

laws do not have strong lasting effects on wages. Most researchers find that RTW laws have no impact on union wages, nonunion wages, or average wages” (Moore). Although Moore’s contribution to the question is significant, we will now turn to more recent studies.

REVIEW OF RECENT STUDIES:

Moore’s work only covers studies completed before 1998. The debate has raged on and new studies have been published which are favorable and unfavorable towards RTW laws, concluding that they have either a positive or negative effect on wages.

Most Recent Study Unfavorable to RTW Laws: Mishel 2001

Lawrence Mishel, president of the Economic Policy Institute, completed a study in 2001 which found that the mean nominal “effect of working in a right-to-work state results in a 6% to 8% reduction in wages” with the average reduction being 6.5%, and that even after controlling for cost of living differences, there is still a 3.8% wage penalty for living in a RTW state (Mishel). (Note: The Economic Policy Institute receives their funding from unions, mainly the AFL-CIO.)

Mishel’s study was based on a sample of approximately 150,000 salaried workers between the ages of 18-64, with average hourly wages of \$15.54 and median hourly wages of \$12.25 (Mishel). What made this analysis unique is that it used a regression model to pair and then compare the wages earned by similarly situated workers in RTW and non-RTW states. The study used the workers’ industry, occupation, and demographic information to group workers into comparable groups.

Problems with Mishel's Study:

Firstly, the author of the study conceded that his adjustments for cost of living were at best questionable: "Estimates from this... regression model [controlling for cost of living] are suspect given the lack of an established series for controlling for regional, interstate, or intra-state costs of living" (Mishel). If the adjustments for cost of living were biased one way or another, it could drastically skew the results of his study.

Additionally, trying to match workers based on their professions may inherently bias the results of the study when trying to ascertain the effect that RTW laws have on wages. Doing this ignores the fact that becoming a RTW state may in and of itself have an effect on the composition of the jobs in a state (Greer, Senior Research).

It is easier to understand this point if we imagine two towns, Town RTW and Town Non-RTW. We will assume for the sake of analysis that at Time 0 both towns have only four residents, and that neither town has RTW laws. In each town one person is unemployed, two people are machine workers ("machine worker new" has two years experience, "machine worker experienced" has ten years experience), and one person is a manager. The unemployed person makes no money, machine worker new makes \$3, machine worker experienced makes \$6, and the manager makes \$8. The results at time 0 are summarized below:

Town RTW @ Time 0		Town Non-RTW @ Time 0	
Profession	Wages	Profession	Wages
Unemployed	\$0	Unemployed	\$0
Machine Worker New	\$3	Machine Worker New	\$3
Machine Worker Exp.	\$6	Machine Worker Exp.	\$6
Manager	\$8	Manager	\$8
Total	\$17	Total	\$17
Machine Average	\$4.5 / employee	Machine Average	\$4.5 / employee

Now at Time 1, Town RTW decides to pass a RTW law. Passing the RTW law affects the composition of the job market in Town RTW. The RTW law convinces a company to come into town RTW, and 1 new Machine Worker New job is created in Town RTW. Everything else remains unchanged.

Town RTW @ Time 1 (Passed RTW law)		Town Non-RTW @ Time 1	
Profession	Wages	Profession	Wages
<u>Machine Worker New</u>	\$3 (← Now has job)	Unemployed	\$0 (← Unchanged)
Machine Worker New	\$3 (← Unchanged)	Machine Worker New	\$3 (← Unchanged)
Machine Worker Exp.	\$6 (← Unchanged)	Machine Worker Exp.	\$6 (← Unchanged)
Manager	\$8 (← Unchanged)	Manager	\$8 (← Unchanged)
Total	\$20	Total	\$17
Machine Average	<u>\$4.0 / employee</u> ←	Machine Average	<u>\$4.5 / employee</u>

Note, at time 1, Town non-RTW did not decide to implement a RTW law so their employment remains unchanged.)

Look at the table above. Town RTW's law changed the composition of the jobs in its economy, increased the total wages earned in its town, got one new person a job, and did not decrease anyone's wages. Town non-RTW has not increased the wages earned by its town or created any new jobs. However, if you compare the average wages earned by machine workers between towns—as does Mishel's study—it appears that town Non-RTW is doing better than town RTW: Town RTW's average machine wages are \$4.0 whereas Town non-RTW's average machine wages are \$4.5.

This example is simplistic, but it reveals a fundamental problem with trying to match workers based on their industry. In doing so, one misses the effects that RTW laws can have on the composition of jobs within a particular state. Next this paper will examine recent studies which are favorable towards RTW laws. (Note: no other recent studies characterize RTW laws effect on wages as negative.)

Recent Study Favorable to RTW Laws: Kendrick 2001

One recent 2001 study by David Kendrick compared the after-tax wages people earn in Midwestern RTW states (IA, KS, NE, ND) to the after-tax wages people earn in Midwestern non-RTW states (IL, IN, MN, MO, WI), and found after-tax wages “to be \$1,145 higher in RTW states” (Wilson). There are two problems, however, with this study. Firstly, one could contend that the studies choice of non-RTW states could be suspect. It is probably not just a coincidence that the study does not include the state of Michigan, which does quite well in terms of after-tax adjusted wages, in the non-RTW states category. Moreover, in and of itself adjusting for taxes is not very fair because generally speaking, people in higher tax states, would hopefully receive superior services from their government. To a certain extent this does appear to be the case. For example, the AFL-CIO states on their website that “Right to work states spend \$1,699 less per elementary and secondary pupil than other states” (“RTW States Are Rest”).

Note that this paper ignores the fact that RTW states have, on average, lower personal state tax rates, and the fact that non-RTW states, on average, have better government provided social services because these differences are a result of tax rate differences and not RTW laws (Greer, Senior Research).

Recent Study Favorable to RTW Laws: Wilson 2001

William Wilson, PhD from the Mackinac Center for Public Policy (headquartered in Michigan) conducted one of the most extensive studies on RTW laws to date. He looked at a wide range of state economic statistics from 1970 through 2000, and concluded: “Per-capita disposable income was 0.2 percent higher, on average, in RTW states. Michigan’s rate of increase in this category matched the average for other non-RTW states” (Wilson). This is a

relatively substantial study, holding up to academic scrutiny, which found higher, but only marginally higher wages in RTW states.

Recent Study Favorable to RTW Laws: Greer 2004

A recent study by Stan Greer, Senior Research Associate of the National Institute for Labor Relations Research, is of particular interest because of the credibility and apparently unbiased nature of the sources the study used. The study took the Bureau of National Affairs' full-time wage employees earnings for all 50 states and adjusted this wage data for cost of living with Dr. Nelson's Interstate 2001 Cost-of-Living Index. The study concluded that "when the 2001 mean weekly earnings for full-time wage and salary employees... are adjusted for differences in living costs... employees in Right to Work states earned a mean of \$675 a week... compared to \$660 in non-Right to Work states" (Greer, Real Earnings).

What makes this study so interesting is that Dr. Nelson's Interstate 2001 Cost-of-Living Index is created by top researchers for the American Federation of Teachers (AFT), allies of the AFL-CIO (Greer, Real Earnings). The AFT would, if anything, be biased towards unions and against RTW laws. Similarly, the Bureau of National Affairs is an unbiased, objective government agency so its data would also seem to be beyond reproach. Nevertheless, this study finds only a relatively small, 2% advantage for RTW states in terms of weekly-adjusted real earnings.

