

***Educate, Agitate, Organize: The Path to Revitalizing the Labor Movement in Indiana***

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## **Abstract**

Unions have historically sought higher compensation and safer working conditions for U.S. laborers through organization and collective bargaining. In recent decades, however, unions have been losing power and legal battles at both the state and federal levels. This period of decline has corresponded to the rise in power of heavily funded organizations like the American Legislative Exchange Council (ALEC). The labor community and its allies are now in search of a revitalization plan moving forward. Through analyzing state initiatives, public support, and voting patterns, the following thesis explores *what strategies would empower the working community in Indiana*. Such research aims to restore employee bargaining power and thus improve Indiana residents' quality of life.

## Historical Background

Unions derived from a call for greater social and economic equality. Changes in political theory and the industrial revolution left the United States workers recognizing their deprivation of economic autonomy (Ray 2005). Street level workers called for a change in power better favoring those on the bottom of the pyramid. Socialism and a total upheaval of the societal structure held little prospects for the nation's capitalist mindset. The answer was unions, a structure to increase worker bargaining power within the already established system

Prior to the industrial revolution, most individuals worked independently. However, the introduction of machinery and specialization transitioned the nature of the job market. The majority of Americans moved from being self-employed to living as wage workers. As evident today, most people continue to work as employees under an elevated set of employers. Former ideology focusing on individual power over collective bargaining became less and less favorable to the masses. Acknowledging system failures, workers began to organize and move towards collective action. Organizations such as the National Labor Union and the Knights of Labor tried to gain footing. Albeit, efforts were met with strong opposition from employers and the federal government (Ray 2005).

One of the first damaging blows to labor rights was the case *Vegeahn v. Guntner* (1896). The Massachusetts Supreme Court decision in essence made the act of picketing illegal. It gave judges great leverage in striking down all forms of protest as *violent* in nature (“*Vegeahn v. Guntner*” 2020). This made organized deviance difficult in practice, but also harmed the public image developing around labor unions. Despite judicial losses, disheartened workers continued leading strikes across the nation. Some of the most notable include the Haymarket Riot (1896), the Homestead Strike (1892), and the Pullman Strike (1893). A lack of judicial favoritism

compiled with publicized violence only worsened the shared outlook on labor. The Knights of Labor was cast as a violent organization doing more harm than good for society and its members (Duignan 2020).

Fortunately, the fall of the Knights of Labor left room for a new organization to take its place. The American Federation of Labor offered a new perspective on unionism: it “focused on economic gains in the workplace and not on legislative gains, or on capturing the state through a labor party” (Ray 2005, p.8). Through a network of locals under a national branch, they created an organization ready for reform that was apathetic to the American public. The government was not threatened as they were not all inclusive. The public was not alarmed; they acted to increase wages, not cause a political revolution (“AFL-CIO- A Brief History”). A new focus for labor translated to new legislative and judicial successes.

The National Labor Relations Act of 1935 was one of the first major successes for labor activists. It created a base for greater unionism still perpetuating today. Also known as the Wagner Act, the NLRA aimed to subside labor disagreements and improve the bargaining power of workers. Blacklisting by employees, strikes, and responsive legal force left the nation’s industries in upheaval. The NLRA changed the employee-employer power dynamic. The legislation specifically aimed to increase union density and as a result improve wages—salary livability. Workers were granted bargaining protections and a distinct judicial process was established for labor violations. As Section 7 of the NLRA states, “employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively...[and] the right to refrain [from acting]” (National Labor Relations Act 1935). In conjunction, there was an accountability process set in place to derail the rise of future strikes. Employees were able to file complaints to the newly created National Labor Relations Board if disputes or potential right

violations were to occur. That way disagreements could be solved through negotiations rather than uprisings. There were both regulations and enforcement mechanisms in place.

The NLRA was unsuccessful in appeasing all parties. Its original approach overbearingly focused on the protection of employees. Violent strikes and unfair union tactics—i.e. secondary boycotts, closed shops, etc.—continued to damage industrial peace. Gaps in the legislation’s intent and results called for revised legislation (Ray, 2005). The Taft-Hartley Act amended the NLRA to broaden its focus: “one of the distinguishing differences between the Wagner Act and the Taft-Hartley Act is that the former took an activist pro-union stance, while the latter switched to a neutral position.” (Wachter 2012, p. 454). Coercion and good faith limitations were imposed on unions, while protections were expanded to cover employees. Modified gains to workers were not as one sided as activists initially intended (“1947 Taft-Hartley”). However, passing successful, stable legislation allowed workers’ rights to have a positive image on a national platform.

The impact of the NLRA and the following Taft-Hartley Amendment is undeniable. The time period from 1935-1947 marked the Golden Age for unions. Legislation stopped historic injunction of workers seeking fair compensation for their work. Membership skyrocketed “peak[ing] at 35 percent of the nonagricultural work force in 1955” (Flanagan 1986). Said growth in membership translated to unwavering political power. Labor unions and democratic leaders acted in unison to reach common goals. Unions offered a reliable electorate and human campaign capital. Democratic officials offered government jobs and pushed the labor agenda forward. Representing almost one-third of the general population, union interests became national interests. With numerical dominance even Republican representatives of high union density areas prioritized the interests of organized labor. Unions’ capacity to mobilize voters had

transcended party lines. Labor rights moved from injunction to dictating the rules of the game (Rosenfeld 2014).

## **The Decline of Unions**

Strong union membership and political power was not everlasting. A changing job market, political rhetoric, and opposition damaged membership retention. Beginning in the late 1970s, unionization rates were dramatically decreasing. By 2016, the union membership rate was a mere 10.7% (“Trends in Union Membership” 2017). During the successes of the 1940s, one-third of workers held jobs in manufacturing opposed to only ten percent today. Stagnant legislation and old strategies made adapting to a new job market difficult. Falling membership undermined former political leverage (Rosenfeld 2014).