CASE EXAMPLE 1: OKLAHOMA 2001

Key Question: What was Oklahoma's experience with RTW laws?

Before adopting RTW laws, Oklahoma had fallen behind RTW states in terms of the average increase in its citizens' income. Unions contended that if Oklahoma adopted RTW laws, the state would experience lower wages and inferior healthcare coverage. For example, while the unions were fighting RTW laws in Oklahoma, Jimmy C. Curry, Oklahoma State AFL-CIO President stated: "We will not allow our wages to be cut along with less health care for our families" ("RTW in OK").

Looking back on it now, it appears that in this case the unions' concerns were unwarranted. An analysis by the National Institute for Labor Relations Research of U.S. Census Bureau data reveals that of all the fifty states Oklahoma is the only state to have a statistically significant increase in real household income (3.7%) between 2001 and 2002 (Greer, Earnings Rise). Its analysis also found that between 2001 and 2002 "the number of Oklahomans covered by [private health insurance] increased by 54,000 [while] the total number of Americans covered by private health insurance fell by more than a million" (Greer, Earnings Rise).

Additionally, a September 2002 poll of Oklahomans reported that one out of five Oklahomans felt that RTW laws had improved Oklahomans economy, with 41% of 18-24 year olds responding that the "right-to-work law had improved the Oklahoma economy" (Martindale).

In summary, it appears as if Oklahoma's experience so far with RTW laws has been relatively positive, with slight increases in the income levels, improved health care coverage, and a significant proportion of Oklahomans feeling that RTW has positively affected the state.

CASE EXAMPLE 2: IDAHO 1985

Key Question: What was the 2nd most recent adopter of RTW laws wage experience with RTW?

Idaho is a particularly interesting example because it is ideally situated to evaluate the effects of RTW Laws: Three of its neighboring states have RTW laws and three of its neighboring states do not have RTW laws (Reed and Wilbanks, The Impact of RTW).



Idaho's RTW experience was somewhat similar to Oklahoma's. The National Institute for Labor Relations Research analyzed Idaho's experience with RTW laws. Its findings are highlighted below: (Greer, Chicken)

- At the time RTW laws went into effect (February 1986) Idaho's manufacturing wages were 20 cents below the national average of \$9.68.
- During the next 15 years manufacturing wages increased faster than inflation in Idaho but increased slower than inflation in the three neighboring non-RTW states.
- As of February 2001 Idaho's manufacturing wages were \$1.17 more than the national average of \$16.99.

KEY POINTS – Employees and Right to Work Laws: Wages

- RTW Laws' effects on wage levels is ambiguous from a theoretical point of view, because unions' effect on the average wage level is ambiguous.
- Nominal wages—wages not adjusted for cost of living differences between states—are lower in RTW states than they are in non-RTW states.
- Moore's landmark review of RTW literature concludes that RTW laws do not affect wages.
- Mishel's recent 2001 study, which found RTW laws negatively affect wages, cannot be relied upon because it assumes RTW laws do not affect the composition of jobs within a particular state.
- The most recent and credible studies on RTW laws provide evidence of a very small wage benefit of RTW laws of between 0.2 and 2%.
- Since adopting RTW laws the two most recent adopters (Oklahoma and Idaho) have had seemingly favorable wage experiences.
- After reviewing all available RTW law literature, it appears that RTW laws do not have a significantly meaningful positive or negative effect on wages, and consequently other factors should play a larger role in deciding whether or not a state should adopt RTW laws.

Employees and Right to Work Laws: Employment Levels

Key Question: What effect do Right to Work laws have on employment levels?

JOB CREATION:

The effect of RTW laws on levels of an employment in a state is a particularly salient issue, and deserves a great deal of attention. This section examines unemployment rates, poverty levels, overall job creation, and manufacturing job creation.

Unemployment and Poverty Levels:

The Mackinac Center for Public Policy's 2001 RTW study, which compared the employment rates in RTW and non-RTW states, found that "from 1978 through 2000, average annual unemployment was 0.5 percent lower in RTW states" (Wilson). Moreover, they found that "unemployment in Michigan was 2.3 percent higher than in RTW states." (Wilson). Obviously, this does not prove causation, but from unemployment data alone it appears that states that have adopted RTW laws may fair slightly better, and Michigan is among the worst.

The Mackinac Center for Public Policy's study also examined the percentage of families living below the poverty line. Of particular interest was their finding that from 1969 through 2000 the only states to see this rate rise were all non-RTW states. In total seven non-RTW states had their poverty rate increase with Michigan's rate of increase being 0.6% (Wilson). Again, this does not prove causation, but from poverty rate data it looks like states that have adopted RTW laws fair better, and Michigan is again among the worst.

General and Manufacturing Job Creation:

Just by looking at the raw aggregate numbers from the U.S. Bureau of Labor Statistics it is quite clear that more jobs have been created in RTW states than in non-RTW states over the past twenty years: “Between 1982 and 2002 the average right-to-work state increased its job rolls by 62 percent. By contrast, the average non-right-to-work states increased jobs by only 42 percent” (Kersey). Only looking at the most recent information, data from 1992 to 2002, the trend continues: RTW states’ job creation was 26% whereas non-RTW states’ job creation was only 18% (Kersey).

Results from approximately the same twenty-year period for manufacturing jobs paints an even more negative picture for non-RTW states because, instead of a net increase in jobs, non-RTW states have been experiencing a net decrease in jobs. On the other hand, RTW states have been experiencing a net increase in jobs: “Right-to-work states created 1.43 million manufacturing jobs, while non-RTW states lost 2.18 million manufacturing jobs [and] Michigan lost more than 100,000 manufacturing jobs” (Wilson).

Some may argue that there is a correlation, but not causation. They might also argue that there has been a gradual population shift from non-RTW states to RTW states and that the change in manufacturing jobs just mirrors the gradual regional shift in the U.S. population or that even without RTW laws, RTW states are relatively anti-union, and would consequently be more appealing to firms hoping to prevent unionization (Holmes). When studying something retrospectively it is almost always impossible to definitively say that variable X is the cause of variable Y. Therefore it is important to note that there are other factors, which may in part have contributed to RTW states’ apparent superior performance compared to non-RTW states’ in terms of job creation. However, given the overwhelming amounts of available evidence linking

RTW laws with job creation it appears likely that RTW laws do to a certain extent affect job creation, unemployment levels, and poverty levels in a state. This is especially true because it appears that a company's decision on where to locate is affected by the presence of RTW laws.

COMPANIES' SITE SELECTION AFFECTED BY RTW LAWS:

The above data on job creation and unemployment rates is interesting, and it does appear that a state's decision to adopt a RTW law may bring jobs and companies to the state. The question is why is this the case. This section focuses on whether businesses consider RTW laws as a factor when deciding where to locate.

Automaker Plant Locations:

According to *The Industrial Outlook* (2003) all new auto plants built in the United States in the last 10 years were built in RTW states (Warden). Their findings were not just for 1 or 2 plants, but for a substantial 6 plants. (Nissan in TN & MS, Mercedes-Benz in AL, BMW in SC, Honda in AL, Hyundai in AL, and Mercedes-Benz in GA). Given the fact that only 22 out of 50 states have RTW laws, it appears unlikely that all 6 plants were located in RTW states due to chance alone. Therefore, it appears as if foreign automakers may be using a state's RTW law status as a factor in determining plant site selection.