By the late 1970s, rhetoric surrounding market triumphalism was popularized by President Reagan’s Administration. Organized labor was positioned as a threat to capitalism and the free market (Sandel 2012). The negative image of labor rights from the 1920s had returned.

Opposition organizations like the American Legislative Exchange Council (ALEC) and the National Right to Work Committee (NRTWC) reflected views of rising political leaders.

Combined resources worked to combat union power on the state and federal level. Judicial decisions then mirrored the marketed belief systems.

### *i. Organized Opposition*

Opposition aimed to first develop a negative image of unions and then pass legislation curbing their power. It is no surprise that the decline in unionization correlates with changed held American political theory. The era of the New Deal under Roosevelt was marked by an interest in social welfare programming. The Great Depression emphasized the need for a social safety net

and prioritized building a middle class. Initiatives to increase collective action and wage requirements brought industry peace. The majority valued income equality. However, by the 1970s, price floors and a network of regulation brought political dissent. Forces of supply and demand became more culturally emphasized than the non-market value of having an equitable society. Public figures drove said transition: “Ronald Reagan and Margaret Thatcher proclaimed their conviction that markets, not government, held the key to prosperity and freedom (Sandel 2012, p. 6).

In practice, this translated to eliminating social welfare programs and echoing a distrust of collective action. Reagan brought these theories to life as he fired thousands of strikers during the 1981 Air Traffic Controllers’ Strike. The instance marked a final blow to the capacity of union boycotts (Jamieson 2017). The goal of the National Labor Relations Act to secure vertical cooperation and increase salaries became more and more difficult. Organized labor was positioned as damaging to capitalist efforts (Wachter 2012).

While negative political rhetoric broadcasted across the nation, organizations developed to create legislative obstacles to the collective bargaining process. Two main organizations formed the opposition, the American Legislative Exchange Council (ALEC) and the National Right to Work Committee (NRTWC). ALEC focuses on formulating model politics for state legislators, while the NRTWC mobilizes anti-union citizens. Though through different means, both try to pass “right to work” laws.

Before analyzing the work of ALEC and the NRTWC, it is important to understand how “right to work” laws impact union activity. This legislation has been most effective in limiting union resources and their ability to be successful. The Taft-Hartley law requires unions to provide benefits such as contract negotiations and assistance in the grievance process despite an



employee's union membership status. Union membership was not allowed to be required, but "agency fees" covering these inherent benefits were permissible for all employees. All agency proceeds had to go to shared benefits and were not allowed to be used for political activities. "Right to work" laws end a union's ability to administer "agency fees". Unions retain the same previous requirements to non-union members but receive no form of compensation (Ungar 2012). Thus, this legislation drains union resources and promotes employees to drop their membership status. In "right to work" states an employee has no agency fees, can choose not to pay union dues, but then is still entitled to union resources for contract bargaining and grievances. The following organizations have used this method alongside murky rhetoric to skew the public towards an anti-union agenda.

ALEC has operated since 1973 as a voluntary membership organization amongst state legislators. It reflects Reagan's market triumphalism in its mission to "promote limited government, free markets, and federalism" ("ALEC" 2020). Operating like a congress, the organization comprises of task forces and policy centers. Its 30 million employees conduct research, create model policies, and disburse them amongst representatives ("ALEC" 2020). This model is considered a sustained organizational structure. It is heavily funded, integrated in policymaking, and aims to alleviate the workload of legislators (Collingwood 2019).

ALEC's impact is far-reaching: one-fourth of all state legislators are associated with ALEC in some dimension ("ALEC" 2020). The organization pushes its conservative agenda by passing legislation on the state and local levels. Public salience over state issues is low and legislation on the docket often goes unnoticed. States, thus, offer unmonitored platforms to alter regulation incrementally. Through this process, ALEC has eroded the bargaining power of unions. "Right to Work" legislation sponsored by ALEC was given to numerous state legislators,

implemented at the state level, and slowly spread throughout the nation. The legislators presenting the legislation neither had to read or understand its impact. ALEC does the work by designing the policy and tailoring it to one's prospective state. Specifically, it has targeted Midwestern and Southern states where there is a stronger conservative base. A study by the Illinois Economic Policy Institute found that "right to work" policies have lowered wages in Midwest states" (Rossman 2019) thus demonstrating the ALEC impact.

While ALEC focuses on a range of conservative issues, The National Right to Work Committee centers in on exclusively anti-union efforts. Since its origin in 1955, NRTWC has worked as a self-declared "coalition of 2.8 million workers, small business owners and freedom-loving Americans" ("About National" 2020). Initiatives take place on the state and national level to end what they describe as compulsory unionism—the payment of agency dues outlined under the Taft-Hartley Act. The interest group provides a platform for a grassroots movement. Individuals with shared beliefs help to propose legislation and evaluate state policies. Its main strategies for success are defeating legislation beneficial to unions, passing "right to work" laws, and bringing civil right suits to the national stage.

NRTWC's impact is not limited. Its membership prioritization provides it with great electoral power. The organization presents "agency dues" as a harmful mechanism benefitting unions, instead of a fair exchange for their obligated, non-political services. Members are then mobilized when bills assisting collective action are on the docket. In 1994, a "Fairness in the Workplace Model" bill yielded about a million opposing letters from their following ("National Right to Work Committee" 1994). The organization drives legislation proposals and support as well. This February Senator Rand Paul in collaboration with the NRTWC proposed a federal "right to work" legislation for the fourth time. Though the bill has not been passed by Congress,

continuous proposition demonstrates the organization's ability to keep anti-union legislation on the docket (Blankley 2019).

One of the organization's most significant victories is defeating the Labor Law Reform in 1978. Supporters of the legislation felt that the National Labor Relations Board was failing to deter unfair labor practices. In a changing economy, the NLRB heard numerous cases of employer abuse that only seemed to be increasing. However, the NRTWC felt that union power was actually too strong. The interest group testified before Congress emphasizing an unequal balance of power favoring employees. The organization gave editorials of over seven hundred pages to representatives dictating an image of unwavering union power. Meanwhile, public opinion was also targeted as local news stations were overrun by NRTWC propaganda. Efforts eventually led to the bill's demise (Shelton 2017).

ii. *U.S. Supreme Court Losses*

Legislative initiatives are joined by judicial strategies. Organizations serve as resource banks alongside plaintiffs to change legal precedent. States act as laboratories of democracies passing a range of labor legislation both in support of and undermining unionism. When laws are brought into question, judicial review allows for the creation of national standards. Mirroring rhetoric and the opposition coalition, Supreme Court decisions have limited union power. Newly formed judicial standards drain union capital and bargaining activities. *Epic Systems Corporation. v. Lewis* limited employees' legal pathways for remedies. The case *Janus v. AFSCME*—reversing *Abood v. Detroit Department of Education*—solidified the constitutionality of “right to work” legislation.

In 2018, the U.S. Supreme Court decided *Epic Systems Corporation v. Lewis* in favor of employers. Ernst & Young's contract dictated employees must use arbitration for salary disputes

and that employees could not merge their grievances. Albeit, employee Lewis felt this violated the National Labor Relations Act and pursued formal litigation with coworkers anyways. In a 5-4 decision, the court said the contract was enforceable. The majority interpreted contractual arbitrations clauses—even when employment is contingent on acceptance— as not violating labor laws (*Epic Systems v. Lewis* 2018).

This case marks a continuance in growing favoritism towards employers. Despite an inherent imbalance in bargaining power, the court chose to allow for employee contractual control. In Justice Ginsburg’s dissent, she warns of the decision’s impact: “the inevitable result of today’s decision will be the underenforcement of federal and state statutes designed to advance the well-being of vulnerable workers” (*Epic Systems v. Lewis* 2018, p.57). Yet, the reaction from Congress and the greater public was underwhelming. A comparative study between the 1920s Red Jacket Case and the Epic Systems decision found that the public was more concerned with employer preference in the 1920s than now. The Red Jacket Case judge received broadcasted political dissent; reactive legislation like the National Labor Relation Act soon followed. However, the Epic Systems case resulted in little media backlash or legislative action. All attempts at reversing the decision through legislation never even left congressional committees (“Epic Systems v. Lewis” 2018). The decision marks a loss for union members and emphasizes public indifference towards labor policy.

*Janus v. American Federation of State, County, and Municipal Employees, Council (AFSCME)* also delivered a significant blow to the labor community. An Illinois statute required public sector non-union members to pay “fair share” dues. Whether or not an employee chose to join the union, they were expected to pay these agency fees for the activities done on their behalf. Non-union members would receive an outline of where agency fees were going and to

what endeavors. This encompassed things such as contract negotiations and collective bargaining. Political activities were barred from being included (Semuels 2018).

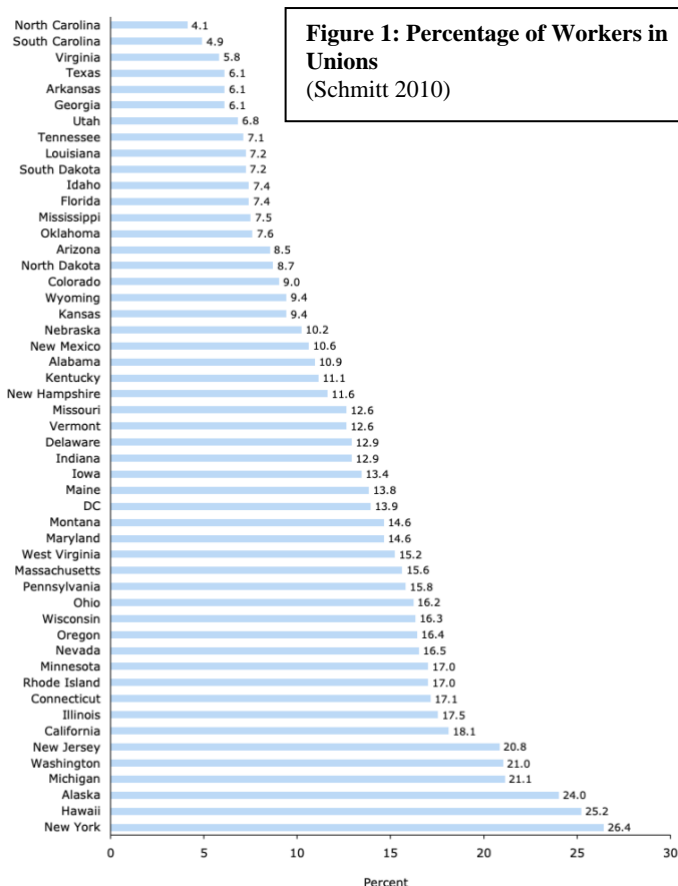
Janus—financed by the National Right to Work Committee— argued the union was not collective bargaining in his best interests. Amidst a state financial crisis, he felt negotiating higher wages was inappropriate. Thus, agency fees to cover these conversations violated his First Amendment rights (Manzo 2018). In a 5-4 decision, the U.S. Supreme Court agreed with him. The case reversed earlier precedent set by *Abood v. Detroit Department of Education*, thus eliminating unions’ ability to collect agency fees. “Fair share” clauses active in 22 states were invalidated (Semuels 2018).