This limited example is supported by the findings of the important researchers on RTW laws—Tannenwald 1997, Moore 1998, and Holmes 1998—who collectively suggest that “RTW has been positively related to plant location, the rate of business formation, manufacturing employment, and other dimensions of state economic development”(Reed, How RTW Laws Affect).

Holmes Study Findings:

Holmes 1998 study examined changes in the levels of manufacturing activity when one crosses state lines between RTW and non-RTW states. He found that “relative manufacturing employment declines by one-third as one moves from within 25 miles of the border in the RTW state to within 25 miles of the border in the non-RTW state” (Wilson). He also found that “eight of the 10 states with the highest manufacturing employment growth rates are [RTW] states. All 10 states with the lowest growth rates are not [RTW] states” (Reed, Does RTW Boost).

Tannenwald Study Findings:

Robert Tannenwald is an economist at the Federal Reserve Bank of Boston. In 1997 he examined what he saw as the most credible studies on RTW laws, and concluded in the *New England Economic Review*:

I identified 11 studies that estimate the impact of right-to-work laws on either plant location, the rate of business formation, employment, or some other manifestation of economic development...Eight of them find that the existence of a right-to-work law exerts a positive, statistically significant impact on economic activity. (Reed, Does RTW Boost).

Moore’s Study Findings:

Moore also reviewed a number of studies on this topic; highlights and summaries of the studies findings are listed below: (Moore)

Newman (1983)	“Finds that RTW laws have a significant positive effect on employment growth in 11 of the 13 industries studied. The effect was stronger on labor-intensive industries than on capital-intensive industries.”
Schmenner (1987)	Took Fortune 500 survey data to develop a model for the new plant site location decision. They found that RTW laws “significantly increase the probability of a state being” seriously

	considered for a plant site location.
Calzonetti & Walker (1991)	“RTW laws are important in industry location decisions.”
Plaut and Pluta (1983)	Examined the extent to which an industrial consulting firm’s rankings that included RTW laws as a factor were correlated with actual industrial growth rates. Found a statistically significant positive correlation.

Moore’s conclusion after reviewing the findings of the aforementioned studies was “that RTW laws have a significant, positive influence on industrial growth and economic development” (Moore).

In summary, all the available data and research suggest that RTW laws do affect business location decisions. The next question is “why do they affect the decisions?” One reason is that it appears that RTW states employees’ are more efficient and productive. The next section explores this idea further.

Labor Productivity Theoretical:

Proponents of RTW laws argue that one of the positive effects of these laws for companies is that they increase labor productivity by increasing unions’ accountability to their members. They contend that in RTW states’ unions can no longer take their members for granted because no one has to pay union dues. In order to survive, unions in RTW states must become “more responsive to their members and more reasonable in their wage and work rule demands” (Wilson). This in turn leads to a more responsive union, which leads to greater labor productivity.

Labor Productivity Actual:

Concrete data does support proponents of RTW’s claim that RTW states have higher productivity. For example, the Mackinac Center for Public Policy’s 2001 study found that the

unit-labor costs (which is labor compensation / labor productivity) were “93.2 in RTW states and 98.1 in non-RTW states in 2000. Michigan, at 109.2, had the second highest unit labor costs in the nation” (Wilson).

CASE EXAMPLE 3: IDAHO 1985

Key Question: What is the job experience of the 2nd most recent adopter of RTW laws?

Again Idaho is a particularly interesting example because three of its neighboring states have RTW laws and three of its neighboring states do not have them, which make Idaho ideally situated to evaluate the effects of RTW Laws (Reed and Wilbanks, *The Impact of RTW*).

The Federal Reserve Bank of Saint Louis released a 2002 study, which focused on whether RTW laws worked for Idaho. The researchers found Idaho to be a compelling source for a study because their “detailed investigation of other business policies adopted in Idaho around 1987 reveals that there were no other major changes in Idaho’s business climate regarding incentives for new investments or firm relocation” (Dinlersoz and Hernandez).

The Federal Reserve Bank Study found that after adopting a RTW law Idaho experienced “an acceleration in manufacturing growth” while their neighbors in the region did not, suggesting “a regional boom is not a likely explanation” for the increase in manufacturing (Dinlersoz and Hernandez). Moreover, they found that before RTW laws were implemented the annual employment growth rate was approximately 0%, but after RTW laws were implemented this rate shot up to 3.7%, and that the post RTW “growth rate in the number of [business] establishments was about seven times larger” than the pre-RTW growth rate (Dinlersoz and Hernandez). So overall, this study supported the general consensus of research: RTW laws are positively correlated with a state’s economic activity.

Another study by James R. Wilbanks, senior economist of the Economic and Fiscal

Policy Research Division of Oklahoma's Office of State Finance, reaches the same conclusion as the Federal Reserve Bank's study: "This study finds evidence that Idaho's manufacturing sector grew significantly faster than those of neighboring states following the enactment of RTW in Idaho" (Reed and Wilbanks, The Impact of RTW).

KEY POINTS – Employees and Right to Work Laws: Employment Levels

- The Mackinac Center for Public Policy's 2001 RTW study focusing on 1978 through 2000 found that RTW states fair slightly better than non-RTW states in terms of unemployment levels (Wilson).
- Between 1982 and 2002 1.43 million manufacturing jobs have been created in RTW states whereas 2.18 million manufacturing jobs have been lost in non-RTW states (Wilson).
- All new auto plants built in the United States in the last 10 years were built in RTW states (Warden).
- The three substantial and credible reviews and/or studies of RTW laws to date by Tannenwald, Moore and Holmes all conclude that there is a positive relationship between a state's adoption of RTW laws and a state's economic development.
- Firms can rationally favor RTW states because RTW laws may lead to higher labor productivity.
- Idaho, a recent adopter of RTW laws, experienced tremendous job and manufacturing growth after adopting RTW laws.
- After reviewing all available RTW law literature it appears that the vast preponderance of studies from numerous credible sources suggests that RTW laws do have a statistically significant positive effect on employment levels and job creation.

Employees and Right to Work Laws: Forced Union Dues

Key Question: In non-RTW states are people's forced union dues being used for purposes that they do not approve of, such as for political purposes?

UNIONS POLITICAL SPENDING AND ACTIVISM:

Some proponents of RTW laws argue that states should pass RTW laws not only for the financial implications, but also for the ideological implications. These proponents contend that in non-RTW states many union members are forced (or tricked) into paying their full union dues, and that these dues are in part used to support political candidates and ideologies which they do not agree with. To a certain extent, proponents of RTW laws do have a point here, especially when one looks at unions' political campaign contributions and support versus the political affiliation of union members.

Union Members Political Affiliation vs. Union Political Activism:

Unions are active political organizations. For example, in the previous presidential campaign the AFL-CIO distributed more than 31 million pro-Democratic leaflets, and made nearly 12 million phone calls to Union members ("The Union Difference"). They did nothing of the sort for Republican organizations. However, according to the AFL-CIO's own research, in the past presidential election union members only supported Democrats over Republicans "by a margin of 63 percent to 32 percent" ("The Union Difference").