Unlike Epic Systems, the Janus decision received significant attention for its impact on the labor community. Reversing years of precedent drew concern. *Abood v. Detroit Department of Education* had established that agency fees were allowed as long as they went to non-political activities benefitting non-union members. Paying “fair shares” dues was interpreted as necessary for retaining union membership and a well-resourced union (*Abood v. Detroit Bd. Of Ed.* 1977). Justice Kagan wrote in her dissent, “for over 40 years, *Abood v. Detroit Bd. Of Ed.* struck a stable balance between public employees’ First Amendment rights and government entities interest in running their workforces as they thought proper (*Janus v. AFSCME* 2018). The Janus decision marks a return to an archaic outlook on the employee-employer relationship.

The Janus decision has been detrimental to the labor community and the subsequent economy. Elimination of agency fees signified a growing “free rider” problem—employees choosing not to join the union because benefits are provided indifferent of member status. Studies predict a decrease in union membership “of state and local government employee by 8.2 percentage points, which could translate into a loss of 726,000 union members over time (Manzo

2018). While this may benefit an individual in circumventing fees in the short-term, long-term free riders drain union power. As bargaining capacity dwindles, wages and gross domestic product follow. States such as New York with high union density are expected to endure “a 5.3 billion annual decline in gross state product” (Manzo 2018).

## Understanding the State-Union Relationship



Despite national opposition, unions still maintain a presence throughout the United States. Whether working to increase wages or securing safer working conditions, labor unions are integrated within the negotiation process. Said involvement correlates with improved worker well-being. A regression study by the Center for Economic and Policy Research found “unionization is associated with about a 15 percent increase in hourly wages (roughly \$2.50 per hour), a 19-percentage-point increase in employer-provided health insurance, and a 24-percentage-point increase in employer

sponsored retirement plans” (Schmitt 2010).

The enjoyed impact of unions, however, varies significantly from state to state. Figure 1 above shows each states’ percentage of total workers belonging to a union. As demonstrated, rates range substantially from 26.4 percent in New York to 4.1 percent in North Carolina and

everything in between (Schmitt 2010). “Right to work” laws, local ideology, and industry differences cause wide ranges in membership percentages. The following section investigates casual differences in state policies and public rhetoric. Specifically, it analyzes contrary actions by the states of New Jersey and Wisconsin.

### *I. New Jersey*

New Jersey unions are historically more successful than the national arena at pushing forward a pro-union agenda. The state retains high union density despite dropping national membership: “half of the total 14.8 million union members live in just seven states, including the Garden State” (Raychaudhuri 2018). It has not passed right to work legislation; the AFL-CIO leads an organized, united worker coalition. This state is the 6<sup>th</sup> most unionized state in the country with 10.8 percent of the total workforce belonging to either a private or public union (Schmitt 2010). Its efforts focus on gaining political leverage, while building a positive social image. The combination of consensus, partnerships, and a path to power program strengthen its union stronghold.

Consensus amongst union members and a complimentary media have been assets for the state. Even in instances of limiting legislation, worker unity has overcome outlined obstacles. A positive social image of union bargaining power allows union members to take hard stances against employers. Efforts excel as the public is supportive, not condemnatory. Local unity overcomes national fragmentation. Workers and the public are more connected to communal successes than pop culture’s bad publicity (Clark 1989).

The New Jersey power of consensus is evident in the 2002 Ridgewood teachers’ contract negotiations. Ridgewood public schools have the high percentage of 90% of teachers unionized. High rates of membership signify that failing to negotiate with the union results in a failure to

reach contract. In 2002, the city aimed to reduce health care benefits and freeze pay. Teachers—unable to do a walk out demonstration under New Jersey law—collaborated together to do everything but exactly that. Public teachers did not work outside of designated school hours, school-community events were flooded by red pro-union shirts, and employers’ homes were picketed. The public campaign proved successful with raises of “4.6 percent in the coming school year, plus another 4.5 percent in each of the following two years” (Ahearn 2005) Health benefits were maintained, rather than diminished. The incident demonstrates the power of juxtaposed collective action and public support (Ahearn 2005).

Partnerships also have proven successful in the state of New Jersey. They help to build public-private coalitions, while expanding job opportunities for unionized workers. For instance, in 2010 the New Jersey Partnership for Action combined government arms and New Jersey Inc. to kickstart development projects. Unions supported the initiative and have filled resulting provided jobs. Since its founding, its produced “42,000 construction jobs [with the] potential for more than 43,000 new and 54,000 retained full-time jobs” (White 2016). The partnership outlines another opportunity for union development—working in conjunction with public and private interests for organizational growth.

Unions have a large impact in New Jersey because of retained political leverage. Similar to unions’ national political power in the 1950s, New Jersey representatives rely on the union electorate for reelection. With membership looming around 10.8 percent, there base is a significant portion of voters (Schmitt 2010). The AFL-CIO releases voting recommendations labeling candidates as favorable and unfavorable to labor rights (“Committee on Public” 2020). This high membership also provides critical campaign resources; unions offers organized masses



ready to knock on door and speak to other voters. Their outreach transcends just their membership numbers.

Interdependency goes even farther. The New Jersey State AFL-CIO successfully places union members themselves into public office. Its *Path to Power Program* under the state Committee on Political Education (COPE) “recruits, trains and mentors union members running for public office” (“Committee on Public” 2020). Organized in 1997, its Labor Candidates Program has led 1,087 union members into local incumbency. Skill building seminars and campaign resources are provided through the AFL-CIO’s already developed base. Divisive party lines are circumvented by making the election about voting for union members versus non-union members. The initiative is non-partisan and inclusive of all labor activists. The program’s impact is undeniable: during the 2018 midterms “volunteers knocked on over 366,000 union-household doors...[leading] to the election of a U.S. Senator, all 12 labor-endorsed Congressional candidates, nine State Senate and Assembly members, and fifty labor candidates” (“Committee on Public” 2020). The *Path to Power Program* secures a positive political environment for workers. Elected union members reliably push a pro-labor agenda. Political leverage and community engagement increase. The AFL-CIO fortifies interdependency between the government and unions (“Committee on the Public” 2020).

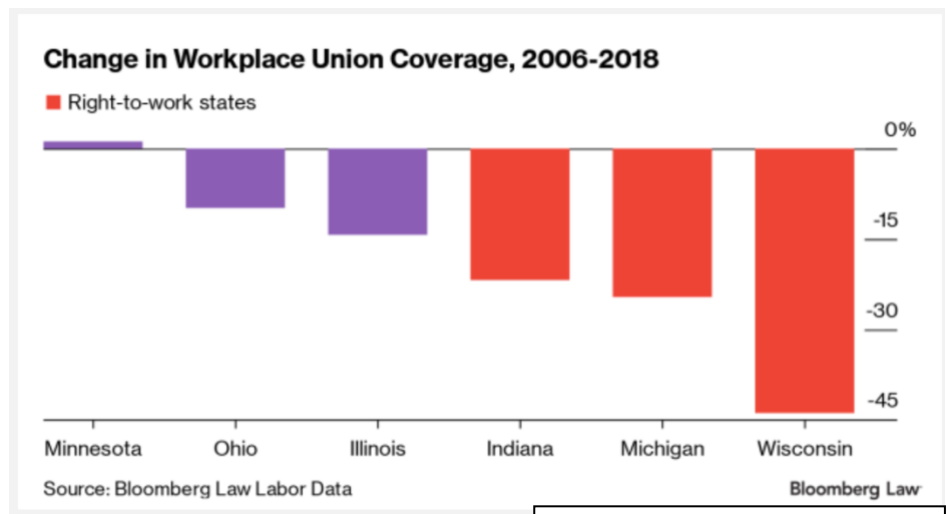
## *II. Wisconsin*

While New Jersey policies drive union support, Wisconsin has cut back on union power. The state demonstrates the detriment of corporate influence in state and local venues. Specifically, it reveals ALEC’s ability to undermine democratic processes. It has undergone a transition from strong union membership to anti-union rhetoric (Zarrolì 2015).

Former Wisconsin Governor Scott Walker presented a Right-to Work bill in 2015 identical to ALEC’s policy proposal. Receiving criticism, ALEC member Brendan Fisher in charge of designing it responded in ambivalence: “this bill is word for word from the Alec playbook, and that’s no surprise as the Wisconsin legislature is dominated by Alec members” (“Wisconsin Anti-Union Bill” 2015). The organization’s grip over the Wisconsin state legislature was intersectional and well planned. Governor Walker’s predecessor Tommy Thompson explained, “I always loved going to [ALEC] meetings because I always found new ideas. Then I’d take them back to Wisconsin, disguise them a little bit, and declare that it’s mine” (McEntee 2012). Instances of carbon copying ALEC legislation are not limited. Across the nation state legislatures introduce legislation still retaining the ALEC connotation on it. However, Wisconsin—former union territory—brought greater light to ALEC’s impact.

The passage of right to work legislation has led to a reduction in union membership. As illustrated to the right in Figure 2, from 2015 to 2018 alone union membership rates dropped by 36.5% throughout Wisconsin (Combs 2019). The

legislative impact significantly more drastic for Wisconsin than its right-to-work counterparts. As membership levels dropped so did the benefits associated with collective bargaining. Union resources diminished with less members opting in. The ability to fight for livable wages and deserved benefits fell to the wayside. This has been the case across



**Figure 2: Right-to-Work’s Impact on Membership**  
(Combs 2019)

the country: “individuals in right-to-work states were paid approximately \$1,500 less for the same job performed by people from states where the legislation had not been implemented” (Mozena 2019).

## **Case Study: Indiana**

The State of Indiana ranks 30th in union density as 8.3 percent of its total workforce belong to a union (Bureau of Labor Statistics 2019). This membership has continued to decline as Indiana remains a hotbed for attacks on labor rights. The cumulation of a strong opposition, right to work legislation, and poor internal capital leave Indiana with significant obstacles to labor’s success. The following section explores the history of Indiana labor policy and its current environment. By doing so, it hopes to better understand the relationship between unions and the state.

### *i. Historical Background*

Indiana has undergone an ebb and flow in relation to labor policy and collective bargaining rights. Policies have changed as quickly as incumbencies. Former Governor Evan Bayh serving from 1989 to 1997 pushed a pro labor agenda. Under his governorship, unions flourished. Specifically, in 1989 he granted public employees the ability to collectively bargain. The executive order came as a result of partnerships between Governor Bayh, the American Federation of Teachers, United Auto Workers, and the International Union of Police Associations. It allowed groups like police officers, teachers, and other state employees to have a say in their livelihoods. This initiative demonstrates how progress can derive from private-public collaboration. Wages and worker opportunities improved with the order; citizens experienced salary increases of up to 20 percent within the following year. The working class was

strengthened with legal opportunities to “access their vacation time, establish seniority rights, gain access to job training and additional education, and achieve some of the highest wage increases in the nation” (Clarren 2005).

For the next few years, Indiana union density was relatively constant looming around 12 percent. However, Bayh’s policies were not everlasting. By 2005, Governor Mitch Daniels took office with a different agenda. The progress of the former Bayh Administration dwindled. Daniels chose to eliminate the 1989 public employee bargaining rights as one of his first actions in office. He claimed that allowing for public collective action would hinder his aspired financial and organizational changes to the state government. In one step, Daniels cancelled 25,000 state employee settlement agreements (Brodsy 2005). For years, this has had an impact on teachers’ ability to gain a seat at the table for negotiating anything from salary to health care benefits.