Some proponents of RTW argue that this means that nearly 1 out of 3 union members who were paying full union dues could have their money being used for political purposes which they do not agree with. They argue this is still true today even after campaign finance reform, and that this is wrong.

Even after campaign finance reform unions can still be active political players. There are numerous loopholes that allow unions to bypass campaign finance reform and donate money to “independent” issue organizations called 527 organizations. However, many unions do have a policy whereby the only union fees directly used for political purposes are the fees from union members who want this done. For example, the political portion of the AFL-CIO’s site is not supported by general union dues but only by union members who wish to support the union’s political ideology. Moreover, as a result of the Beck decision it is difficult, if not nearly impossible, to argue that in non-RTW states union members forced union dues are all being used for political purposes.

THE BECK DECISION:

The Beck decision was a landmark 1988 Supreme Court decision (*Communications Workers v. Beck*) in which the Court found that union security agreements do not “permit a union, over the objections of dues-paying nonmember employees, to expend funds so collected [pursuant to a union-security clause] on activities unrelated to collective bargaining, contract administration or grievance adjustment” (Page). Note that when one becomes a “Beck Objector” and does not pay full union dues, one effectively quits the union, becomes a financial-core represented worker, and gives up the right to vote in union elections. The chart below highlights some activities for which Beck Objectors must pay (“Legislative”).

Chargeable	Non-Chargeable
<ul style="list-style-type: none"> • Public relations <ul style="list-style-type: none"> ○ Public advertising ○ Positions on negotiations ○ Ramifications of labor contracts • Costs for setting up <ul style="list-style-type: none"> ○ Crisis Centers and Strike Headquarters • Union Conventions & Social Activities • Litigation Expenses • Union Publications (non-political) 	<ul style="list-style-type: none"> • Informational picketing Supplies <ul style="list-style-type: none"> ○ Signs ○ Posters ○ Buttons • Costs related to illegal strikes • Political Spending

In plain English, the court found that even in non-RTW states, people cannot be forced to pay the proportion of union dues being used for political purposes. For example, if a person were a member of the UAW and wanted to become an objector he or she could do so by following the UAW's instructions reprinted below:

To comply with the Beck decision, the UAW honors objections by nonmembers of the Union covered by NLRA union security agreements who notify in writing the Agency Fee Payer Objection Administration-Private Sector.... Objections may be filed at any time but must be renewed each year. Objectors will be charged only for expenditures related to representational action. ("Union Security Agree")

WORD GAMES AND THE BECK DECISION:

At first the Beck Decision seems simple enough with clear implications but word games complicate matters. The Beck decision is problematical because many union members are not aware of their rights to become Beck Objectors. For example, a 1997 national voter survey found that 67% of union members were not aware of their Beck rights (Boehm). To date it appears that unions are still fighting hard to keep their members in the dark about these rights.

Unions' desire to keep workers in the dark about their Beck rights in the 21st century became apparent in 2001 when President George W. Bush signed Executive Order 13201, which required all "companies with federal contracts to inform [their 12 million workers] of their rights" under the Beck Decision ("Bush Urged"). The UAW Labor Employment and Training Corporation then challenged and successfully won an injunction against the order "on the grounds that the action was preempted by Congress" ("Bush Urged"). One might question the motives of the UAW for wanting to keep their members in the dark about their Beck rights. Additionally, one could logically conclude that the union would not have cared about this executive order unless many union employees were not aware of their rights. In short, the union's behavior suggests that many workers are still unaware of their rights.

Ambiguous Wording in Union Contracts:

It is not hard to imagine that many workers might be confused about their Beck rights when one examines the ambiguous wording used in some employees' contracts. For example, the United Paperworkers International Union "have a union security clause that requires all present maintenance and production employees to 'become and remain members of the union in good standing' as a condition of continued employment" (Baird, *The Myth*). The fact that the contract states that employees must "remain members of the union in good standing" as a condition of employment would make it seem as if one could not quit the union as a Beck Objector and only pay partial union dues, even though one can do just that.

The issue as to the legality of the ambiguous contract wording was brought to the Sixth Circuit Court of Appeals on September 8, 1997. (The Sixth Circuit of Appeals serves Kentucky, Michigan, Ohio, and Tennessee.) This appeals court struck down the aforementioned union security clause because the court found that it led "employees to believe that they must become full-fledged union members as a condition of employment" (Baird, *The Myth*).

However, in 1998 the U.S. Supreme Court overturned the Sixth Circuit Court of Appeals decision with their ruling in *Marquez v. Screen Actors Guild*, when a unanimous Court ruled that "collective bargaining contracts do not have to spell out what it means to be 'in good standing' because requiring membership to be specified in a contract would force all terms to be specified. There would be no limit" (*Marquez v. Screen*). Therefore, as the law currently stands unions can still legally use ambiguous wording in their contracts to make it appear as if one must remain a member of a union to keep one's job.

This issue is only relevant in non-RTW states in which unions are allowed to use these ambiguous security clauses. If a state has a RTW law these ambiguous clauses are illegal and

cannot be included in union contracts. Consequently, one added benefit of RTW laws is that they ensure that employees are not tricked into paying union dues by semantics.

DIFFICULT TO EXERCISE BECK RIGHTS:

In theory the Beck decision lets union employees easily avoid paying the proportion of union dues that are being used for political purposes. Unfortunately, becoming a Beck Objector is not always easy. There have been documented cases in which Beck Objectors have faced harassment and have been given misinformation. Consequently, proponents of RTW suggest this is another reason to adopt a RTW law. With a RTW law a state's citizens do not have to go through the ordeal associated with becoming Beck Objectors.

Harassment & Unions:

William Goodling, past chair of the House Education and the Workforce Committee, held a number of hearings on "problems encountered by workers trying to assert their rights in the workplace" (Boehm). After his investigation in 1999 he concluded: "We heard worker after worker testify about the incredible burdens they have faced trying to exercise their rights under current law" (Boehm). The quote that follows is the testimony of Kerry Gipe. It is provided as an example of the difficulties people faced when trying to exercise their rights:

The union began an almost immediate smear campaign against us...portraying us as scabs and freeloaders....We had our names posted repeatedly on both union property and company property accusing us of being scabs. We were accosted at work, we were accosted on the street. We were harassed, intimidated, and threatened. We were told our names were being circulated among all union officials in order to prevent us from ever being hired into any other union shop at any location. (Boehm)

Now the above case is an extreme and inflammatory example that may not be reflective of the general experience most people have when they try to exercise their Beck rights. The above example is from the Congressional Record, but should be taken with a grain of salt as it

was highlighted by an organization that is arguably quite anti-union. They most likely searched through the entire congressional record to find the most egregious case possible. Most unions do not behave in this manner. The UAW makes it very clear and very easy to become a Beck Objector.

That being said, an added benefit of having RTW laws is that they make it harder to isolate and harass people for deciding not to pay union dues. In a RTW state, not paying any union dues is more mainstream, which makes harassment of non-paying members more difficult.