While the curbing of employees’ autonomy only worsened, rhetoric masked the impact of ongoing actions by the state government. Governor Mitch Daniels proclaimed in 2006 that he was “a supporter of the labor laws we [had] in the state of Indiana and [was] not interest in changing any of them—not the prevailing wage law and certainly not the “right to work” law” (McEntee 2012). Yet within the prior year to this statement, he had stripped collective action bargaining rights of public employees. His statements directly contradict his prioritization of reorganizing the government over maintaining collective bargaining (Brodsy 2005).

Moving forward, Governor Daniels’ actions continued to combat the power of unions and directly contradict his public statements. During his campaign, he worked with Teamsters Local 135 to ensure that Indiana would continue to be a pro-labor state—referring to specifically not passing right-to-work legislation. At any rate, under Daniels’ leadership Indiana became the 23rd Right to Work state. The House Enrolled Act 1001 passed in February of 2012 eliminated

agencies fees permissible under the National Labor Relations Act: “no employer, labor organization or any person may require an individual to become or remain a member of a labor organization, or pay dues, fees or assessments (or charitable donation substitutes) as a condition of employment, new or continued” (Right-to-Work, Indiana 2012). No other state in the nation had adopted this legislation since over 10 years earlier in Oklahoma. Thus, the state acted as a catalyst for reviving the transition of states to becoming right-to-work jurisdictions. The act’s passage was met by strong public opposition from within the Hoosier state. First, right to work passed the Senate only by a slim 28 to 22 votes. Secondly, after HEA 101 was signed into law, the public flooded the state house. The capital held over 2,000 protestors with even more individuals lining the streets of Indianapolis (Guyett 2012).

Governor Daniels’ antiworker agenda transcended state lines. Amidst pushing right to work legislation, he was also found supporting anti-union efforts in neighboring states. Ohio passed legislation to strip public employees of collective bargaining—actions mirroring Daniel’s steps taken in 2005. Public outcry immediately began and took form as a referendum against the Ohio state legislature. Daniels in conjunction took part in calling constituents to alleviate concerns. The instance places Indiana at the center of the Midwest confrontation between favoring deregulation and prioritizing collective action. The Ohio referendum was able to restore public bargaining rights, but Daniels anti-labor agenda was heard across the nation (Inskeep 2011).

### *III. Current Climate*

Indiana’s historical background leaves the state with a poor labor climate. Legislation breaks down regulatory measures; the nation follows a partisan, uncontested narrative. The elimination of agency fees and public employee collective bargaining rights has limited the power of unions. Membership and corresponding activity are both declining. Since the enactment of Right-to-

Work legislation, Indiana has lost over one-third of its union members. In 2019, 8.3 percent of Indiana's total workforce belonged to a union compared to 12.4 percent in 2005. As previously demonstrated, a decrease in membership limits the resources available. Employees not paying unions dues still receive spillover contract benefits and the provided union grievance process. The ability to perform activities outside of daily operations is minimized by free riders and a smaller resource pool. Thus, Indiana unions "called an average of eight strikers per year before [right-to-work] but averaged only three strikes per year after" (Combs 2019).

A poor economic reality is met with continual strong support for partisan politics. The Republican party holds a supermajority in the state legislature; the state experiences an influx of resources from conservative financial groups. National labor organizations delegate little political capital to a state dubbed as an inevitable labor loss. Actions in Wisconsin to pass right-to-work legislation under Governor Walker led to recall. Though the recall failed, it demonstrated how Wisconsin's public cared and would act in favor of labor. Similarly, the elimination of public employee bargaining rights in Ohio caused a referendum. Concerned buckeyes were able to override state government interests. Yet, Indiana did not demonstrate the same level of backlash (Guarino 2011). Continued strong partisan politics has a domino effect. Few pro-labor members are elected, national forces devote fewer resources to the state, then the state's labor condition only worsens.

A lack of attention and limited pro-labor capital translate to a strong opposition. The American Legislative Executive Council has been able to infiltrate state policy and continues to do so. The 2005 Indiana Education Reform Package signed by Governor Daniels was done in collaboration with ALEC. When ALEC was exposed for producing state model policies driven by corporate interests, 400 legislators nationally dropped affiliation. During the same time 2011-

2014, there was a 40% gain in affiliation amongst Indiana incumbents. ALEC’s 2019 press release “Rich, Poor States” even applauded Indiana’s limited worker protections. The diagram below shows how Indiana’s anti-labor efforts translates to continued ALEC support and vice versa (Laffer 2019). An ALEC narrative marks having right-to-work, a low minimum wage, low average worker compensation, and a low level of public employees as successful.

**Figure 3: ALEC’s Criteria for Ranking State Vitality**  
(Laffer 2019)

<b>Right-to-Work State?</b> ⓘ <i>(option to join or support a union)</i>	Yes	1 <sup>st</sup>
<b>State Minimum Wage</b> ⓘ <i>(federal floor is \$7.25)</i>	\$7.25	1 <sup>st</sup>
<b>Average Workers’ Compensation Costs</b> ⓘ <i>(per \$100 of payroll)</i>	\$0.87	2 <sup>nd</sup>
<b>Public Employees Per 10,000 of Population</b> ⓘ <i>(full-time equivalent)</i>	487	11 <sup>th</sup>

While applauded by ALEC, these characteristics bring detrimental circumstances to Indiana residents. Indiana teachers have habitually experienced the lowest salary growth in the nation dating back to 2002. Some legislators claim this is due to a limited state budget and low living costs. Albeit, the history of the state reveals otherwise. No bargaining rights for public employees compiled with the privatization of education has made teachers’ salaries a low priority. When Daniels eliminated public bargaining, he by default eliminated the pay scale formulas for increasing teachers’ salaries. Now, wage increases are dependent on arbitrary performance evaluations. Public opinion is overridden by corporate control: “72 percent of Hoosiers think teachers are paid too little” (Taylor 2019). If the state continues these practices, the state of life for working members of society will only worsen. Furthermore, many working

people are choosing to work outside of state boundaries or move in order to pursue a more equitable livelihood (Taylor 2019).

### **Themes to Consider**

The analysis demonstrates the necessity of coalitions, the viability of state venues, and the economic benefit of unionization. These themes must first be considered in order to formulate a plan of action moving forward.

Success of both pro-labor activists and the opposition demonstrate the importance of a strong coalition. Ridgewood teachers in New Jersey were able to succeed by building a network between teachers, parents, and the community. Ohio residents were able to restore public employee bargaining rights by working together and calling for a state referendum. A main gap for Indiana is the state's failure to subside the escalating anti-labor agenda beginning with stripped public bargaining rights and ending in right-to-work legislation. The National Right to Work Committee has been so successful because it builds a network between citizens and their legislatures. Sending thousands of letters to Washington, D.C. or to a statehouse does not happen overnight. Success in the long-run is based in maintaining a reliable coalition.

Secondly, state venues are evidently ideal in improving the state of labor policy. One of pro-labor's main problems is its reliance on passing federal legislation. Federal pathways exhaust resources and draw opposition. The proposed 1978 Labor Law Reform failed due to contrary opinions surrounding unions. The 1994 "Fairness in the Workplace Model" failed due to letters from NRTWC members (Shelton 2017). Federal venues innately draw more attention and corresponding opponents. Pro-labor organizations and activists must learn the lessons from their adversaries. ALEC and the National Right to Work Committee have been able to dramatically



change state legislation, not because they reflect the majority opinion, but instead because they fuel resources into a venue blocked by little political capital.

The most important realization is that the presence of unions does positively impact the economy. Dropping unionization rates correlate with increased rates of inequality. The ability to collectively bargain increases wages, health care benefits, and retirement plans. Improved standards for individuals then maximize state and federal GDP opportunities (Schmitt 2010). Collective bargaining is the foundation for a strong middle class. Its processes grant workers autonomy and the ability to receive a fair wage. However, national and state adversaries are breaking down these economic benefits. The number of filed labor violations to the National Labor Relations Board was consistent from the time the Taft-Hartley Act was passed until the 1950s. Unfortunately, since then complaints filed have been doubling every decade. As membership drops, unions hold less bargaining power. Employers then devote less attention to abiding by labor policy. An unparticipating public alongside ambivalent bureaucrats reduces accountability. Considering economic dependence on unions, there will be great setbacks if this cycle is not ended (Flanagan 1986).

### **Revitalization Plan for Indiana**

The simplification of the AFL-CIO that originated its success, is now bringing difficulties. The organization succeeded due to its ability to simplify the issues and make obstacles feel localized. Operating in a network of locals under a national branch offered the communal environment necessary to deter images of violence or upheaval. A focus on the “bread and butter” issues kept them out of politics; members were able to focus on comradery (“AFL-CIO-Brief History” 2019). However, digitalization, overwhelming corporate funding, and negative

rhetoric, once again, has placed labor at a disadvantage. The organizational division formerly driving success has now allowed opposition to successfully pursue state venues. An organized opposition and unfavorable Supreme Court cases make a pro-labor agenda that much more difficult.

Albeit, just as opposition has been successful in state action plans so can labor activists. New Jersey offers a prime example of how labor policy can win in the long run through state venues. Indiana now faces its own set of labor dilemmas. A systemic anti-labor agenda leaves Indiana with low union membership and correlating lower wages. The state must act to improve the lives of Indiana's working Hoosiers. The following action plan demonstrates how a public image campaign, a community-labor coalition, and the Path to Power Program can revitalize the state's labor policy.

*i. Public Image Campaign*

Unions face a public image problem two-fold between recruitment and the broader community. First, pro-labor advocates need to better communicate to potential union members the benefits they receive from paying dues. The National Right to Work Committee has successfully built a "coalition of 2.8 million workers" that act against their own self-interest (National Right to Work Committee 1994). Language such as "right to work" gives the impression that the state is granting greater freedom, rather than taking away worker bargaining power. One of the main problems for Indiana labor is its persistence in using words like agency fees and arbitration, instead of coining digestible terms as done by the opposition.

Secondly, the broader public must be convinced of the value a union's presence brings to the community. Unions help to provide quality, trained workers when needed and address local issues. Now, it is crucial this spillover benefit is communicated to Hoosiers. The American

Federation of Teachers, AFL-CIO conducted a report “Strong Unions Strong Communities” publicizing cases across the country in which unions helped address greater obstacles for society. Deficiencies in the number of workers was found to increase hospital deaths. Unions addressed this in New Jersey and developed the 1199J Training and Development with all graduates employed since 1987. Likewise, Indiana has the ability to improve state health through unions. (“Strong Unions, Strong Communities” 2020).

Indiana residents must understand how gaps in state labor policy are cultivating into gaps in community success. Teachers in Indiana enjoy no public bargaining rights and the lowest salary growth in the nation (Taylor 2019). This not only erodes the foundation of a strong public-school system, but also worsens student prospects. Teachers use collective action to work in their own economic interests but also to act as public servants for the community. In Minnesota, for instance, teachers were able to include “a commitment to hire more counselors, social workers, and nurses” within their contract negotiations. Without public employee bargaining rights, Indiana teachers lose the capacity to make differences like done in Minnesota (“Strong Unions, Strong Communities 2020).