More recently, in 2001 the House Committee on Education and the Workforce's Subcommittee on Workforce Protections heard a case on Mark Simpson's experience with attempting to exercise his Beck rights. Mr. Simpson tells a very compelling tale. He starts out by saying he "used to be a union loyalist" and "was even a union shop steward" (Simpson). He then found out that some of his union dues were being used to support causes he did not believe in, so he tried to exercise his Beck rights. He gave notice to his union in June 2000 that he wanted to exercise his rights, and it took his union six months to respond to his request. Mr. Simpson testified that "Their response said that only 1.3% of their spending was eligible to be rebated. The other 98.7% were bargaining expenses, chargeable to me as agency shop fees even after my exercising my Beck rights. And if I didn't pay them, I was fired" (Simpson).

Eventually Mr. Simpson's situation was resolved, but his situation demonstrates the procedural hurdles people can face when they attempt to exercise their Beck rights. First and foremost, they have to get their unions to respond to them, and then they have to make sure that they are getting a large enough refund and that the union is not overcharging them for the services they provide. The only way to perfectly ensure that people do not face these procedural

hurdles and that allocation percentage used by the union is not too high is for a state to adopt a RTW law that would make the aforementioned points moot.

KEY POINTS – Employees and Right to Work Laws: Forced Union Dues

- Proponents of RTW contend that in non-RTW states many union members are forced (or tricked) into paying their full union dues, and that these dues are in part used to support ideologies which they do not agree with.
- As a result of the Beck decision, even in non-RTW states people cannot be forced to pay the portion of their union dues being used for political purposes.
- Some union members are not aware of their right to become Beck Objectors.
- This is partly due to the fact that the U.S. Supreme Court has ruled union contracts can contain the ambiguous phrase “employees must remain members of the union in good standing as a condition of employment.”
- People who are aware of their Beck rights can still face harassment and stonewalling when they try to exercise them.
- RTW laws stop a state’s citizens from having to go through the ordeal and possible harassment associated with becoming Beck Objectors and ensure that a state’s citizens are not in any way forced or tricked into paying union dues which are used for things which they object to.

Unions and Right to Work Laws: Union Membership

Key Question: What effect do RTW laws have on union membership?

STUDIES OF THE EFFECTS OF RTW LAWS ON UNIONIZATION RATES

The most current information on RTW laws' effect on unionization rates is at best inconclusive. Moore's review of pre-1985 stock model studies (that look at the aggregate levels of unionization) found that RTW laws decrease unionization by 3 to 5 percent (Moore). A 1981 study by Wessels and a 1984 study by Farber looked at the effect of RTW laws at the individual level and found "individuals in RTW states are 8.2 percent less likely to belong to a union than workers in RTW states" (Moore). Similarly, a 1987 study by Glen Fines (from Harvard University) and David Ellwood (from the Department of Justice) published in *the Journal of Political Economy* that looked at union organizing success found that their results supported the conclusion that RTW laws "ultimately diminish [union] membership by 5-10%" (Ellwood and Fine, 17).

The latest studies by Hunt & White 1983, Moore 1986, and Koeller 1985-1992-1994, which adjust for taste factors "such as congressional voting [records] or public sector bargaining laws," have actually found that RTW laws usually have no effect on the extent of unionization within a state (Moore). A caveat to these studies, however, is that there is the possibility the RTW variable in these studies mirror the taste variables mentioned above, which would make their results meaningless (Moore). There is no way of knowing for sure if this is the case.

In summary, the evidence on RTW laws affect on unionization within a state is unclear. Many studies have been done on this topic (Wessels 1981, Farber 1984, Moore 1986, Fines & Ellwood 1987, Koeller 1985-1992-1994). Some used stock models; some examined organizing

success while others adjusted for taste variables. However, one can be fairly confident that RTW laws either have no effect on the proportion of union membership within a state or decrease it by somewhere between zero and eight percent.

CASE EXAMPLE 4: UNION MEMBERSHIP IN OKLOHOMA PRE- AND POST-RTW:

The most recent adopter of RTW laws has been Oklahoma. In order to attempt to quantify the effects of RTW on union membership and representation, we will compare Oklahoma's unions' membership and representation percentages before they implemented RTW to their percentages post-RTW. Oklahoma implemented RTW in 2001, so we will use 2000 as our base year for this comparison. To account for any national changes in union membership during this time, we have included the national average as a control group. The data for this case example is from the U.S. Bureau of Labor Statistics.

Note that for the sake of our analysis we use 2000 as the year representing Oklahoma's pre-RTW levels of unionization. Part of 2001 was spent without RTW laws and part of 2001 was spent with RTW laws. Unfortunately only data for the entire year is available, making it impossible to disaggregate the 2001 data. Additionally union membership and representation shot up in 2001 relative to the national average, which experienced no change. This is most likely a result of the great deal of money unions spent on PR, public announcements and advertisements in an attempt to fight RTW in Oklahoma. Therefore for the sake of our analysis we use 2000 as the year representing Oklahoma's pre-RTW levels of unionization.)

The results are summarized on the next page: ("Union Members")

I. Oklahoma Union Membership and Representation rates from 2000 through 2003

	2000	2001	2002	2003
Membership	6.8%	8.4%	9.0%	6.8%
Representation	7.8%	9.3%	10.6%	7.9%

II. Oklahoma percentage change in union membership rates relative to 2000

	2000	2001	2002	2003
Membership	Base Year	Year Implemented	32% Increase	No Change
Representation	Base Year	Year Implemented	35% Increase	1% Increase

III. National average percentage change in union membership relative to 2000

	2000	2001	2002	2003
Membership	Base Year	No Change	1% Decrease	4% Decrease
Representation	Base Year	No Change	3% Decrease	4% Decrease

In Oklahoma's case it does not appear that RTW laws have had a statistically significant negative effect on either union membership or union representation relative to their year 2000 pre-RTW levels. In the year after RTW was implemented both of these statistics actually shot up while the national average rate of unionization declined.

In the most recent year for which data is available, Oklahoma's rates of unionization were approximately equal to their 2000 pre-RTW levels, while the national rates of unionization had declined by 4% over the same time period.

FREE RIDERS AND UNIONS:

One of the AFL-CIO's main philosophical complaints about RTW laws is stated on their website: "A 'right to work' law would allow nonmember workers to get all the benefits of union membership and pay nothing, while forcing unions and their members to foot the bill for those not willing to pay their share" ("RTW States Are Rest.") This argument appeals to one's common sense: It does not seem fair to require unions to provide benefits for free to nonpaying member or "free riders."

Moore did a substantial review of all available free rider information, and found that the best evidence on this topic was a multivariate analysis done by Davis and Huston in 1993. Their analysis concluded that if all RTW laws were eliminated, the percent of free riding would be reduced from an average of 15.5% to an average of 7.2% in RTW states (Moore). So, a benefit of not passing RTW laws is that the percentage of union-represented workers free riding is, on average, reduced by approximately 7%. This 7% range falls within Moore's final conclusion about the additional free riding which RTW laws cause: "Most studies find that free riding is approximately 6 to 10 percent higher in RTW states than in non-RTW states" (Moore).

Proponents of RTW laws and Moore as well suggest that the above statistics overstate the positive impact of RTW laws on true free riding, because the above analysis treated "all covered nonunion members as free riders" (Moore). Moore agrees with Sobel's 1995 groundbreaking research on this topic, which contends that there is a difference between "true free riders" (who value union membership more than cost of membership) and "induced riders" (who value union membership less than cost of membership). Sobel's best estimate is "that no more than 30 percent of the covered nonmembers are "true free riders" (Moore). When one adjusts the above

statistics on free riding by this factor, only approximately 2-3% more people are true free riders in RTW states than are in non-RTW states.

Exclusive Representation:

Now we will turn our attention to the question of whether unions even have to represent free riders at all. On the PAA-AFL-CIO's website, there is an area containing a question and answer section about RTW laws. In this section the union asks, and then replies to a question about whether or not unions are required to represent all workers, even free riders:

Question: Is the union required to represent all employees—members as well as nonmembers—in a company with a union contract?

Answer: Yes. Federal law requires a union to represent all employees where the union has a contract with the employer. [In] 'right-to-work' states, where many nonmembers often pay nothing, the union must still represent them just the same as they represent dues-paying members. ("The Big Lie About RTW").

Now the above statement is partially true and partially misleading. The above question and answer would be totally true if the question included the words "exclusive representation" before the word "contract." Federal law allows unions the special power to create "exclusive representation" agreements with employers. If they choose to create these exclusive representation agreements, they are indeed required to represent all members, both dues paying members and free riding members alike. However, it does not appear that unions are actually required to set up these exclusive agreements (Greer, Union Representation).

Some proponents of RTW laws rightfully argue: "Nothing in federal law prevents union officials and employers from negotiating contracts in which the employer recognizes the union for its members only" (Greer, Union Representation). As support for this claim these proponents point to the fact that Roberts' Dictionary of Industrial Relations has an entry for Bargaining Agent, for Members Only, including a sample members-only contract clause (Greer, Union

Representation). They also cite William Gould's 1993 book, *Agenda For Reform*, as evidence. Gould, a former union lawyer, Stanford law professor, and former Chairman of the National Labor Relations Board, wrote in his book "[that federal] law permits 'members-only' bargaining without regard to majority rule or an appropriate unit and without regard to exclusivity" (Greer, *Union Representation*).

Lastly, and most persuasively, these proponents of RTW cite Justice William Brennan's 1962 opinion for the unanimous U.S. Supreme Court in *Retail Clerks v. Lion Dry Goods* which acknowledged not only exclusive contracts representing all of the workers but also the possibility of members-only contracts representing some of the workers: (Greer, *Union Representation*)

Section 301(a) of the Labor Management Relations [Taft-Hartley] Act, 1947, which confers on federal district courts jurisdiction over suits "for violation of contracts between an employer and a labor organization representing employees in an industry affecting" interstate commerce, applies to a suit to enforce a strike settlement agreement between an employer in an industry affecting interstate commerce and local labor unions representing some, but not a majority, of its employees. (Greer, *Union Representation*)

The term "labor organization representing employees," as used in 301(a), is not limited to labor organizations which are entitled to recognition as exclusive bargaining agents of employees. (Greer, *Union Representation*)

Therefore, it appears that unions are not required by law to enter into exclusive bargaining agreements with their employers, and that if they wanted to they could form member-only bargaining agreements in which they only represent their members, only their members are required to pay union dues, their contracts only pertain to their members, and other people are allowed to work for the employer independent of the union.

By creating member-only bargaining agreements, unions would be able to eliminate their free rider problem. However, by creating member-only bargaining agreements unions may feel that they lose some of their bargaining leverage. The question as to why unions are not choosing

to do so is an interesting one, which goes beyond the scope of this paper. In summary, if unions were willing to bargain for member-only agreements they could avoid the free rider problems associated with RTW laws.

KEY POINTS – Unions and Right to Work Laws: Union Membership & Free Riding

- Studies of RTW laws' effect on unionization rates are at best inconclusive.
- RTW laws may decrease the proportion of workers unions represents by between zero to eight percent.
- Oklahoma, the most recent adopter of RTW laws, did not experience a significant decline in union membership or union representation relative to its 2000 pre-RTW level.
- In 2003, the rate of unionization in Oklahoma was approximately equal to its 2000 pre-RTW, levels, meanwhile the national rates of unionization had declined by 4%.
- Some union officials argue that RTW laws are morally wrong because they allow numerous people to receive services from the union without paying for them.
- Studies suggest that the extent of true free riding in RTW states is not significantly higher than it is in non-RTW states.
- The extent of true free riding is only 2-3% higher in RTW states than it is in non-RTW states.
- By setting up members-only bargaining agreements, unions could avoid the problem of free riding altogether, but there are drawbacks to unions of such agreements.
- After reviewing all available RTW law literature it appears reasonable to assume that RTW laws may have a negative affect on the extent of unionization within a state, and have a seemingly insignificant positive impact on the extent of true free riding within a state.

Companies and Right to Work Laws: Stockholder Wealth

Key Question: What effect do Right to Work laws have on the stocks of companies in a state that chooses to adopt a Right to Work law?

RTW LAWS AND STOCKHOLDER WEALTH:

The stock market is no longer a place where just the rich invest their money. In the 21st century more and more Americans are counting on stock performance to fund their retirements: In 2003 half of all Americans are invested in the stock market (“Politics as Warfare”). Therefore, if the stocks of companies in a state benefit from adopting RTW laws, a state’s citizens—who invest a disproportionate amount of their money within their own state—also benefit from the adoption of RTW laws. For this reason, this paper now focuses on a unique and fascinating study of this topic published by the *Southern Economic Journal* in 2000.

The study looked at the stocks of businesses from Louisiana (1976) and Idaho (1985-1986) before and after each state passed its RTW law. They studied only businesses that were listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ and only businesses whose activities were limited to Louisiana and Idaho respectively. They also set up control groups from different states that were similarly situated to the businesses selected in each respective state.

In order to quantify their results they made three test date ranges. Test 1 for Louisiana: examined the change in stock market returns for the “14 days most relevant to the passage of the Louisiana Right to Work Act” (Abraham and Voos). Test 2: examined returns for “each day from the introduction of [the RTW bill] into the Senate on April 29, 1976 until the Act was

signed by Governor Edwards on July 10, 1976” (Abraham and Voos). Test 3: looked at the stock returns from 15 days before and after the RTW bill was introduced (Abraham and Voos).

The results of their study of Louisiana are summarized in the chart that follows:

Louisiana Returns (Abraham and Voos)

Test 1	Stock returns rose by 2.9% (statistically significant; $p < 0.01$)
Test 2	Stock returns rose by 2.2% (statistically significant; $p < 0.01$)
Test 3	Stock returns rose by 2.9% (statistically significant; $p < 0.01$)

The above results suggest that as a direct result of Louisiana’s passage of a RTW law, Louisiana companies experienced a statistically significant appreciation in stock values.

Unfortunately, the study’s results for Idaho were not as conclusive. Of the three tests mentioned above, the results for test 2 and test 3 were not viable. In the case of test 3 the results were not statistically significant. Test 2 was inconclusive because the long period of time that the laws were challenged in the courts—nearly 2 years—added too much variability into the analysis. However, test 1 was statistically significant with stock returns rising by 2.4%, which is quite close to the study’s test 1 results for Louisiana of 2.9%. (Abraham and Voos).

KEY POINTS – Companies and Right to Work Laws: Stockholder Wealth

- Nearly 50% of Americans are invested in the stock market.
- The very limited amount of data from Idaho and Louisiana suggest that there is a connection between the passage of RTW laws and stock market returns.
- The positive effect of a state’s adoption of a RTW law on the stock prices of a state’s businesses appears to be approximately 2-3%.