These described benefits of unionization for potential members and society are overshadowed by consistent negative media. The AFL-CIO’s 1985 Report by the Evolution of Work Committee found “too often, only the bad news about organized labor gets publicized; successes are ignored, and efforts made by unions to further the interests of workers and the general public go unnoticed” (Clark 1989). Fallacies portraying union greed need to be combated. Labor activists are not able to outcompete corporate resources. However, they can rely on membership and mobilization to drive a grassroots campaign. The Indiana AFL-CIO should conduct member trainings on how to concisely explain the role of unions. Members

should have an elevator speech for friends, family, and potential affiliates. This way a positive image can spread through everyday contact between workers and their neighbors. Consistent positive rhetoric on the local level can rewrite the popularized negative narrative.

The relationship between teachers and students offers even greater opportunities. Teachers must become more vocal in and out of the classroom about their lack of autonomy. Explaining the benefits of unions to the next generation builds a support system for labor for years to come. As done in Ridgewood New Jersey, teachers should be candid about their economic experience as educators. Picketing at school board members' homes, wearing matching shirts at football games, and refusing to work outside of school hours can be made positive by the messenger (Ahearn 2005). As educators, Indiana teachers must use their skill of teaching to explain their own needs as a public servant.

The Indiana public image for labor needs to be improved. Potential members and the community must better understand the benefits of unionization. Indiana labor activists must end their passivity towards the opposition's negative rhetoric. A grassroots campaign can change the narrative. Members should be trained on how to explain collective action to the community and potential members. Specifically, teachers must do their part in teaching the next generation of Hoosiers. The importance of bargaining rights and a livable wage should dominate the public discussion.

*ii. Community-Labor Coalition*

Indiana must also change its tactics for success. Digitalization has changed the nature of the workforce across the nation. A new economic environment calls for new strategies. Indiana labor activists can find renewed strength by acting through community labor-coalitions. This would overcome gaps in internal political capital and expand the arena for supporting labor.

Community-labor coalitions have been employed and successful in areas such as Denver and New Jersey. The city of Denver faced low political representation and held few union resources. This mirrors Indiana's problem of having few representatives with a pro labor agenda and highly emphasized corporate interests. Denver's Front Range Economic Strategy Center (FRESC) coordinated interests between environmentalists, social justice advocates, and trade workers. By aligning interests, FRESC was able to increase political pressure for action to help all involved parties. The result was a development project required to employ union members, offer fair priced housing, and be done in an environmentally friendly way. Compiling diminished voices allowed the alliance to have a significant impact (Doussard 2020).

These tactics mirror the successes of New Jersey partnerships. The 2010 New Jersey Partnership for Action is expected to bring 54,000 full time jobs for union construction workers. The development project was solidified by building communication between public project managers, union leaders, and corresponding private entities (White 2016). Indiana has the same economic opportunities. Locals and overriding state organizations like Indiana American Federation of Teachers and Indiana AFL-CIO must find alliances. Northwest Indiana's United Steel Workers can work with Save the Dunes to push a pro worker, pro-environment agenda. Concerned parents can align with teachers to push for greater school funding. The idea that only labor members can act for the labor agenda needs to be buried. Finding commonalities and mutual gain needs to be the priority.

### *iii. Path to Power Program*

Most importantly, Indiana must capitalize on the *Path to Power Program*. A lack of political representation is one of the main problems for Indiana labor. A Republican supermajority makes bipartisan cooperation essentially nonexistent. A representative may be elected with a pro-labor

agenda; however, intentions are unconsummated without enough members to draw debate. *Path to Power* would overcome this very issue. Focusing on the union label rather than Republican versus Democrats increases inclusivity. Furthermore, *Path to Power* changes the power dynamic by building a foundation for long-term success. Too often, labor acts in reaction. Even this revitalization plan is in reaction to the 2005 loss of public employee bargaining rights and 2012 “Right to Work” legislation. *Path to Power*, however, builds a coalition to promote success and deter future losses.

*Path to Power* would change the dynamic between unions and political representatives. Historically, unions rely on candidate promises. Politicians say they support collective action; locals provide an electorate base. However, labor’s dependence on the words of incumbents has not always worked in their favor. Governor Daniels was a guest at a Teamster Union dinner in 2006 and negated any intention to pass “right to work” legislation. Yet, by 2012 his promises proved empty (DiMaggio 2017). Placing union members in office instead allows unions to rely only on themselves. Field Coordinator for the Northern Indiana Area Labor Federation AFL-CIO Judy Lennon comments on the program’s viability: “The whole point of Path to Power is to empower ourselves, our members. It takes a bottom-up approach rather than a top-down one. We have the ability to choose our own destiny” (Judy Lennon, phone interview, May 7 2020). The Path to Power Program has the capacity to train Indiana union members to be their own bureaucrats. Indiana can replicate the success of New Jersey’s Labor Candidates Program that placed 1,087 union members into local incumbency (“Committee on the Public” 2020).

## Conclusion

There has been an ebb and flow of labor protections granted on the national and state level. The National Labor Relations Board of 1935 set a foundation for union and employer accountability. The Golden Age of unions, however, ended in the late 1950s. Organized opposition and unfavorable court cases broke down the former pro labor agenda. An analysis of New Jersey and Wisconsin state policy demonstrates the resulting wide range in worker protections. Indiana has specifically undergone an attack on labor supported by internal representatives and outside corporate funding. “Right to Work” legislation and the stripping of public employee bargaining rights have damaged the prospects for working people. Albeit, hope still remains. Indiana can improve the lives of working Hoosiers through a public image campaign, community-labor coalitions, and the *Path to power* program.

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