CONCLUSION:

This paper has finally reached the end of its long journey into the world of RTW laws, and is now ready to answer the question: Should a state adopt a RTW law? In analyzing that question this paper has primarily focused on how adopting a RTW law impacts what matters most to a state: its people. And as unions and companies affect people indirectly it has analyzed them as well.

The main reasons people claim a state should not adopt RTW laws are that they lead to lower wages, are damaging to unions, and are morally wrong because they allow people to receive union services without paying for them. This paper's critical analysis of RTW literature has provided strong evidence that the first two potential drawbacks of RTW laws are red herrings. Numerous credible studies have shown that real wages in RTW and non-RTW states are about the same, and if anything RTW states have slightly higher real wages. Additionally, although RTW laws do make it easier for people to free ride or receive union services without paying for them, the best estimate available suggests the proportion of people who are truly taking advantage of unions in this way is insignificant—only 2-3% more people do so in RTW states than do so in non-RTW states. As to how RTW laws affect union membership, the jury is still out. Most research suggests that total union membership within a state could decrease by between zero and eight percent after a state adopts a RTW law. This would be the most significant negative effect to a state of adopting RTW laws. However, it seems fairly safe to say that the possible reduction in union size does not negatively affect workers' wages.

The main reason to adopt RTW laws is that RTW laws spur a state's economic activity, lead to lower unemployment and higher job growth, and make a state more attractive to business. The aforementioned benefits are supported by the preponderance of available research on this

topic, and by the experiences of the two most recent adopters of RTW laws, Idaho and Oklahoma. Both of these states have experienced tremendous economic activity after adopting RTW laws. There are other relevant benefits of RTW laws. These laws do stop a state's citizens from having to go through the ordeal and possible harassment associated with becoming Beck Objectors. Additionally, a limited amount of research on the topic does suggest that adopting a RTW law may actually have a small positive effect on the value of a state's businesses' stocks.

When one weighs the benefits of RTW laws, mainly stronger economic growth and new job creation, against the negative effects of RTW laws, mainly the possibility of somewhat weakened unions, the choice is clear. In either case the real wages people earn are the same, but the economic growth and job creation are different. States wanting to be well positioned for success in the 21st century should adopt a Right to Work law.

Works Cited

- Abraham, Steven E., and Paula B. Voos. "Right-to-work laws: New evidence from the stock market." Southern Economic Journal 67.2 (2000): 345-362. 1 Mar. 2004
 <http://0-gateway.proquest.com.lib.bus.umich.edu:80/openurl?ctx_ver=z39.88-2003&res_id=xri:pqd&rft_val_fmt=ori:fmt:kev:mtx:journal&genre=article&rft_id=xri:pqd:did=000000063145481&svc_dat=xri:pqil:fmt=html&req_dat=xri:pqil:pq_clntid=17822>.
- Baird, Charles W. "Right to Work Before and After 14(B)." Journal of Labor Research 19 (1998): 471-494. 1 Mar. 2004
 <<http://0-search.epnet.com.lib.bus.umich.edu:80/direct.asp?an=699806&db=buh>>>.
- Baird, Charles W. "The Myth of Compulsory Union Membership." The Freeman (1998): 146-155. 1 Mar. 2004
 <<http://www.sbe.csu Hayward.edu/~sbesc/myth.html>>.
- Boehm, Kenneth. Testimony Before a Hearing of the Subcommittee on Workforce Protections of the House Committee on Education and the Workforce. 14 Nov. 2001. National Legal and Policy Center. 1 Mar. 2004
 <<http://www.nlpc.org/olap/congress/011114.htm>>.
- Bush Urged to Appeal Decision Overturning Union Dues Executive Order. February 28, 2002. National Right to Work Legal Defense Foundation. 1 Mar. 2004
<http://www.nrtw.org/b/nr.php3?id=89>
- Business-Labor-Ideology Split. 2004. 1 Mar. 2004
 <<http://www.opensecrets.org/overview/blio.asp?Cycle=2004&display=Pacs>>.
- Clay, William L., and Reed Larson. "Does America need a national right-to-work law? (pro and con arguments)." Insight on the News 17 Aug. 1998. 1 Mar. 2004
 <http://www.findarticles.com/cf_dls/m1571/n30_v14/21031980/print.jhtml>.
- Cohen, Andrew. Campaign Finance Law A Baby Step. 10 Dec. 2003. CBS News. 1 Mar. 2004
 <<http://www.cbsnews.com/stories/2003/12/10/news/opinion/courtwatch/printable587906.shtml>>.
- Communications Workers v. Beck. OYEZ U.S. Supreme Ct. 1988. 1 Mar. 2004
 <<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&friend=oyez&vol=487&invol=735>>.
- Court, Leonard, J.D., and Robert, Hunter, J.D. Oklahoma Labor Law: What Every Citizen Should Know. 4 Sept. 2001. Oklahoma Council of Public Affairs. 1 Mar. 2004
 <<http://www.ocpathink.org/ViewPolicyStory.asp?ID=119>>.

- Dinlersoz, Emin M., and Ruben Hernandez-Murillo. "Did right-to-work work for Idaho?" Review - Federal Reserve Bank of St. Louis 84.3 (2002): 29-41. 1 Mar. 2004 <http://0-gateway.proquest.com.lib.bus.umich.edu:80/openurl?ctx_ver=z39.88-2003&res_id=xri:pqd&rft_val_fmt=ori:fmt:kev:mtx:journal&genre=article&rft_id=xri:pqd:did=000000119352227&svc_dat=xri:pqil:fmt=html&req_dat=xri:pqil:pq_clntid=17822>.
- Ellwood, David T., and Glenn Fine. "The Impact of Right-to-Work Laws on Union Organizing." Journal of Political Economy 95.2 (1987): 250-273. 1 Mar. 2004 <<http://www.nber.org/papers/w1116.pdf>>
- Greer, Stan. Chicken Little Goes to Oklahoma. Feb. 2004. National Institute for Labor Relations Research. 6 Jul. 2001 <<http://www.nilrr.org/chcknlttl2.htm>>.
- Greer, Stan. Earnings Rise, Health-Coverage Expands. Feb. 2004. National Institute for Labor Relations Research. 1 Mar. 2004 <<http://www.nilrr.org/Chicken%20Little%20Redux%20PDF%20masterupdate%20Feb04.pdf>>.
- Greer, Stan. Real Earnings Remain Higher In Right to Work States: Fresh Evidence From the AFL-CIO. Feb. 2004. National Institute for Labor Relations Research. 1 Mar. 2004 <<http://www.nilrr.org/Real%20Earnings%20PDF%20masterupdate%20Feb04.pdf>>.
- Greer, Stan. (Senior Research Associate for the National Institute for Labor Relations Research) Telephone interview. 25 Feb. 2004.
- Greer, Stan. Union 'Representation' Is Foisted On Workers -- Not Vice-Versa. Feb. 2004. National Institute for Labor Relations Research. 6 Jul. 2001 <<http://www.nilrr.org/Members%20Only%20Update%20February%202004.pdf>>.
- Holmes, Thomas J. "The location of industry: Do states' policies matter?" Regulation 23.1 (2000): 47-50. 1 Mar. 2004 <http://0-gateway.proquest.com.lib.bus.umich.edu:80/openurl?ctx_ver=z39.88-2003&res_id=xri:pqd&rft_val_fmt=ori:fmt:kev:mtx:journal&genre=article&rft_id=xri:pqd:did=000000052031029&svc_dat=xri:pqil:fmt=html&req_dat=xri:pqil:pq_clntid=17822>.
- Independent Study Shows Real Poverty Rate Lower in Right to Work States Than in Forced-Dues States. Jan. 2003. National Institute for Labor Relations Research. 1 Mar. 2004 <<http://www.nilrr.org/Poverty.pdf>>.
- Kersey, Paul. "The Economic Case for Right-to-Work Laws." Ed. Patrick J. Reilly. Labor Watch Jan. 2004. 1 Mar. 2004 <<http://www.capitalresearch.org/pubs/pdf/x3800850718.pdf>>.
- Krehbiel, Randy. "Right-to-work measure can be confusing." Tulsa World 19 Aug. 2001: 1. ProQuest. 1 Mar. 2004

<http://0-gateway.proquest.com.lib.bus.umich.edu:80/openurl?url_ver=Z39.88-2004&res_dat=xri:pqd&rft_val_fmt=info:ofi/fmt:kev:mtx:journal&genre=article&rft_dat=xri:pqd:did=78337963&svc_dat=xri:pqil:fmt=text&req_dat=xri:pqil:pq_clntid=17822>.

Legislative & Legal Updates. 2004. National Public Employer. 1 Mar. 2004
<<http://www.npelra.org/legal/tclc999.asp>>.

Martindale, Rob. "Oklahomans: Right-to-work law is not working." Tulsa World 2 Sept. 2002, Final Home ed., sec. A: 1-1. ProQuest. 1 Mar. 2004
<http://0-gateway.proquest.com.lib.bus.umich.edu:80/openurl?ctx_ver=z39.88-2003&res_id=xri:pqd&rft_val_fmt=ori:fmt:kev:mtx:journal&genre=article&rft_id=xri:pqd:did=000000167194471&svc_dat=xri:pqil:fmt=text&req_dat=xri:pqil:pq_clntid=17822>.

Marquez v. Screen Actors Guild. OYEZ U.S. Supreme Ct. 1998. 1 Mar. 2004
<<http://www.oyez.org/oyez/resource/case/892/>>.

Mishel, Lawrence. The Wage Penalty of Right-to-Work Laws. 21 Aug. 2001. Economic Policy Institute. 1 Mar. 2004
<http://www.epinet.org/printer.cfm?id=47&content_type=1>

Moore, William J. "The determinants and effects of Right-to-Work laws: A review of the recent literature." Journal of Labor Research 19 (1998): 445-470. 1 Mar. 2004
<<http://0-search.epnet.com.lib.bus.umich.edu:80/direct.asp?an=699796&db=buh>>.

Page, Leonard R. Questions and Answers on Typical Union-Security and Beck Issues. 6 Apr. 2001. Office of the General Counsel. 1 Mar. 2004
<<http://www.lawmemo.com/emp/nlrb/beck-qa.htm>>.

"Politics as Warfare." The Economist 6 Nov. 2003. 1 Mar. 2004
<http://www.economist.com/displaystory.cfm?story_id=2172130>.

Reed, Robert W. How Right-to-Work Laws Affect Wages. University of Oklahoma. 1 Mar. 2004
<http://faculty-staff.ou.edu/R/William.R.Reed-1/Papers/RTW_Wages_Paper.pdf>

Reed, Robert. Does Right-to-Work Boost Economic Development. 21 Feb. 2001. Oklahoma Council of Public Affairs. 1 Mar. 2004
<<http://www.ocpathink.org/ViewPolicyStory.asp?ID=66>>.

Reed, Robert, and James R. Wilbanks. The Impact of Right-to-Work on State Economic Development. 27 June 2001. Western Economic Association. 1 Mar. 2004
<<http://www.ou.edu/cas/econ/research/2001-14.pdf>>.

Right-to-Work in Oklahoma Would Impact All Workers. May 2001. UAW. 1 Mar. 2004

<<http://www.uaw.org/solidarity/01/0501/feature06.html>>.

Right to Work States Are Really Restricted Rights States. 1 Jan. 2004. AFL-CIO. 1 Mar. 2004
<<http://www.aflcio.org/issuespolitics/stateissues/righttowork.cfm?RenderForPrint=1>>.

Right to Work States: Oklahoma. National Right to Work Legal Defense Foundation, Inc.
1 Mar. 2004 <<http://www.nrtw.org/c/okrtwlaw.htm>>.

Right to Work States: Texas. National Right to Work Legal Defense Foundation, Inc.
1 Mar. 2004 <<http://www.nrtw.org/c/txrtwlaw.htm>>.

Simpson, Mark. Testimony of Mr. Simpson. 14 Nov. 2001. House Committee on Education and
the Workforce. 1 Mar. 2004
<<http://edworkforce.house.gov/hearings/107th/wp/beck111401/simpson.htm>>.

The Big Lie and the truth about Right-to-Work. 17 Dec. 1998. Pennsylvania AFL-CIO. 1 Mar.
2004 <<http://www.paaflcio.org/rightto.htm>>.

The Union Difference: 26 Percent of Voters Are from Union Households. 2004.
AFL-CIO. 1 Mar. 2004
<<http://www.aflcio.org/issuespolitics/politics/election.cfm?RenderForPrint=1>>.

Trouble in Big Labor Paradise. 2002. National Institute for Labor Relations Research. 1 Mar.
2004 <<http://www.nilrr.org/troubleinparadise.htm>>.

"Taft-Hartley Act." Encyclopedia Britannica. 2004. Encyclopedia Britannica Premium Service.
23 Feb. 2004 <<http://www.britannica.com/eb/article?eu=72747>>.

The Welch Report. 11 Dec. 2003. 1 Mar. 2004
<http://www.welchreport.com/alert2.cfm?rank_cho=109>.

The Right to Work Principle: Frequently Asked Questions. National Right to Work Legal
Defense Foundation, Inc. 1 Mar. 2004 <http://www.nrtw.org/b/rtw_faq.htm>.

Union Security Agreements - September 2003 Solidarity. Sept. 2003. UAW. 1 Mar. 2004
<<http://www.uaw.org/solidarity/03/0903/uf10.cfm>>.

Union Members in 2000, 2002, 2003 18 Jan. 2001; 25 Feb. 2003; 21 Jan 2004. Bureau of Labor
Statistics. 1 Mar. 2004
<<ftp://ftp.bls.gov/pub/news.release/History/union2.01182001.news>>.
<<ftp://ftp.bls.gov/pub/news.release/History/union2.02252003.news>>.
<<ftp://ftp.bls.gov/pub/news.release/History/union2.01212004.news>>.

Warden, John. "Right to Work States Leading the Way." The Industrial Outlook 13.1 (2003):
4-5. 1 Mar. 2004
<http://www.walkerco.com/infoBoard/filestorage/ind_outlook_winter_2003.pdf>.

Wilson, William T. "The Effect of Right-to-Work Laws on Economic Development."
A Mackinac Center Report (2002). 1 Mar. 2004
<<http://www.mackinac.org/archives/2002/s2002-02.pdf>>.